

Town Planning Written Submission

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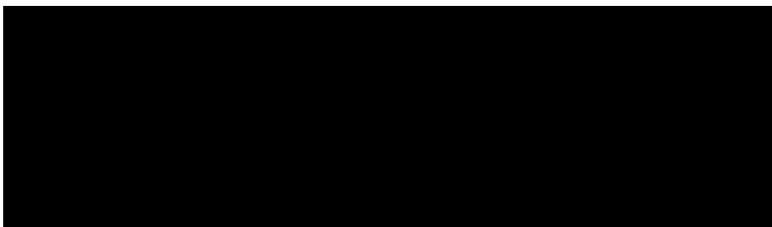
Date Plans Provided: 26/03/2025

Prepared on behalf of the permit-applicant to justify development of four three-storey dwellings on the site known as 35-37 Edgar Street, Werribee.

Planning Permit Application No. WYP14892/24



This report completed on 5th March 2025 by:



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Introduction

This planning submission is for a previously approved four-dwelling development, that is now partly constructed and the previous planning permit had expired.

A fresh planning permit application was made to Wyndham City Council (refer to Planning Application No. WYP14892/24).

The proposed dwellings that are being sought as part of this planning application are to be accommodated within an existing, red brick former factory known as 35-37 Edgar Street, Werribee.



The property immediately west of the subject site at 39 Edgar Street is currently operating as an existing engineering factory.



The property immediately east of the subject at 1/33 currently accommodates three single storey dwellings.

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This section of Edgar Street reflects a very eclectic character, which includes a variety of architectural styles. Examples of existing dwellings within Edgar Street that are in close proximity to the subject site include:



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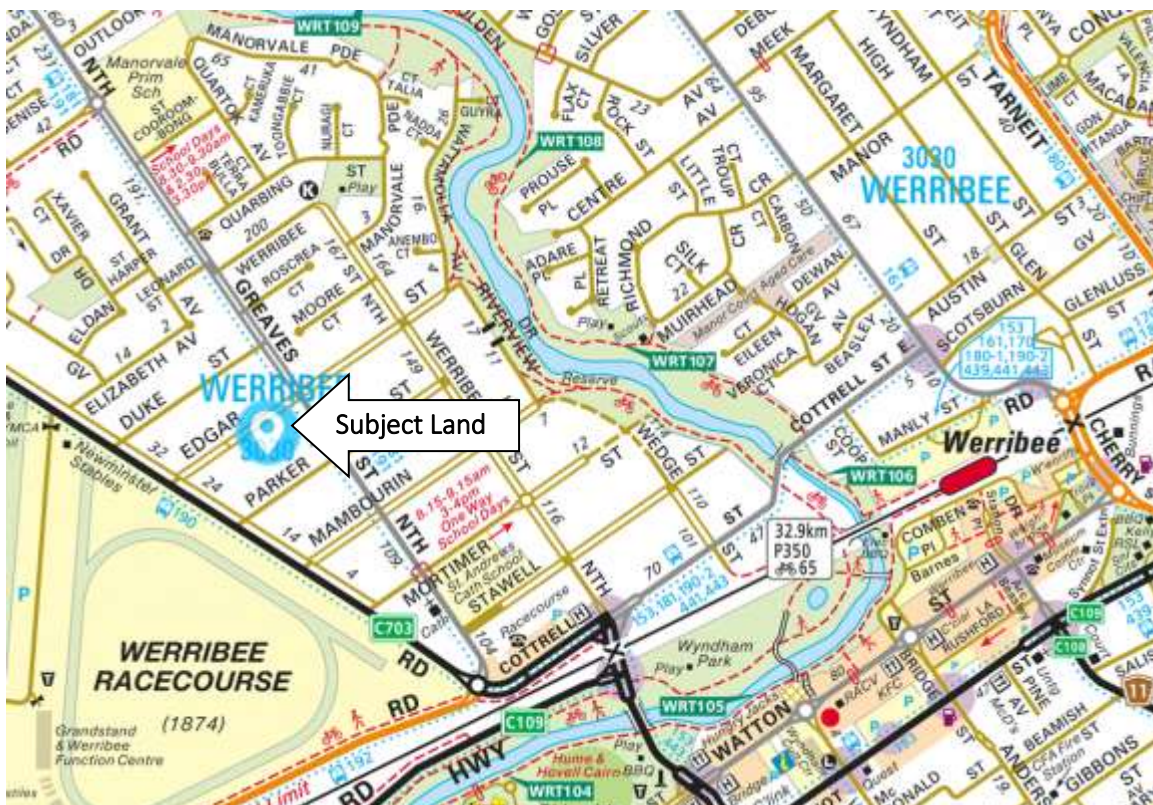
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The location of the subject site being within convenient walking distance of bus stops, the Werribee train station, the main Werribee activity centre, schools and recreation facilities, justifies the efficient use of land.



The proposed four-dwelling development that provides a unique form of low-maintenance housing with a well-served area accords with the current planning policy.

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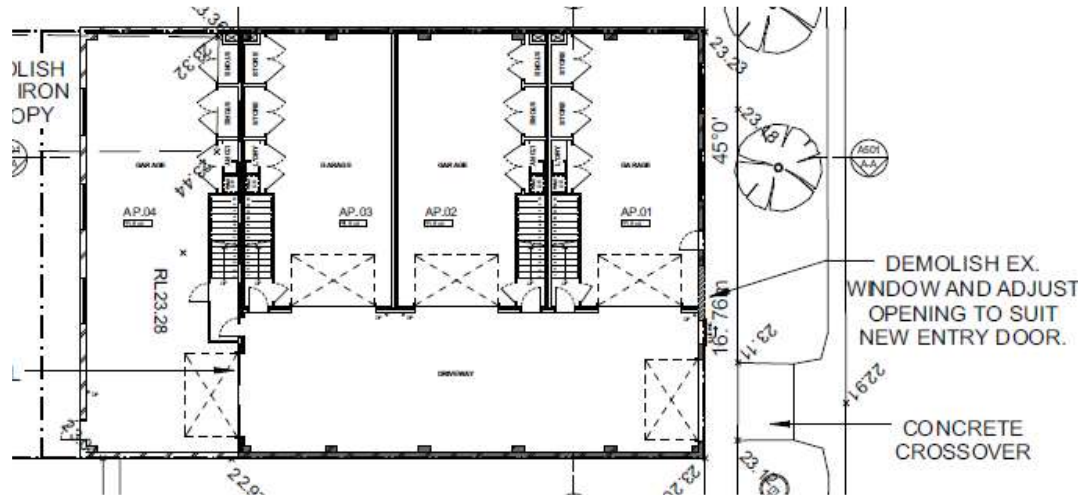
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PROPOSAL

This current proposal is identical to the previous proposal that was granted both a planning permit and a building permit which has since expired. A total of four separate dwellings are proposed to be accommodated within the existing red brick former factory. The following is the ground level layout:

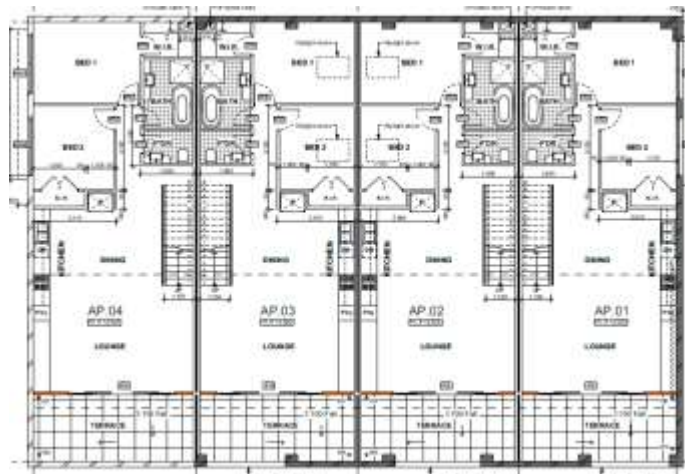
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The ground level component of all four dwellings comprises of garages, storage areas and European laundries. All four garages and pedestrian access is via a common driveway. This common driveway will be secured by a rollerdoor and a separate entry door at the front façade.

The following is the first floor layout:



The first floor component of all four dwellings comprises of an 'open' lounge/dining/kitchen area, a powder room, a bathroom and a bedroom. Each dwelling includes the provision of a balcony.

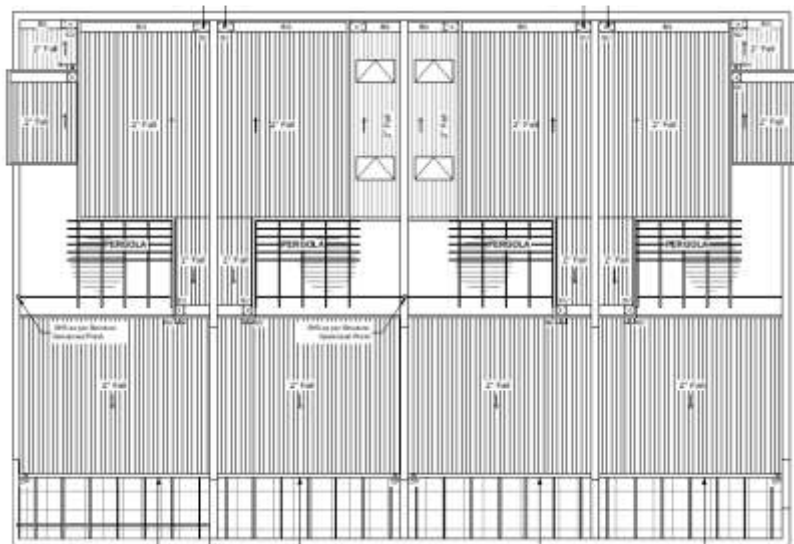
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The second floor is comprised of the master bedroom that includes an ensuite, a study and a second balcony (deck).



The balconies that are proposed at the first and secluded floor level will be 'open' to the sky, being covered by an 'open' pergola.



This planning submission seeks a permit for a total of two dwellings to be accommodated on the site, which is to retain the existing (attached/double storey) dwelling at the front and to construct a second single storey dwelling at the rear of the subject site.

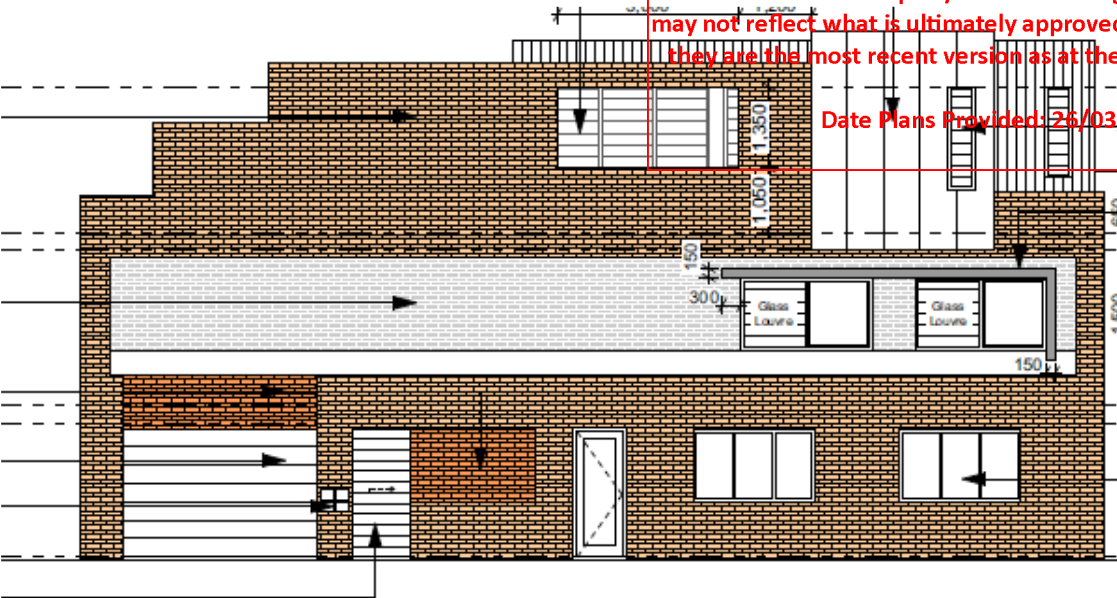
Alterations are proposed to the existing red brick building, providing a high level of internal amenity for the proposed dwellings.

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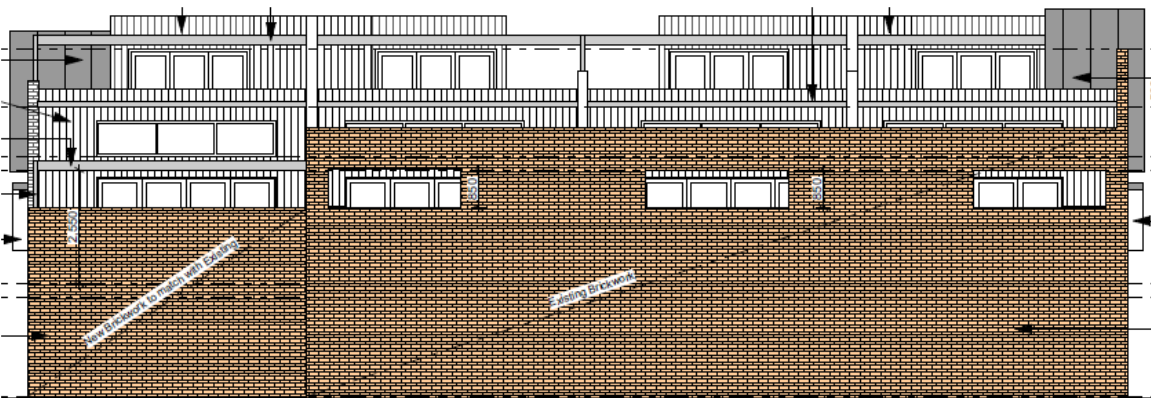
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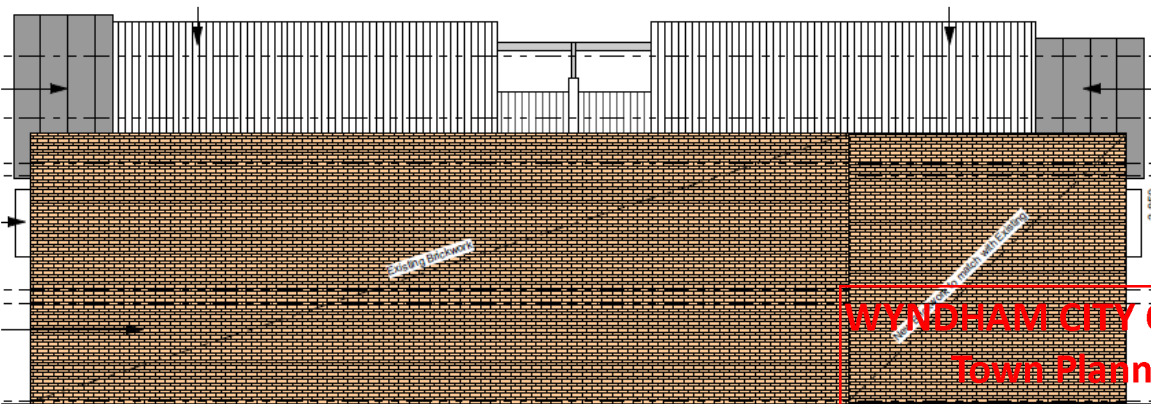
The following is the proposed front elevation:



The north-east (side) elevation is as follows:



The south-west elevation is as follows:

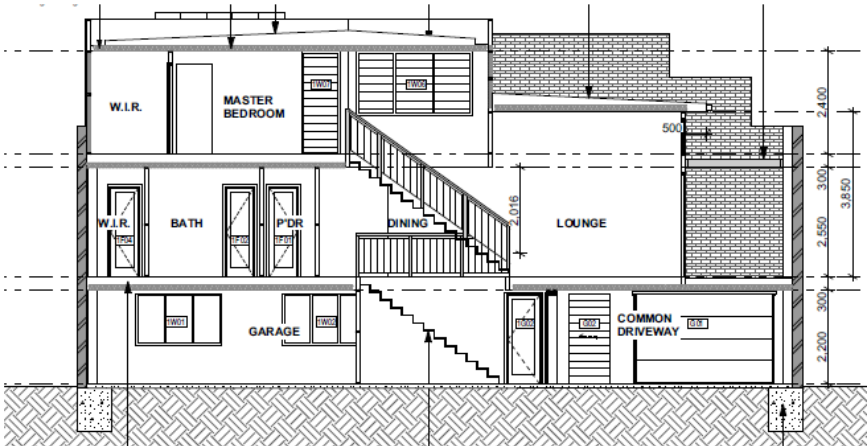
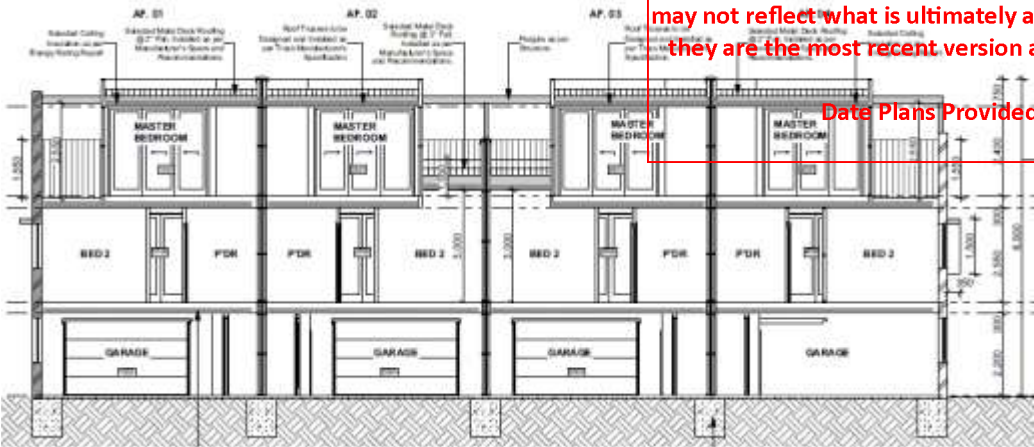


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The internal cross-sectional plans are as follow:



Commencement of the development had already been undertaken and a significant proportion of the four-dwelling development had been constructed, prior to the expiry of the planning permit.

The following are very recent photographs of the subject site, which were taken in February 2025:



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ZONE & OVERLAYS

The subject site is within a General Residential Zone pursuant to the Wyndham Planning Scheme.

There are no planning scheme overlays that affect the subject land.

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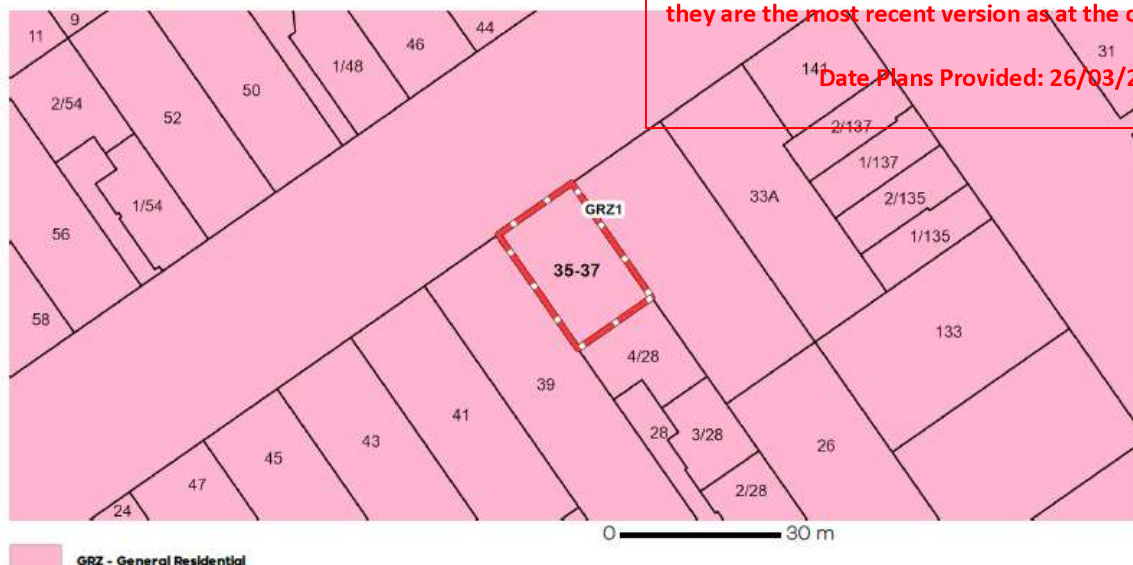
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Planning Zones

[GENERAL RESIDENTIAL ZONE \(GRZ\)](#)

[GENERAL RESIDENTIAL ZONE - SCHEDULE 1 \(GRZ1\)](#)



There are no local ResCode variations included within Schedule 1 to Clause 32.08 (General Residential Zone). There are no specific neighbourhood character objectives included as part of the afore-mentioned Schedule 1.

Planning Overlay

None affecting this land - there are overlays in the vicinity

OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

[HERITAGE OVERLAY \(HO\)](#)



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This written submission will outline that the proposed four-dwelling development satisfies all the relevant requirements of the Wyndham Planning Scheme, which includes the purpose of Clause 32.08 (General Residential Zone), as well as the Objectives and Standards of Clause 55 (applications for two or more dwellings on a lot).

NOTICE: The plans have been provided to you in good faith. It is ultimately approved by Council however they are the most recent version as at the date shown below:

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The design response and this written submission will outline how this proposed development meets the objectives and standards of Clause 55 of the Wyndham Planning Scheme.

PERMIT TRIGGER

A planning permit is required pursuant to **Clause 32.08-6** of the Wyndham Planning Scheme for the construction of a second dwelling on the subject site that is within in a General Residential Zone. There are no planning scheme overlays that affect the subject site.

It is submitted that the proposal accords with the purposes of the General Residential Zone (including the Clause 32.08-4 minimum garden area requirement), as well as the ResCode requirements pursuant to Clause 55 of the Wyndham Planning Scheme.

Schedule 1 of the General Residential Zone does not include local ResCode variations.

The minimum garden area requirements would normally be applied to a site exceeding 400 square metres within a General Residential Zone. The subject land has an area of 438 square metres.

However, as this proposal for four dwellings is partially completed, whereby approval was granted (planning permit approval), prior to the approval date of Amendment VC110, the minimum garden area requirement pursuant to Clause 32.08-4.

Clause 32.08-4 states that applying the minimum garden area does not apply to:

- *“The lot is designated as a medium density housing site in an incorporated plan or approved development plan.”*

A previously issued planning permit (WYP4727/11.07), which was issued on 15 September 2011 of which included stamped plans represents an approved development plan.

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The key to this application and the implication of the minimum garden area is that the proposed development had lawfully commenced, having had a planning permit with endorsed plans which were issued prior to the approval date of Amendment VC110, being 27 March 2017.


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Having regard to the Practice Note PPN84: Applying the minimum garden area requirement includes the following:

Exclusions from the garden area requirement for developments

The minimum garden area requirement does not apply to an application to construct or extend a dwelling or a residential building if:

- the lot is less than 400 square metres in area (unless encumbered by the 25% garden area requirement)
- the lot is 400 square metres or greater and is designated as a medium density housing site in an:
 - approved precinct structure plan or an equivalent strategic plan
 - incorporated plan
 - approved development plan
- there is an existing building and it did not comply with the minimum garden area requirement on the approval date of [amendment VC110](#) 
- the lot is identified in a schedule to the General Residential Zone that has switched off the minimum garden area requirement.

The third bullet point above includes a particular exclusion from the garden area requirements for developments where there is an existing building which did not comply with the minimum garden area requirements on the approval date of Amendment VC110 on 27 March 2017.

In the case of the proposal, the proposal is accommodated within an existing building and there were further buildings and works that have been constructed within the existing building on the subject land, where all four dwellings are defined within this existing building.

The practice note PPN84 makes reference to an existing building and does not specify that the building needs to be completed.

Despite being unfinished, the development on the subject site would be defined as an existing building (see photographs below of the existing building on the subject land). The existing concrete slab associated with this existing building represents a 94% site coverage, which was lawfully approved prior to 27 March 2017 and constructed.

Plans of the existing building are being provided to you for information only. They are not to be used for any purpose other than to provide you with information. They are not to be used for any purpose other than to provide you with information. They are not to be used for any purpose other than to provide you with information.

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PLANNING POLICY FRAMEWORK

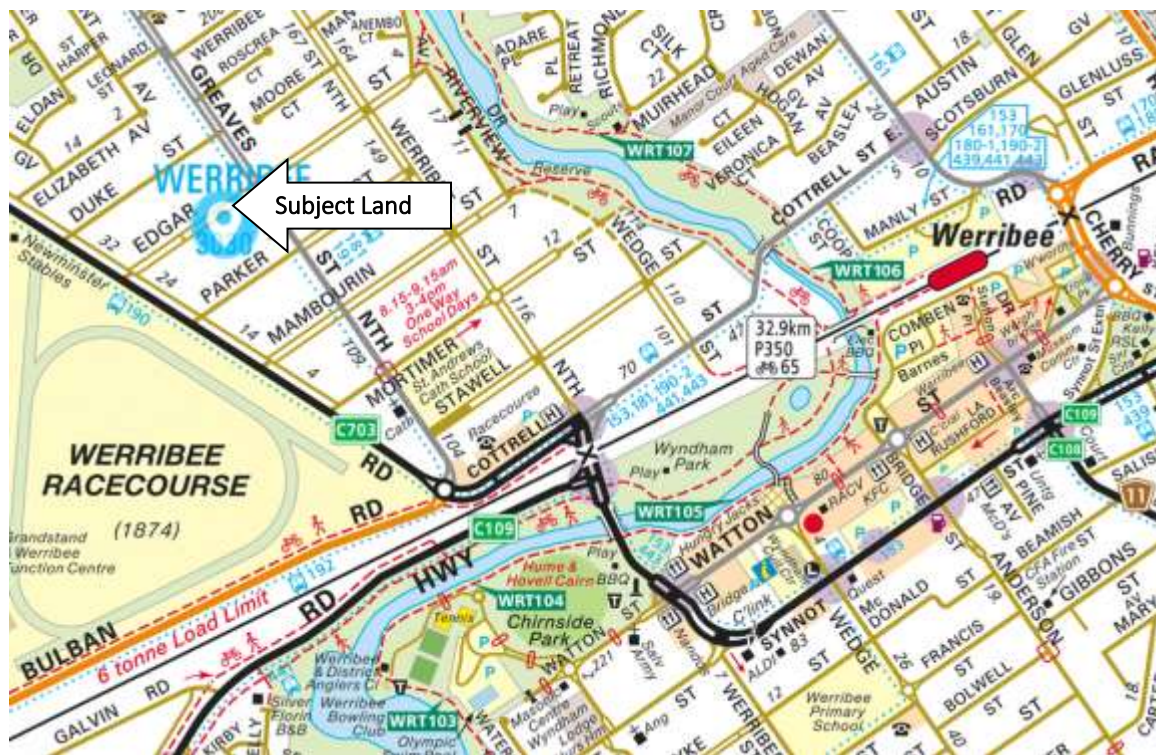
It is submitted that the proposed two-dwelling development on the subject site does not conflict with the State Planning Policy Framework section of the Wyndham Planning Scheme.

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Clause 11 – Settlement

This proposal satisfies the intent of this Clause through diversity of housing choice, facilitating economic viability of this area and promoting energy efficiency by providing additional housing close to schools, recreation facilities, shops, a hospital and public transportation.



The compact nature of the dwellings, being limited to two-bedrooms, makes these dwellings suitable for younger occupants on more moderate incomes, requiring affordable and low-maintenance housing.

The Census QuickStats 2021 states that 85% of Werribee's housing are separate houses. Flats or apartments only account for 1.1% of Werribee's housing stock.

These figures outline Werribee's lack of housing choice, which justifies the proposed four-dwelling development.

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Clause 11.01-1S – Settlement

This Clause encourages in-fill redevelopment as a means of limiting urban sprawl.

By providing for additional housing within an area that is within close proximity to existing services and is well-served by public transport, schools, shops and recreation facilities, reduces pressure on supply of urban land.

Clause 11.02 – Managing Growth

Strategies relating to the supply of urban land is to plan to accommodate projected population growth over at least a 15-year period.

In the short-term, additional housing growth should also be encouraged within established areas.

One of the (very few relevant) strategies of **Clause 11.02-1S** that could be applied to a four-dwelling development within an established, well-served suburb states which is being met by the proposal includes:

- *“Opportunities for the consolidation, redevelopment and intensification of existing urban areas.”*
- *“Neighbourhood character and landscape considerations.”*

The retention and conversion of the former factory building will preserve the existing streetscape character of Edgar Street, which includes an almost identical looking brick building on the neighbouring site.

Maintaining a single driveway for all four dwellings to utilise will also maintain the existing neighbourhood character and will not result in reduced front nature strips.

Clause 15 – Built Environment

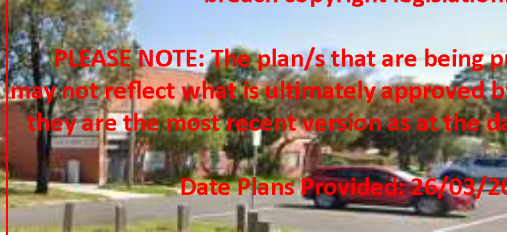
The proposal contributes positively to local urban design and enhances livability, diversity, amenity and safety of the public realm.

The proposed dwelling reflects a well-designed multi-dwelling development, being site responsive and will not detract from the existing character of this area, which includes single and two storey dwellings.



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The retention of the existing factory building on the subject site is also considered to reflect a positive aspect of this proposal from a neighbourhood character point, maintaining the historic character of Edgar Street.

Clause 15.01-1S – Urban Design & Clause 15.01-2S Building Design

The proposal will achieve high standards in architecture and urban design, positively responding to the existing character.

Clause 15.01-4R – Healthy Neighbourhoods – Metropolitan Melbourne

The proposed development of additional dwellings is consistent with the recommendation of this Clause with respect to the facilitation of increased housing in the established areas. The aim is to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport, justifying the proposed four-dwelling development.

Clause 15.01-2L-01 – Environmentally Sustainable Development

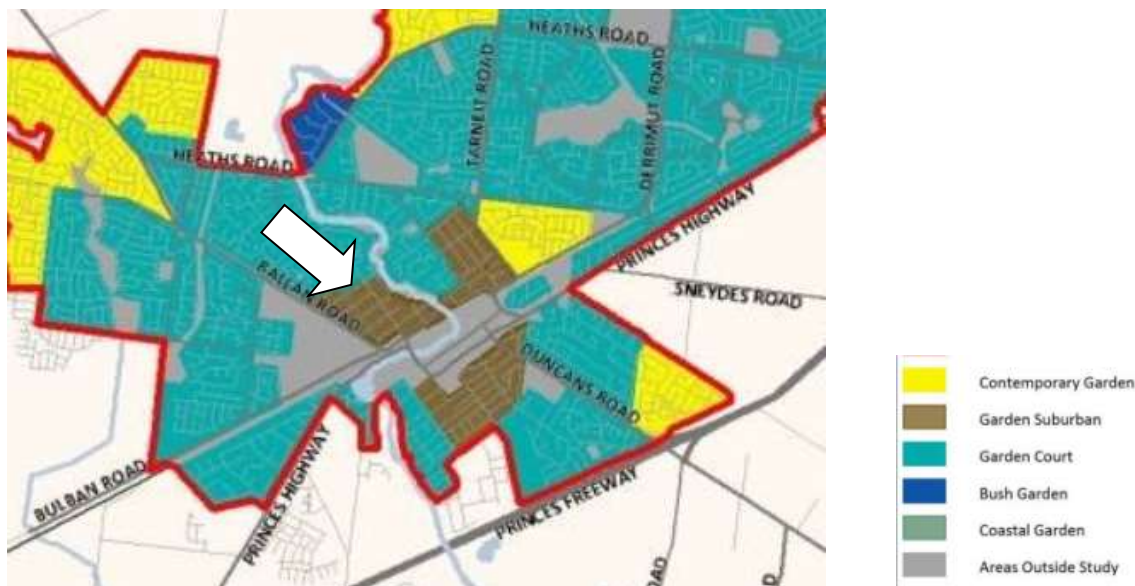
A Sustainable Design Assessment report (dated 25th February, 2025 by MCS Consultants) was completed, outlining the relevant sustainability initiatives to be adopted for this proposed four-dwelling development. These initiatives will satisfy the intent of **Clause 15.01-2L-01**.

Clause 15.01-5S - Neighbourhood Character & Clause 15.01-5L – Wyndham Preferred Neighbourhood Character

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The proposal will not conflict with the Objectives and Strategies of Clause 15.01-5S and Clause 15.01-5L, whereby the use of an existing brick building will preserve the existing neighbourhood character within the Garden Suburban area.



The relevant Strategy that would apply to this particular proposal, which is met by this proposed four-dwelling development is to: ***“Retain the older, ‘character’ buildings of the Victorian, Edwardian or Interwar eras.”***

It is submitted that the proposed development is consistent with the General Objectives of Clause 15.01-5L, being consistent with the following:

- Retaining the garden settings of buildings and the tree canopy of neighbourhoods by utilising existing vehicle crossing to service all four dwellings being proposed. Such provision maintains the extent of the existing grassed nature strip in front of the subject site and will not impact existing street trees directly in front of the subject land.
- The proposal will minimise the loss of front garden space and the dominance of car parking structures.

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- By accommodating the four three-storey dwellings within an existing building will ensure that new buildings or extensions do not dominate the streetscape.
- The proposal represents an innovative and contemporary architectural responses that make a positive contribution to the streetscape character.
- The recycling of an old brick former factory and accommodating the new dwellings within this building, will ensure that the type, scale and design of development complements the neighbourhood character.
- The proposal will not result in the loss of any established vegetation.

Clause 16 – Housing

This Clause encourages diversity for housing and convenient access to activity centres, public transport, schools and open space.

The provision of additional two-bedroom dwellings on the subject site will satisfy the intent of this Clause.

The proposal promotes dwelling diversity. It is important for all areas to have housing options to meet the increasingly diverse housing needs.

Clause 16.01-1S – Housing Supply

The proposal will accord with the following Strategies outlined in this Clause:

- *“Increase the proportion of housing in designated locations in established urban areas (including under-utilised urban land) and reduce the share of new dwellings in greenfield, fringe and dispersed development areas.”*
- *Encourage higher density housing development on sites that are well located in relation to jobs, services and public transport.*

- *Identify opportunities for increased residential densities to help consolidate urban areas.*

- *Facilitate diverse housing that offers choice and meets changing household needs by widening housing diversity through a mix of housing types.*

- *Encourage the development of well-designed housing that:*

-Provides a high level of internal and external amenity.

-Incorporates universal design and adaptable internal dwelling design.

- *Support opportunities for a range of income groups to choose housing in well-serviced locations.*

- *Plan for growth areas to provide for a mix of housing types through a variety of lot sizes, including higher housing densities in and around activity centres.*

Clause 16.01-1R – Housing Supply-Metropolitan Melbourne

One of the aims relating to housing that this proposal will achieve is:

- *“Facilitate increased housing in established areas to create a city of 20 minute neighbourhoods close to existing services, jobs and public transport.”*

Clause 16.01-1L – Housing Location

This Clause encourages medium-density housing on sites that are within close walking distance to bus stops and the Werribee train station.

Clause 16.01-2S – Housing Affordability

The proposed four-dwelling development provides for more affordable housing opportunities closer to jobs, transport and services to accord with the Objective of

Clause 16.01-2S.

This development facilitates both housing diversity and affordability. The proposed dwellings to be accommodated on the land are vastly different to any other forms of housing within this section of Werribee.

The proposed dwellings are suitable for households wanting compact, easy to maintain two-bedroom dwellings with balconies instead of conventional ground level open spaces.

Clause 16.01-2S Housing Affordability

The proposed dwellings being compact in size, having the provision of two bedrooms and includes balconies instead of open spaces at ground level, will facilitate housing affordability due to the efficient use of the subject land.

Clause 18 – Transport

The provision of additional housing within an area that is well-serviced by public transport accords with the intent of this Clause.

Bus stops and the Werribee train station are located within convenient walking distance to the subject site.

Clause 19.03-3L – Water Sensitive Urban Design

The proposal has been designed to promote water sensitive design that includes stormwater re-use. Details are included in the SDA report which has been submitted as part of this application.

Clause 19 relating to Infrastructure supports the proposed four-dwelling development to accommodate housing growth within a well-serviced area, which facilitates the efficient use of existing infrastructure.

MUNICIPAL PLANNING STRATEGY

Clause 02.01 – Municipal Profile

The increasing population of Wyndham justifies increased housing opportunities.
Clause 02.01 states:

- *“Wyndham is the largest growing municipality in Victoria, adding 13,216 residents between 2015-2016. The population is forecast to grow from 217,122 people to 435,832 by 2036.”*

The characteristics of the Wyndham community that would justify the proposed development of an additional two-bedroom, three level dwellings on a compact parcel of land would include:

- A high birth rate;
- Growing levels of cultural diversity;
- A relatively low level of socio-economic disadvantage;
- A growing level of unaffordable housing.

Clause 02.03-5 – Urban Design & Liveability

The proposal will not affect the existing streetscape character.

Wyndham’s high birth rate has implications in planning for the future housing needs of the young, as well as younger individuals and couples trying to ‘break into the housing market,’ within a area that is well-served by public transport.

This provides justification for the subject site to accommodate four two-bedroom dwellings on the subject land.

The use of the existing (former factory) building to accommodate the proposed four-dwelling development, will respect the existing streetscape character, as well as providing a high-quality urban design outcome.

The provision of balconies at both first and second floor, being ‘open to the sky’ will provide a high level of amenity for future occupants.

Clause 02.03-6 – Housing & Housing Diversity

The rapid population growth of Wyndham requires more housing and a diversity of housing stock to ensure overall community needs are met. This justifies the proposed construction of an additional two-bedroom dwellings on more compact parcels of land.

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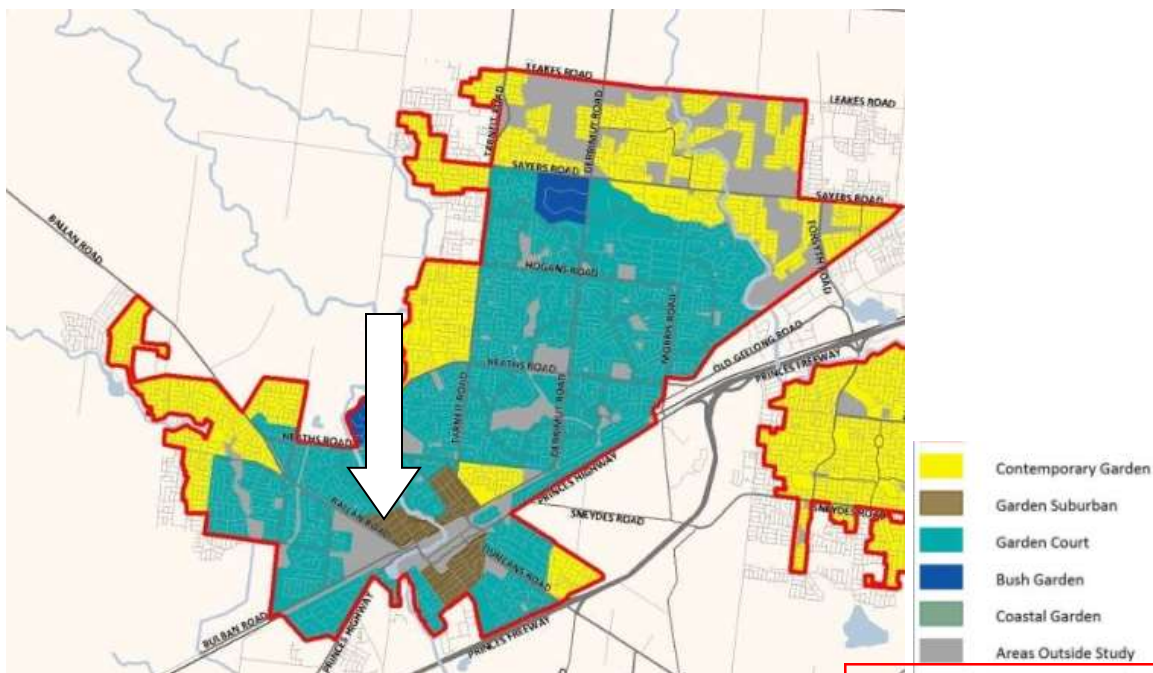
The intent of the planning scheme is to provide access to a diverse range of housing opportunities that will meet the needs of the growing population.

The recent increases in the cost of purchasing a house, as well as rises in the cost of renting, which includes housing within Werribee, provides further justification to promote urban consolidation as opposed to promoting urban sprawl as a means of achieving housing growth.

Most of all, the subject site is within walking distance to local shops, schools, child care centres, bus stops, a train station and recreation facilities that justifies the increased housing growth.

Clause 02.03-6 - Neighbourhood Character

The proposal reflects an appropriate development for a site that is located within the **Garden Suburban Character Type**.



The proposal responds favourably to the preferred character statements of the Garden Suburban Type area.

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The relevant Strategy that would apply to this particular proposal, which is met by this proposed four-dwelling development is to: ***“Retain the older, ‘character’ buildings of the Victorian, Edwardian or Interwar eras.”***

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Another important justification of the proposed development is the housing diversity that such a proposal would deliver to this area, which is consistent to the objectives and actions encouraged by the Wyndham Housing & Neighbourhood Character Study.

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The provision of an additional two-bedroom dwellings will provide diverse housing options for a wide cross section of household types. This has already been outlined in this report.

The efficient use of the land also facilitates for improved housing affordability, which is encouraged by the Wyndham Housing & Neighbourhood Character Study.

CLAUSE 52.06 – CAR PARKING

The provision of one under cover car space for the each of the proposed two bedroom dwellings accords with the requirements of Clause 52.06, which will not trigger a permit requirement that would need to be assessed pursuant to Clause 52.06 of the Wyndham Planning Scheme.

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As the proposal is for less than five dwellings, on-site visitor parking is not required.

The cars associated with Dwellings 1, 2 and 3, have the ability to enter and exit the subject site in a forward gear. The car associated with proposed Dwelling 4 has the ability to reverse out onto Edgar Street as this street is not defined as a TRZ2 (Transport 2 Zone).

A previous VCAT decision (VCAT Reference No. P911/2022 *Vrselja v Brimbank CC* 2023-VCAT 91) which is reproduced as Attachment 1 at the end of this report on page 33, which would support the car associated with proposed Dwelling 4 reversing out onto Edgar Street, despite the common driveway serving four cars. This application allowed four cars associated with two dwellings, reversing out onto Betson Court in Kealba, where all four cars utilise a single vehicle crossing.

In paragraphs 25 of *Vrselja v Brimbank CC*, Senior VCAT Member J.A. Bennett states:

- 25 Mr Mrkonjic submitted that the proposal fails to meet Design Standard 1 in clause 52.06-9 because the accessways serve four or more car spaces and



must be designed to allow vehicles to exit in forward direction. I find this a curious interpretation of the clause given no permit is being sought for car parking and where a car parking plan (and compliance with design standards) is to be to the satisfaction of the responsible authority. Mr

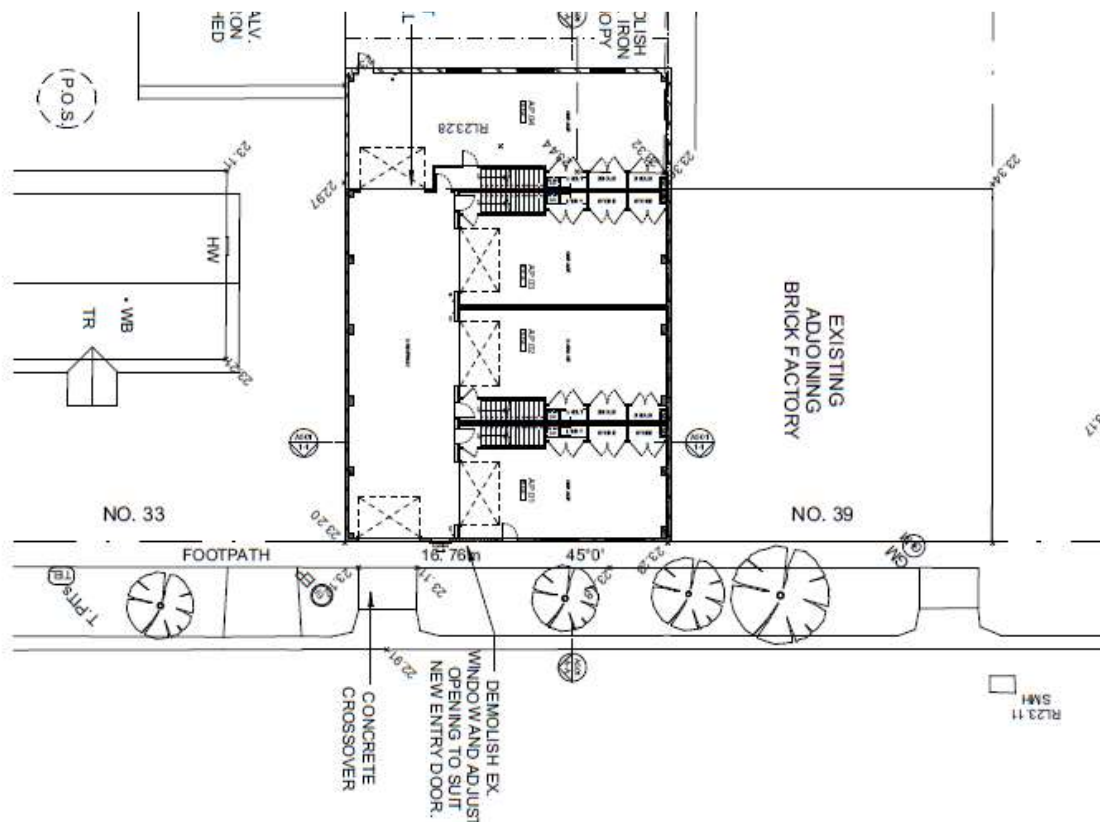
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ResCode Assessment:

NEIGHBOURHOOD & SITE DESCRIPTION & DESIGN RESPONSE

It is submitted that the 'neighbourhood and site description' that accompanies this application accords with the requirements of Clause 55.01-1 of the Wyndham Planning Scheme.



CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE

Clause 55.02-1 Neighbourhood character objectives

The new dwellings being proposed within an existing red brick, former factory, will ensure that the proposal integrates within the existing context and reflects an appropriate design response.

The reuse of a former factory building reflects an innovative and sustainable way of accommodating additional dwellings within a General Residential Zone that will not adversely affect the existing character of the area. As there is an almost identical building on an adjoining site at 39 Edgar Street, it will also achieve the preferred neighbourhood character outcome.

The scale and form of the proposed four-dwelling is acceptable within the existing neighbourhood context. The eclectic nature of the Edgar Street

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streetscape also justifies the proposed development, adding to the existing housing mix.



The proposed dwelling reflects a high-quality contemporary design that is encouraged by the Wyndham planning scheme.

Limiting the development to a single (common) vehicle accessway, reflects a carefully considered design.



The proposal will not reduce the landscaped area that currently exists within the nature strip directly in front of the subject site, which accommodates existing street trees.

This is attributed to retention of the existing vehicle crossing to provide vehicular access to all four proposed dwellings, which will respond favourably to the preferred character statements of the Garden Suburban Character Type area.

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Standard B1

It is submitted that the proposed design response is appropriate to the neighbourhood and the site and satisfies ResCode Standard B1 by accommodating four new dwellings within an existing building (former factory).

The reuse of existing industrial building reflects an innovative and sustainable way of accommodating additional dwellings within a General Residential Zone that will not adversely affect the existing character of the area.

Clause 55.02-2 Residential policy objectives

It is submitted that the proposed two dwelling residential development is in accordance with the relevant policies for housing contained under both the Planning Policy Framework and does not conflict with any section of the Municipal Planning Strategy, which has been outlined earlier in this report.

Standard B2

This written report describes how the development is consistent with any relevant policy for housing in the Planning Policy Framework and will not conflict with any section of Municipal Planning Strategy section of the planning scheme.

Clause 55.02-3 Dwelling diversity objective

The proposal has satisfied this objective to provide for dwelling diversity, providing a unique residential development within this area, reflecting a layout that is adaptable for a large cross-section of the community.

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However, compliance with this Objective is mandatory only for developments of ten or more dwellings.

Standard B3

Not applicable to a four-dwelling development.

Clause 55.02-4 Infrastructure objectives

It is submitted that the subject land is appropriately serviced with appropriate utilities and infrastructure (including physical and social infrastructure) to accommodate the proposed two-dwelling development.

It is unlikely that a four- dwelling development within this established residential area would unreasonably overload the capacity of utility services and infrastructure.

Standard B4

The proposed development will be connected to reticulated services, including reticulated sewerage, drainage, electricity and gas. The proposed development is unlikely to unreasonably exceed the capacity of utility services and infrastructure.

Clause 55.02-5 Integration with the street objective

It is submitted that the proposal will be appropriately integrated with the street frontage by way of a common accessway that will be used for all four proposed dwellings.

Standard B5

All four dwellings will provide for adequate vehicle and pedestrian links that maintain and enhance local accessibility and will not have a negative impact on the streetscape.

CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING

Clause 55.03-1 Street setback objective

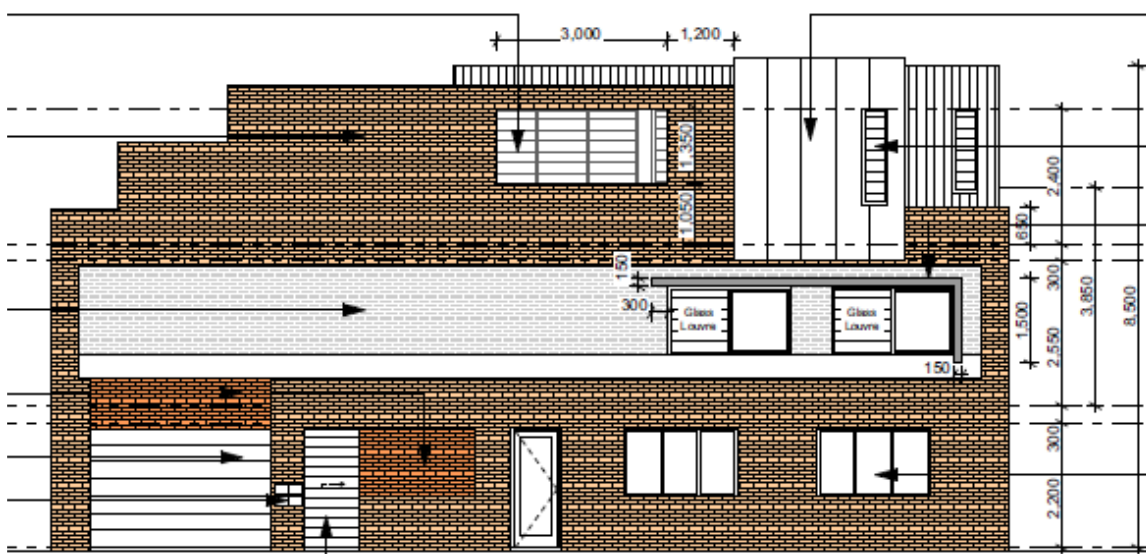
The existing building (having a zero front setback) is being retained so there is no change to street setback.

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55.03-2 Building height objective

It is submitted that the single storey form of the proposal satisfies the Objectives of Clause 55.03-2 and the numeric requirements of Standard B7. The maximum building height is limited to 8.5 metres.



The flat roof form of the proposed dwellings will ensure that the overall building height is not unnecessarily raised, justifying the three storey height of the proposed dwellings.

Standard B7

The proposal easily satisfies that maximum building height of Standard B7 by having an overall height that is less than the maximum height of 9.0 metres.

55.03-3 Site coverage objective

A dispensation is sought for the proposed 94% site coverage proposed two dwelling development has been designed to ensure that the site coverage respects the preferred neighbourhood character. The proposal responds to the

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features of the site as the proposed dwellings are accommodated within an existing red brick factory.

Standard B8

The retention of the existing building and ~~accommodating four-dwellings~~ within this building, justifies the Standard B8 dispensation being sought by this proposal.

55.03-4 Permeability objectives

For the same reason as the site coverage dispensation is warranted, the proposed 6% permeability is also justified on the basis that the four proposed dwellings will be accommodated within an existing building.

The proposal is also from a neighbourhood character point of view, whereby satisfying the Objective of Clause 55.03-4 justifies the Standard B9 dispensation.

Standard B9

The advantages described in this report with respect to the recycling of an existing factory building and accommodating the proposed four dwellings within this building, justifies the Standard B9 dispensation.

55.03-5 Energy efficiency objectives

As previously stated, the proposal will achieve efficient dwellings.

Standard B10

It is submitted that Standard B10 has been satisfied. The proposed dwelling will need to achieve a 7-star energy rating at the building stage.

The SDA Report being submitted with this application outlines the sustainability initiatives that are proposed to be incorporated into this development.

55.03-6 Open space objective

The subject site does not have an abuttal to any public or communal open space, hence this particular ResCode objective and Standard B11 does not apply.

55.03-7 Safety objective

The proposed development has been designed to ensure the layout provides for the safety and security of residents and property.

Standard B12

The proposal accords with Standard B12 by ensuring that the entrance to the proposed dwelling will not be obscured or isolated from the internal common driveway.

55.03-8 Landscaping objectives

No landscaping is proposed.

55.03-9 Access objectives

The use of one exclusive and one common driveway will ensure vehicle access to and from a development is safe, manageable and convenient.

Standard B14

It is submitted that the proposal satisfies Standard B14 by the proposed accessways being designed to allow for convenient, safe and efficient vehicle movements and connections within the development and to the street network.

55.03-10 Parking location objectives

The proposal provides convenient parking for resident vehicles and helps to avoid parking and traffic difficulties in the development and the neighbourhood.

The provision of a car space and a carport that can be secured, offers residents security and provides encouragement to park vehicles within the site.

Standard B15

The proposal satisfies Standard B15 as the car parking facilities for all four of the proposed dwellings on the site are close and conveniently located to the respective dwellings (the car parks being directly below the respective dwellings).

There is ample parking opportunity on Edgar Street itself, within close proximity of the subject site, whereby any additional parking demand that may be generated by this proposed four-dwelling development, can be accommodated on the street.

planning documents that are being provided to you do not reflect what is ultimately adopted by Council however they are the most recent version as at the date shown below:

Date Plans Provided: 26/03/2025



55.04 AMENITY IMPACTS

55.04-1 Side and rear setbacks objective

The proposed development being accommodated within an existing building will not conflict with Clause 55.04-1 and Standard B17 by maintaining existing side and rear setbacks.

55.04-2 Walls on boundaries objective

As the proposal will retain the old factory walls, the proposal will not conflict with Clause 55.04-2 and Standard B18.

55.04-3 Daylight to existing windows objective

Due to the provision of appropriate internal light-courts and the provision of 'open' balconies at the first and second floor of the proposed dwellings will achieve compliance with the Objectives of Clause 55.04-3 and will not conflict with the requirements of **Standard B19**.

55.04-4 North-facing windows objective

The proposal will not conflict with the objective and requirements of **Standard B20**.

55.04-5 Overshadowing open space objective

Due to the retention of the existing factory walls will ensure that the proposal does not conflict with the Objectives of Clause 55.04-5, nor will the proposal conflict with the requirements of **Standard B21**.

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55.04-6 Overlooking objective & 55.04-7 Internal views objective

The designer has ensured that there will be no adverse overlooking dies to the retention of the existing brick walls of the former factory along both side boundaries and the rear wall facing the rear boundary.

55.04-8 Noise impacts objectives

The proposed development has been designed in such a way to contain noise sources within developments (which includes the retention of the old factory brick walls), so that that there is no unreasonable impact to adjacent lots.

Standard B24

In terms of Standard B24 relating to noise sources, provisions such as mechanical plant (external air-conditioning units, heaters, hot-water units, etc.), these can easily be addressed by appropriate permit conditions being imposed by the Responsible Authority.

55.05 ON-SITE AMENITY AND FACILITIES

55.05-1 Accessibility objective

It is acknowledged that this type of housing is not considered accessible for those with limited mobility. However, this proposal provides a unique housing opportunity for younger occupants, representing a form of housing that is not common within this area.

There are numerous, existing single storey housing options that would be suitable for occupants with limited mobility within this section of Werribee, which includes numerous single storey dwellings within Edgar Street itself.

55.05-2 Dwelling entry objective

The proposed design accords with the requirements of **Standard B26** by ensuring that the entry to the proposed dwelling is:

- *Visible and easily identifiable from the common driveway.*
- *Provides shelter, a sense of personal address and a transitional space around the entry.*

55.05-3 Daylight to new windows objective

The design of the proposed dwellings ensures adequate daylight into new habitable room windows and fully accords with **Standard B27**.

55.05-4 Private open space objective

The proposed development has been designed to provide adequate private open space for the reasonable recreation and service needs of residents. The proposed dwellings have the provision of two balconies (for each dwelling), which exceeds the minimum open space requirements for dwellings having a reverse-living layout.

The proposed development has been designed to provide adequate private open space for the reasonable recreation and service needs of residents.

All four dwellings having a reverse-living layout, fully accords with the numeric requirement for private open space outlined in **Standard B28** which states the following:

- *“A balcony of 8 square metres with a minimum width of 1.6 metres and convenient access from a living room.”*

The proposed north-facing first floor balconies (outlined as terraces on the plans), provide areas in the order of 15 square metres for each dwelling, being almost double the minimum area required by Standard B28.

These first floor terraces are supplemented by the second floor deck area, which have varying areas that range between 13.48 square metres to 16.94 square metres, which contribute to a high level of internal and external amenity for future occupiers.

Having regard to the open space for the proposed dwellings these balcony areas are highly functional, have direct access from a living area, being appropriately dimensioned and positioned to achieve an appropriate (northern) solar access.

Further justification of the proposed reverse-living layout is also derived from the following VCAT decisions:

1. In **Abdallah v Hobsons Bay CC (2015) VCAT 1115 (22 July, 2015)** for a three- dwelling development at 465 Blackshaws Road, Altona North VCAT Member Watson refutes the stance of Council that *'all secluded private open space should be provided at ground level'* (after paragraph 16 in other matters), by stating:

- *"I consider that the reverse-living layout provides for the housing diversity that is also a cornerstone of the planning scheme."*

2. In **Mrkonjic v Hobsons Bay CC (2016) VCAT 344 (8 March, 2016)** for a four dwelling development at 96 Power Street, Williamstown, VCAT Member Bilston-McGillen states in paragraph 30:

- *'Whilst Council raised concern regarding the reliance on balconies for private open space, this is a legitimate form of private open space.'*

55.05-5 Solar access to open space objective

The designer has incorporated balconies (two per dwelling) to ensure each dwelling and balcony area will receive adequate sunlight by satisfying **Standard B29**.

55.06 DETAILED DESIGN

55.06-1 Design detail objective

It is submitted that the proposed development reflects design detail that reflects a high standard. It is submitted that the proposed reuse and refurbishment of existing industrial buildings will have a positive impact on the neighbourhood character of this area.

The proposal reflects a modern, innovative design that will have a positive impact on the neighbourhood character of this area.

By maintaining the outer brick walls of the former factory building, coupled with the same looking building being accommodated on an adjoining site, will result in a development that respects the existing neighbourhood character. It is submitted that the proposal satisfies **Standard B31**.

55.06-2 Front fences objective

No front fence is not proposed for this development as the former factory building being retained has a zero front setback.

55.06-3 Common property objectives

Common property cannot be avoided within this development. Common property has been limited to the vehicle and pedestrian accessway to be used by all four dwellings.

The use of a single driveway for all four dwellings to utilise is appropriate from a neighbourhood character point of view, minimising the number of access points at the site frontage and maximising landscaped area within the front nature strip that accommodates street trees.

55.06-4 Site services objectives

The proposed development has been designed in such a way to ensure that site services can be installed and easily maintained.

Permit conditions can be imposed by the Responsible Authority to ensure that the specific requirements of **Standard B34** are satisfied.

ATTACHMENT 1

PLEASE NOTE: The plan/s that are being provided to you may not reflect what is ultimately approved by Council however they are the most recent version as at the date shown below:

Date Plans Provided: 26/03/2025

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P911/2022
PERMIT APPLICATION NO. P575/2021

CATCHWORDS

Brimbank Planning Scheme; Application pursuant to Section 82 of the *Planning and Environment Act 1987*; Neighbourhood Residential Zone Schedule 1 (NRZ1); New double storey dwelling in rear yard; Retention and alterations to existing dwelling; Neighbourhood character; Landscaping; Access and car parking; Clause 55; Amenity.

APPLICANT	Gabriel Vrselja
RESPONSIBLE AUTHORITY	Brimbank City Council
RESPONDENT	Paola Joyce
SUBJECT LAND	5 Betson Court KEALBA VIC 3021
HEARING TYPE	Hearing
DATE OF HEARING	18 January 2023
DATE OF ORDER	31 January 2023
CITATION	Vrselja v Brimbank CC [2023] VCAT 91

ORDER

- 1 In application P911/2022 the decision of the Responsible Authority is varied.
- 2 In planning permit application P575/2021 a permit is granted and directed to be issued for the land at 5 Betson Court, Kealba in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
 - Construction of a double storey dwelling to the rear of the existing dwelling in the Neighbourhood Residential Zone Schedule 1.

J A Bennett
Senior Member

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Plan: 38 of 54

APPEARANCES

For Gabriel Vrselja

Luka Mrkonjic, Town Planner of Luka

Mrkonjic Town Planning Services:

For Brimbank City Council

Irene Plakidis, Town Planner of Refine Town Planning.

For Paola Joyce

In person.

INFORMATION

Description of proposal

Construction of a second dwelling to the rear of the existing dwelling and alterations and additions to the existing dwelling.

Nature of proceeding

Application under section 82 of the *Planning and Environment Act 1987* – to review the decision to grant a permit.

Planning scheme

Brimbank Planning Scheme.

Zone and overlays

Neighbourhood Residential Zone - Schedule 1 (NRZ1).

Development Contributions Plan Overlay - Schedule 2 (DCPO2).

Permit requirements

Clause 32.09-6 (Construct two or more dwellings on a lot in NRZ1).

Relevant scheme policies and provisions

Clauses 11, 15, 16, 18, 19, 21.06, 21.07, 21.10, 32.09, 52.06, 53.18, 55, 65 and 71.02.

Land description

The site is located on the north western arc of the court bowl. The site of 623.33 square metres is irregular in shape with a curved frontage of 11.69 metres, side boundaries of 39.43/19.53 metres and a rear boundary of 43.28 metres.

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The site is currently occupied by a single storey brick dwelling containing 3 bedrooms, and attached carport near the southern boundary. A swimming pool, gazebo and garden are located north of the dwelling where the new dwelling is to be located.

Tribunal inspection

An unaccompanied inspection of the locality was undertaken prior to the hearing on 16 January 2023.

REASONS¹

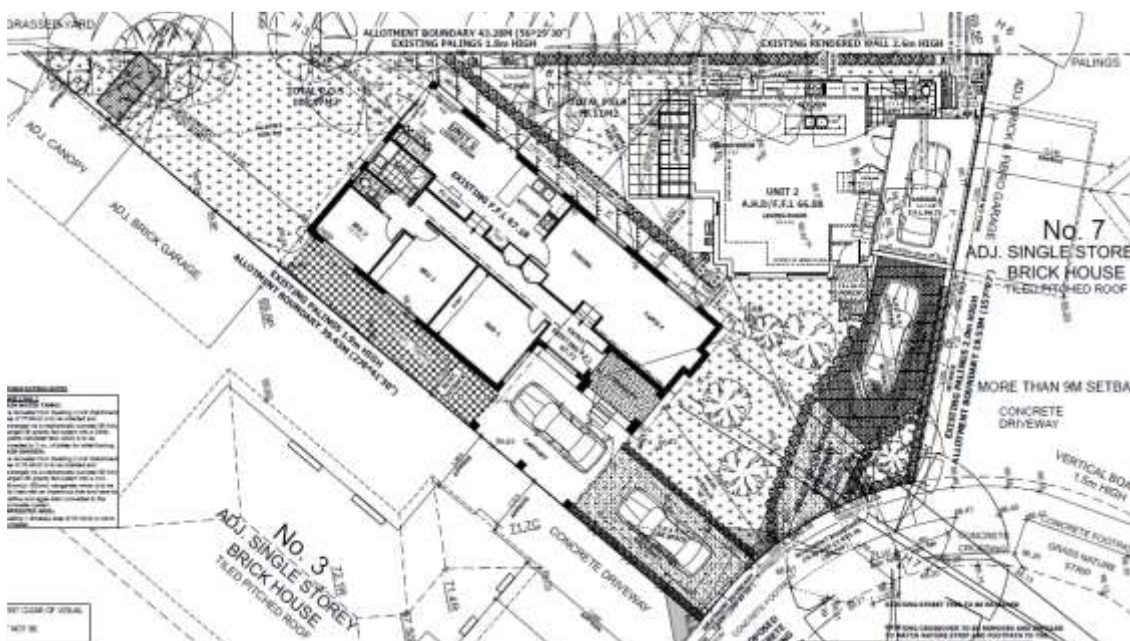
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THE PROPOSAL

Brimbank City Council (**Council**) has supported an application to construct a new double storey dwelling behind and to the side of an existing single storey dwelling in a residential area in Kealba. The existing dwelling is to be retained but altered. The existing crossover is to be widened substantially to accommodate the driveway to the new dwelling.

The overall site layout and the physical relationship between the existing and proposed dwellings is depicted in the following proposed ground floor plan.



The new double storey dwelling contains three bedrooms and two car spaces in a tandem arrangement. The ground floor is occupied by living areas, a small service yard and ground level open space of 78.11 square metres accessed off the living areas. The single car garage is positioned on the side boundary with No 7 Betson Court. A tandem car space is provided in front of the garage. The first floor contains three bedrooms, an ensuite for Bedroom 1 and a shared bathroom.

¹ The submissions, any supporting exhibits given at the hearing, and the statement of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

For the reasons which follow, I support Council's decision and will grant a permit.

However before turning to the planning issues, I want to make it clear that the personal financial matters raised by Ms Joyce have had no bearing on my decision as they are not relevant to my consideration of the planning provisions contained in the Planning Scheme.

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MY ASSESSMENT

Two dwellings on a lot of 623.33 square metres represent a modest intensification of housing in an established urban area. There is a consistently expressed intention in planning policy that locations such as this will contribute to urban consolidation by allowing for a limited increase in the number of dwellings on lots already developed with single dwellings.

Policy at clause 21.07.1 identifies that land within the NRZ will support lower density housing, with increased densities in the General Residential Zone (GRZ), and higher densities in the Residential Growth Zone (RGZ) and in activity centres.

Implementation of housing policy at clause 21.07-5 applies the NRZ to land designated for limited change. The site is within an area designated for limited change. I agree with Ms Plakidis that the construction of one additional dwelling provides a limited degree of change and is the least amount of change that could occur in terms of new housing on the site. In principle, the concept of providing an additional dwelling on the site is consistent with, and serves to implement, housing policies.

However, it is also necessary to decide whether a particular proposal is an acceptable response to the physical site context and policies and decision guidelines designed to guide built form, along with the requirements of clause 55.

My assessment of neighbourhood character is informed by material submitted at the hearing and my inspection. In his submission, Mr Mrkonjic referred to a 2019 draft neighbourhood character study. At the hearing he acknowledged it has not been adopted and therefore cannot be considered a seriously entertained planning document. I have therefore disregarded any comments concerning that draft study. Until that study (or a revised study) is adopted, the Brimbank Planning Scheme at present does not include existing and preferred neighbourhood character policies for different precincts within the municipality. It is therefore necessary to consider the existing neighbourhood character of the area.

Whilst I acknowledge that the existing dwellings in Betson Court are single storey, double storey dwellings exist in the area and can be seen from within Betson Court. They include three double storey dwellings on the lots behind Nos 5 and 7 Betson Court in Ashleigh Court. Even where there is a double storey

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double storey dwellings, it does not preclude them from being constructed given one of the NRZ purposes is to recognise areas of predominantly single and double storey residential development, and where clause 32.09-10 states that the maximum height or number of storeys must not exceed 9 metres or contain more than 2 storeys unless varied by a schedule. The proposed double storey dwelling meets these height and storey limits.

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I cannot agree with Mr Mrkonjic that the proposed double storey dwelling does not meet the building height objective or related standard B7, or that changes of building height between existing buildings and new buildings should be graduated at the front façade. The reference to graduation in building height in standard B7 is more usually understood in height and storeys, and I find Mr Mrkonjic's reference to graduating the front façade a most unusual interpretation of the standard and one which I do not support.

The Tribunal has stated in many cases that respecting neighbourhood character does not mean more of the same. In *Iloray Pty Ltd v Darebin CC and Ors* [2003] VCAT 692, cited by Ms Plakidis, the Tribunal stated that:

[53]. In considering this issue, the first point to be made is that the notion of development which is "respectful" of neighbourhood character does not imply that such development must be the same as what already exists. If policy, the purpose of the zone and the objectives of clause 55 were calling for the development that is more of the same, then they would say so. Rather, the notion of "respectful" development must embrace the need for change and diversity in the type of dwellings that are provided and an increase in the intensity of development in circumstances where this is encouraged by planning policy and the purpose of the zone.

Given the planning policies and zone purpose I have previously referred to, I consider that the concept of constructing a double storey dwelling on the site would be an acceptable addition to the neighbourhood.

However, any development of two or more dwellings on a lot must meet the requirements of clause 55 which is specifically designed to provide guidance as to what might be an acceptable medium density housing development. Requirements include objectives which must be met and standards which should be met. Decision guidelines must also be considered. Where compliance with a numeric standard is not achieved then a judgement needs to be made as to whether the related objective has been met.

I note that Council has assessed the proposal as complying with all the quantifiable Clause 55 standards except for crossover width. At the hearing I also observed that the minimum 5 metre dimension for secluded open space

for the new dwelling is not met, although I accept this can be achieved with a minor change to the layout of the new dwelling.

Despite submissions to the contrary from Mr Mrkonjic, the proposal meets the quantifiable standards in clause 55 including building height, site coverage, permeability, side and rear setbacks, walls on boundaries, daylight to existing windows, overshadowing open space and front fences. Each dwelling is provided with car parking which meets the requirements of Clause 52.06. The garden area at 45.76 % far exceeds the mandatory 30% required by Clause 32.09-4 for a lot below 650 square metres in area. Site coverage is 44.71% which exceeds the varied maximum of 50% in standard B8 while permeability at 47.38% is well above the minimum of 30% in standard B9.

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Although Mr Mrkonjic questioned the accuracy of the permeability percentage on the plans, I am not persuaded the figure is inaccurate, or even if there is some inaccuracy, that it would make any significant difference to the acceptability of the proposal given the easy compliance with the site coverage and garden area requirements. The garden area provides plenty of scope for landscaping, including the provision of two medium trees in the front setback and one small to medium tree in private or secluded private open space as required by the varied standard B13 in clause 55.

As discussed at the hearing, I consider there is benefit in delineating the boundary between the two dwellings within the front garden area. As discussed, any boundary fence should be semi-transparent (e.g. metal pickets) of a low height (not more than one metre) and include hedging plants. Such an approach will maintain the open appearance of the front garden. I find it ironic there is concern about future planting opportunities at No 5 Betson Court, when many of the nearby front yards contain limited landscaping, including within the front garden at No 7 Betson Court which has virtually no taller trees or shrubs.

When the proposal is assessed against the various off-site amenity requirements in clause 55.04, there are no areas where the relevant standard, and hence the related objective, are not met. Standards B17 (side and rear setbacks), B18 (walls on boundaries), B20 (north facing windows), B21 (overshadowing open space), B22 (overlooking), B23 (internal views) and B24 (noise impacts) relating to off-site amenity impacts are all met or do not apply.

I am not persuaded there are any direct off-site amenity to No 7 Betson Court. As can be seen in the following photo tabled by Ms Plakidis, there is a single storey garage built to the common boundary on Mr Vrselja's property. It will provide additional physical and visual separation to the proposed dwelling which is to be located behind the shrubs in the left foreground. A portion of the first floor will be visible from some areas in Mr Vrselja's

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property, but being able to see the upper floor of dwellings is not uncommon in a residential area. As I have already observed, double storey dwellings exist in the neighbourhood and are visible from No 7 Betson Court.

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Parties referred to a somewhat similar second dwelling at No 6 Nerida Court, located a short distance from Betson Court. Mr Mrkonjic described Mr Vrselja's reaction to that development as it being 'bizarre'. Apart from looking at the photos tendered by parties, I also took the opportunity to view No 6 Nerida Court during my inspection. I make no comment about the pros and cons of that development, except to observe that the proposal I am assessing is a different design and has a different site context with attributes, such as a recessed garage and retention of a large street tree, not seen at No 6 Nerida Court.

Whilst Mr Vrselja may prefer for the character of Betson Court to remain largely unchanged, the NRZ and planning policies are clear that some limited change will occur, even in streets such as Betson Court where the original housing stock remains intact.

I now comment on the parking and traffic issues raised by Mr Mrkonjic and which generated a great deal of opposition from Mr Vrselja. Whilst I understand Mr Vrselja is concerned about additional on-street parking and traffic movements, I would not refuse the application because of those concerns.

On-site resident parking complies with the rates specified in clause 52.06 of the Planning Scheme, there is no permit being sought to reduce the required

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number and I cannot request more spaces than the number required in Clause 52.06. Consequently, there is no reliance on kerbside parking to meet the rates set out in Clause 52.06, although I acknowledge some kerbside parking may take place. I also note that Council's traffic engineers did not raise any concerns about the number of car spaces being provided.

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Mr Mrkonjic submitted that the proposal fails to meet Design Standard 1 in clause 52.06-9 because the accessways serve four or more car spaces and must be designed to allow vehicles to exit in forward direction. I find this a curious interpretation of the clause given no permit is being sought for car parking and where a car parking plan (and compliance with design standards) is to be to the satisfaction of the responsible authority. Mr Mrkonjic's submission seems to suggest that every double width crossover across Victoria serving two dwellings, with four or more off street car spaces would require vehicles to exit in a forward direction. Given the prevalence of such crossovers I cannot agree with that interpretation or that it should be applied to this proposal.

The existing double width crossover serving Nos 3 and 5 Betson Court will need to be widened to accommodate access to the proposed dwelling. The result is a crossover width of 6.3 metres or 54.7% of the frontage of No 5 Betson Court.² This exceeds standard B14 which includes a 40% maximum. Relevantly the objective is:

To ensure the number and design of vehicle crossovers respects the neighbourhood character.

I accept a crossover occupying 54.7% of the frontage may be unusual but double crossovers of up to 6 metres in width are not uncommon where the lots are a more rectangular shape and where it is much easier to stay below the 40%. On lots having narrow frontages it will be much harder to stay below 40% requirement but that doesn't mean a wider crossover is unacceptable. It depends on the individual site context.

In assessing the crossover width, I have also considered the non-numeric parts of standard B14 and the related decision guidelines and am not persuaded that the widened crossover is unacceptable. In this instance I am not persuaded that the widened crossover will result in a loss of on-street parking given the kerb length between the existing crossovers is approximately 4 metres. While cars may attempt to park there at present, I understand from Ms Joyce that such parking causes difficulties for vehicles accessing the driveway at No 7 Betson Court. One of the benefits of reducing the length of kerb will be to remove the temptation to park in an inappropriate and inconvenient position.

² Council calculated 62% but this appears to be based on frontage width of 10.15 metres. It is my understanding that the frontage width is 11.69 metres (1.54 metres plus 10.15 metres).

Whilst 54.7% may seem an excessive width of crossover, one of the benefits enjoyed by No 5 Betson Street is a large street tree which will be retained despite the widened crossover. Whilst Mr Mrkonjic cast doubt as to whether the tree would survive widening the crossover to within approximately one metre of the trunk, Council's Arborist considers that the tree is in a healthy condition. I have no contrary expert evidence to suggest that Council's Arborist is incorrect.

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I acknowledge that a development of an additional dwelling will marginally increase traffic movements on the road network. I also recognise that ever increasing traffic volumes are inconvenient and lead to a level of congestion and concerns about safety for local residents. However, Betson Court does not carry any through traffic and the increase of additional vehicle movements from one additional dwelling are well within the capacity of the street.

Whilst Mr Mrkonjic suggests that the proposal is trying to cram too much onto a site that has the constraint of a narrow frontage width, I do not agree. When assessed against the requirements of clause 55, existing neighbourhood character, site context and relevant policies in the Planning Scheme, I consider the proposal is acceptable. To paraphrase Ms Plakidis, every proposal has pros (benefits) and cons (disbenefits). Balancing these will not provide a perfect or ideal development but one that is acceptable. That is what is required in clause 65 and I find this is an acceptable development. In its own modest way, it will also provide a net community benefit in the manner required by clause 71.02-3.

Having regard to all the above, I support the decision made by the Responsible Authority, subject to following changes:

Additional words in what the permit allows.

Requiring a greater width for the secluded open space of the new dwelling.

Requiring a semi-transparent boundary fence in the front yard.

I have also amended the street tree condition to include a requirement for a Tree Protection and Management Plan based on wording provided by Council.

The decision of the Responsible Authority is therefore varied, and a permit is to be issued.

J A Bennett
Senior Member

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APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO	P575/2021	Date Plans Provided: 26/03/2025
LAND	5 Betson Court KEALBA VIC 3021	

WHAT THE PERMIT ALLOWS

In accordance with endorsed plans:

- Construction of a double storey dwelling to the rear of the existing dwelling in the Neighbourhood Residential Zone Schedule 1.

CONDITIONS

Amended/Endorsed Plans

Before the use and/or development start(s), amended plans and / or reports to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans and / or reports will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans and / or reports must be generally in accordance with the plans and / or reports submitted with the application (received by Council on 4/3/2022) but modified to show:

- The secluded open space for Dwelling 2 to be widened by further setting back the ground floor living room wall so the entire length of the western wall of the living room is on the same plane.
- Dwelling 1 galvanised iron shed noted as being at least 6 cubic metres in volume.
- Dwelling 2 internal driveway not less than 3 metres in width at any point.
- Provision of a boundary fence to separate the front garden areas of Dwellings 1 and 2. The fence is to be semi-transparent (e.g. metal pickets) of a low height (not more than one metre) and may include associated hedging plants.
- The location of the meter box, gas and water meter for dwelling 1, clear of the proposed driveway and associated works approved.

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- (f) Removal of the use of 'obscured glazing' to the south (street) facing ensuite window. Privacy is to be obtained through the use of internal blinds.
- (g) Notation to the south-west and north-east elevations that the external walls of the dwelling will be constructed of 'brick with a rendered finish'.
- (h) Any amendments arising from the landscape plan under Condition 3 of this permit.
- (i) A notation included on plan to show:
 - i That no pruning of the existing street tree located within the naturestrip shall be undertaken by any party other than Brimbank Tree Services.
 - ii That the naturestrip and street tree to be barricaded out using portable cyclone fencing for the duration of the development.
 - iii That no building materials are to be stacked and/or dumped on the naturestrip during construction.

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

Landscaping

Prior to the endorsement of plans, and commencement of development, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions. The landscaping plan must be generally in accordance with the landscape concept as shown on the site plan dated 4/3/2022 prepared by M7 Design Group, except that the plan must show:

- (j) Details of surface finishes of pathways and driveways;
- (k) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
- (l) Landscaping and planting within all open areas of the site;
- (m) Appropriate irrigation system;
- (n) A minimum of 2 medium sized trees (minimum 2 metres tall when planted and 6-12 metres at maturity) must be provided in the front setback;

- (o) A minimum of 1 small to medium sized tree (minimum 2 metres tall when planted and up to 6 metres at maturity) must be provided in the secluded private open space greater than 25 square metres in area, of each dwelling.

PLEASE NOTE: The plan/s that are being provided to you may not reflect what is ultimately approved by Council however they are the most recent version as at the date shown below:

Date Plans Provided: 26/03/2025

All species selected must be to the satisfaction of the Responsible Authority.

Prior to the commencement of Occupation, unless otherwise agreed in writing with the Responsible Authority, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority.

The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority. This includes the (ie; within 30 days) replacement of any dead, diseased or damaged plants.

A cash bond for \$1000, plus a non-refundable 5% service charge of \$50 (**Total of \$1050**), shall be lodged with the Responsible Authority prior to the collection of endorsed plans to ensure the completion and establishment of landscaped areas. This cash bond will only be refunded after a 13 week establishment period beginning when the Responsible Authority is satisfied with the completed landscaping works, provided that the landscape is being maintained to the satisfaction of the Responsible Authority.

Adherence to Arborist Report

All recommendations as provided by the Arboricultural Report from Treed Environs dated May 2022 are to be adhered to, to the satisfaction of the Responsible Authority. Once Condition 1 plans are endorsed, the Arboricultural report will also be endorsed and form part of the permit.

Street Tree Protection & Management Plan

Before the development permitted by this permit commences, a Tree Protection & Management Plan (TPMP) must be submitted to and approved by the Responsible Authority for the (Melaleuca) street tree. The TPMP must be prepared by a suitably qualified arborist, including:

- (p) The management and maintenance of the street tree.
- (q) A management regime for the street tree during the demolition, construction and post construction phases of the development;
- (r) A tree protection plan drawn to scale;
- (s) The tree protection zone (TPZ) and structural root zone (SRZ) of the street tree to be indicated on the plan;
- (t) Details of any excavation within the TPZ and pruning of any roots required which must be undertaken by the project arborist.

- (u) The location/design of tree protection fencing for the street tree;
- (v) Written confirmation from the project Arborist that the tree management works undertaken are satisfactory and they are the most recent version as at the date shown below: the approved TPMP. This must be submitted to the satisfaction of the responsible authority.

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The following measures must be adhered to for the protection of the street tree(s):

- (w) The naturestrip and street tree within Betson Court frontage of the site must be barricaded out using portable cyclone fencing for the duration of the development. Costs of such fencing must be borne by the developer and/or permit holder.
- (x) No pruning of the existing street tree located within the naturestrip within the Betson Court frontage of the site shall be undertaken by any party other than Brimbank Tree Services.
- (y) No building materials are to be stacked and/or dumped on any naturestrip during construction.

The Tree Protection Zone (TPZ) around the existing street tree/s must be fenced in accordance with Australian Standard AS4970-2009 - Protection of Trees on Development Sites. The following activities must not occur within the TPZ:

- (z) Construction of any works without the supervision of a qualified arborist;
- (aa) Driving or parking of any vehicles or machinery;
- (bb) Stockpiling of building materials, debris or soil;
- (cc) Dumping of fuel, oil or chemicals;
- (dd) Altering of soil levels;
- (ee) Open trenching, including for the placement of pipes or wires;
- (ff) Attachment of wires, nails, screws or any other fixing device to the existing tree/s.

Supplementary watering must be provided to trees through dry periods and during and after the construction process.

Development Contribution Levy

A Development Contribution in accordance with the approved Development Contributions Plan must be paid to Brimbank City Council.

Payment of the Development Infrastructure Levy (DIL) must:

- (gg) Be paid prior to the commencement of any development or works on the land or prior to Statement of Compliance (SOC) for the subdivision

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of the land associated with the development permit, whichever comes first; OR

- (hh) When a staged subdivision is sought, they are the most recent version as at the date shown below:
Statement of Compliance based on the net increase in the number of new dwellings within each stage.

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Payment of the Community Infrastructure Levy (CIL) must be paid prior to the issue of a building permit under the Building Act 1993.

Car Parking

Before the occupation of the development starts, the areas set aside for the parking of vehicles and driveways as shown on the endorsed plans must be:

- (ii) Constructed in concrete or asphalt;
- (jj) Properly formed to such levels that they can be used in accordance with the plans;
- (kk) Drained; and
- (ll) Maintained

all to the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

Prior to the commencement of the development hereby approved, a vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) in every location shown on the endorsed plans to the satisfaction of the Responsible Authority. A Vehicle Crossing Permit must be obtained from Council's Engineering Department prior to any works commencing on the site.

Prior to the commencement of occupation, all disused or redundant vehicle crossings must be removed and replaced with kerb and channel, and the naturestrip and footpath reinstated to the satisfaction of the Responsible Authority. A permit must be obtained from Council's Engineering Department prior to the commencement of these works.

The owner/developer is responsible for determining the location of any road infrastructure or non-road infrastructure in the road reserve (e.g. pits, poles, water mains, gas mains, telecommunications cables etc.) that could be affected by the installation of the new crossover(s) or related works.

Any existing road infrastructure or non-road infrastructure located within or adjacent to the new crossover(s) must be altered, relocated or reconstructed to the satisfaction of the Responsible Authority and/or the relevant utility provider or infrastructure manager at the expense of the owner/developer.

Engineering

Access to the site and ancillary road works must be constructed in accordance with the requirement of the Responsible Authority.

The entire development site must be connected to the existing underground drainage and sewerage systems to the satisfaction of the Responsible Authority.

The crossover(s) must be located and constructed to the satisfaction of the Responsible Authority in accordance with plans approved by the Responsible Authority. The plans submitted must show all services within the road reservation including power poles, drainage pits, Telstra pits, trees, road humps, bus stops and any other road infrastructure or asset that may hinder or impact on the operation of the crossover.

Protective kerbs (of a minimum height of 150mm) must be provided to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas and to control drainage flows.

Multi Unit Residential Development

Prior to the commencement of occupation, bollard lighting standing no higher than 1.2 metres above ground level is to be installed and maintained on the land abutting the dwelling 2 driveway to automatically illuminate pedestrian access to the dwelling(s) between dusk and dawn with no direct light emitted onto adjoining property to the satisfaction of the Responsible Authority.

All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

Provision must be made on the land for the storage of waste and recycling bins in a location that is not visible from the street to the satisfaction of the Responsible Authority.

Prior to the occupation of the dwellings hereby permitted all side, rear and internal fencing must be provided to a minimum height of 1.8m above the finished ground level (except where visibility splays are required toward the front of the site) and be in good condition to the satisfaction of the Responsible Authority. The owner of the subject land must pay all costs associated with the construction / modification of the fence(s) (including fences), to the satisfaction of the Responsible Authority.

Time Limit – Development

This permit will expire if one of the following circumstances applies:

- (mm) The development is not started within two years of the date of this permit,
- (nn) The development is not completed within four years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or:

- (oo) Within six months afterwards for commencement, or
- (pp) Within twelve months afterwards for completion.

--End Conditions--

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