

### 1.3 10 LEGON ROAD, OAKLEIGH SOUTH EXTENSION OF TIME - DEVELOPMENT OF THREE (3) DOUBLE STOREY DWELLINGS (TPA/37785)

#### **EXECUTIVE SUMMARY:**

An application has been received for an extension of time to complete Planning Permit TPA/37785 for the development of three (3) double storey dwellings. The original permit was issued on the 12 March 2010. The permit has been extended on three (3) previous occasions.

Construction of the development is in the initial stages. The ground floor slab has been laid and the frame work has been erected for the two dwellings to the rear of the existing.

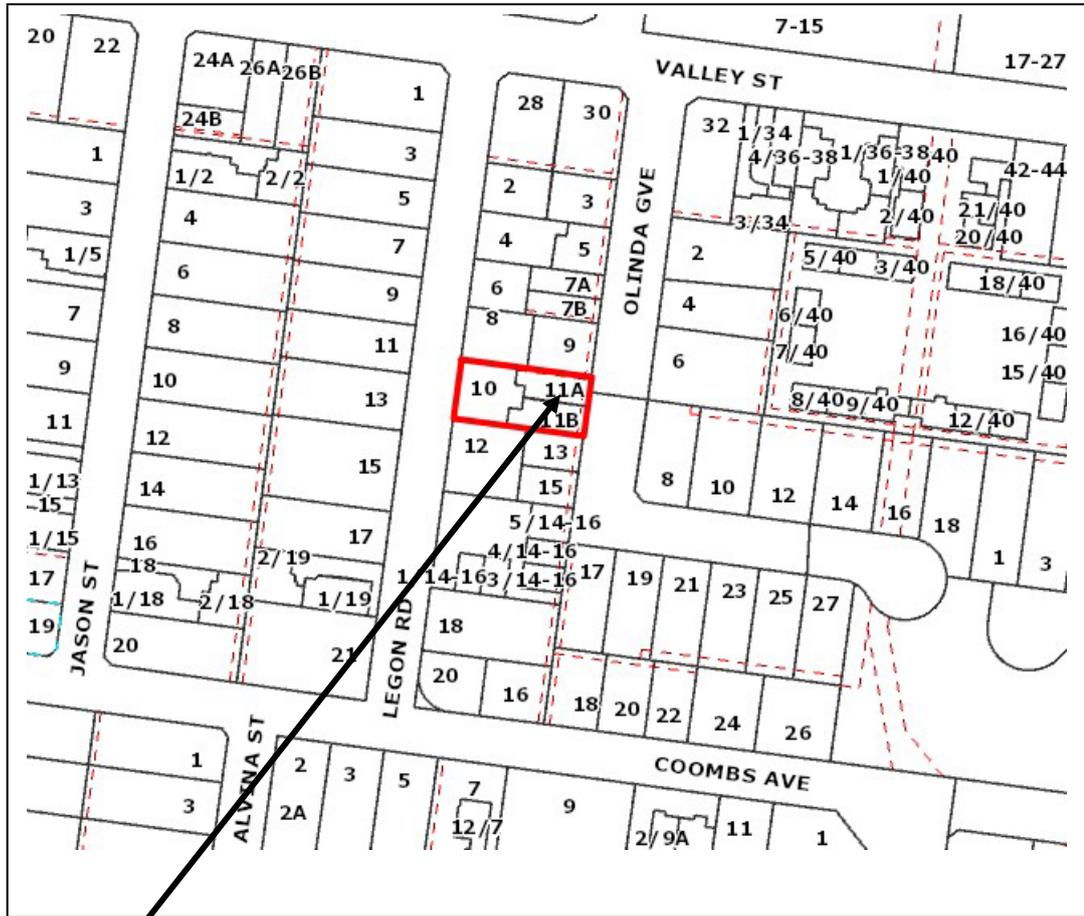
Public notification of the application for an extension of time is not considered necessary given that the approved development is consistent with existing applicable planning controls and policy.

**The reason for presenting this report to Council is this is the fourth request for an extension of the permit.**

**The proposed extension of time is considered appropriate and it is recommended that a two (2) year extension to the permit is granted accordingly.**

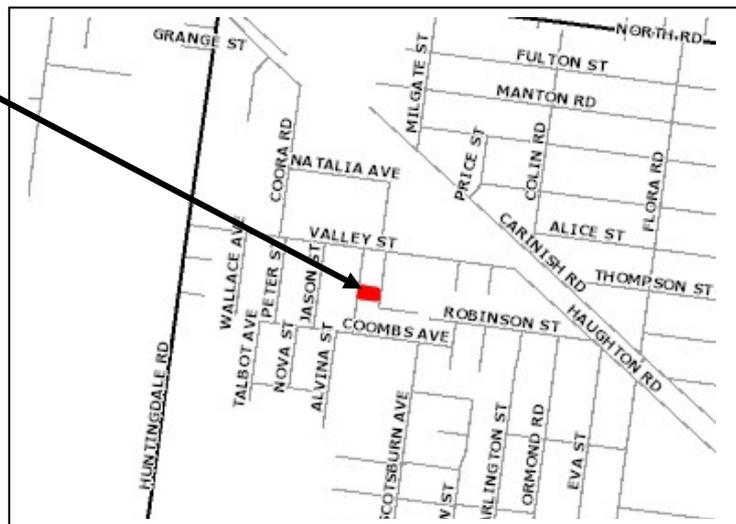
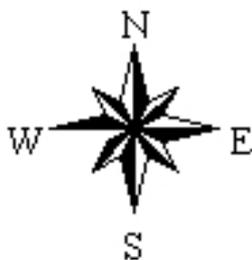
<b>RESPONSIBLE DIRECTOR:</b>	<b>Peter Panagakos</b>
<b>RESPONSIBLE MANAGER:</b>	<b>Natasha Swan</b>
<b>RESPONSIBLE PLANNER:</b>	<b>Steven Oscari</b>
<b>WARD:</b>	<b>Oakleigh</b>
<b>PROPERTY ADDRESS:</b>	<b>10 Legon Road, Oakleigh South</b>
<b>EXISTING LAND USE:</b>	<b>Single Dwelling</b>
<b>NUMBER OF OBJECTIONS:</b>	<b>N/A</b>
<b>ZONING:</b>	<b>General Residential Zone 2</b>
<b>OVERLAY:</b>	<b>N/A</b>
<b>AMENDMENT C125 (adopted)</b>	<b>General Residential Zone 3</b>
<b>RELEVANT LEGISLATION:</b>	<b>Section 69 of the P&amp;E Act 1987</b>

### LOCALITY PLAN



**SUBJECT SITE**

### NEIGHBOURHOOD PLAN



**RECOMMENDATION:**

That Council resolves to issue an **Extension of time** to Planning Permit No. TPA/37785 for the development of two (2) double storey dwellings at the rear of the existing double storey dwelling (which is to be modified) with associated car parking and landscaping at 10 Legon Road, Oakleigh South, pursuant to the provisions of Section 69 of the *Planning and Environment Act 1987*.

The permit expiry date extended as follows:

- The development is not completed before 12 March 2020

**BACKGROUND:****History**

Planning Permit TPA/37785 was issued on the 12 March 2010 allowing development of two (2) double storey dwellings at the rear of the existing double storey dwelling. The two new dwellings would front Olinda Grove. The original application was decided under delegation and there were no objections to the proposal.

Planning permit TPA/41111 was issued on 13 February 2013 for a three (3) lot subdivision. Statement of Compliance was issued 6 February 2014.

Council has extended the permit on three (3) previous occasions. The revised expiry date is 12 March 2018. The current extension of time request was made within 12 months of the expiry date in accordance with the requirements of the *Planning and Environment Act 1987*.

**The Site and Surrounds**

The subject site is located on the eastern side of Legon Road. The subject site measures 19 metres by 40.8 metres, with a total site area of 728.54 square metres.

Construction of the development has commenced, with the ground floor slab being laid, the drainage and plumbing installed and the framework being commenced for both new dwellings.

Land surrounding the subject site features mainly residential dwellings, comprising of both single and double storey dwellings. At the northern end of Legon Road, is the Oakleigh South Industrial 1 Zone along Valley Street.

**PROPOSAL:**

The applicant has requested extension of the permit's completion date for a further two (2) years. They advise that the incomplete construction is due to the need to appoint another builder following financial difficulties of the current builder, and the time taken to make these arrangements.

**PERMIT TRIGGERS:**

Pursuant to the provisions of Section 69(1A) of the *Planning and Environment Act 1987*:

*“Before the permit expires or within 12 months of the permit expiry date, where the development has lawfully started, the owner or the occupier of the land to which it applies may ask the responsible authority for an extension of time”.*

The request was made on 21 September 2018, within 12 months after the expiry date in accordance with the requirements of the *Planning and Environment Act 1987*.

**DISCUSSION:****Assessment**

The total elapse time between the date of issue of the permit and the date of the request to extend the permit is 8 years and 7 months.

VCAT decision *Kantor v Murrindindi Shire Council (1997)* established the following tests to determine if a permit should be extended:

- Whether there has been a change of planning policy;
- Whether the land owner is seeking to “warehouse” the permit;
- Intervening circumstances bearing on the grant or refusal of the extension;
- The total elapse of time;
- Whether the time limit originally imposed was adequate;
- The economic burden imposed on the land owner by the permit; and
- The probability of a permit issuing should a fresh application be made

Since the issue of the original permit, Amendment C125 to the Monash Planning Scheme has been adopted by Council in February 2017 and the State initiated Amendment VC110 has been implemented. In accordance with Council's decision on 28 February 2017, the changes proposed in Amendment C125 should be regarded with any new development. The changes introduced by Amendment VC110 are mandatory to the consideration of a development.

Under the Council adopted Amendment C125, the proposed new residential zone for the subject site is General Residential Zone – Schedule 3 (GRZ3). The proposed changes that will impact the development are:

<b>Proposed Change to the subject site under the C125</b>	<b>Amendment Assessment of approved development</b>
Decreasing the maximum building site coverage from 60% to 50%	Complies – 44.29%
Increasing onsite permeability from 20% to 30%	Complies – 36.4%
Require the planting of a minimum of 1 canopy tree plus 1 canopy tree for every 5m of site width in new multi-unit development.	Satisfactory – 7 canopy trees are shown on the endorsed plans 3 canopy trees in the SPOS and 4 in the front setbacks of all dwellings.
Requiring that secluded private open space of 35m <sup>2</sup> be clear of all structures and services	Complies All Dwellings have complied with the open space requirements and all dwellings have the bins, storage and service areas outside of the main open space areas.
Requiring a minimum 5 metre rear setback	As Dwelling 2 and 3 is behind Dwelling 1 and there being 2 street frontages, there is no rear setback.
Requiring garages/ carports to be set back behind the front wall of the dwelling.	Complies – all garages are setback behind the front wall of the dwelling.

Amendment VC110 requires 35% garden area for land above 650 square metres and limits building heights to 11 metres. The proposal has in excess of 35% garden area and maximum building height of 8.1 metres.

Plans for the development were endorsed on 12 March 2013. The applicant has advised that due to the financial circumstances of the appointed builder, they have not been able to complete the development. They are in the process of appointing a new builder to complete the development.

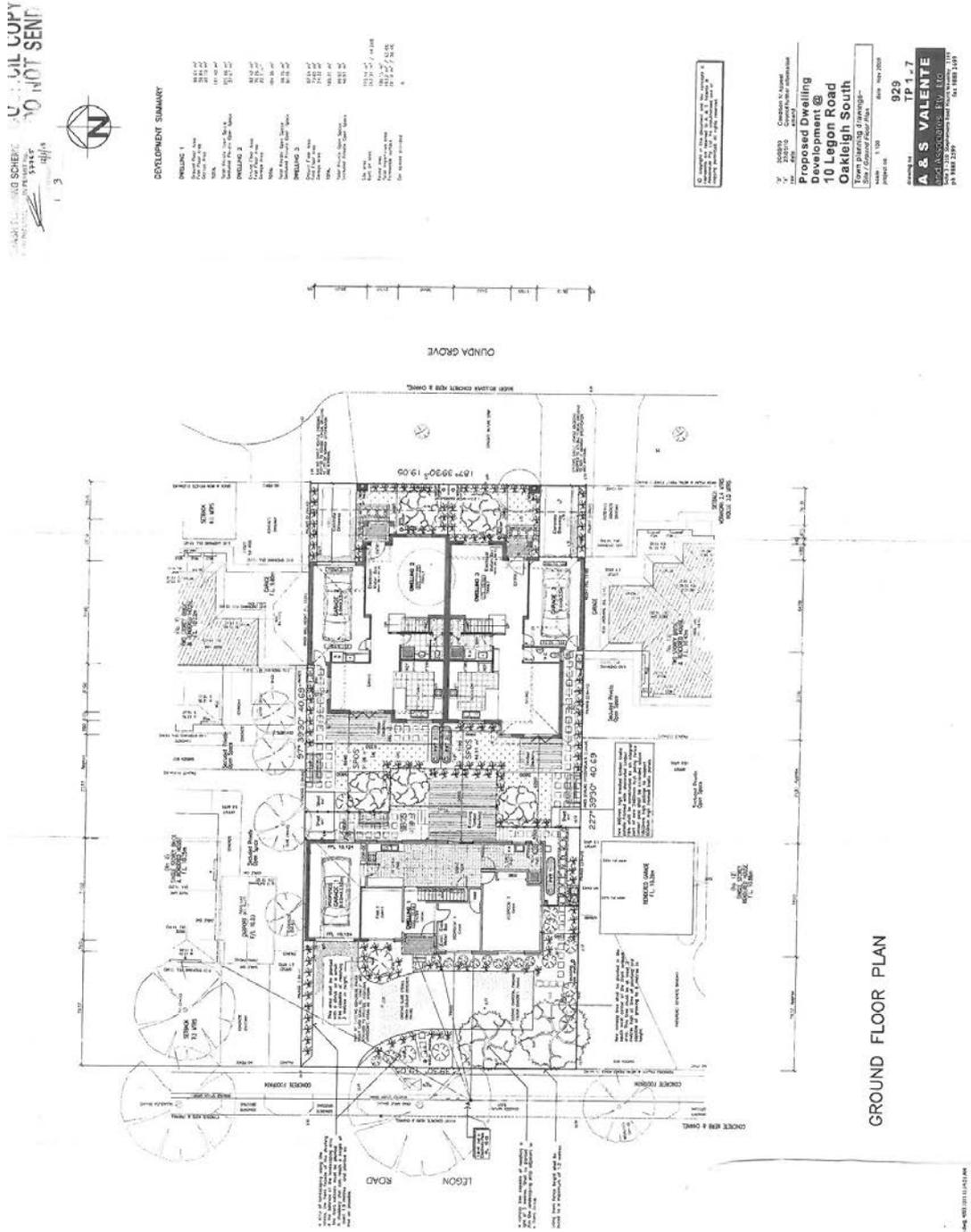
It is likely that a permit would be issued for the development as it meets the majority of requirements of the current regulations as set out above. The proposal for two dwellings to front Olinda Grove to the rear is characteristic of the area. New dwellings, whether it be one or two, have been constructed on all sites within this section of Legon Road fronting Olinda Grove. Side-by-side layout with individual driveways is common.

The design provides the secluded open space to the rear of each dwelling. This has the effect of a large central break between the dwellings that serve as an area for landscaping.

### **CONCLUSION:**

It is considered the development would meet the standards of Council's proposed amendment C125 and is a form that is consistent with recent development within the neighbourhood. It is recommended the Council approve an extension of two years for the completion of the development.

ATTACHMENT 1



10 Legon Road, Oakleigh South - Extension Of Time - Development Of Three (3) Double Storey Dwellings

ATTACHMENT 1 (Continued)

COUNCIL COPY  
TO NOT SENT



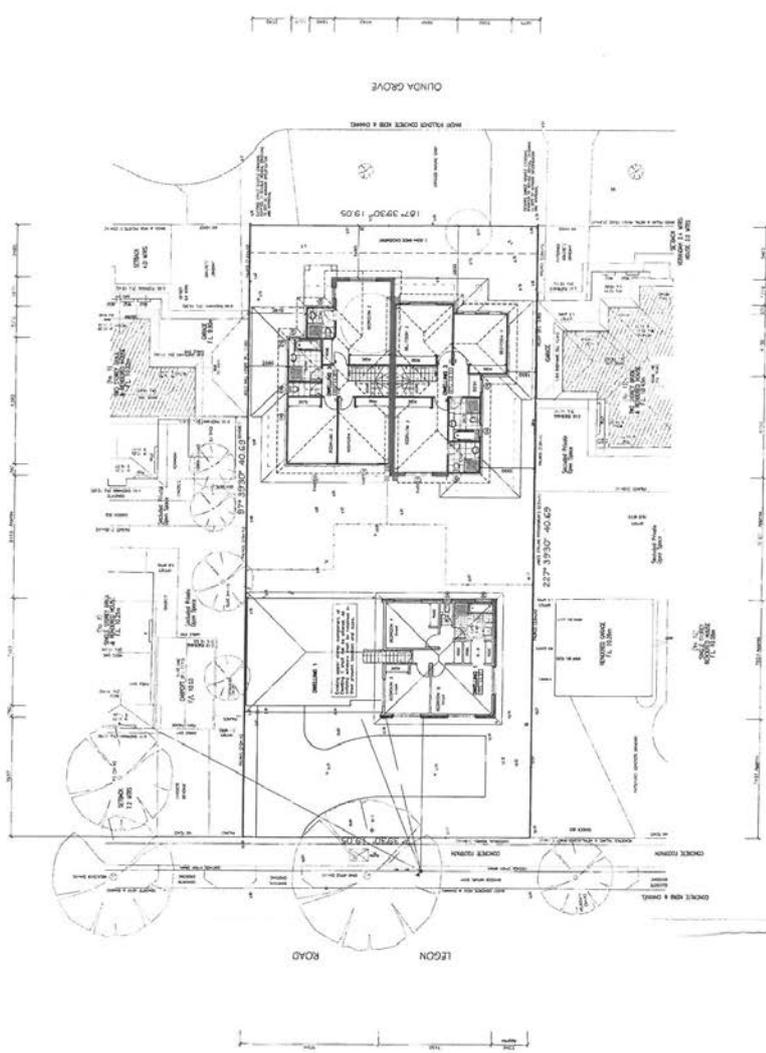
DEVELOPMENT SUMMARY

INCLINE	Area (sqm)	Volume (m <sup>3</sup> )	Height (m)	Notes
INCLINE 1	1,100	1,100	1.0	Single Storey
INCLINE 2	1,100	2,200	2.0	Double Storey
INCLINE 3	1,100	2,200	2.0	Double Storey
INCLINE 4	1,100	2,200	2.0	Double Storey
INCLINE 5	1,100	2,200	2.0	Double Storey
INCLINE 6	1,100	2,200	2.0	Double Storey
INCLINE 7	1,100	2,200	2.0	Double Storey
INCLINE 8	1,100	2,200	2.0	Double Storey
INCLINE 9	1,100	2,200	2.0	Double Storey
INCLINE 10	1,100	2,200	2.0	Double Storey
INCLINE 11	1,100	2,200	2.0	Double Storey
INCLINE 12	1,100	2,200	2.0	Double Storey
INCLINE 13	1,100	2,200	2.0	Double Storey
INCLINE 14	1,100	2,200	2.0	Double Storey
INCLINE 15	1,100	2,200	2.0	Double Storey
INCLINE 16	1,100	2,200	2.0	Double Storey
INCLINE 17	1,100	2,200	2.0	Double Storey
INCLINE 18	1,100	2,200	2.0	Double Storey
INCLINE 19	1,100	2,200	2.0	Double Storey
INCLINE 20	1,100	2,200	2.0	Double Storey
INCLINE 21	1,100	2,200	2.0	Double Storey
INCLINE 22	1,100	2,200	2.0	Double Storey
INCLINE 23	1,100	2,200	2.0	Double Storey
INCLINE 24	1,100	2,200	2.0	Double Storey
INCLINE 25	1,100	2,200	2.0	Double Storey
INCLINE 26	1,100	2,200	2.0	Double Storey
INCLINE 27	1,100	2,200	2.0	Double Storey
INCLINE 28	1,100	2,200	2.0	Double Storey
INCLINE 29	1,100	2,200	2.0	Double Storey
INCLINE 30	1,100	2,200	2.0	Double Storey
INCLINE 31	1,100	2,200	2.0	Double Storey
INCLINE 32	1,100	2,200	2.0	Double Storey
INCLINE 33	1,100	2,200	2.0	Double Storey
INCLINE 34	1,100	2,200	2.0	Double Storey
INCLINE 35	1,100	2,200	2.0	Double Storey
INCLINE 36	1,100	2,200	2.0	Double Storey
INCLINE 37	1,100	2,200	2.0	Double Storey
INCLINE 38	1,100	2,200	2.0	Double Storey
INCLINE 39	1,100	2,200	2.0	Double Storey
INCLINE 40	1,100	2,200	2.0	Double Storey
INCLINE 41	1,100	2,200	2.0	Double Storey
INCLINE 42	1,100	2,200	2.0	Double Storey
INCLINE 43	1,100	2,200	2.0	Double Storey
INCLINE 44	1,100	2,200	2.0	Double Storey
INCLINE 45	1,100	2,200	2.0	Double Storey
INCLINE 46	1,100	2,200	2.0	Double Storey
INCLINE 47	1,100	2,200	2.0	Double Storey
INCLINE 48	1,100	2,200	2.0	Double Storey
INCLINE 49	1,100	2,200	2.0	Double Storey
INCLINE 50	1,100	2,200	2.0	Double Storey
INCLINE 51	1,100	2,200	2.0	Double Storey
INCLINE 52	1,100	2,200	2.0	Double Storey
INCLINE 53	1,100	2,200	2.0	Double Storey
INCLINE 54	1,100	2,200	2.0	Double Storey
INCLINE 55	1,100	2,200	2.0	Double Storey
INCLINE 56	1,100	2,200	2.0	Double Storey
INCLINE 57	1,100	2,200	2.0	Double Storey
INCLINE 58	1,100	2,200	2.0	Double Storey
INCLINE 59	1,100	2,200	2.0	Double Storey
INCLINE 60	1,100	2,200	2.0	Double Storey
INCLINE 61	1,100	2,200	2.0	Double Storey
INCLINE 62	1,100	2,200	2.0	Double Storey
INCLINE 63	1,100	2,200	2.0	Double Storey
INCLINE 64	1,100	2,200	2.0	Double Storey
INCLINE 65	1,100	2,200	2.0	Double Storey
INCLINE 66	1,100	2,200	2.0	Double Storey
INCLINE 67	1,100	2,200	2.0	Double Storey
INCLINE 68	1,100	2,200	2.0	Double Storey
INCLINE 69	1,100	2,200	2.0	Double Storey
INCLINE 70	1,100	2,200	2.0	Double Storey
INCLINE 71	1,100	2,200	2.0	Double Storey
INCLINE 72	1,100	2,200	2.0	Double Storey
INCLINE 73	1,100	2,200	2.0	Double Storey
INCLINE 74	1,100	2,200	2.0	Double Storey
INCLINE 75	1,100	2,200	2.0	Double Storey
INCLINE 76	1,100	2,200	2.0	Double Storey
INCLINE 77	1,100	2,200	2.0	Double Storey
INCLINE 78	1,100	2,200	2.0	Double Storey
INCLINE 79	1,100	2,200	2.0	Double Storey
INCLINE 80	1,100	2,200	2.0	Double Storey
INCLINE 81	1,100	2,200	2.0	Double Storey
INCLINE 82	1,100	2,200	2.0	Double Storey
INCLINE 83	1,100	2,200	2.0	Double Storey
INCLINE 84	1,100	2,200	2.0	Double Storey
INCLINE 85	1,100	2,200	2.0	Double Storey
INCLINE 86	1,100	2,200	2.0	Double Storey
INCLINE 87	1,100	2,200	2.0	Double Storey
INCLINE 88	1,100	2,200	2.0	Double Storey
INCLINE 89	1,100	2,200	2.0	Double Storey
INCLINE 90	1,100	2,200	2.0	Double Storey
INCLINE 91	1,100	2,200	2.0	Double Storey
INCLINE 92	1,100	2,200	2.0	Double Storey
INCLINE 93	1,100	2,200	2.0	Double Storey
INCLINE 94	1,100	2,200	2.0	Double Storey
INCLINE 95	1,100	2,200	2.0	Double Storey
INCLINE 96	1,100	2,200	2.0	Double Storey
INCLINE 97	1,100	2,200	2.0	Double Storey
INCLINE 98	1,100	2,200	2.0	Double Storey
INCLINE 99	1,100	2,200	2.0	Double Storey
INCLINE 100	1,100	2,200	2.0	Double Storey

Proposed Dwelling Development @ 10 Legon Road Oakleigh South

Proposed Dwelling Development @  
10 Legon Road  
Oakleigh South

TP 2-7  
929  
A & S VALENTE  
Architects Pty Ltd  
100/102 Victoria Road, Oakleigh  
VIC 3166  
Ph: 9598 1333



FIRST FLOOR PLAN

ATTACHMENT 1 (Continued)

