

Client
3 Waverley Developer P/L

Date
1 November 2024

Planning

Transport

Urban Design

Waste Management

Town Planning Report

3 Waverley Avenue,
Ivanhoe

ratio:

ADVERTISED PLAN
Application No. P1157/2024

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Project
3 Waverley Avenue, Ivanhoe

Prepared for
3 Waverley Developer P/L
Our reference
19734P_3WaveleryAve_Report_RFI

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1. Introduction

1.1. Instructions

Ratio Consultants has been engaged by 3 Waverley Avenue Developer P/L to prepare a town planning assessment of a planning permit application for a three-storey apartment building over a shared basement and for the removal of vegetation at No. 3 Waverley Avenue, Ivanhoe.

1.2. Accompanying documentation

In preparing this report, we have:

- Assessed the proposal in relation to the relevant planning controls and policies contained within the Banyule Planning Scheme;
- Inspected the site and surrounds;
- Had regard to the VCAT findings relating to the subject site, most recently the Decision 3 *Waverley Developer Pty Ltd v Banyule CC [2024] VCAT 912* of 25 September 2024;
- Reviewed the Architectural Plans prepared by KUD Architecture;
- Reviewed the Landscape Plan and Landscape Response prepared by Jack Merlo Design and Landscape;
- Reviewed the Traffic Impact Assessment Report and swept path diagrams prepared by Ratio Consultants;
- Reviewed the Sustainable Management Plan prepared by GIW Environmental Solutions;
- Reviewed the Waste Management Plan prepared by Ratio Consultants; and
- Reviewed the Arboricultural Assessment and Report prepared by Melbourne Arborist Reports Pty Ltd.

1.3. Summary and Opinion

In summary, it is our submission that the proposal should be supported on the basis that:

- It is consistent with the strategic directions contained within the Planning Policy Framework set out in the Banyule Planning Scheme;
- The proposed development appropriately reflects the existing and preferred neighbourhood character of the precinct;
- The proposed development as reflected in the application plans adequately responds to the findings made in the previous two VCAT Decisions in relation to the subject site, namely 3 *Waverley Developer Pty Ltd v Banyule CC [2024] VCAT 912* of 25 September 2024 (the 2024 Decision) and *Waverley Assets Pty Ltd v Banyule CC [2021] VCAT 1341* (the 2021 Decision);

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- The proposal achieves a high level of environmental sustainability as demonstrated by the accompanying Sustainability Management Plan (SMP) prepared by GIVV Environmental Solutions which specifies a BESS score 64% with no mandatory category (IEQ, Energy, Water, Stormwater) below 50%.
- The development proposes on-street waste collection from Waverley Avenue by a private contractor, who will be provided with access to the bin room and will be responsible for the transfer of bins to and from the waste collection vehicle.
- The proposal provides 40 additional trees throughout the site, as well as other proposed hedge plants, shrubs, groundcovers and grasses, new climbers and new lawn areas.
- The proposal will not have any unreasonable amenity impacts to the surrounding residential properties and will provide appropriate levels of internal amenity to the dwellings; and
- The proposal provides appropriate levels of onsite car parking and a suitable basement design outcome to service the future needs of the development.

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2. Existing Conditions

2.1. Subject Site

The subject site is located at No. 3 Waverley Avenue, Ivanhoe, approximately 80 metres west of Upper Heidelberg Road.

The key features of the site are as follows:

- The subject site has an area of approximately 1,269.27sqm.
- The site is rectangular in shape with a 21.0m frontage to Waverley Avenue.
- The site slopes down by approximately 2.18 metres, which comfortably meets the slope test requirements in the GRZ1.
- The site is currently occupied by a single storey, brick dwelling, with hipped tiled roof. The dwelling appears to be of 1970s construction. A more recent pool house has been constructed beyond the rear of the dwelling.
- The site features a low brick fence along Waverley Avenue, that has a dual function as a retaining wall.
- The site obtains vehicular access from Waverley Avenue via a crossover in the north east corner of the site.
- The site features one large and prominent 'Scribbly Gum' tree (no. 4) within the front setback to Waverley Avenue, which is proposed to be retained. The site also features smaller trees within the front setback and other vegetation throughout the site, of which some will be removed.
- The existing dwelling is setback approximately 11.6m from Waverley Avenue.
- The Certificate of Title is absent of any easements or restrictions.

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Photograph 1: Subject Site



Photograph 2: Subject site dwelling



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2.2. Surrounding Land

The site has direct interfaces to dwellings to the east, west and south of the site and abuts Waverley Avenue to the north.

An overview analysis of the site's various interfaces are as follows:

North

- To the immediate north of the site is Waverley Avenue, which carries traffic in an east/west direction and offers on-street parking opportunities on either side.
- Further north of Waverley Avenue is No. 8 Waverley Avenue and No. 10 Waverley Avenue. These properties each contain a single storey dwelling with a flat roof at No. 8 and a pitched roof at No.10. These properties are both setback greater than 10 metres from Waverley Avenue.
- The properties are located within the General Residential Zone, Schedule 1 (GRZ1) and are subject to Design and Development Overlay, Schedule 12 (DDO12), the Vegetation Protection Overlay, Schedule 3 (VPO3) and the Development Contributions Plan Overlay, Schedule 1 (DCPO1).
- We note that directly east of No. 8 Waverley Avenue (north east of the subject site), there is also a car park associated with the place of assembly located at 4 Waverley Avenue.

East

- To the immediate east of the site is No. 1 Waverley Avenue, Ivanhoe and 19/21 Upper Heidelberg Road, Ivanhoe, that contains a 5-storey retirement village in an apartment building format.
- The site is located on the corner of Waverley Avenue and Upper Heidelberg Road. It has a setback of approximately 3.5m from Waverley Avenue and a setback of approximately 3.1m from the shared boundary with the subject site.
- The plans identify a number of west facing windows and balconies that face the site that have been screed to 1.7m above the FFL, as shown in Photograph 3.
- We note that along this property's western interface is where ground level communal open space is provided. This communal open space abuts the common boundary with the subject site.

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Photograph 3: No. 1 Waverley Avenue west facing windows and balconies



- The properties are located within the General Residential Zone, Schedule 4 (GRZ4) and the Commercial 1 Zone (C1Z) and are subject to Design and Development Overlay, Schedule 11 (DDO11), the Vegetation Protection Overlay, Schedule 3 (VPO3) and the Development Contributions Plan Overlay, Schedule 1 (DCPO1).

South

- To the immediate south of the site is No. 6 Rocke Street and No. 8 Rocke Street.
- No. 6 Rocke Street is occupied by a strata unit development, containing 12 units. The rear of the building is setback approximately 8.2m from the shared boundary with the subject site. This portion of the site is one private open space (POS) area of the site.
- No. 6 is located within the General Residential Zone, Schedule 1 (GRZ1) and is subject to Design and Development Overlay, Schedule 12 (DDO12), the Vegetation Protection Overlay, Schedule 3 (VPO3) and the Development Contributions Plan Overlay, Schedule 1 (DCPO1).
- No. 8 is occupied by a single storey dwelling and is improved by a variety of vegetation throughout the site. The rear of the dwelling is setback approximately 31m from the shared boundary with the subject site. This portion of the site is one private open space (POS) area of the site.
- No. 8 is located within the General Residential Zone, Schedule 1 (GRZ1) and is subject to Design and Development Overlay, Schedule 12 (DDO12), the Vegetation Protection Overlay, Schedule 3 (VPO3), the Heritage Overlay, Schedule 52 (HO52) and the Development Contributions Plan Overlay, Schedule 1 (DCPO1).

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- Schedule 52 of the HO relates to the “Rockbeare” – House’ which is Individually Significant to the municipality.

West

- Immediately west of the subject site is No. 5 Waverley Avenue, Ivanhoe, a double storey dwelling. The site has a similar front setback of 10.6m (approx.) to the existing dwelling at the subject site. The dwelling is also setback (approximately) 3.6m from the shared boundary with the subject site.
- The site is located within the General Residential Zone, Schedule 1 (GRZ1) and is subject to Design and Development Overlay, Schedule 12 (DDO12), the Vegetation Protection Overlay, Schedule 3 (VPO3), the Heritage Overlay, Schedule 117 (HO117) and the Development Contributions Plan Overlay, Schedule 1 (DCPO1).
- Schedule 117 of the HO relates to ‘House’ and is graded “contributory” to the municipality.

2.3. Locational attributes

Neighbourhood character

The surrounding residential neighbourhood has a mixed built form character with styles including Victorian, Federation, and Edwardian dwellings, modest post-war multi-unit residential development and contemporary dwellings and apartment buildings.

The surrounds include a range of dwelling typologies within the GRZ1, GRZ4 and C1Z, including larger apartment buildings and multi-townhouse developments.

Waverley Avenue, connecting with Upper Heidelberg Road, accommodates a varied land use character, with residential, commercial, place of worship and other uses.

Residential development surrounding the site is generally setback between 3.5 and 11 metres from Waverley Avenue, with dwellings typically constructed from exposed or rendered brick.

Pitched tiled roofs are common, although new buildings and extensions often feature flat roof forms.

There is also an existing apartment development of 3 storeys within the GRZ1, at No. 1088 Heidelberg Road, Ivanhoe, located approximately 180 metres from the subject site. A three-storey apartment building containing 74 dwellings has also recently been approved by the Tribunal at No. 24-26 Lower Heidelberg Road, Ivanhoe. Planning Permit No. P1253/2019 states that the site is also located in the GRZ1 and DDO12, where permission was also required for the removal of vegetation like this proposal. This site is located approximately 278 metres from the subject site.

Landscape character within private properties is inconsistent although strong street verge planting provides a green canopy.

Front fences along Waverley Avenue include a significant mix of fence forms including small and tall fences and a range of materials including rendered, picket and brick fencing.

The subject site is located within the Ivanhoe Activity Centre – Precinct Area 7 (Accessible Residential Precinct) where new housing will provide for a range of dwelling types to meet the diverse future needs of the community.

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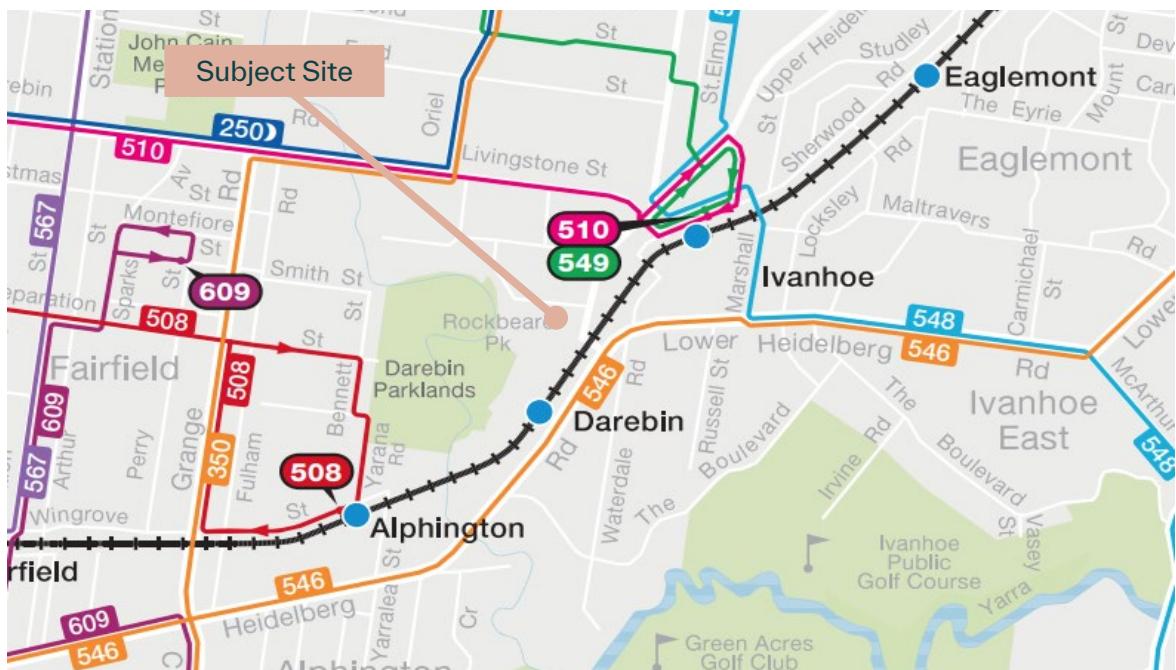
The site's location within the Ivanhoe Activity Centre reinforces its proximity to a range of commercial, community, transport and recreational services, including (measured 'as the crow flies'):

- The commercial and retail centre of Ivanhoe Activity Centre is located approximately 100 metres due north, which contains numerous strip-shopping centres.
- Ivanhoe Grammar School (Ridgeway Campus), approximately 395 metres to the east.
- Mary Immaculate School, approximately 120 metres to the south-west.
- A range of recreational facilities including Ivanhoe Tennis Club, approximately 420 metres to the north, Ivanhoe Park 867 metres to the east, and Darebin Parklands approximately 206 metres to the west.
- The Yarra River and its associated parklands/walking trails and surrounds are located approximately 2.7 kilometres to the east.

With respect to public transport accessibility, we note:

- Darebin Train Station – 323 metres southeast of the subject site;
- Bus Route 556 (Ridgeway/Lower Heidelberg Road) – 400 metres east of the site; and
- Ivanhoe Railway Station and Bus Route No. 510, 548 and 549 – 500 metres northeast of the subject site.

Figure 1: Public Transport Map

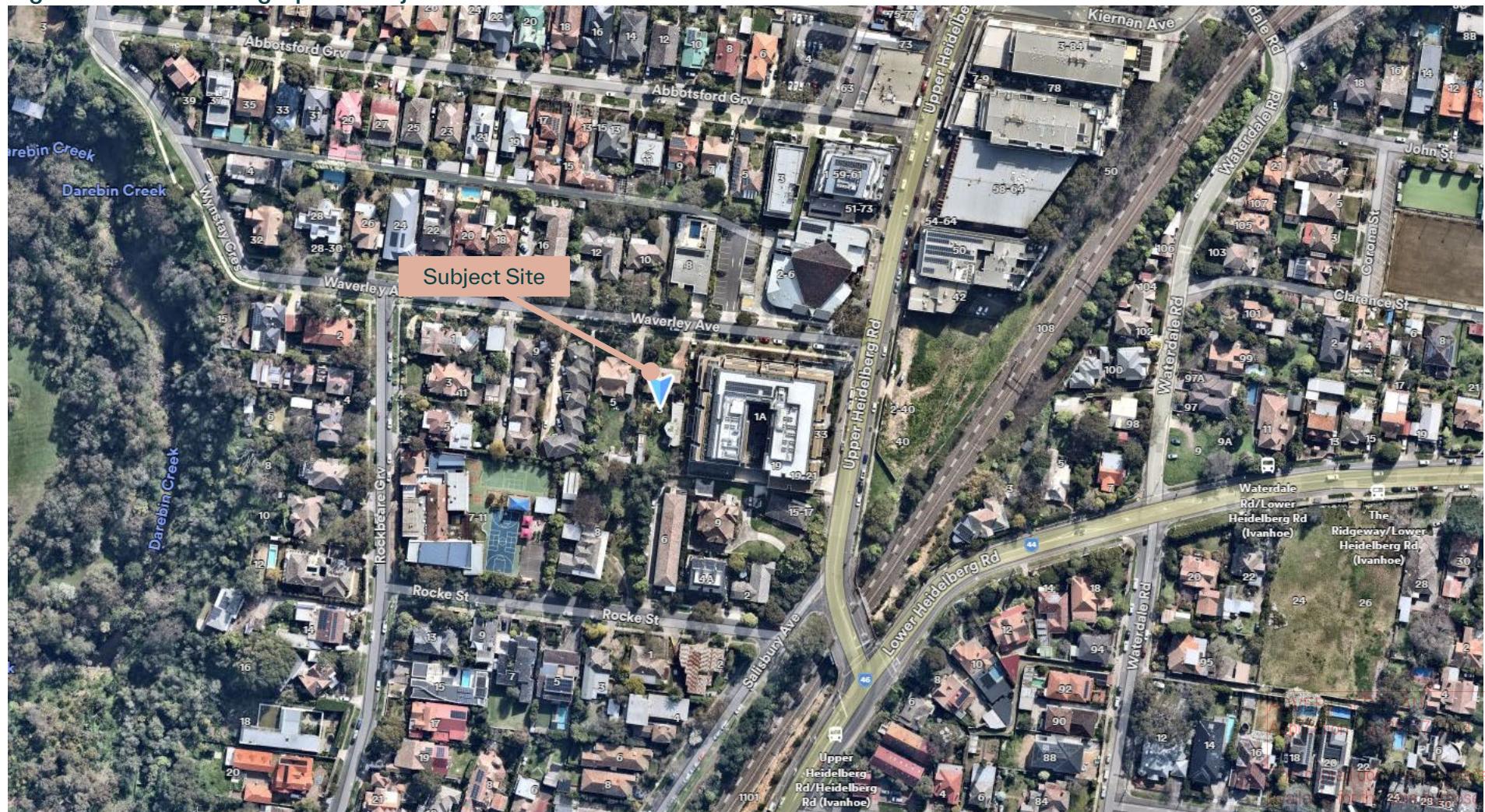


Source: PTV City of Banyule Local Area Map (www.ptv.vic.gov.au)

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Figure 2: Aerial Photograph of subject site and immediate context



Source: NearMap (4 August 2024)

Planning Scheme
Amendment
Application
for the 23a, 28, 30a
and 31a Lots
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3. The Proposal

It is proposed to demolish the existing dwelling to construct a three-storey apartment building containing ten (10) apartments over shared basement and the removal of vegetation.

A permit is required for:

- The construction of two or more dwellings on a lot in the General Residential Zone.
- To construct a building and carry out works in the Design and Development Overlay.
- To remove, destroy or lop any vegetation in the Vegetation Protection Overlay.

The existing dwellings and associated outbuildings will be demolished (no permit required).

Therefore, this application for a planning permit seeks permission for the following:

Construction of two or more dwellings on a lot within the GRZ1, to construct a building and carry out works within the GRZ1 and DDO and the removal of vegetation within a VPO.

The key features of the proposal are summarised below.

Built form

A contemporary three-storey apartment building described as follows:

- 10 3-bedroom apartments, with 4 proposed at ground and first floor and a further 2 at second floor.
- 20 car spaces located within the basement (accessed via Waverley Avenue).
- The apartment building includes the following minimum building setbacks:

Northern setbacks (to Waverley Avenue)

- Ground floor: 9 metre setback.
- First floor: 9 metre setback from north facing balconies plus an additional 2.5 metre setback from the front façade wall (11.5 metres total).
- Second floor: 9 metre setback from north facing balconies plus an additional 3 metre setback from the front façade wall (12 metres total).

Eastern setbacks (to 1 Waverley Avenue)

- Ground floor: 2.1 metre setback.
- First floor: 2.1 metre setback.
- Second floor: 3.22 metre setback from the lift core and 4.45 metre setback from second floor apartment façade wall.

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Southern setbacks (to 6 and 8 Rocke Street)

- Ground floor: 6 metre setback.
- First floor: 6 metre setback from south facing balconies plus an additional 3 metre setback from the front façade wall (9 metres total).
- Second floor: 9 metre setback from south facing balconies plus an additional 3 metre setback from the front façade wall (12 metres total).

Western setbacks (to 5 Waverley Avenue)

- Ground floor: 2.03 metre setback.
- First floor: 2.03 metre setback.
- Second floor: 5.55 metre setback.

The western elevation is well articulated such that the setbacks increase from 2.03 to 3.03 metres, to reduce any sense of visual bulk as perceived from 5 Waverley Avenue. This western elevation has been the subject of revisions to the design in addressing the findings of the 2024 VCAT Decision, as discussed further in turn.

Car Parking and Access

All apartments obtain vehicle access to a shared basement, accessible from Waverley Avenue. All dwellings located are provided with 2 car parking spaces. This meets the statutory parking requirements for each dwelling.

The provision of 20 on-site car parking meets the statutory requirement for the site for residents by 6 spaces.

As the site is located within the PPTN, there is no requirement to provide visitor parking spaces on-site.

Vegetation

The removal of some on-site vegetation is proposed. An arborist report has been prepared by Melbourne Arborist Reports Pty Ltd and has been lodged in support of the application.

Of the 28 trees located at the subject site, 6 trees require a permit to be removed to cater for the development, these being tree numbers 5, 13, 21, 22, 27 and 28. We defer to the Arboricultural Assessment and Report prepared by Melbourne Arborist Reports Pty Ltd that provides further commentary on the above

A proposed landscaping plan and landscape response has been prepared by Jack Merlo Design and Landscape to satisfy the provisions of the Vegetation Protection Overlay and Banyule's Tree Planting Policy.

The design response further seeks the retention of one large Scribbly Gum canopy tree within the Waverley Avenue setback. A proposed landscape plan has been prepared to establish the array of landscaping that will be included within the development, with acknowledgement of the established landscape character of the area.

The basement and development above ground has been designed to appropriately respect the tree protection zones (TPZ's) of the retained and proposed trees.

Site Development Information

- Proposed site coverage – 54%

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- Proposed garden area – 36.66%
- Proposed site permeability – 25.2%
- Maximum effective building height – 10 metres – taken from Section EE (See TP602)

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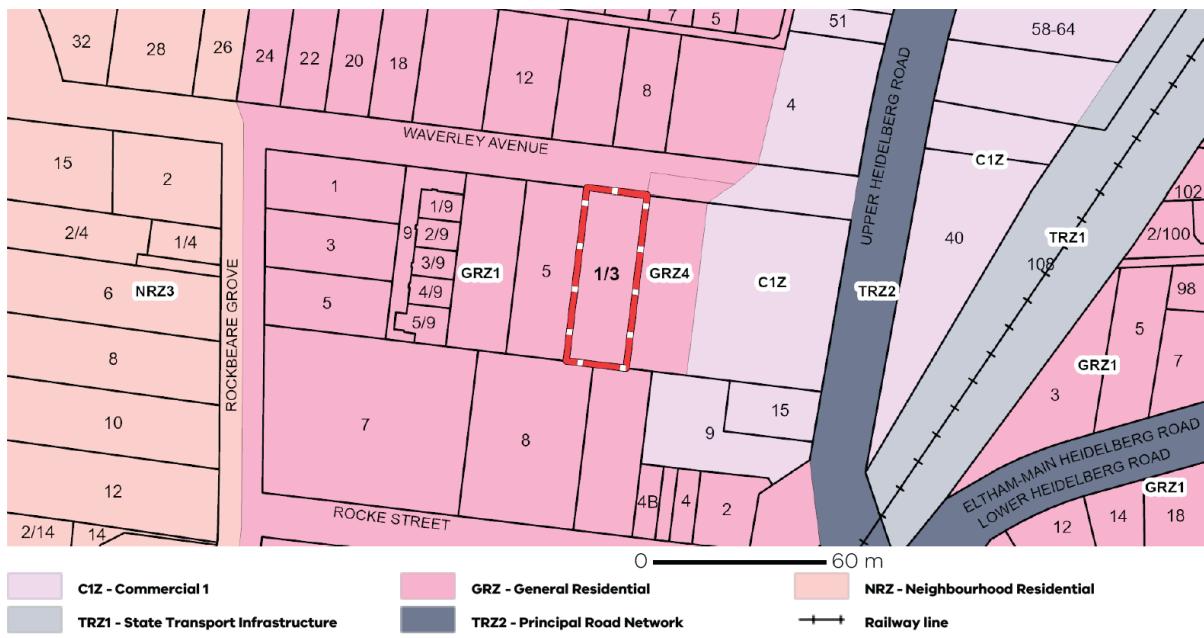
4. Planning Controls

4.1. Zone

The subject site is located within the General Residential Zone – Schedule 1 (GRZ1) pursuant to Clause 32.08 of the Banyule Planning Scheme. The purpose of the zone is:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To encourage development that respects the neighbourhood character of the area.
- To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.
- To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.

Figure 3: Zoning Map (subject land outlined in red)



Source: Vic Plan (16 October 2024)

Use as a 'dwelling' is as-of-right pursuant to Clause 32.08-2. Pursuant to Clause 32.08-6, a permit is required to 'construct two or more dwellings on a lot'.

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Clause 32.08-9 provides a maximum building height of 11 metres (or 12 metres if a 2.5° slope on the land) or three storeys, unless this is varied through the schedule to the zone.

As no height variation is specified within Schedule 1 to Clause 32.08, the maximum building height limit specified within Clause 32.08-9 is applicable. Further, as the site has a slope greater than 2.5°, the 12 metre height limit is applicable.

The sectional diagrams as shown on Drawing No. TP600 and TP602 demonstrate compliance with the 12 metre and 3 storey maximum height limit as per the General Residential Zone.

The Schedule identifies the GRZ1 as being applicable to Accessible Areas and Ivanhoe Residential Diversity Areas.

Standard B13 is varied by Schedule 1 which stipulates that 'Landscape plans will provide at least 1 large tree in the front setback'. The Landscape Plan prepared by Jack Merlo Design and Landscape confirms the retention of the existing Scribbly Gum contained within the front setback, visible from Waverley Avenue. The landscape plan also proposes the planting of a number of canopy trees within the frontage and rear of the site, along with other perimeter planting, in accordance with the varied Standard B13.

Pursuant to Clause 32.09-4, a lot sized greater than 650 sq. m in area must provide a minimum of 35% "garden area". The plans indicate that the proposal achieves 36.66% garden area.

4.2. Overlays

Vegetation Protection Overlay

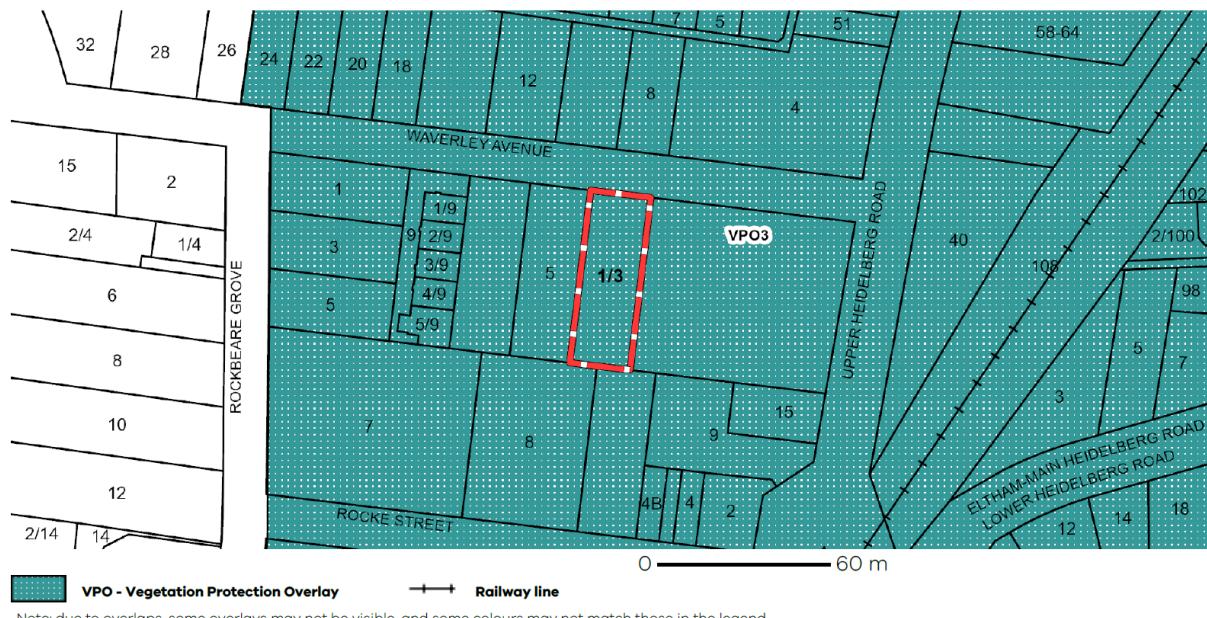
The subject site is affected by a Vegetation Protection Overlay, Schedule 3 (VPO3) pursuant to Clause 42.02 of the Banyule Planning Scheme. The purposes of the VPO are:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To protect areas of significant vegetation.*
- *To ensure that development minimises loss of vegetation.*
- *To preserve existing trees and other vegetation.*
- *To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.*
- *To maintain and enhance habitat and habitat corridors for indigenous fauna.*
- *To encourage the regeneration of native vegetation.*

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Figure 4: VPO Map (subject site outlined in red)



Source: Vic Plan (16 October 2024)

Pursuant to Clause 3 under Schedule 3 a permit is required to remove, destroy or lop any vegetation. There are several exemptions that are stated within this section, which include (inter alia):

- To the removal, destruction or lopping of native vegetation which has been planted for garden or horticultural purposes and which is less than 5 metres high and has a single trunk circumference of less than 0.5 metres at a height of 1 metre above ground level.
- To the removal, destruction or lopping of exotic vegetation which is less than 5 metres in height and has a trunk circumference of less than 0.5 metres at a height of 1 metre above ground level.
- To the removal, destruction or lopping of vegetation identified as environmental weed species in Banyule Weed Management Strategy 2006.

The trees located at the subject site include the following:

- Tree No. 2: Box Elder (*Acer negundo*)
- Tree No. 3: Lemon-scented Gum (*Corymbia citriodora*)
- Tree No. 4: Scribbly Gum (*Eucalyptus racemosa*)
- Tree No. 5: White Cedar (*Melia azedarach*)
- Tree No. 6: Camelia (*Camelia japonica*)
- Tree No. 7: Oleander (*Nerium oleander*)
- Tree No. 8: Protea (*Protea* sp.)
- Tree No. 9: Glossy Privet (*Ligustrum lucidum*)
- Tree No. 10: Silver Birch (*Betula pendula*)

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- Tree No. 11: Box Elder (*Acer negundo*)
- Tree No. 12: Purple-leaved Cherry Plum (*Prunus cerasifera 'Nigra'*)
- Tree No. 13: Snow in Summer (*Melaleuca linariifolia*)
- Tree No. 14: Sweet Pittosporum (*Pittosporum undulatum*)
- Tree No. 15: Glossy Privet (*Ligustrum lucidum*)
- Tree No. 16: Glossy Privet (*Ligustrum lucidum*)
- Tree No. 17: Desert Ash (*Fraxinus angustifolia* subsp. *Andustifolia*)
- Tree No. 18: Bleeding Heart (*Homalanthus populifolius*)
- Tree No. 19: Crepe Privet (*Lagerstroemia indica*)
- Tree No. 20: Glossy Privet (*Ligustrum lucidum*)
- Tree No. 21: Golden Pencil Pine (*Cupressus sempervirens*)
- Tree No. 22: Maleleuca Revolution Gold (*Cupressus sempervirens 'Swane's Golden'*)
- Tree No. 23: Mandarin (*Citrus reticulata*)
- Tree No. 24: Mirror Plant (*Coprosma repens*)
- Tree No. 25: Leyland Cypress (*X Cupressocyparis leylandii*)
- Tree No. 26: Peppercorn Tree (*Schinus molle*)
- Tree No. 27: Bay Tree (*Laurus nobilis*)
- Tree No. 28: Prickly Paperbank (*Melaleuca styphelioides*)
- Tree No. 29: Elm (*Ulmus* sp.)

It is proposed to remove all trees onsite (27), except for tree 4 to be retained in the front setback.

The removal of trees 5, 13, 21, 22, 27 and 28 will trigger a planning permit under Schedule 3 to Clause 42.02 Vegetation Protection Overlay.

We defer to the Arborist Report prepared by Melbourne Arborist Reports Pty Ltd for more information.

Design and Development Overlay

The subject site is also affected by the Design and Development Overlay, Schedule 12 (DDO12) pursuant to Clause 43.02 of the Banyule Planning Scheme (Ivanhoe Accessible Residential Area).

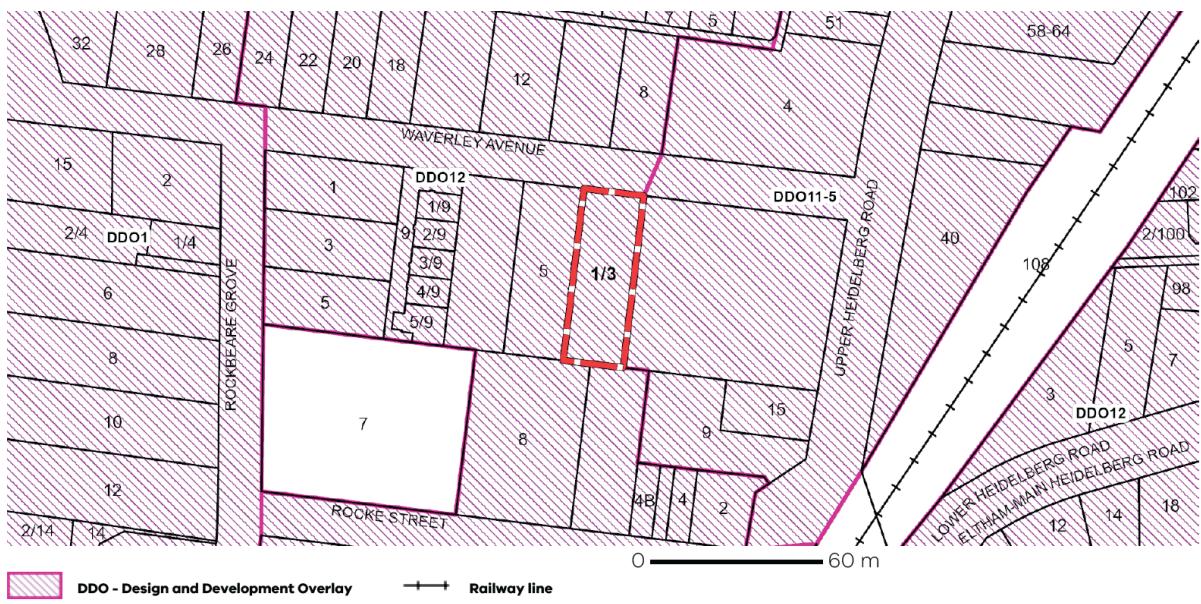
The purposes of the DDO are:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify areas which are affected by specific requirements relating to the design and built form of new development.*

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Figure 5: DDO Map (subject site outlined in red)



Source: Vic Plan (16 October 2024)

Pursuant to Clause 43.02-2 a permit is required to construct a building or construct or carry out works. Clause 2 under the Schedule 12 provides several minor exemptions which do not apply to this proposal.

The preferred maximum height of a building is 7.5 metres unless the building achieves the Design Requirements and Outcomes in Table 1, in which case the preferred maximum height is 9.0 metres.

The preferred maximum height may be increased by 1 metre where the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more. A response to Table 1 is provided under Section 5.3 of this report.

Clause 3 to Schedule 12 highlights the built form requirements such as 'height', 'setbacks', 'landscaping' among others. An assessment against the design requirements for Table 1 to Schedule 12 is provided under Section 5.3 of this report.

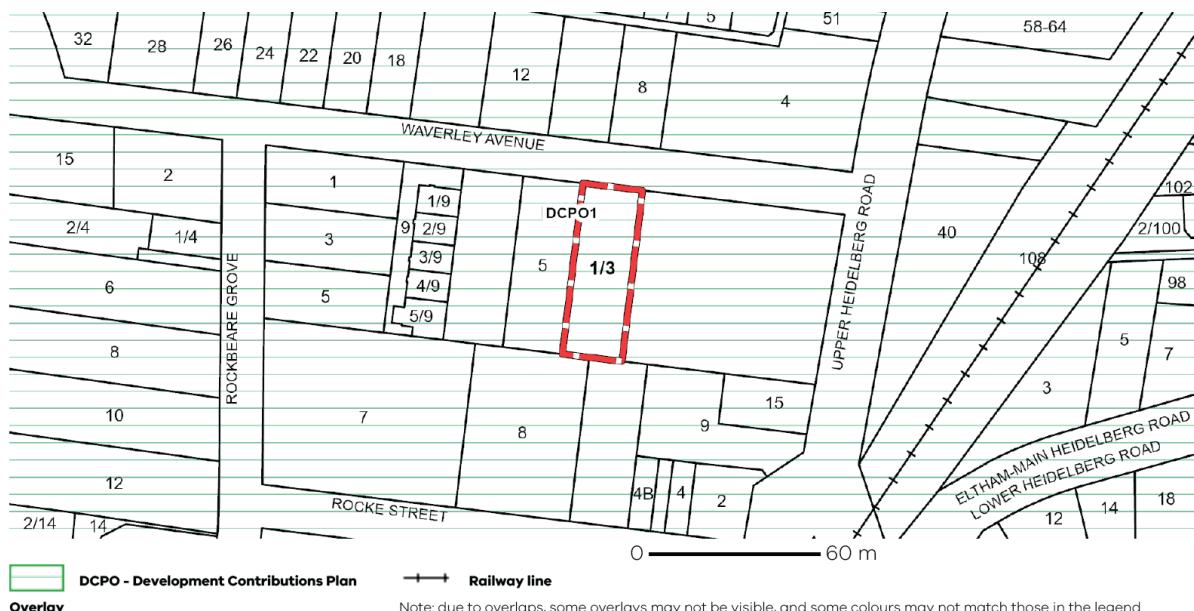
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Development Contributions Plan Overlay

The subject site is also affected by the Development Contributions Plan Overlay, Schedule 1 (DCP1) pursuant to Clause 45.05 of the Banyule Planning Scheme.

Figure 6: DCPO Map (subject site outlined in red)



Source: Vic Plan (16 October 2024)

Pursuant to Clause 45.06-1 – a permit must not be granted to subdivide land, construct a building or construct or carry out work until a development contributions plan has been incorporated into this scheme.

Schedule 1 to the DCP relates to the Banyule Development Contributions Plan, which applies to all new development within the 24 Charge Areas shown on Map 1 within this overlay. The subject site is contained within Charge Area No. 20.

We note that the permit applicant will have to pay a contributions fee towards residential development infrastructure within this DCP.

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5. Planning Policy Framework

Municipal Planning Strategy (MPS)

- Clause 02.01 – Context
- Clause 02.02 – Vision
- Clause 02.03 – Strategic Directions
- Clause 02.04 – Strategic Framework Plans

Overview of MPS

Clause 02.01 notes that the City of Banyule is located between 7 and 22 kilometres north-east of central Melbourne. The municipality has an area of approximately 63 square kilometres. The Yarra River and Darebin Creek clearly define its southern and western boundaries respectively.

Clause 02.02 outlines the vision and strategic framework for the municipality. Banyule's City Plan (Corporate Plan) sets the aims and actions, and key strategic directions for the relevant three-year period. The vision included in that plan guides the Municipal Strategic Statement:

Banyule will be regarded as a city offering a range of quality lifestyles in an urban setting enhanced by the natural environment, and served by an efficient and committed Council.

Clause 02.03-1 states that Council's key objectives for activity centres, as follows:

- *Direct growth in housing, commercial activity and community facilities to Banyule's major activity centres.*
- *Support a diversity of activity centres that offer a range of retail, business, entertainment, community and tourist-related goods, services and employment.*
- *Enhance the layout, local character, function and viability of neighbourhood activity centres, particularly larger strip shopping centres.*
- *Support the alternative use or redevelopment of activity centres that no longer perform a viable retail or service function, including for residential use.*

Clause 02.03 also outlines the below overview of the Ivanhoe Activity Centre.

Ivanhoe Major Activity Centre is located 9 kilometres north-east of the Melbourne CBD. The area is defined by its distinctive views, historic buildings, prominent trees, topography and the curving, undulating nature of Lower Heidelberg Road and Upper Heidelberg Road. It is home to numerous shops, a flagship town hall in the civic precinct and a skyline of steeples, towers and trees.

More diverse housing choices will enable residents to live closer to the heart of Ivanhoe and support a range of food, retailing, recreation, entertainment and ancillary services to enliven the area and local economy, while respecting its character.

Council's strategic directions for the Ivanhoe Major Activity Centre are to:

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- *Maintain the activity centre as an economically viable and socially vibrant centre by allowing for future housing and commercial growth, along with a greater range of social, cultural, recreational and entertainment activities and public spaces.*
- *Encourage development that reflects the local identity of Ivanhoe and respects known heritage qualities.*
- *Encourage development that responds to the topography of the area, and retains long-range views to the Dandenong Ranges, the Melbourne CBD and the surrounding landscape from the public realm.*

Clause 02.03-5 outlines the following objectives for housing supply:

- *Direct housing growth to locations in or close to activity centres and the Principal Public Transport Network, and to strategic redevelopment sites, to satisfy housing demand.*
- *Promote more affordable housing, including in the private rental market, crisis accommodation, student accommodation and public housing, that addresses the needs of those seeking to reside in Banyule.*
- *Increase the diversity of housing types and the provision of more adaptable housing that meets the special needs of the broader community, including older persons with impaired mobility and those from culturally diverse backgrounds.*
- *Support the use and development of surplus non-residential land for residential purposes where it can contribute to the preferred neighbourhood character of the area and to housing diversity.*

The Residential Areas Framework contained in Clause 02.03-5 addresses the issues affecting the municipality as a result of increasing population, and changes to household size and structure, including impacts on neighbourhood character. The Residential Areas Framework provides guidelines on the built form of residential development. It identifies the review site as being located in an 'Accessible Area'.

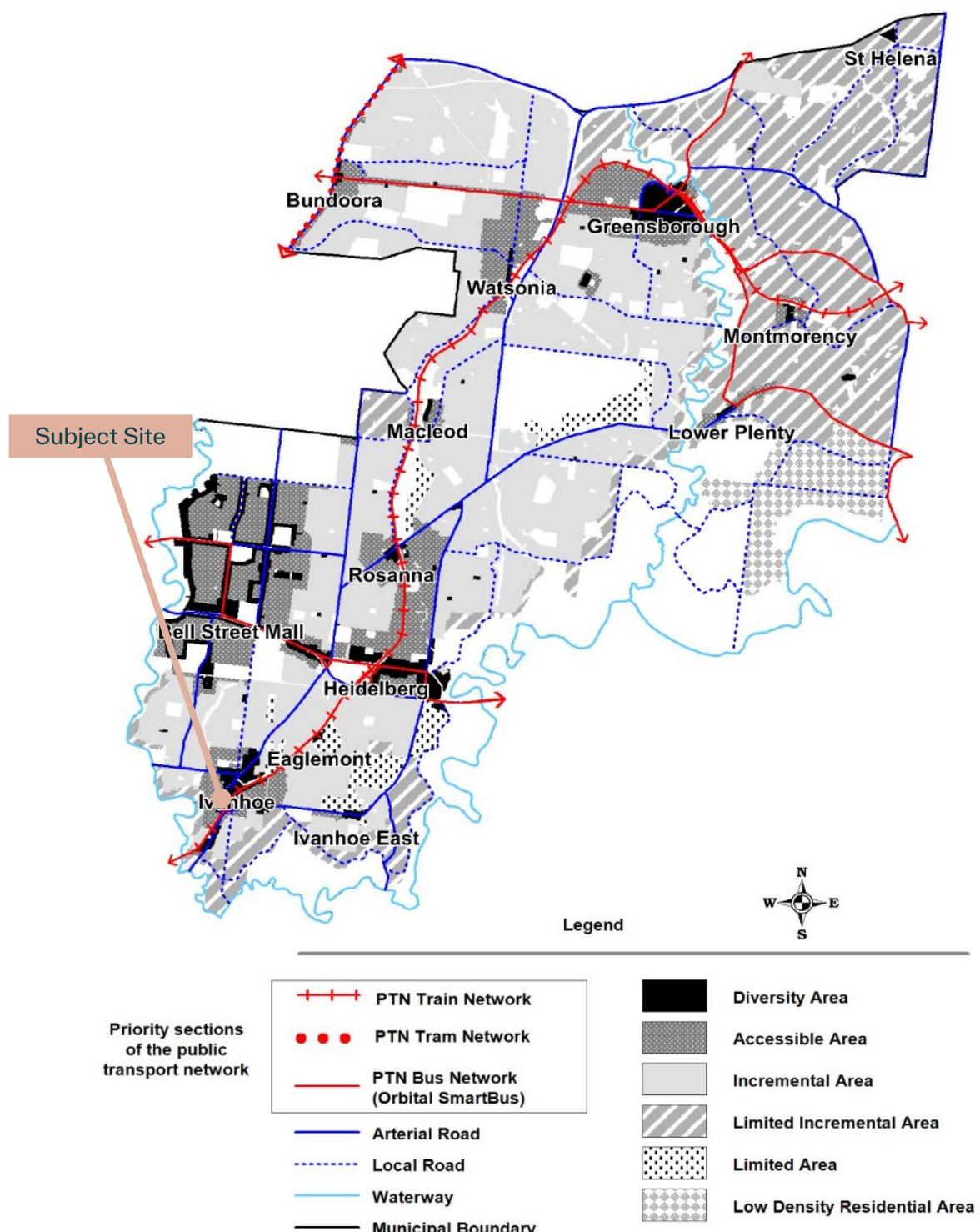
Accessible Areas are identified as typically having the following characteristics:

- *Within convenient walking distance to the business core of an activity centre.*
- *Within convenient walking distance to the highest priority sections of the Principal Public Transport Network, where higher frequency and quality of public transport services are in operation.*
- *Accessible Areas will provide townhouse and other medium density living and some dispersed single dwellings. Some opportunities for higher density housing will also exist. These areas include strategic redevelopment sites that provide for medium density and a higher density housing component.*
- *Development must make a positive contribution to the preferred neighbourhood character, including opportunities for tree protection and planting.*

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Figure 7: Residential Areas Framework Map



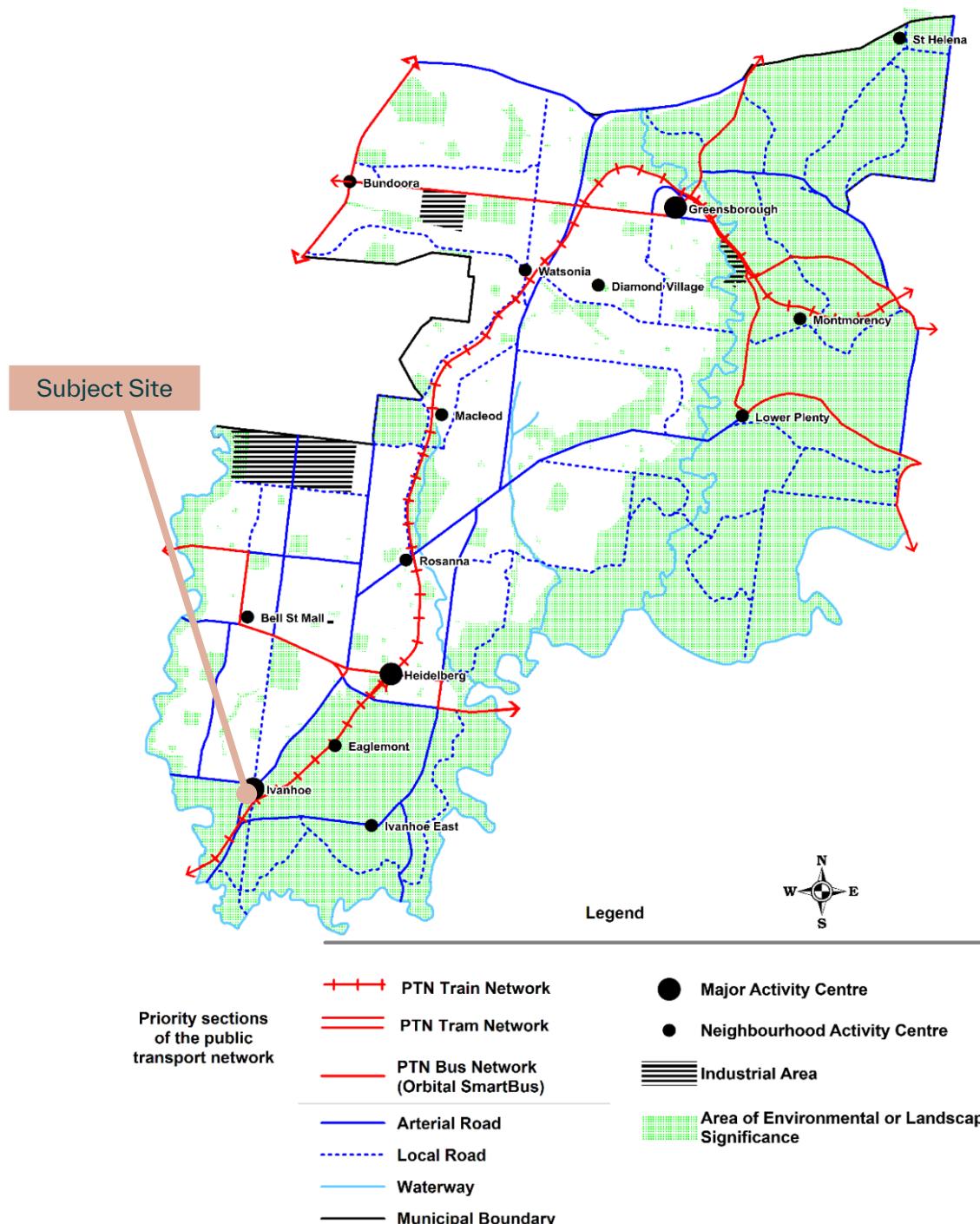
Source: Clause 02.04 of the Banyule Planning Scheme

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Clause 02.04 includes the Strategic Framework Plan, which amongst other things identifies the spread of Activity Centres and other key areas of strategic significance within the municipality. The plan identifies the subject site as being within the Ivanhoe Activity Centre.

Figure 8: Strategic Framework Plan



Source: Clause 02.04 of the Banyule Planning Scheme

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Planning Policy Framework

The following Planning Policy Framework (PPF) (some identified as 'S' state, 'R' regional and 'L' local) that are relevant to this proposal include:

- Clause 11.01-1S – Settlement
- Clause 11.01-1R1 – Settlement – Metropolitan Melbourne
- Clause 11.02-1S – Supply of Urban Land
- Clause 11.03-1S – Activity Centres
- Clause 11.03-1R – Activity Centres – Metropolitan Melbourne
- Clause 11.03-1L-01 – Activity Centres
- Clause 11.03-1L-03 – Ivanhoe Major Activity Centre
- Clause 13.05-1S – Noise Management
- Clause 15.01-1S – Urban Design
- Clause 15.01-1R – Urban Design – Metropolitan Melbourne
- Clause 15.01-1L-01 – Urban Design
- Clause 15.01-1L-02 – Safer Design
- Clause 15.01-2S – Building Design
- Clause 15.01-2L-01 - Building Design
- Clause 15.01-2L-02 – Environmental Sustainable Development
- Clause 15.01-4S – Healthy Neighbourhoods
- Clause 15.01-4R – Healthy Neighbourhoods – Metropolitan Melbourne
- Clause 15.01-5S – Neighbourhood Character
- Clause 15.01-5L-01 – Preferred Neighbourhood Character
- Clause 16.01-1R – Housing Supply – Metropolitan Melbourne
- Clause 16.01-2S – Housing affordability
- Clause 18.02-3R – Sustainable Personal Transport
- Clause 18.02-3R – Principal Public Transport Network

The overarching thrust of the PPF is that residential development should be focused in and around activity centres, employment corridors and close to jobs and services and within urban renewal precincts.

Plan Melbourne Refresh was introduced to the Planning Scheme on 31 March 2017, as part of Amendment VC134, and seeks to manage the expected population increase by seeking to integrate long-term land use and infrastructure and transport planning. It has identified that to remain livable, the city must avoid the temptation to sprawl as it grows. Housing must be available in locations that capitalise on existing infrastructure, jobs, services and public transport.

Clause 11.03-1L-03 Ivanhoe Major Activity Centre

This policy applies to land forming part of Maps 1 and 2 of this Clause.

The general land use strategies for this Clause are as follows:

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- Locate community services, offices and residential development in the upper levels of mixed use developments to maintain active uses at street level, such as retail, hospitality and entertainment.
- Provide a diversity of commercial office space and retail premises to suit a range of small- and medium-sized businesses.
- Direct community and government services to locate within the activity centre to take advantage of accessibility to a range of transport modes.
- Focus housing growth within the activity centre to reduce development pressure in residential streets outside the activity centre boundary.
- Provide a variety of dwelling sizes and types within individual developments to cater for different household needs, with a focus on smaller households in the activity centre.

The subject site is in Precinct 7, known as the 'Accessible Residential Precinct'. It has the following vision (as relevant).

To encourage a range of dwelling types to meet the diverse needs of the community, and to benefit from convenient access to public transport and the core of the activity centre.

The general built form strategies of this clause are as follows:

- Enhance the sense of arrival at gateway locations through building and landscape design in a manner that reinforces the activity centre's cultural heritage and identity.
- Maintain the ongoing prominence of the Town Hall clock tower as the dominant built form element of the activity centre.
- Avoid obscuring existing views to the library, Town Hall and clock tower, including the ongoing visibility of the clock tower silhouette from the northern approach along Upper Heidelberg Road.

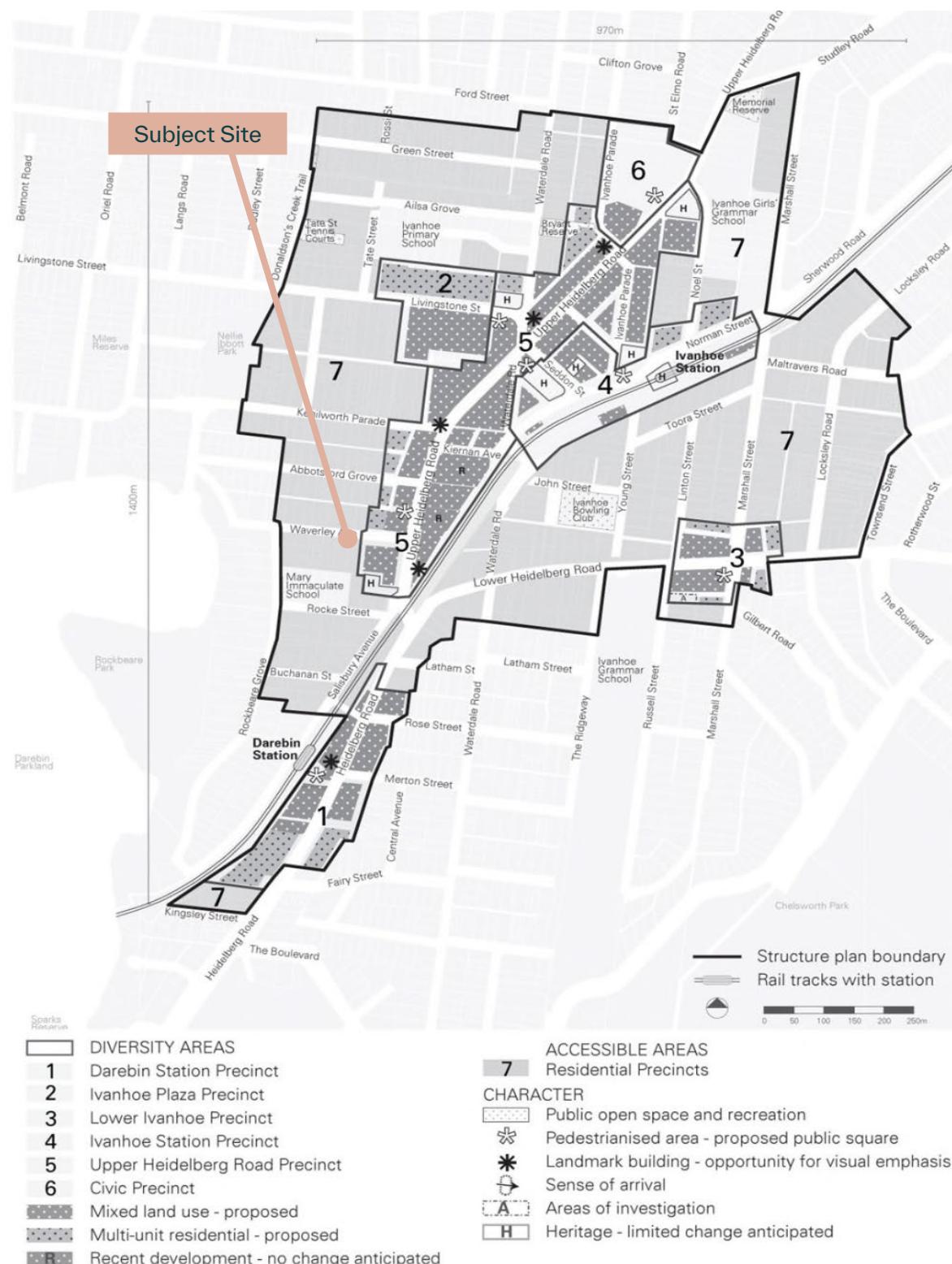
The precinct specific built form strategies of this clause are as follows (as relevant):

- In Precinct 7 – to provide opportunities for views to the Melbourne CBD, Kew and the Dandenong Ranges, and retain the undulating topography of the immediate area and treed ridgeline as the distinctive backdrop.
- In Precincts 1 – 5 – to provide multi-dwelling residential and mixed use development as a transitional interface between the Diversity Areas within these precincts, and the Accessible Areas in Precinct 7.

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Figure 9: Map 1 of Clause 11.03-1L-03



Source: Map 1 of Clause 11.03-1L-03 of the Banyule Planning Scheme

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Figure 10: Map 2 of Clause 11.03-1L-03



Source: Map 2 of Clause 11.03-1L-03 of the Banyule Planning Scheme

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Clause 15.01-1L-02 Safer Design Policy

Clause 15.01-1L-02 Safer Design Policy applies to all land within the City of Banyule excluding land within the Activity Centre Zone. Policy Objectives within this Clause include the following:

- *Encourage a mix of uses that generate activity and facilitate the informal surveillance of public, and publicly accessible private, spaces.*
- *Site and design developments and public spaces that provide for safe pedestrian movement between areas of activity, and to car parks and public transport stops, by:*
 - *Incorporating clearly defined and continuous paths of travel with unobstructed sightlines.*
 - *Providing appropriate lighting to increase personal security.*
 - *Eliminating areas of potential concealment and entrapment.*
 - *Maximising opportunities for informal surveillance.*
 - *Clearly defining private, public and community spaces.*
 - *Utilise materials, colours, finishes, fixtures, landscaping and building forms that discourage graffiti.*

In considering any proposal to use and develop land, the responsible authority will have regard to the Banyule Safer Design Guide

Clause 15.01-2L-02 Environmental Sustainable Development

Clause 15.01-2L-02 Environmental Sustainable Design seeks to achieve best practice in environmentally sustainable development from the design stage through to construction and operation.

A Sustainable Management Plan has been prepared by GIW Environmental Solutions in accordance with this policy.

Clause 15.01-5L-01 Preferred Neighbourhood Character

This policy applies to all applications for development in the Neighbourhood Residential Zone (NRZ), General Residential Zone (GRZ), Rural Conservation Zone (RCZ), Low Density Residential Zone (LDRZ), and Precinct 5 of Schedule 1 to the Activity Centre Zone (ACZ), within the areas identified on the Neighbourhood Character Area Map forming part of this clause.

All areas objectives include the following:

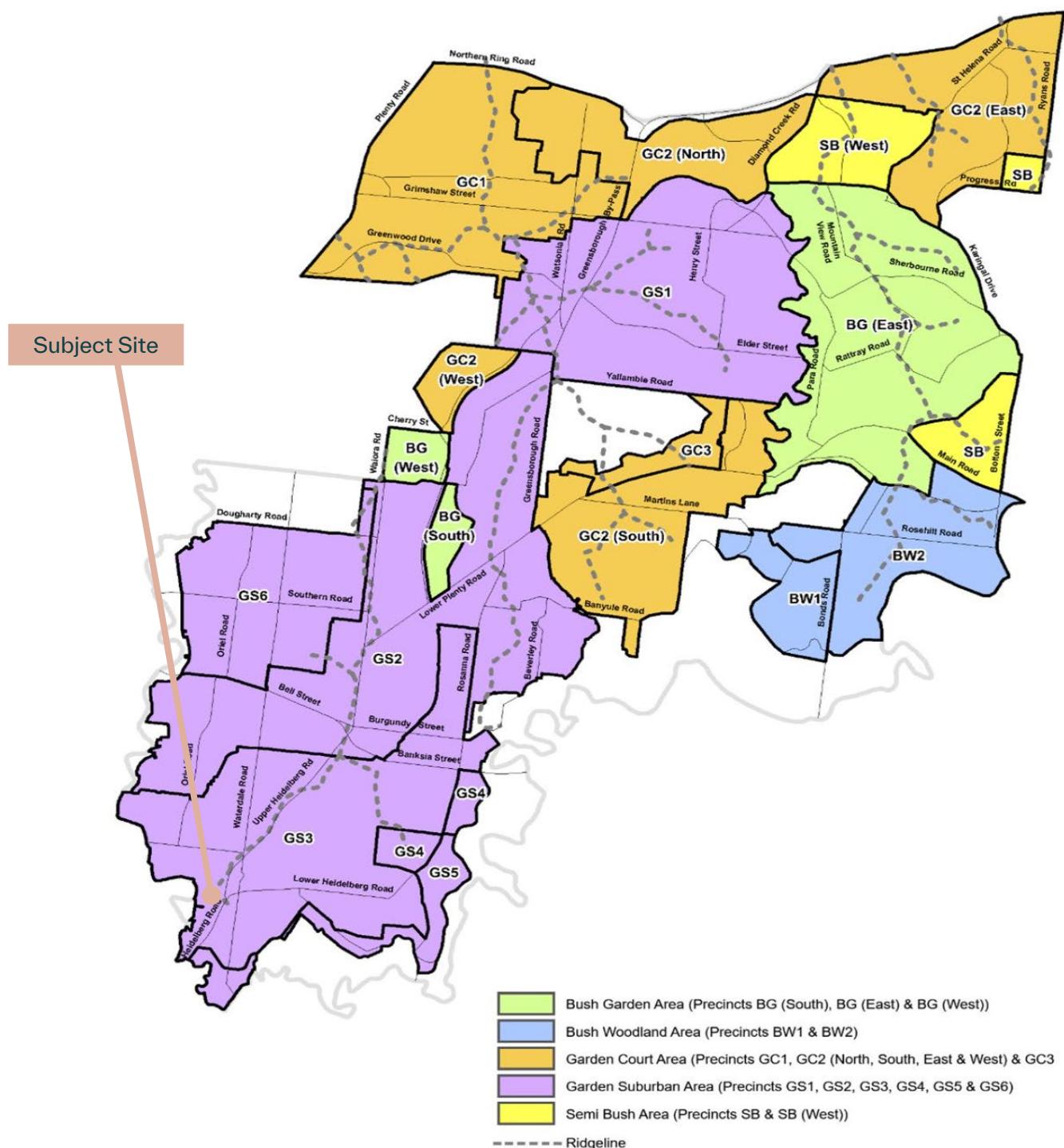
- *To encourage the retention and planting of canopy trees and understorey vegetation to soften the appearance of dwellings, enhance landscape settings, and improve existing wildlife and habitat links.*
- *To ensure buildings and extensions do not dominate the streetscape, the building, or the outlook and amenity of neighbouring dwellings.*
- *To protect and enhance the dominant continuous tree canopy and natural vegetated appearance of ridgelines.*
- *To ensure that household services, vehicle access and storage facilities are not visually prominent features of streetscapes.*

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The subject site is located within the Garden Suburban Area Precinct 3 (GS3), per Figure 11.

Figure 11: Neighbourhood Character Area and Precincts Map



Source: Clause 15.01-5L-01 Preferred Neighbourhood Character of the Banyule Planning Scheme

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Garden suburban area wide objectives are as follows:

- *To maintain and strengthen the landscape setting of each precinct with spacious leafy gardens, tree-dominated streetscapes and spines of trees in rear setbacks.*
- *To ensure development on sites zoned NRZ3 and GRZ2 prioritises tree protection and planting around and between dwellings to create an attractive, treed landscape setting.*
- *To ensure development on sites zoned GRZ1, GRZ3 or GRZ4 contributes to an enhanced treed environment whilst providing for increased housing densities.*

Garden suburban area wide policy guidelines are as follows:

- *Building site coverage not exceeding 40 per cent to enable the planting, growth and retention of vegetation. This may be varied in zones GRZ1, GRZ3 or GRZ4 if existing vegetation is retained and sufficient area is provided for the planting of additional trees and other vegetation.*
- *Providing one medium to large tree for every 400 square metres of site area, with a preference for large trees and including existing trees that are worthy of retention.*
- *Providing at least one large tree in the front setback area.*

Figure 11 indicates that the site is located within Garden Suburban Precinct 3 (GS3). This precinct has the following strategies:

- *Provide a mix of exotic, native or indigenous trees and understorey vegetation that complements the character of the precinct.*
- *Encourage the retention of intact, good condition Victorian, Edwardian and Interwar buildings, particularly where individually significant, in a row, or streetscapes of dwellings from these periods.*
- *Retain the front façade when altering or extending dwellings that contribute to the character of the precinct.*
- *Incorporate main design themes in correct proportions and scale, from the Edwardian, Interwar, post-war or 1960s era in new development, as appropriate to the street.*
- *Incorporate second storeys within roof spaces where possible.*
- *Reflect the architectural style and form of the existing building in second storey additions.*
- *Match materials of new buildings to the predominant wall and roof materials in the street.*
- *Match wall and roof materials of existing buildings in extensions to those buildings.*
- *Use weatherboard or rendered brick in predominantly weatherboard areas south of Banksia Street.*
- *Use low and permeable front fencing appropriate to the predominant era of dwellings in the street to maintain the view of front gardens in the streetscape.*

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5.1. Particular Provisions

Clause 52.06 Car Parking

The car parking table under Clause 52.06-5 prescribes the number of car parking spaces required having regard to the activities on the land.

The site is located within the Principal Public Transport Network Area Map where Column B rates at Table 1 to Clause 52.06-5 apply. The prescribed number of car parking spaces for the proposed use is as follows:

– *2 x spaces to each three or more bedroom dwelling.*

The proposed development comprises 10 x 3 bedroom dwellings. Applying the above standard, the proposed development will require 20 resident spaces.

No visitor car parking is required.

The proposal provides 20 spaces and meets the statutory car parking requirement. As such, no waiver of car parking is required for this application.

We defer to the Traffic Impact Assessment letter prepared by Ratio Consultants for further details.

Clause 52.04 Bicycle Facilities

As the subject site is less than four-storeys in height, there is no statutory requirement to provide any on-site bicycle parking spaces. However, one (1) visitor bike hoop providing 2 (two) bike parking spaces has been provided.

We defer to the Traffic Impact Assessment letter prepared by Ratio Consultants for further details.

Clause 55 ResCode

This Clause is applicable for any application to construct two or more dwellings on a lot in the General Residential Zone.

An assessment against the objectives of Clause 55 is provided at [Appendix B](#).

Clause 65 Decision Guidelines

Clause 65.01 (approval of an application or plan) highlights 'Decision Guidelines' which state that, before deciding on an application, considerations should be given to a series of matters including the purpose of the zone, overlay or other provision, the orderly planning of the area and the effect on the amenity of the area.

Clause 71 Operations of this Planning Scheme

This clause provides an overview of the Purpose of the various planning frameworks including the need for integrated decision making. This Clause states that The Planning Policy Framework operates together with the remainder of the scheme to deliver integrated decision making and that planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

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6. Planning Considerations

6.1. Introduction/Overview

Clause 71.02-3 requires the “balancing” of sometimes conflicting policies in favour of net community benefit and sustainable development.

In this case the “balancing act” needs to assess matters such as the value of providing a low-rise apartment building in this accessible location, against other matters such as character and amenity.

The proposal seeks to construct a three-storey apartment building over a basement on a site located within the General Residential Zone forming part of the PPTN.

As such, it is our submission that the relevant considerations can be distilled as follows:

- Is there strategic support for the proposal?
- Is the proposed built form appropriate to its context?
- Will the proposal provide appropriate amenity to existing and future residents?
- Does the development appropriately respond to the VPO?
- Is the proposal appropriate having consideration to traffic and car parking outcomes?
- Has the proposal had adequate regard to the VCAT Decisions associated with previous applications to develop the site?

6.2. Is There General Strategic Support for this Proposal?

Planning Policy Framework

The PPF seeks to anticipate and respond to the needs of existing and future communities, through the provision of zoned and serviced land for a range of uses, including housing, employment, recreation and open space, commercial and community facilities, and infrastructure. Ensuring that a sufficient supply of land is available for residential purposes to meet forecast demand remains at the forefront of the policy agenda.

Specifically:

- Planning for urban growth should consider opportunities for the consolidation, redevelopment and intensification of existing urban areas and to also incorporate neighbourhood and landscape considerations (Clause 11.02-1S).
- To create a city of 20 minute neighbourhoods (Clause 15.01-4R).
- To locate new housing in designated locations that offer good access to jobs, services and transport. More specifically, encourage higher density housing developments on sites that are well located in relation to jobs, services and public transport. Housing opportunity areas include activity centres (Clause 16.01-2S/R).

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- The provision of a range of housing types to meet diverse needs. The creation of mixed-use neighbourhoods at varying densities offers greater housing choice (Clause 16.01-1S/R).

In addition to the above, there remains general recognition that by focusing a substantial proportion of new development in and around activity centres that have good access to and within the principal transport network, this will help to reduce car trips; maximise the efficient use of infrastructure, and reduce the pressure for land at the fringes of the metropolitan area. It will also assist in:

- Ensuring the available housing stock better matches changing demand by widening housing choice, particularly in middle and outer suburbs;
- Supporting opportunities for a wide range of income groups to choose housing in well serviced locations;
- Increasing the local population base that supports activity centres, local businesses, schools, community centres and the like; and
- Encouraging walking, cycling and public transport as viable transport alternatives.

The proposal achieves the above policy objectives by providing a low-rise apartment development comprising 10 new dwellings on a site that is located within an activity centre and proximate to transport and services. The size of the site, the location within an activity centre and within close walking distance to a train station provides a clear and strong state strategic support for this application.

The site's location within the Ivanhoe Major Activity Centre within the Principal Public Transport Network (PPTN) makes it a suitable candidate to support increased housing densities. Most relevantly, the area is identified in 'Ivanhoe's Accessible Residential Area', where multi-dwelling developments are encouraged, including low rise apartment buildings.

The proposal advances a range of housing policy references in the PPF, which includes:

- It will contribute to the mix and range of housing types and forms in the area;
- It will maintain and increase housing choice and diversity within existing residential areas; and
- It will increase residential development opportunities proximate to services, transport and other strategic locations.

The proposal is further considered consistent with the relevant provisions of Clause 02.03, Clause 11.01 and Clause 15.01 in that:

- It provides a substantial proportion of new housing located within an Activity Centre within the Principal Public Transport Network. This encourages the use of more sustainable modes of travel.
- It will increase residential development opportunities in and around commercial centres and other strategic locations.
- The overall size and scale of the development is consistent with the preferred and emerging character of the area.
- It will facilitate the provision of accessible and adaptable housing within Banyule.
- It exemplifies a high-quality design and provides future occupants with good levels of internal amenity.

Furthermore, the Victorian Government's Housing Statement sets out the blueprint for housing growth over the course of the next decade (2024 - 2034). The overarching objectives

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of this plan include the delivery of more affordable housing closer to transport, roads, hospitals and schools – 800,000 homes are proposed to be built over the next decade including in established areas... where people want to live. This necessitates 'going up and out – not just out'. The State government has a target to build 1.6 million new homes by 2051 with 70 per cent of new homes to be built in established areas. Council has a role to help facilitate this growth by ensuring the right density of dwellings in the right locations. It is clear from the State, Municipal policies and the Banyule Planning Scheme that there is a need for more housing in and around Activity Centres where there is access to infrastructure, transport and other community services. The subject site possesses these characteristics and is thus an ideal candidate for redevelopment of the ilk proposed by this application.

Zone and Overlay Controls

The site is located within the General Residential Zone – Schedule 1 which seeks, amongst other things:

- *To encourage development that respects the neighbourhood character of the area; and*
- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*

The proposal is entirely consistent with the purpose of the zone. The introduction of apartment living on the subject site contributes to housing types and growth in a location that has excellent access to services and various modes of public transport.

Importantly, Schedule 1 to the GRZ refers to Banyule's 'Accessible areas and Ivanhoe residential diversity areas'. There is only one ResCode variation which is limited to landscaping. The Design Objectives in DDO12 provides further support of townhouses and low-rise apartments in this locality.

In addition, the design objectives contained within the DDO12 are largely supportive of the proposal. Amongst others, the design objectives seek:

- *To support the development of sensitive new multi-dwelling developments, such as town houses and low rise apartments in addition to traditional single dwellings; and*
- *To ensure new buildings are of high quality design and respond to the desired future streetscape, building height, siting and built form character.*

Given that it is proposed to construct a low-rise apartment building that has been designed to exhibit high quality design to respect the existing character whilst also responding to the desired future streetscape, we submit that the proposal is entirely consistent with the design objectives within the DDO.

Contextual Issues

The context of the site is such that it represents an excellent opportunity for redevelopment and is demonstrated by the following:

- It is located within the General Residential Zone and is covered by the Design and Development Overlay – Schedule 12, which supports higher density developments;
- It is a large parcel of land (1,269.27sq.m), and is of a generally regular shape;
- All services are available on-site; and
- The site is located within an activity centre and has excellent access to wide range of community services including public transport.

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At the 'micro' level, the site demonstrates no particular constraints that would prevent its development for additional dwellings.

Whilst detailed considerations must be given to matters such as urban design / character, car parking / access and amenity, the site represents an appropriate candidate for urban consolidation of the order proposed.

6.3. Is the Proposed Built Form Appropriate to its Context?

Introduction

The role of the planning system is to manage the process of change. There are various policies in the Planning Scheme that seek to ensure new development is compatible with the existing and preferred future character of an area. Specific matters that are relevant in this regard include the GRZ1, Clause 15.01, DDO12 and Clause 55.

The General Residential Zone, Schedule 1 (GRZ1), establishes a number of decision guidelines including (most importantly) the consistency of the proposal with purposes of the zone, neighbourhood character objectives, and the provisions of Clause 55.

The development should respond to the purposes of the zone, including:

- *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*

Equally, Schedule 12 of the DDO, establishes a number of design objectives, the first being:

- *To support the development of sensitive new multi-dwelling developments, such as town houses and low-rise apartments in addition to traditional single dwellings.*

The concept of 'respect' or being 'compatible' with neighbourhood character does not equate to replicating what already exists. In this instance, the planning context facilitates a degree of change and it is expected that the existing residual housing stock will gradually be replaced with more 'intensive' and robust built forms, especially within activity centres. This will be tempered by providing an appropriate landscaped setting which is an intrinsic component of the area's character.

Neighbourhood Character

Clause 15.01-5L-01 Preferred Neighbourhood Character identifies the site to be in the 'Garden Suburban Precinct 3'. It qualifies that the preferred future character of those areas within the Ivanhoe Activity Centre will be guided by DDO11 and DDO12.

The proposal responds positively to the Design Objectives of DDO12 (Ivanhoe Accessible Residential Area) for these reasons:

- It comprises a low-rise apartment typology which is anticipated for the area.
- It is of a high-quality design and is site responsive. This is demonstrated by its overall form, siting and height.
- The horizontal massing of the built form reflects the predominant pattern and spacing of buildings in the street. The articulation and 'stepping' present throughout the upper levels of the development create a less dominant viewing experience from Waverley Avenue. The built form will be further tempered by its generous landscaped frontage and side setbacks.
- The three-storey maximum height of the apartment building integrates appropriately with the surrounding building heights and satisfies the mandatory building height requirements

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specified in the GRZ1. Importantly, the building height will not extend above the predominant canopy tree heights of the surrounding area.

- Car parking is concealed in a basement with vehicular access limited to an accessway via Waverley Avenue. This driveway is designed to integrate with the landscaped frontage.
- The number of crossovers has been limited to one, which is supported by planning policy.
- The proposed building will be setback a minimum of 9.00 metres providing a very generous front garden setting to Waverley Avenue. We note that this minimum setback exceeds the requirements of Standard B6 Street Setback objective of Clause 55.03-1.
- Side setbacks are generally consistent with those within the surrounding area, with the proposed building being setback off the boundaries in order to allow for good separation between No. 1 and 5 Waverley Avenue. We note that Diagram 2 of Table 1 in the DDO12 illustrates the design requirements with regards to landscaping.

As the site is greater than 700sqm, it is expected that vegetation and landscaping are present within the front and rear setbacks of the lot, rather than the side setbacks. In this instance, the front and rear setbacks of the site will be improved by some 41 canopy trees throughout, to enhance the landscape character of the precinct and the side setbacks will also be landscaped. Given the above, we consider the site's landscaping outcome is in accordance with design requirements illustrated in Diagram 2 of Table 1 in the DDO12.

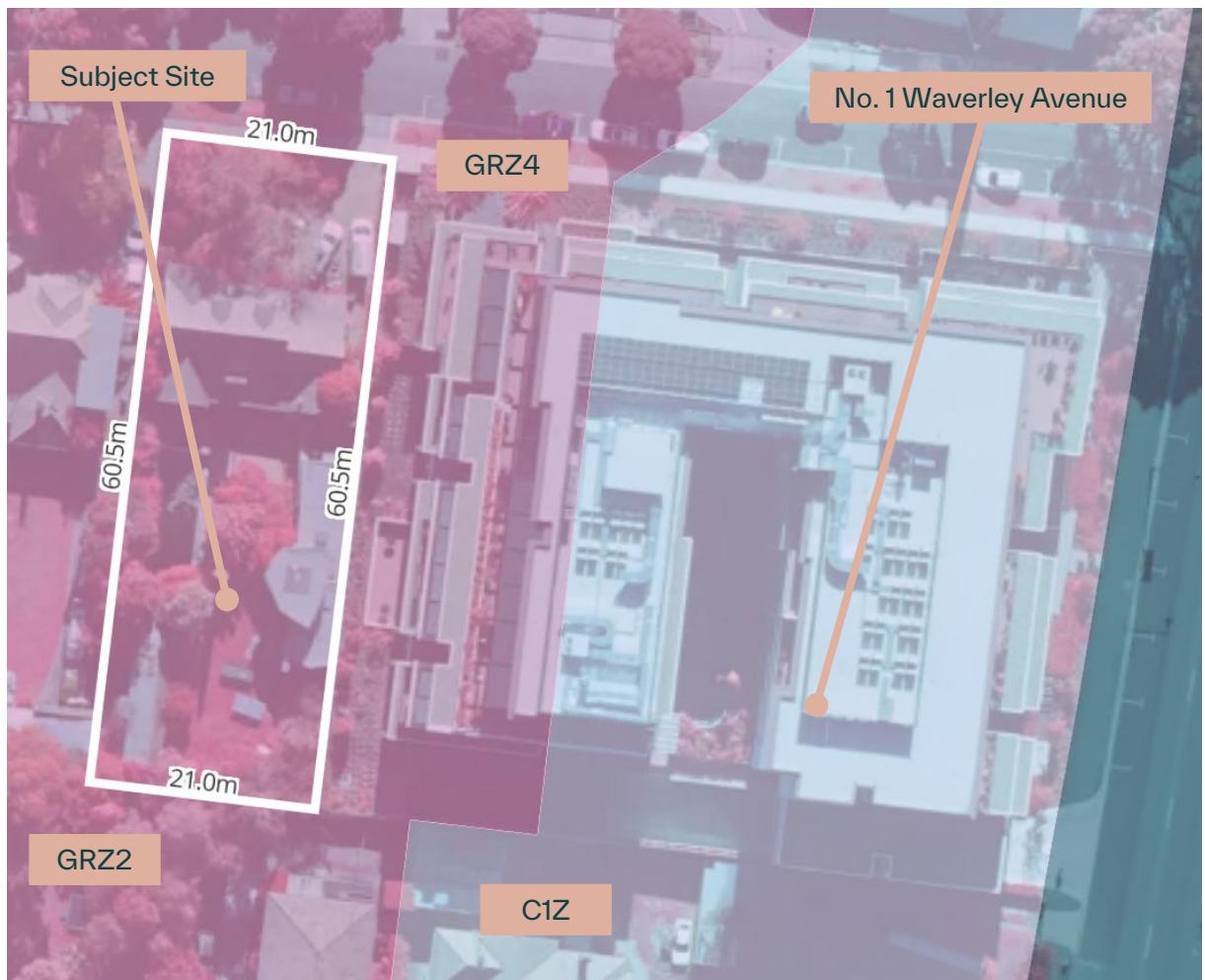
- The side and rear setbacks achieve an acceptable amount of compliance with Standard B17. The western side setbacks achieve almost full compliance to ensure an acceptable amount of harmony is maintained between the subject site and the neighbouring heritage dwelling at 5 Waverley Avenue. The rear setbacks are fully compliant with Standard B17. The eastern side setbacks seek a minor variation to Standard B17.

However, upon inspecting the site it is apparent that the development at No. 1 Waverley Avenue is a large retirement village building that appears to have sought a variation to Standard B17 with part of the site being located within the GRZ4 as well as the Commercial 1 Zone (C1Z). The area falling within the GRZ4 forms part of the shared boundary with the subject site, per Figure 12. Figure 13 demonstrates the significant transition in building form and scale from No. 1 being a 5 storey development, to a single storey dwelling both located within the General Residential Zone (fully and in part). The proposal will lessen the dramatic transition from No. 1 and the subject site, introducing a 3 storey building into the streetscape, allowing the development to balance the streetscape setting of a double storey heritage dwelling to its west and a 5 storey development to its east.

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Figure 12: Zoning of No. 1 Waverley Avenue



Source: Landchecker: 16 October 2024

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Figure 13: Transition from No. 1 Waverley Avenue to the subject site



- The external facades of the building are well articulated through wall and balcony recesses, window fenestration, materiality and the stepped façade to Waverley Avenue.
- There are no walls proposed along the boundaries.
- The contemporary architecture is well resolved and incorporates a high standard of visual interest to all interfaces. The main materials incorporated into the design include grey brick, grey brick stackbond, bronze metal cladding and concrete render.
- The flat roof design limits the overall height and visual bulk of the building, as perceived from the public (surrounding streets) and private realms (adjacent allotments).
- The site coverage of 54%, “garden area” of 36.66%, and generous side and rear setbacks ensure that the new building sits comfortably within the landscaped setting.
- The development has oriented apartments to front Waverley Avenue where practical. This facilitates a high degree of passive surveillance.
- The proposal will maintain and strengthen the garden setting by way of setbacks from perimeter boundaries. An established canopy tree within the site’s frontage is to be retained (i.e. the Scribbly Gum), whilst new landscaping opportunities, including the planting of 41 new medium to large sized canopy trees are to be provided around the perimeter of the building. A landscape plan has been prepared by Jack Merlo Design and Landscape that demonstrates the ability to meet the tree planting ratios (1:100sqm).

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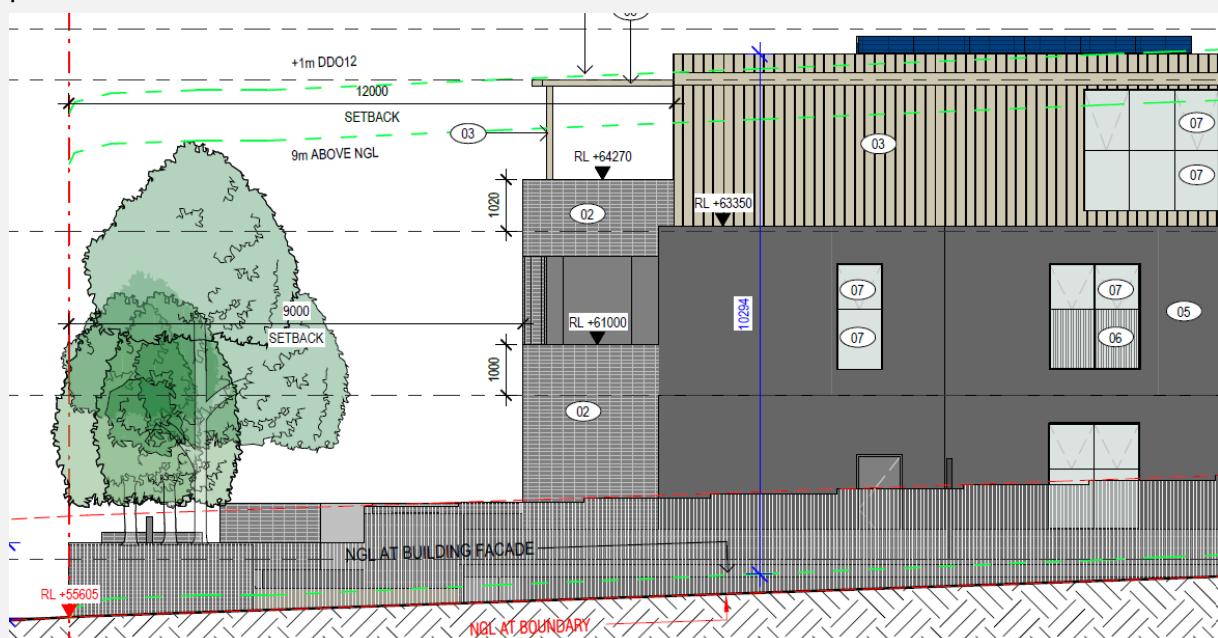
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- The proposed landscaping comprises a range of canopy trees, shrubs and understorey planting. Whilst the proposal seeks the removal of several trees, adequate space has been left surrounding the building in order to ensure an appropriate landscaping response can be achieved that includes the planting of canopy trees, as per the landscape plan prepared by Jack Merlo Design and Landscape.
- The front fence along Waverley Avenue is proposed to be 1.5 metres in height, complying with Standard B32.

Table 1: Table 1 to Schedule 12 of the DDO

Design requirements	Outcomes to be achieved
Front street setbacks Levels 1 to 2 Minimum 9 metres. Levels 3 and above. Minimum 3 metres behind the front wall of Levels 1 and 2.	Setbacks will be of sufficient dimensions to ensure for the long-term health of new and existing canopy trees. Upper levels will be setback behind the front wall to reduce their visibility and maintain the prevailing low-rise character. Refer to Diagrams 1 and 2.

Response: The minimum setback distances comply with the design requirements of this table, per the below.



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Rear setbacks

Levels 1

Minimum 6 metres.

Level 2

Minimum 9 metres.

Levels 3 and above. Minimum 12 metres.

Rear setbacks will be of sufficient dimensions to accommodate trees that will maintain canopy cover and soften the impact of new development.

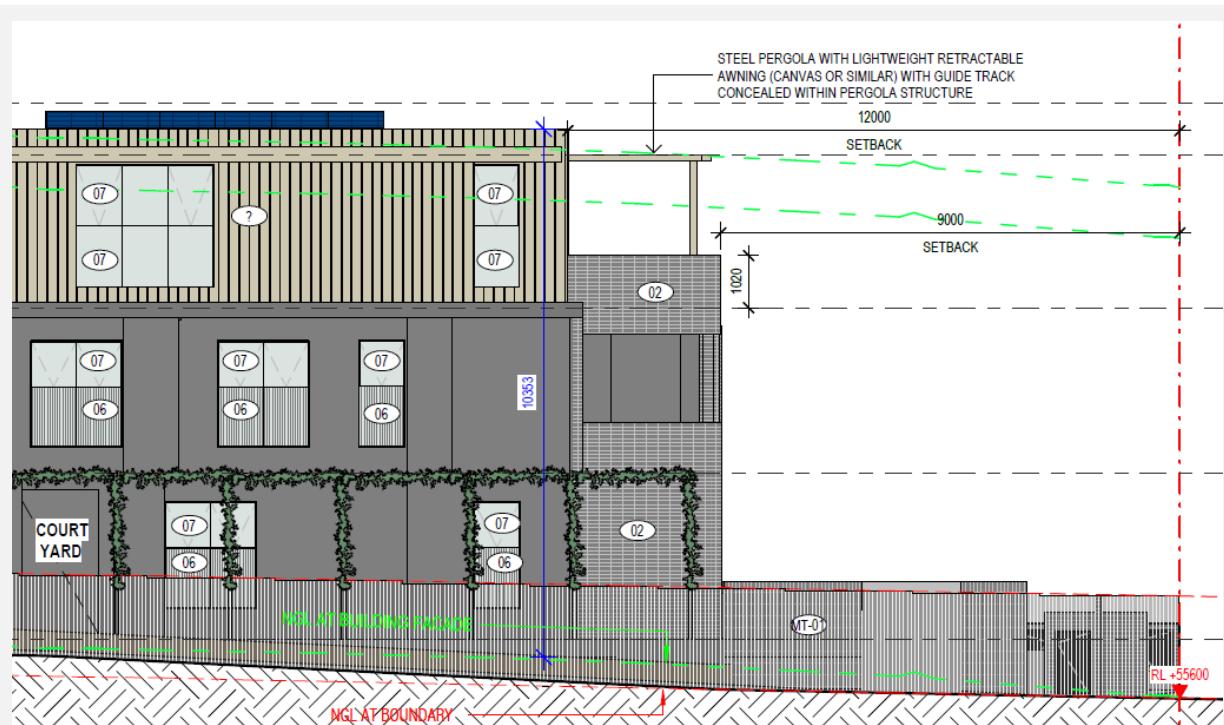
Upper levels will be setback to protect the privacy of adjoining secluded open spaces; reduce visual bulk; and provide for a high level of internal amenity for future occupants.

Refer to Diagrams 1 and 2.

Response: The proposal has been designed to ensure compliance with the rear setback distances, including 9 metres for level two and 12 metres for the level three component. The design demonstrates a tiered approach which responds appropriately to the rear interface (as below):

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Side setbacks

In accordance with ResCode standards A10-14 (Clauses 54.04-1 to 54.04-5) or B17-21 (Clauses 55.04-1 to 55.04-5).

Side setbacks will provide space for landscaping, achieving shared greenery between adjacent properties and protecting the daylight and amenity of adjoining dwellings.

Refer to Diagrams 1 and 2.

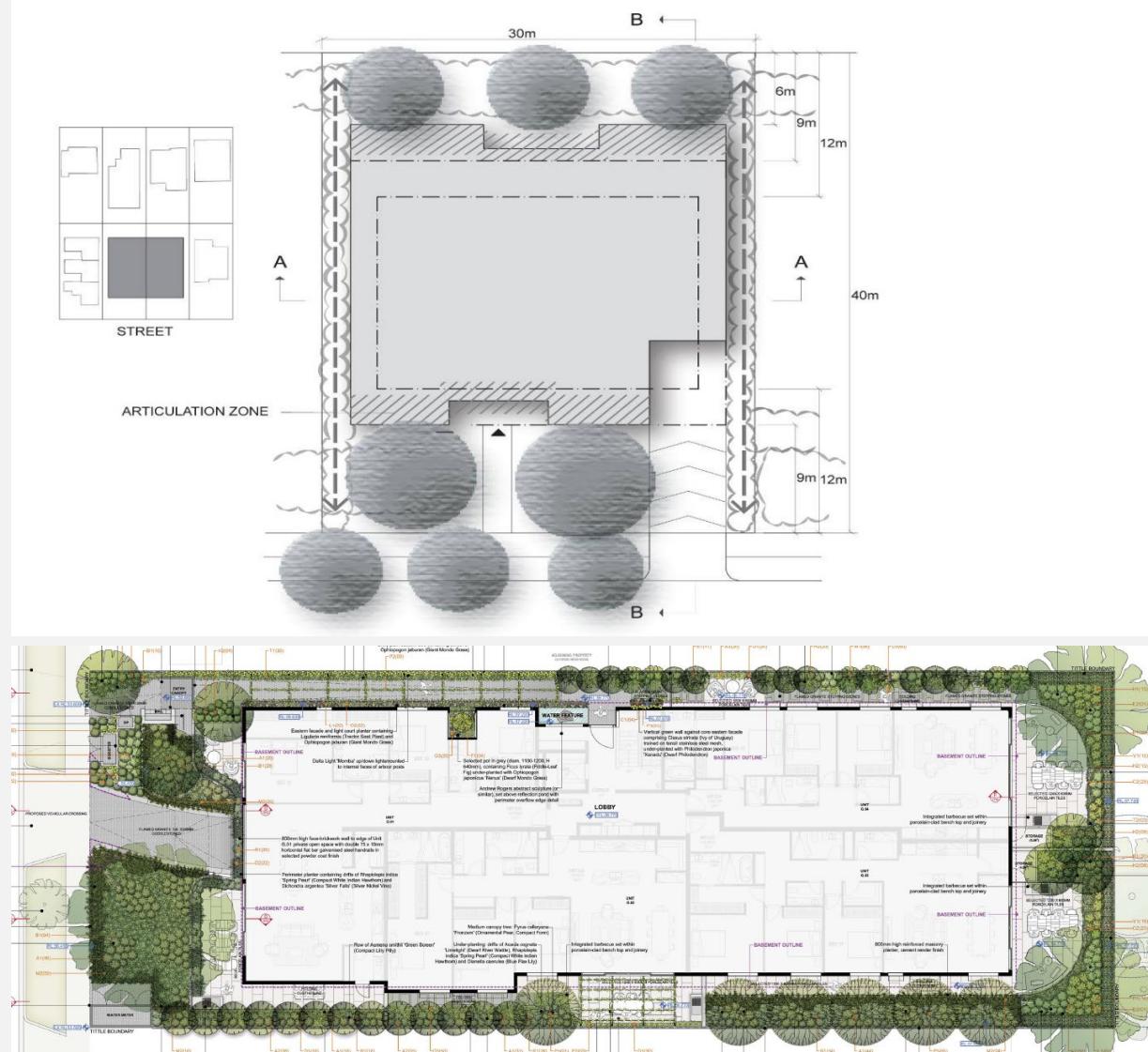
Response: The proposed development achieves an acceptable level of Standard B17 compliance given its direct property abutments, particularly at No. 1 Waverley Avenue. Variations are sought along the eastern aspect of the proposal at second floor online and a minor variation is sought on the western aspect of the development at first floor.

That notwithstanding, there is adequate space to the periphery of the built form to achieve landscaping. The landscape plan submitted with the application demonstrates an ability to provide significant replanting across the entire site. We defer to diagram 2 within Schedule 12 of the DDO that illustrates the limited side boundary setbacks to lots greater than 700sqm and due to this, their limitations in the planting of vegetation. Rather, diagram 2 illustrates the provision for new vegetation to be provided along the front and rear setbacks. The proposal incorporates adequate space along the side boundaries of the site for meaningful landscaping as per diagram 2 of the DDO.

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Diagram 2 – Table 1 Design Requirements Illustrated on a Larger Lot (Greater than 700m²)



Site coverage

Sites of 700m² or less
Maximum 60%.

Sites of greater than 700m²
Maximum 75%.

Response: The proposed site coverage is 54% which is comfortably below the preferred site coverage of 75%.

Buildings will be of high quality design to support the preferred streetscape character.

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<p>visual interest including indentations within the Articulation Zones (refer to Diagrams 1 and 2)</p> <p>Elevations fronting streets, laneways or public open spaces should be designed to include living spaces, entrances, windows and other details that maximise movement, outlook and passive surveillance.</p>	<p>Elevations fronting public streets and open spaces will provide visual interest and support safety and a sense of activity.</p> <p>Refer to Diagrams 1 and 2.</p>
<p>Response: The proposed building is of a high-quality architectural design, which supports the preferred streetscape character. The graciously proportioned and contemporary design language ensures a responsive character approach which, although exceeds the preferred height under this control, allows the development to appear at a lesser height. Building elevations at all interfaces are well articulated and have a high degree of visual interest.</p>	
<p>Vehicle access</p> <p>Only one vehicle access point should be provided.</p> <p>Basement parking is encouraged. Garage and basement doors should be designed to avoid visually dominating the street elevation.</p>	<p>Vehicle access and storage structures will be designed to minimise visual intrusiveness, support safety, provide space for landscaping, and avoid the loss of on-streetcar parking spaces. Refer to Diagrams 1 and 2.</p>
<p>Response: Only one vehicle access point is proposed and all car parking is within a basement. All structures, including storage are proposed within the basement which eliminates intrusiveness and dominance of built form. The proposed streetscape interface is heavily vegetated in response to the desired policy outcomes.</p>	

Building Height

As demonstrated by Table 5, the development responds positively to the Design Requirements and Outcomes espoused by DDO12. This reinforces the appropriateness of the building height at three storeys above natural ground level. This is also consistent with the mandatory height provisions in the GRZ1. Given that the proposal comfortably satisfies the requirements of Table 1, the DDO then has a preferred height of 10 metres. The proposed maximum building height from NGL is 10.353 metres (taken from the east elevation). This results in a 353mm variation, but only for a small section of the building at the steepest portion of the site at the street frontage. We note that the development's maximum building height includes a parapet height of 300mm, which in accordance with the DDO is not included in the maximum height provision.

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As such, for the small section of the building encroaching beyond the 10 metre preferred maximum height per the DDO12 (see Figure 14) by 353mm, the parapet comprises 300mm of this dimension.

As such, the effective encroachment at this area is 53mm which is a barely noticeable amount and importantly, does not relate to the area of most sensitivity as outlined by the 2024 Decision, namely the western interface with 5 Waverley Ave.

The proposed building will integrate respectfully within the surrounding context for the following reasons:

- The building is centrally located on a large allotment and comprises generous setbacks to all perimeter boundaries, providing ample separation to adjoining sites. Meaningful landscaping is to be provided within these setbacks to filter views of the built form and to reinforce the landscape character of the area.
- The proposed 3 storey building will sit between a 5 storey apartment building and a double storey dwelling, which will provide an appropriate transition in building scale and mass. The recessive nature of the upper floor of the proposal has been incorporated into the design to ensure a positive viewing experience is maintained from Waverley Avenue.
- The architectural design detail of the built form is of high quality and is well articulated.
- The overall height will not extend above the prevailing canopy heights of established trees in the area.
- Importantly, the building responds to the notable slope of the land with a terraced presentation at various vantage points. The proposed building height varies, predominantly around 8-10 metres. This is comfortably below the mandatory 12 metre height permissible under the zone. We note that the proposed height does not meet the preferred height control specified in the DDO12, however this height is discretionary, whilst the 12-metre permissible height in the GRZ (which is met by the proposal) is mandatory.
- It is consistent with the future character of the area which anticipates higher density development. Specifically, low rise apartment buildings are envisaged which entails a degree of change with taller and more robust built forms.
- The proposal achieves a high standard of environmental sustainability, with specific regard to the 106% STORM Rating, 64% BESS Score and 7.8 NatHERS Rating.

Conclusion

For the reasons outlined above, the proposal will be respectful of those elements that contribute to the character of the area. The proposal will achieve a comfortable degree of “fit” with the site’s context, and the desired future/emerging character of the area.

6.4. Will the Proposal Have Appropriate Amenity Outcomes?

Introduction/Overview

The various aforementioned PPF and zone provisions require that consideration be given to both internal and external amenity considerations. ResCode is the appropriate ‘yardstick’ in this regard. A full assessment against these provisions are attached as Appendix C. Relevant considerations in this regard include internal and external amenity.

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Internal Amenity

The proposal will facilitate excellent internal amenity of development. This is demonstrated by the following:

- The proposal offers greater housing choice for the community given the different housing typology and the low-maintenance lifestyle associated with this form of accommodation. There is also excellent diversity within the development itself through the range of dwelling sizes and layouts.
- All habitable rooms have been appropriately dimensioned, and dwellings will achieve sufficient levels of daylight access to bedrooms and living/dining spaces.
- Each dwelling has been provided with adequate private open space areas, with some spaces well in excess of the minimum requirements. Where practicable, areas of private open space have been provided to receive northern solar access, therefore ensuring they will achieve a high-level of sunlight at various times of the day.
- The proposal provides for secure pedestrian entries to each dwelling.
- Appropriate provision has been provided in order to ensure that no unreasonable internal views between proposed dwellings will occur.
- Adequate storage is provided for each dwelling. All dwellings will have access to both external and internal storage.
- The proposal is fully compliant with Standard B49 and relevant breeze paths are nominated on the plans across each level.
- The design response benefits from no single aspect south facing apartments, to maximise optimal daylight opportunities permissible by the site's orientation and design.
- The development is also fully compliant with Standard B22. This has mainly been achieved by generous setbacks to promote a limited requirement for screening. Overlooking measures have been taken along the west elevation across fourteen windows across all levels in the form of 1.7-metre-high screening, shown in Figure 14.

Figure 14: East (top) and West (bottom) Elevations



- The site also benefits from bicycle racks located in the underground basement.
- All site services are provided on-site, with mailboxes located within the Waverley Avenue setback.

External Amenity

INTRODUCTION

The site has two potentially sensitive interfaces, being the abutting residential properties to the site's south, west and east, which are all located within the GRZ (fully and in part).

In terms of the assessment of potential amenity impacts, it is noted that:

- Whilst neighbouring properties may have enjoyed some outlook over the subject site, in an urban setting, borrowed amenity should be regarded as a 'bonus' rather than a 'right' that is to be protected in perpetuity, particularly with the construction of No. 1 Waverley Avenue.
- Simply because the building is visible (or potentially more visible) from a neighbouring or nearby property, this does not mean it is unacceptable. If mere visibility becomes the test in urban areas, it will be virtually impossible to achieve any change or the various urban consolidation policies espoused by the Planning Scheme.
- Windows on the sides of dwellings with an outlook towards side fencing or structures on neighbouring properties tend to have a daylight function as opposed to providing any meaningful outlook. All windows of which are fully compliant with Standard B27, whilst also considering and complying with Standards B19 and B20.
- In urban settings, it is commonplace that side windows of adjoining properties will be overshadowed to some extent by existing buildings, fencing and/or vegetation. In this instance, the east facing windows at No. 5 Waverley Avenue, currently experience some overshadowing from not only the single storey dwelling at the subject site but the development at No. 1 Waverley Avenue in the hours of the morning. From 11am, the proposal does not impact the windows at No. 5 Waverley Avenue and the proposal does not impact the west facing windows at No. 1 Waverley Avenue at all.

The main potential amenity impacts on the neighboring properties relate to overlooking, overshadowing, daylight to existing windows and visual bulk. An assessment is provided of each of these matters below.

VISUAL BULK

It is considered that the application appropriately responds to the various *ResCode* Standards that are typically used to assess the somewhat amorphous concept of "building bulk".

The development is designed such that it does not unreasonably impact upon the amenity of adjoining properties, whilst having appropriate regard to the development potential of the site and the internal amenity of the new dwellings.

Potential visual impacts to the abutting residential properties have been minimised through the physical separation, articulation, varying wall planes, balcony balustrades, building height and materiality of the building combined with the visual appearance of the building. The development continues to present as a single building to the streetscape, pursuant to the design objectives stated in the DDO12.

No. 1 Waverley Avenue incorporates 1.7-metre-high screening to all windows along its western façade as the setback requirements in Standard B22 are not achieved, this is shown in

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Photograph 3. In addition, this interface only incorporates ground level communal open space, rather than private open space or secluded private open space. The architectural design detail is visually interesting with a high degree of articulation, varied roofscapes and the gradual recession of the upper levels provides a stepped presentation to No. 5 Waverley Avenue and No. 1 Waverley Avenue. The proposed development has been designed to respond to the desired future streetscape, building height, siting and built form character of the area, pursuant to the DDO12. In addition the rear boundary setbacks adopted fully comply with the DDO and are in excess of Standard B17.

Importantly, the visual dominance of vehicle and storage facilities have been minimised by the integration of an underground basement that is accessed via one crossover at Waverley Avenue, in response to the design objectives contained with the DDO12.

In addition, the dwelling diversity created by the proposal promotes the design objectives contained within the DDO12, where sensitive low-rise apartments are supported in this area as well as traditional single dwellings. The proposal has been strategically designed to fully satisfy and exceed most standards of Clause 55 to ensure the development is not considered visually intrusive to adjoining properties but still being carefully designed to maximize the corner site's development potential. We note that the site achieves a maximum site coverage of 54% that is significantly below the 75% permissible and benefits from no walls on boundaries to reduce the visual bulk caused by the development.

The side and rear setbacks of the building provide adequate and equitable separation of adjoining properties and facilitate meaningful landscaping in its Garden Suburban setting, in accordance with the design objectives within the DDO12.

We note that these facades captured with the design of the development in its entirety, are entirely consistent with and promote the design objectives to be achieved for the area pursuant to the DDO12, with respect to building massing and visual bulk expectations for the Ivanhoe Accessible Residential Area. The relevant development design objectives for this precinct that the proposal strongly promotes are as follows:

- *To support the development of sensitive new multi-dwelling developments, such as town houses and low-rise apartments in addition to traditional single dwellings.*
- *To ensure new buildings are of high quality design and respond to the desired future streetscape, building height, siting and built form character.*
- *To ensure that new multi-dwelling developments maintain the prevailing streetscape rhythm and present as a single building form when viewed from the street.*
- *To encourage design solutions to provide for an emphasis on well articulated dwellings and varied roofscapes.*
- *To minimise the visual dominance of vehicle accessways and storage facilities, such as garages, car ports and basement entrances.*
- *To minimise the number of crossovers and car park entrances per street block.*
- *To maintain and strengthen the garden-dominated streetscape character and the landscaped setting of the precinct.*

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DAYLIGHT TO EXISTING WINDOWS

The proposal has been designed appropriately in order to ensure that there are no unreasonable daylight impacts on the existing windows of the adjoining properties. The existing windows at No. 1 Waverley Avenue and No. 5 Waverley Avenue fully comply with Standard B19.

Importantly, the development does not include the construction of new walls along any boundaries.

The windows proposed along the site's southern boundaries have a minimum area of 3sqm and a minimum dimension of 1 metre clear to the sky from adjoining property windows ensuring compliance with Standard B20.

OVERLOOKING

The habitable room windows at No. 5 and 1 Waverley Avenue interact with the subject site. Appropriate setbacks and boundary fences have been incorporated into the design to ensure Standard B22 is met. Where this distance is not achieved along the side elevations of the proposal, screening has been provided with sill heights of 1.7 metres to satisfy Standard B22, as shown in Figure 14.

The dwellings south of the subject site are setback further than 9 metres from the proposal, which satisfies the setback requirements of Standard B22. The dwellings north of the subject site sit on the other side of Waverley Avenue, where the dwellings are setback further than 9 metres from the street, also complying with Standard B22.

OVERSHADOWING

As detailed on the shadow diagrams, the development will not result in any significant overshadowing of the secluded private open space of the adjoining properties. The proposal complies with Standard B21.

We acknowledge that the proposal overshadows most of the secluded private open space of No. 5 Waverley Avenue at 9am. However, this is dramatically reduced by 10am and by 11am the shadows cast are generally confined to the side setback along the site's northern interface. Hence, the secluded private open space area of this property continues to receive a minimum of five hours of sunlight between 9am and 3pm, in accordance with Standard B21.

Conclusion

The obligation for new residential development is to demonstrate that the proposal will not generate unreasonable amenity impacts having regard to the standards set out under ResCode. Given the development's strong compliance with ResCode, we submit that the design of the proposal generates optimal internal amenity for the development and does not create unreasonable external amenity impacts for adjoining properties.

6.5. Does the Proposal Appropriately Respond to the VPO?

Pursuant to Clause 3 of the VPO, permission is required for the removal of vegetation within the VPO.

The removal of some on-site vegetation is proposed, which includes 27 canopy trees as stated in Section 4.2 An arborist report has been prepared by Melbourne Arborist Reports Pty Ltd and has been lodged in support of the application.

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The design response seeks the retention of one large Scribbly Gum canopy tree within the Waverley Avenue setback, in accordance with the varied ResCode Standard established by the GRZ1. In addition, a proposed landscape plan has been prepared by Jack Merlo Design and Landscape to establish the array of landscaping that will be included within the development, with acknowledgement of the established landscape character of the area and to satisfy the provisions of the Vegetation Protection Overlay and Banyule's Tree Planting Policy.

Given the above, we defer to the Arborist Report prepared by Melbourne Arborist Reports Pty Ltd and the Landscape Plan prepared by Jack Merlo Design and Landscape for further discussion around vegetation.

However, we submit that the removal of some on-site vegetation is considered appropriate and maintains the vegetation protection objectives contained within the VPO3. Given this, we can make the following comments:

- The proposal does not seek to remove remnant vegetation or disturb wildlife habitat and corridors. The proposal only seeks to remove twelve trees that will not have any adverse effect on landscape values, wildlife habitat and wildlife corridors or lead to land degradation through soil erosion or loss of water quality.
- The proposal will continue to conserve and protect the habitat of local flora and fauna.
- The basement and development above ground has been designed to appropriately respect the tree protection zones (TPZ's) of the retained and proposed trees.
- The proposal has considered the effect of the removal of vegetation to develop the subject site. Of the 27 trees that require removal only the Scribbly Gum (*Eucalyptus racemosa*) is considered to attain a moderate retention value. The remaining trees that require removal are considered to contain a low retention value.
- The proposal has been strategically designed to retain the remaining the Scribbly Gum that is of a moderate retention value and contributes to the landscape character of the precinct. In addition, this complies with the varied B13 Standard contained within Schedule 1 of the GRZ which requires one large tree within the front setback of the development.
- Each tree that is proposed to be removed has been carefully considered whether they are necessary to be removed to cater for the construction of the development. Trees 6-23 are proposed to be removed to cater for the siting and location of the building area. We defer to the Arborist Report prepared by Melbourne Arborist Reports Pty Ltd that provides further details of the proposed trees to be retained and removed and the Landscape Plan prepared by Jack Merlo Design and Landscape that provides further details of the proposed landscaping scheme, shown below.
- Whilst 27 trees are being removed, the site will have a net gain of 14 healthy trees and an array of other proposed hedge plants, shrubs, groundcovers and grasses, new climbers and new lawn areas as shown in the Landscape Plan prepared by Jack Merlo Design and Landscape.

We refer to the Landscape Plan prepared by Jack Merlo Design and Landscape for further detail (see below).

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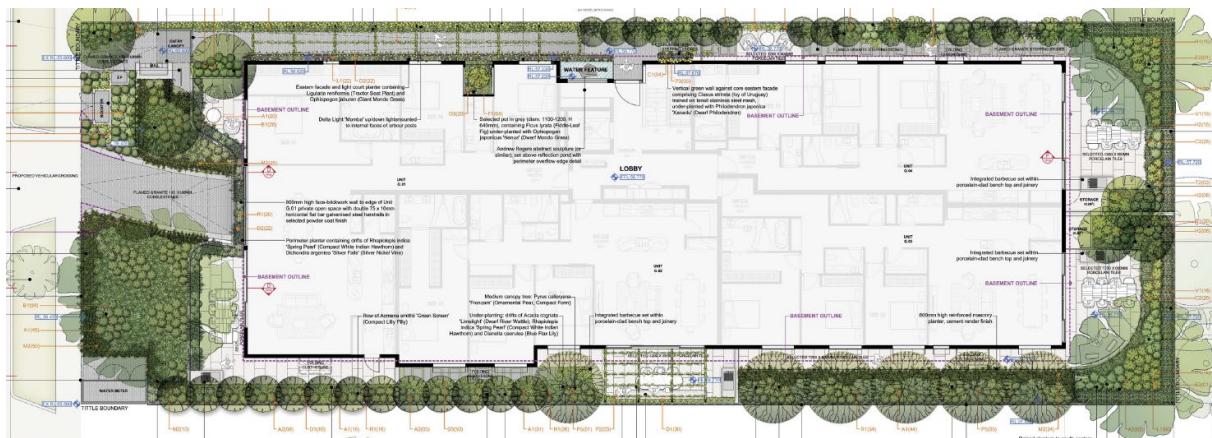


Figure 15: Proposed Landscape Plan

Source: Jack Merlo Design and Landscape

Given the above, the proposed use of land for a dwelling and removal of vegetation within the VPO is considered entirely appropriate.

6.6. Is the Proposal Appropriate Having Regard to Car Parking and Traffic Outcomes?

The proposal provides sufficient car parking spaces to all dwellings and appropriate functional access to and from the site in accordance with the requirements of Clause 52.06 of the Banyule Planning Scheme.

For the complete assessment of these matters, we defer to the accompanying Traffic Impact Assessment and Swept Path Diagrams prepared by Ratio Consultants.

We further defer to the accompany Waste Management Plan also prepared by Ratio Consultants with respect to all matters relating to waste storage and proposed collection.

6.7. Has the Proposal Had Adequate Regard to the VCAT Decisions Associated with Previous Applications to Develop the Site?

The 2024 Decision pertaining to the subject land makes useful findings with regard to approaching repeat applications/appeals for sites that have been subject to a VCAT Proceeding previously.

Most pertinently, *Zumpano v Banyule City Council [2016] VSC 420* ("Zumpano") and *Sprut v Stonnington CC VCAT [2012] 1675* ("Sprut") establish parameters for assessing a revised proposal in terms of how it responds to previous VCAT findings. The 2024 Decision acknowledges these parameters, outlining (inter alia) that:

Consideration of the new application must be undertaken on its merits but in doing so, great weight should be given to the previous decision, subject to certain considerations such as:

- 1) *Significant changes in the application itself;*
- 2) *Changes in the circumstances of the land and its surrounds;*
- 3) *Changes in planning policy; and/or*

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4) *Changes in the interpretation of the facts or law relevant to the Tribunal's consideration.*

Equity and fairness require that if a proposal has satisfactorily addressed the issues identified in the previous decision, there should be a reasonable expectation that a permit will be issued

Importantly, the 2024 Decision found that the proposed development was substantively an appropriate design response and is supported by planning policy that encourages urban consolidation in such areas well-serviced by public transport and other amenities. This included making positive findings in relation to the following components of the design:

- **Front setback:** the Tribunal found that the proposed front setback of just under 9 metres (8.991m) was acceptable and that the shortfall of the minimum 9 metre setback outlined by the DDO12 was “inconsequential” (per paragraph 63). In any case, the revised design submitted as part of this repeat application increases the setback to 9 metres to remove any doubt.
- **Design detail:** at paragraph 65, the Tribunal comments that the proposed building is a “well resolved example of contemporary design, with articulation presenting to the street through three-dimensional design detail, including projecting balcony elements”.
- **Rear setback:** at paragraph 102, the Tribunal considers the proposed “presentation to the rear is acceptable” owing to its “varied materials”.
- **Vegetation removal:** paragraph 112 of the 2024 Decision concludes there are no concerns from the Tribunal with respect to tree removal, owing to the retention of the Scribbly Gum within the front setback of the site, and its inclusion into the proposed design response (something that is maintained in the revised application).
- Car parking and transport engineering: at paragraph 118 of the 2024 Decision the Tribunal outlines support for the proposed car parking/traffic arrangements saying that the proposal would not ‘give rise to any unreasonable/unacceptable impacts within the existing street network’.
- **Building entry:** at paragraph 121, the Tribunal indicates acceptance of the urban design evidence provided in the previous VCAT Proceeding, which held that the proposed entrance arrangements were suitable – this included a “well defined linear walkway” from the site frontage.

Despite largely expressing support for the proposal in the previous design iteration that formed part of the Practice Note 9 (PNPE9) amendment protocol, which was considered in the 2024 Decision, this was with the exception of the western side elevation and its resultant interface with 5 Waverley Avenue.

Crucially, the 2024 Decision remarks at paragraph 123 that:

...had the proposal provided an acceptable response to the SPOS of the adjoining property to the west, I would have directed the grant of a planning permit.

And at paragraph 124:

...if a redesign could successfully address this issue, and was otherwise consistent with the proposal in this proceeding, it is reasonable to expect that a permit might issue, with all other considerations remaining the same.

The perceived fatal flaws of the previous design before VCAT in the 2024 Decision, can be distilled to the description offered by paragraph 85 where the western elevation is described as “an unbroken, singular plane mass at each level for a significant distance”. The separation at each level and the “variation of materials” (paragraph 87) is not enough, in the opinion of the

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Tribunal, to ameliorate this presentation to 5 Waverley Avenue, despite also complying with the metrics established by Standard B17 (Side and rear setbacks) of ResCode (Clause 55). Put simply (at paragraph 85), it is the lack of “physical articulation” along the facades of the western elevation that are lacking.

In addressing this, we have had input into the revised design which as illustrated at Figures 16 – 19 hereunder, displays additional physical articulation at the upper floors of the western elevation.

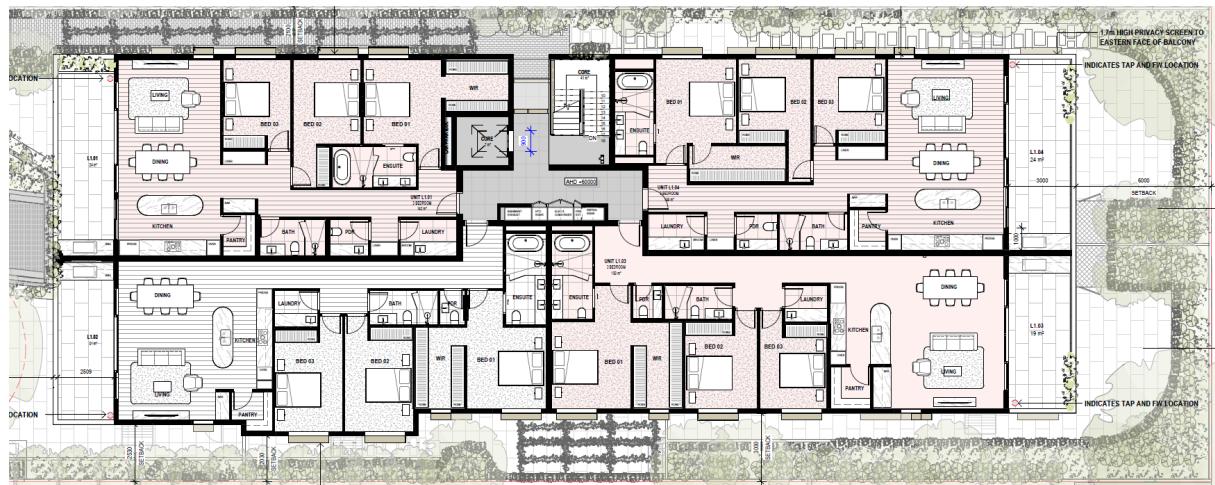


Figure 16: Level 1 Plan (Previous (VCAT PNPE9) Design)

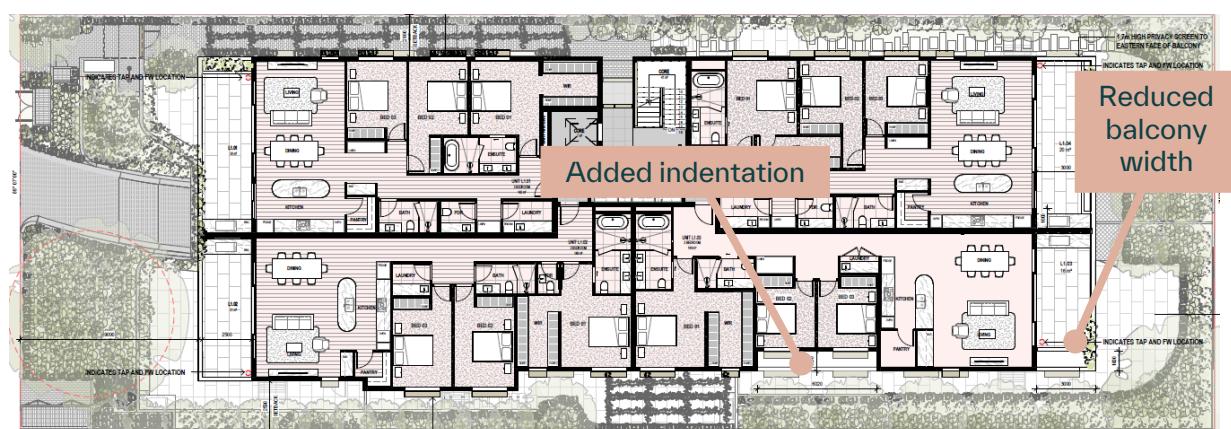


Figure 17: Level 1 Plan (Revised (Current) Design)

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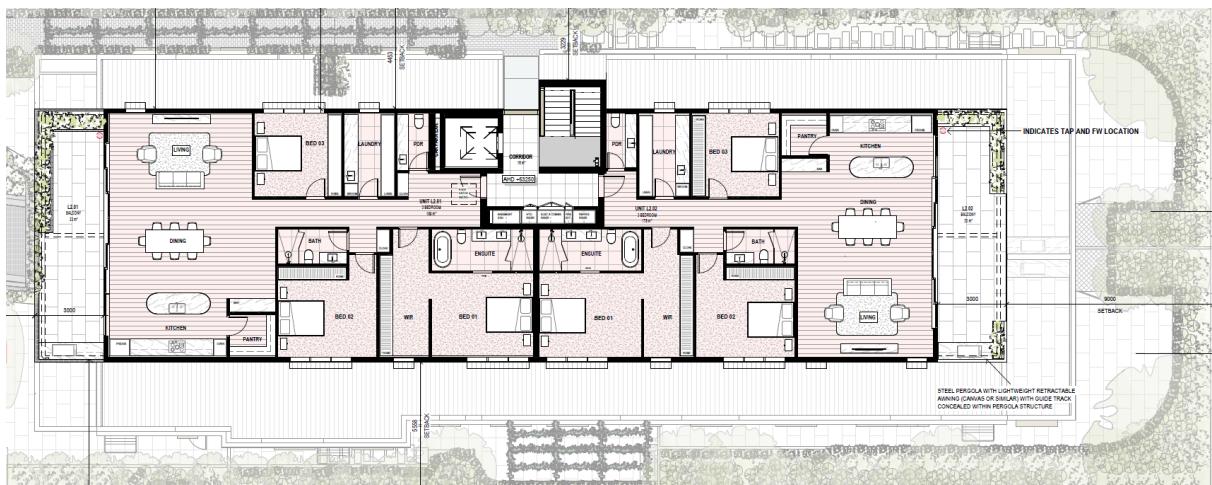


Figure 18: Level 2 Plan (Previous (VCAT PNPE9) Design)

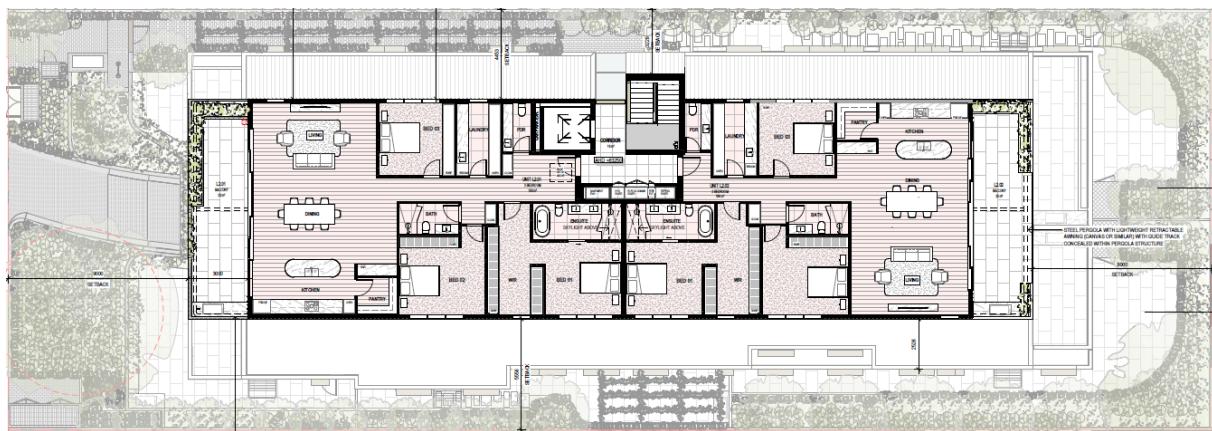


Figure 19: Level 2 Plan (Revised (Current) Design)

In accordance with the concluding findings of the 2024 Decision (at paragraph 124), we say that the revised design submitted as part of this repeat application *successfully addresses* the perceived issue at the western elevation of the building, while maintaining all other aspects of the design response, which we note the Tribunal was clearly supportive of.

Accordingly, we say that the principals espoused by VCAT case law (i.e. Zumpano) in relation to repeat applications are satisfactorily responded to as part of this redesign, having direct regard to the former criterion noted above, namely regarding *significant changes in the application itself*. The changes in the design at the western elevation of the building are significant in addressing the concerns outlined by the 2024 Decision and provide adequate articulation and in turn, visual relief as perceived from the adjacent property at 5 Waverley Avenue.

Further refinement of the proposal has been made with respect to the landscape design, with additional trees of stature provided along the western boundary in the form of five Pyrus calleryana 'Cleveland Select' pear specimens. These trees will be planted at a height of 5.5m, as detailed in the Planting Schedule within the landscape plans prepared by Jack Merlo, and will reach a mature height of 10m, providing further landscaping density at this interface that will assist in filtering views to the proposed building.

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This revised landscape design response is contrasted with the PNPE9 iteration of the landscape design that was the subject of the previous proposal. We say this revision to the landscape design represents an improved outcome for the SPOS area to 5 Waverley Ave, as called for by the previous Tribunal decision.

Figure 20: Western landscape elevation (Previous (VCAT PNPE9) Design)



Figure 21: Western landscape elevation (Revised (Current) Design)



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7. Conclusion

This low-rise apartment development responds to an identified housing need within the local environs and broader metropolitan context while having due regard to the emerging character of the surrounding precinct.

This proposal maintains a high-quality apartment development which is consistent with the preferred character of the area where a degree of change is anticipated to facilitate higher density housing. This proposal also maintains and enhances the landscape character which is integral to the area's character.

The proposal is site responsive with no unreasonable off-site amenity impacts. It offers future occupants a high level of internal amenity. Ultimately, this proposal represents a net community benefit.

Importantly, the proposed design response has had adequate regard to the previous findings of the Tribunal concerning the subject land and has made well-considered revisions to the design response at the western interface. This ensures the development will integrate respectfully into this setting and successfully mitigates any undue offsite amenity impacts by way of visual bulk.

For all the reasons contained within this report, it is respectfully requested that Council support this application.

Ratio Consultants Pty Ltd

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Appendix A : Photographic Analysis

Photograph 4 – Subject site (looking south)



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Photograph 5 – 1 Waverley Avenue (looking south-east)



Photograph 6 – 5 Waverley Avenue (looking south)



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Photograph 7 – 8 Waverley Avenue (looking north)



Photograph 8 – 2-6 Waverley Avenue (looking north-east)



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Appendix B : Certificate of Title

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 06310 FOLIO 925

Security no : 124119084824B
Produced 16/10/2024 04:11 PM

LAND DESCRIPTION

Lot 8 on Plan of Subdivision 005841.
PARENT TITLE Volume 01525 Folio 895
Created by instrument 1737919 14/07/1939

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
3 WAVERLEY PTY LTD of 35 MARKET STREET SOUTH MELBOURNE VIC 3205
AY020673D 21/05/2024

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AY020674B 21/05/2024
ZAGGA INVESTMENTS PTY LTD

MORTGAGE AY129536H 24/06/2024
RYANCORP FUND PTY LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan or imaged folio set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE LP005841 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NUMBER	NOMINATION OF ECT TO LC	STATUS	DATE
AY129036E (E)		Completed	24/06/2024
AY129536H (E)	MORTGAGE	Registered	24/06/2024

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

ADMINISTRATIVE NOTICES

NIL

ECT Control 16667Y GADENS LAWYERS
Effective from 24/06/2024

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Appendix C : Clause 55.07 Assessment

PROVISION	STANDARD	OBJECTIVE	EXPLANATION	
Standard B1 of Clause 55.02-1 'Neighbourhood character objectives'	✓	✓	Please see report for details.	
Standard B2 of Clause 55.05-2 'Residential policy objectives'	✓	✓	Please see report for details.	
Standard B3 of Clause 55.02-3 'Dwelling diversity objective'	✓	✓	The development provides three bedroom apartments which provides dwelling diversity within Waverley Avenue that is largely occupied by single and double storey dwellings.	
Standard B4 of Clause 55.02-4 'Infrastructure objectives'	✓	✓	The proposal will not have an unreasonable impact on existing services.	ADVERTISED PLAN Application No. P1157/2024

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Standard B5 of Clause 55.02-5 'Integration with the street objective'	✓	✓	<p>The partial front fence is of a similar height are typical within the surrounding area and as such the fencing will achieve a suitable "fit". Further, fencing will be an enhanced response to existing conditions of Waverley Avenue.</p> <p>The development has been orientated to integrate with Waverley Avenue, where pedestrian access is taken along the eastern boundary and vehicle access to the site is accessed via the proposed crossover along Waverley Avenue.</p> <p>The upper floor balconies and windows will also provide surveillance of Waverley Avenue.</p>
Standard B6 of Clause 55.03-1 'Street setback objective'	✓	✓	<p>It is proposed to have a front setback of 9.290 metres which is fully compliant with the standard.</p>
Standard B7 of Clause 55.03-2 'Building height objective'	✓	✓	<p>The GRZ includes a maximizing height limit of 11 metres / 3 storeys, whilst the proposed maximum height is 10.353m, which is fully compliant with the standard whilst noting the site benefits from the "slope test".</p>
Standard B8 of Clause 55.03-8 'Site coverage objective'	✓	✓	<p>The proposal has a site coverage of 54%, where 75% site coverage is permissible.</p> <p>This is fully compliant with the standard.</p>
Standard B9 of Clause 55.03-4 'Permeability and stormwater management objectives'	✓	✓	<p>The proposal has a permeable area of 22.09%. This exceeds the minimum requirement of 20%.</p> <p>We defer to the SMP prepared by GIW Environmental Solutions with regards to stormwater management.</p>
Standard B12 of Clause 55.03-7 'Safety Objective'	✓	✓	<p>Safety features of the site includes visible entries, and passive surveillance of internal accessways.</p> <p>Furthermore, some apartments have been oriented to Waverley Avenue to provide</p> <p style="color: red; font-size: small;">ADVERTISED PLAN Application No. P1157/2024</p> <p style="color: red; font-size: small;">The copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning Environment Act 1987. The document must not be used for any purpose which may breach any copyright.</p>

			passive surveillance opportunities.	
Standard B14 of Clause 55.03-9 'Access objectives'	✓	✓	Access to and from the site will be easily achieved with a 5.45 metre (approx.) wide modified crossover from Waverley Avenue. The crossover occupies 25.95% of the site frontage, which clearly meets the 33% permitted.	
Standard B15 of Clause 55.03-10 'Parking location objectives'	✓	✓	All car parking has been appropriately provided at basement level.	
Standard B17 of Clause 55.04-1 'Side and rear setbacks objective'	X	✓	<p>The proposal seeks a variation to the Standard but meets the Objective.</p> <p>As illustrated by the B17 outline on Sheet TP500 of the plans, the proposed variation to the eastern side (adjoining 5 Waverley Avenue) is very minor, though this is acceptable as the substantial 5.55 metre setback from the upper level will provide adequate separation from the existing dwelling on the adjoining site. We also observe that the existing dwelling at the adjacent site is set off the shared boundary by 2.75 metres which will ensure that the proposed minor variation is not unreasonable.</p> <p>From the western boundary, a more substantial variation is proposed, though this is considered appropriate given the interface with the five storey development at 1 Waverley Avenue. Given this is not an interface of particular sensitivity, the proposed variation is acceptable and will not result in an undue loss of off-site amenity.</p> <p>As such, we consider the proposal to meet the Objective of Clause 55.04-1 which is <i>to ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings</i>. Please refer to the body of this report for further discussion.</p>	
Standard B18 of Clause 55.04-2 'Walls on boundaries objective'	N/A	N/A	There are no walls on boundaries proposed.	ADVERTISED PLAN Application No. P1157/2024
ratio:	3 Waverley Avenue, Ivanhoe			This copied document is made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning Environment Act 1987. The document must not be used for any purpose which may breach any copyright.

Standard B19 of Clause 55.04-3 'Daylight to existing windows objective'	✓	✓	All walls meet the setback requirements.
Standard B20 of Clause 55.04-4 'North-facing windows objective'	✓	✓	The proposal is fully compliant with the north facing window standard.
Standard B21 of Clause 55.04-5 'Overshadowing open space objective'	✓	✓	The development comfortably complies with the standard with respect to overshadowing of SPOS areas on land abutting the sites to the east and west.
Standard B22 of Clause 55.04-6 'Overlooking objective'	✓	✓	The windows along the sites western boundary have been treated with 1.7m sill height screening to prevent overlooking opportunities where the minimum side setback distance is not achieved.
Standard B23 of Clause 55.04-7 'Internal views objective'	✓	✓	The proposal has been designed to minimise internal views.
Standard B27 of Clause 55.05-3 'Daylight to new windows objective'	✓	✓	New windows have been appropriately located to make use of daylight.
Standard B28 of Clause 55.05-4 'Private open space objective'	✓	✓	Adequate private open space in the form of courtyards and balconies has been provided to all dwellings. We note that the balcony requirements in Clause 55.05-4 do not apply to an apartment development.
Standard B29 of Clause 55.05-5 'Solar access to open space objective'	✓	✓	All apartments include areas of secluded private open space with a north, south, east or west orientation, noting that no apartments rely on sole south-facing private open space.
Standard B31 of Clause 55.06-1 'Design detail objective'	✓	✓	Building articulation, a range of colours and materials and roof forms have been utilised to ensure the proposal responds to the emerging character of Waverley Avenue.

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Standard B32 of Clause 55.06-2 'Front fences objective'	✓	✓	Given the slope of the land, there is an existing retaining wall that is proposed to be replaced, meaning the RL to the boundary is 528mm higher than the street. The northern elevation shows the front fence is 1.5metres in height and complies with the standard.
Standard B33 of Clause 55.06-3 'Common property objectives'	✓	✓	The development includes communal basement parking and lobby which are all clearly accessible and well-defined.
Standard B34 of Clause 55.06-4 'Site services objectives'	✓	✓	All site services are provided for onsite.
Standard B35 of Clause 55.07-1 'Energy efficiency objectives'	✓	✓	<p>The proposal has been oriented and designed to maximise the energy efficiency of the development. Where possible, dwellings are orientated to the north, east and west to enable good solar access, where adequate fenestration has been provided to ensure that light can penetrate into the apartments.</p> <p>Solar panels are also provided and shown on the roof plan on TP304.</p> <p>We defer to the SMP prepared by GIW Environmental Solutions for further details.</p>
Standard B36 of Clause 55.07-2 'Communal open space objective'	x	✓	The proposal does not provide communal open space however the POS areas at all levels exceed the requirements of ResCode providing sufficient open space areas within the development. In addition, the site is adjacent to activity centre and a number of parks that negates the need for communal open space.
Standard B37 of Clause 55.07-3 'Solar access to communal outdoor open space objectives'	x	✓	The POS areas provided at all levels have been designed and located in areas that benefit from optimal solar access.
Standard B38 of Clause 55.07-4 'Landscaping objective'	✓	✓	<p>The proposal retains a significant Boc Elder tree along the sites frontage and proposes significant vegetation across the development site within the designated activity centre in accordance with the objective and standard.</p> <p>Accordingly, the proposed landscaping will provide a high-quality landscaping response</p>

			<p>that reinforces (and indeed improves) the existing landscape character of the subject site and surrounds.</p> <p>We defer to the Arborist Report prepared by Melbourne Arborist Reports Pty Ltd and the Landscape Plan prepared by Jack Merlo Design and Landscape that responds to the landscaping objectives.</p>
Standard B39 of Clause 55.07-5 'Integrated water and storm water management objectives'	✓	✓	<p>The proposed design has factored in the retention of stormwater on the site by a 15,000L water tank.</p> <p>We defer to the SMP prepared by GIW Environmental Solutions for further information.</p>
Standard B40 of Clause 55.07-6 'Access objective'	✓	✓	<p>One vehicle crossover is proposed for this development and has been designed in a location to provide safe access for pedestrians, cyclists and other vehicles.</p>
Standard B41 of Clause 55.07-7 'Noise impacts objectives'	✓	✓	<p>The proposal has been adequately designed in order to ensure that there will not be any unreasonable noise impacts on surrounding properties or the future occupants.</p> <p>All noise sensitive rooms within the development have been designed to be located away from the water, gas and fire services that are in the front setback of the site. A 15,000L water tank has also been located in the underground basement to avoid any unreasonable noise impacts to the future occupants. The location of these services, including air conditioner units have also been determined with the consideration of the adjoining properties.</p> <p>The nature of the underground basement car parking avoids any unreasonable noise impacts to the future occupants living in the development and the adjoining properties. Furthermore, the lift on all floors is located within a lobby that occupies an associated staircase and corridor that leads to the front door to each apartment, creating a noise buffer from the lift to the apartments. Not only has the development been designed this way from a safety perspective, but to also eliminate noise impacts from the lift. The walls of the apartments and the concrete slabs at each level ensure that the minor noise generated from the lift is well managed.</p> <p>Given the above, we submit that the proposal complies with the standard and objective and should be supported.</p>

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Standard B42 of Clause 55.07-8 'Accessibility objective'	✓	✓	Ground floor areas are easily accessible, with the development further services by ramp access and a central lift core that provides access to all levels and basement. The development has been designed to ensure that at least 50% of the dwellings achieve Standard B9 compliance. All dwellings achieve this compliance and which exceeds the requirements of this standard.
Standard B43 of Clause 55.07-9 'Private open space objective'	✓	✓	Adequate private open space in the form of courtyards and balconies has been provided to all dwellings.
Standard B44 of Clause 55.07-10 'Storage objective'	✓	✓	Each apartment is provided with internal and external storage in excess of the requirements.
Standard B45 of Clause 55.07-11 'Waste and recycling objectives'	✓	✓	A dedicated waste room is provided at basement level. Please refer to the WMP prepared by Ratio Consultants for further detail.
Standard B46 of Clause 55.07-12 'Functional layout objective'	✓	✓	All bedrooms and living spaces exceed the minimum requirements of the standard.
Standard B47 of Clause 55.07-13 'Room depth objective'	✓	✓	All room depths fully comply with the standard to allow adequate daylight into single aspect habitable rooms.
Standard B48 of Clause 55.07-14 'Window objective'	✓	✓	All windows satisfy the standard.
Standard B49 of Clause 55.07-15 'Natural ventilation objectives'	✓	✓	The apartments will be provided with appropriate natural ventilation. Should specific information be required on this, it is requested it be considered as a condition of permit.

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Standard B50 of Clause 55.07-16 'Building entry and circulation objectives'	✓	✓	<p>The proposed building is provided with pedestrian access from Waverley Avenue along the eastern boundary which leads to a common, light filled lobby area with lift and stair access and vehicle access to the dwellings is accessed via an identifiable crossover located on Waverley Avenue that leads to the underground basement car park.</p> <p>Natural light and ventilation are provided to lobby area via the eastern and northern sunlight. Whilst the other internal communal spaces are located below ground level, they do not require daylight access and the primary communal open spaces achieves excellent daylight access for future residents.</p> <p>Hence, the building and all dwellings are provided with a sense of identity and allow for the safe and efficient movement of residents.</p>
Standard B51 of Clause 55.07-17 'Integration with the street objective'	✓	✓	<p>The proposed front fence is of a similar height are typical within the surrounding area and as such the fencing will achieve a suitable "fit". Further, the fencing will be an enhanced response to existing conditions of Waverley Avenue.</p> <p>The upper floor balconies and windows will also provide surveillance of Waverley Avenue.</p>
Standard B52 of Clause 55.07-18 'Site services objective'	✓	✓	<p>All site services are provided for onsite.</p>
Standard B53 of Clause 55.07-19 'External walls objective'	✓	✓	<p>The external walls are finished with appropriate materials that respect the existing urban context and preferred future development of the area and are of high quality.</p>

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