

## 7.1.2 EXTENSION OF TIME TO PLANNING PERMIT TPA/41807 1 IVANHOE STREET GLEN WAVERLEY

<b>Responsible Manager:</b>	Kaitlyn Zeeck, Manager City Planning
<b>Responsible Director:</b>	Peter Panagakos, Director City Development

### EXECUTIVE SUMMARY

This application is for an extension of time to Planning Permit TPA/41807 for the development of five (5) double storey dwellings on land at 1 Ivanhoe Street, Glen Waverley.

The original permit was issued on the 6 May 2014.

The permit has been extended on four (4) previous occasions. The latest extension of time was granted on 30 May 2024 for the completion of the development. The current permit expired on 6 May 2025 and the development has not been completed. The development is nearing completion and is at lock-up stage.

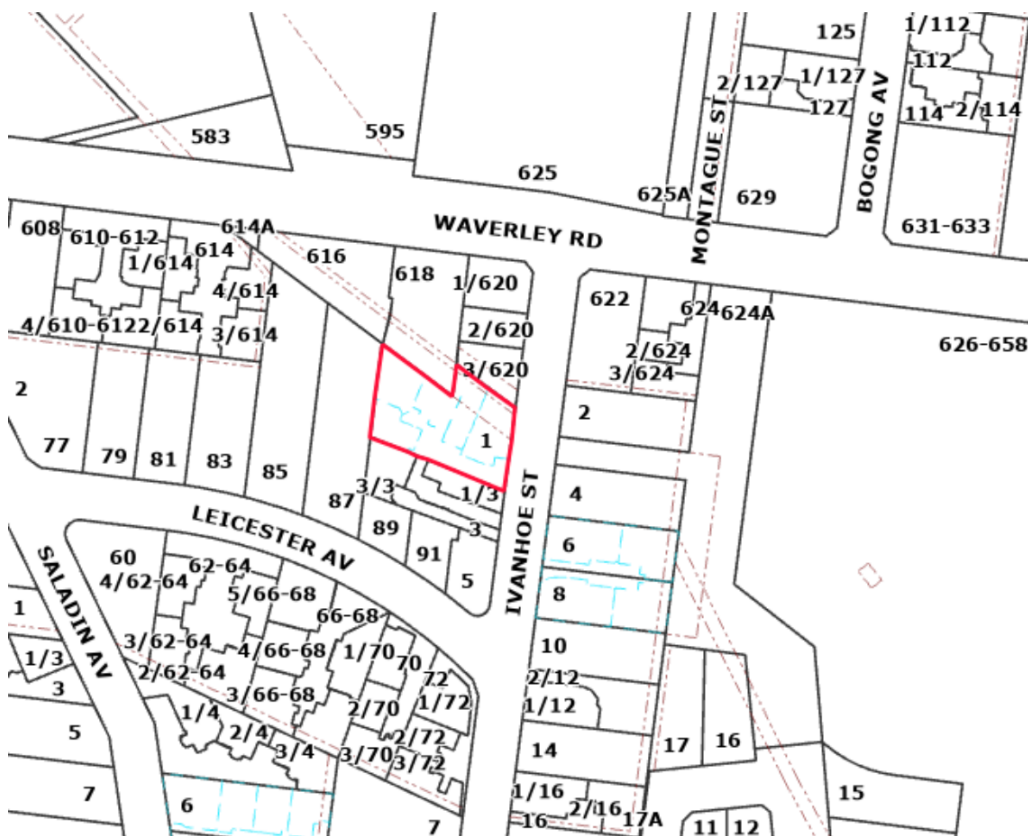
The reason for presenting this report to Council is this is the fifth extension of time request sought for this permit, and the period of time sought to extend the permit exceeds six (6) years.

**The proposed extension of time is considered consistent with the relevant provisions of the Monash Planning Scheme. It is recommended that an extension of one (1) year be granted to complete the development.**

RESPONSIBLE DIRECTOR:	Peter Panagakos, Director City Development
RESPONSIBLE MANAGER:	Kaitlyn Zeeck, Manager City Planning
RESPONSIBLE PLANNER:	Danielle Loh, Senior Statutory Planner
WARD:	Scotchmans Creek
PROPERTY ADDRESS:	1 Ivanhoe Street Glen Waverley
ZONING:	Neighbourhood Residential Zone (Schedule 2) Public Use Zone 6
OVERLAY:	Special Building Overlay
EXISTING LAND USE:	Residential
RELEVANT POLICY:	<b><u>Planning Policy Framework</u></b> Clause 11.01-1R - Settlement – Metropolitan Melbourne Clause 11.02-1S - Supply of Urban Land Clause 11.03-1S & R - Activity Centres Clause 15.01-1S&R - Urban Design Clause 15.01-2S - Building Design Clause 15.01-4S & R - Healthy Neighbourhoods Clause 15.01-5S - Neighbourhood Character

	<p>Clause 15.01-5L – Monash Preferred Neighbourhood Character</p> <p>Clause 16.01-1S &amp;R - Housing supply</p> <p>Clause 16.01-2S - Housing affordability</p> <p>Clause 18.02-2R - Principal Public Transport Network</p> <p><b><u>Particular Provisions</u></b></p> <p>Clause 52.06 - Car Parking</p> <p>Clause 53.18 - Stormwater Management in Urban Development</p> <p>Clause 55 - Two or more dwellings on a lot and residential buildings</p> <p>Clause 65 - Decision Guidelines</p>
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#### LOCALITY PLAN



## NEIGHBOURHOOD PLAN



## RECOMMENDATION

That Council resolves to issue an Extension of time to Planning Permit No. TPA/41807 for the development of five (5) double storey dwellings with basement car parking and building and works on land subject to a Special Building Overlay (SBO1) at 1 Ivanhoe Street Glen Waverley, pursuant to the provisions of Section 69(2) of the *Planning and Environment Act 1987*.

1. That in accordance with Section 69(2) of the *Planning and Environment Act 1987*, the time for the completion of the development be extended by a further one (1) year. The development must be completed by 6 May 2026.

## COUNCIL PLAN STRATEGIC OBJECTIVES

### Sustainable City

Ensure an economically, socially, and environmentally sustainable municipality.

### Enhanced Places

Pursue a planning framework that meets Monash needs.

## BACKGROUND

Planning Permit TPA/41807 was issued on 6 May 2014 for the development of five (5) double storey dwellings with basement car parking and building and works on land subject to a Special Building Overlay (SBO1).

The original application was decided under delegation and there were four (4) objections to the proposal. Development and landscape plans were endorsed on 30 October 2015. A planning permit (TPA/54734) for subdivision of the land into five lots was issued on 26 April 2023, and the Plan of Subdivision (TPS/14039) has not yet been certified.

The permit has been extended on four (4) previous occasions being 7 July 2016, 10 April 2018, 7 July 2022 and by decision of Council on 30 May 2024. The current expiry date for completion of

the development is 6 May 2025. The current extension of time request was made on 24 March 2025.

Attachment 1 details approved plans forming part of the application.

### **Site and Surrounds**

The subject site is located on the west side of Ivanhoe Street in Glen Waverley. The land is irregular in shape and has an overall area of 1,298 square meters.

Abutting land uses are residential and comprise single and double storey dwellings, including multi dwelling developments. The area can be characterised as dwellings with pitched tiled roofs in a garden setting.

An aerial photograph of the subject site and surrounding land can be found attached to this report (Attachment 2).

Attachment 3 details the zoning and overlays applicable to the subject site and surrounding land.

The development commenced construction in mid 2020. The dwellings have been substantially constructed to lock up stage with the internal fit out, minor finishing and landscaping works yet to be completed.

The current status of the development is shown in the photos below:





Photos provided by Applicant on 27 March 2025

## PROPOSAL

The project has been significantly delayed throughout the course of construction due to financial implications associated with the COVID19 Pandemic and difficulties with previous builders. The applicant has requested an extension of a further one year to complete the development as the appointed builder has gone into liquidation. The owner has now appointed a new builder.

## PERMIT TRIGGERS

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

“The owner or occupier of land to which a permit for a development applies may ask the responsible authority for an extension of time to complete the development or a stage of the development if:

- b) The request for an extension of time is made within 12 months after the permit expires; and
- b) The development or stage started lawfully before the permit expired”.

The request was made on 24 March 2025, within 12 months of the permit expiry. The development commenced lawfully prior to the permit expiry. Accordingly, Council can consider a further extension to the completion date for the development under the *Planning and Environment Act 1987*.

## ASSESSMENT

The total elapsed time between the date of issue of the permit and the date of the request to extend the permit is eleven (11) years.

The Supreme Court 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 landowner 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 landowner by the permit; and
- The probability of a permit issuing should a fresh application be made.

These tests must be considered on balance, meaning that an application does not necessarily need to meet all tests. These tests are considered in detail below.

### Whether there has been a change of planning policy.

Since the permit was issued there have been significant state, regional and local amendments affecting the land. These changes were considered and assessed as part of the previous

requests to extend the planning permit. In summary, amendments which may have an affect the proposal include:

**Amendment VC110** gazetted on 27 March 2017 impacts the development with regard to garden area requirements and mandatory controls relating to height. The changes introduced by Amendment VC110 are mandatory to the consideration of a development.

The proposal meets the mandatory height requirement of 9 metres or 2 storeys as the proposal is limited to a height of 9 metres.

**Amendment VC267** gazetted Thursday, 6 March 2025. Amendment VC267 changes the Victoria Planning Provisions (VPP) and all Planning Schemes in Victoria by implementing new residential development planning assessment provisions. This reform is a part of a larger reform initiative aimed at streamlining the planning process and increasing housing supply. The Townhouse and Low-Rise Code (a new and replaced Clause 55) applies to developments involving two or more dwellings on a lot and includes low rise apartments up to three storeys in height. The resulting code has reduced restrictions for development and removes third party appeal rights from applications which comply with the code. These changes do not affect the consideration of this extension of time request.

#### Whether the land owner is seeking to "warehouse" the permit

Warehousing is the obtaining of permits with no intention of acting on them in the foreseeable future to gain a windfall when selling the land.

Considering the lock up stage of the development, it would be difficult to demonstrate that the owner has no current intention of completing the development.

The owners have indicated that the project will continue and be finalised within the year.

#### Intervening circumstances bearing on the grant or refusal of the extension

The owner has detailed issues with the original builder going into liquidation and financial difficulties that have impacted the completion of the development. Pleasingly they have indicated they have appointed a new builder to complete the development.

#### The total elapse of time

Eleven (11) years have elapsed between the time the planning permit was issued and the extension of time application being lodged. This is not fatal to the application in isolation, given the broad compliance with current planning policy.

#### Whether the time limit originally imposed was adequate

The original time limit imposed was two years for commencement and two years to complete, which is a standard condition of approval and considered adequate for this development.

#### The economic burden imposed on the land owner by the permit.

It is not considered that any conditions of the permit would have placed additional economic burden on the applicant that could have affected the continuation of the construction. The conditions are standard for this sort of development.

It is acknowledged that there would likely be an economic burden on the land owner if the permit was not extended, considering the cost of the works to date and the cost of making a new application should the extension not be supported.

The probability of a permit issuing should a fresh application be made

Whilst a full assessment against the new Clause 55 (Townhouse and low rise code) provisions has not been undertaken, it is likely that a permit would issue should a fresh application be made, considering the recent changes introduced by Amendment VC267 are less restrictive, particularly in terms of overlooking, front and rear setbacks and private open space provision.

The development demonstrated a high level of compliance with ResCode at the time of approval, including the schedule to the Neighbourhood Residential Zone which sought increased front and rear setbacks, with an appropriate scale and form and providing a suitable response to neighbourhood character. The development also meets the mandatory height and garden area requirements (introduced after the original development was approved.)

The conditions on the existing permit issued are still valid and would be similar to those placed on any permit should it be issued today.

## **CONFLICT OF INTEREST**

No officers involved in the preparation of this report have any direct or indirect conflict of interest in this matter.

## **CONCLUSION**

It is considered appropriate to grant a further extension of time to the permit to enable the development to be completed.

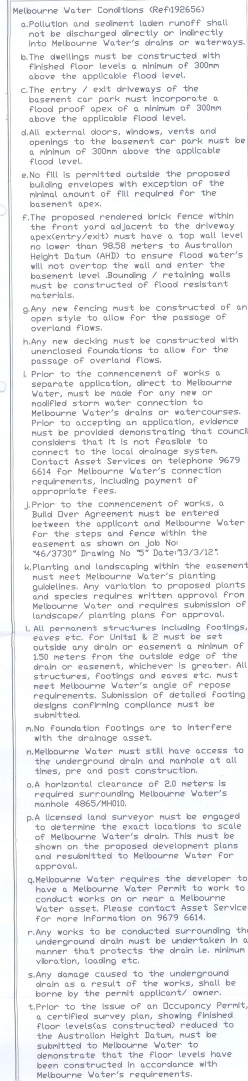
The proposal on balance meets the tests established in the Supreme Court decision Kantor v Murrindindi Shire Council (1997).

The development outcome is appropriate and the permit conditions remains current and relevant.

It is recommended the Council approve an extension of one (1) year for the completion of the development.

## **ATTACHMENT LIST**

1. Development & Landscape Plans - 1 Ivanhoe St [7.1.2.1 - 6 pages]
2. Aerial Photograph - 1 Ivanhoe St [7.1.2.2 - 1 page]
3. Zoning and Overlays Map - 1 Ivanhoe St [7.1.2.3 - 1 page]



 **BASEMENT FLOOR PLAN**  
SCALE 1:100 @ A1

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**Notes**

ANY ERRORS, DISCREPANCIES OR OMISSIONS IN THE DRAWINGS, NOTATIONS OR DIMENSIONS SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF THE ARCHITECT FOR CLARIFICATION PRIOR TO WORKS COMMENCING.

DO NOT START FROM DRAWINGS

ARCHITECTURAL DRAWINGS TO BE READ IN CONJUNCTION WITH SPECIFICATIONS, MECHANICAL, ELECTRICAL, HYDRAULIC, LANDSCAPE ARCHITECTURAL DRAWINGS

LOCATION OF ALL HARDWARE, FIXTURES AND FITTINGS TO BE CONFIRMED WITH ARCHITECT PRIOR TO WORKS COMMENCING.

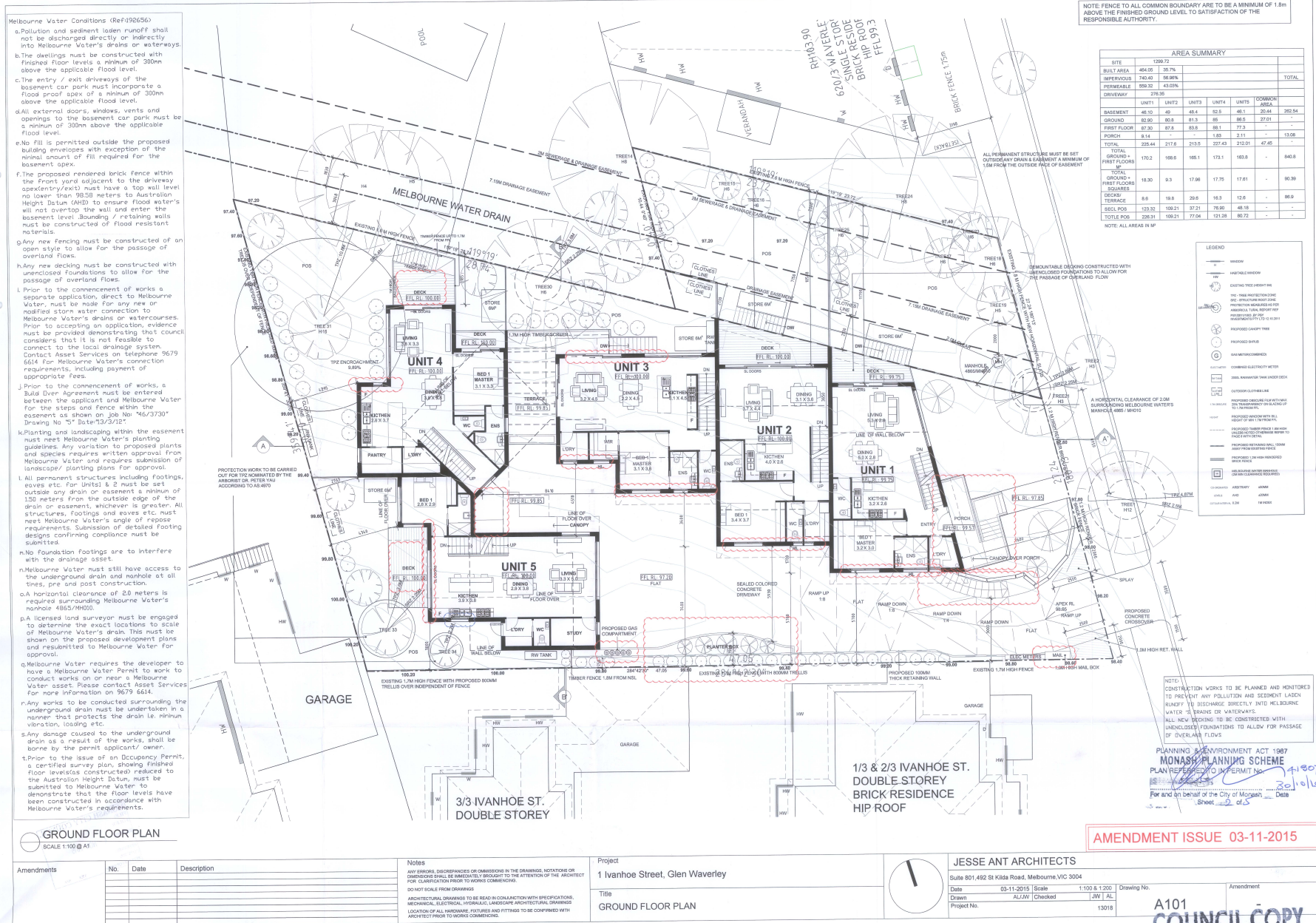
Project	1 Ivanhoe Street, Glen Waverley
Title	BASEMENT FLOOR PLAN

<b>JESSE ANT ARCHITECTS</b>		
Suite 801,492 St Kilda Road, Melbourne,VIC 3008		
Date	22-05-2015	Scale
Drawn	ALU/JW	Checked
Project No.		

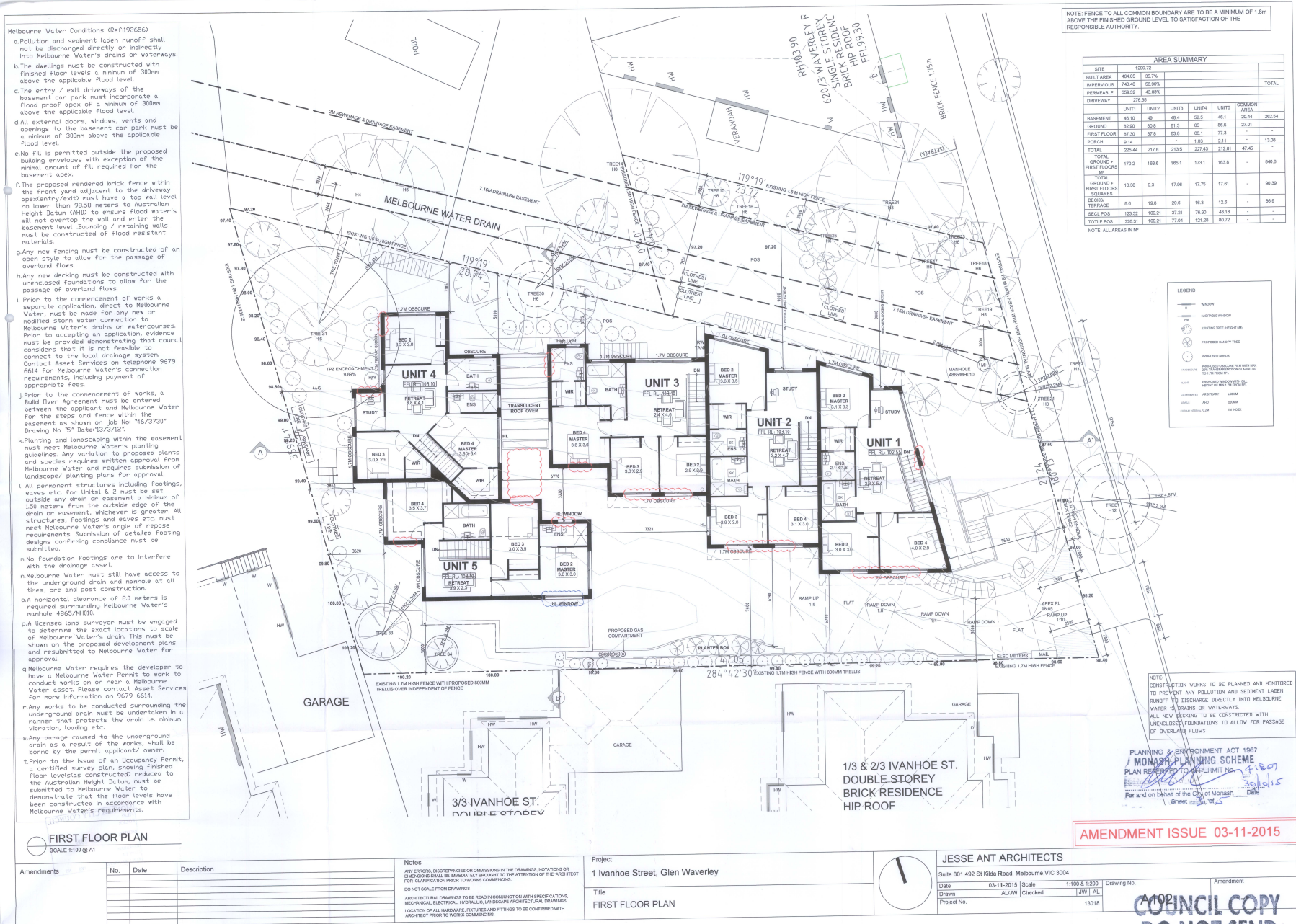
1:100 & 1:200		Drawing No.	Amendment
JW	AL	A100	PLANNING & ENVIRONMENT ACT 1987
13018			

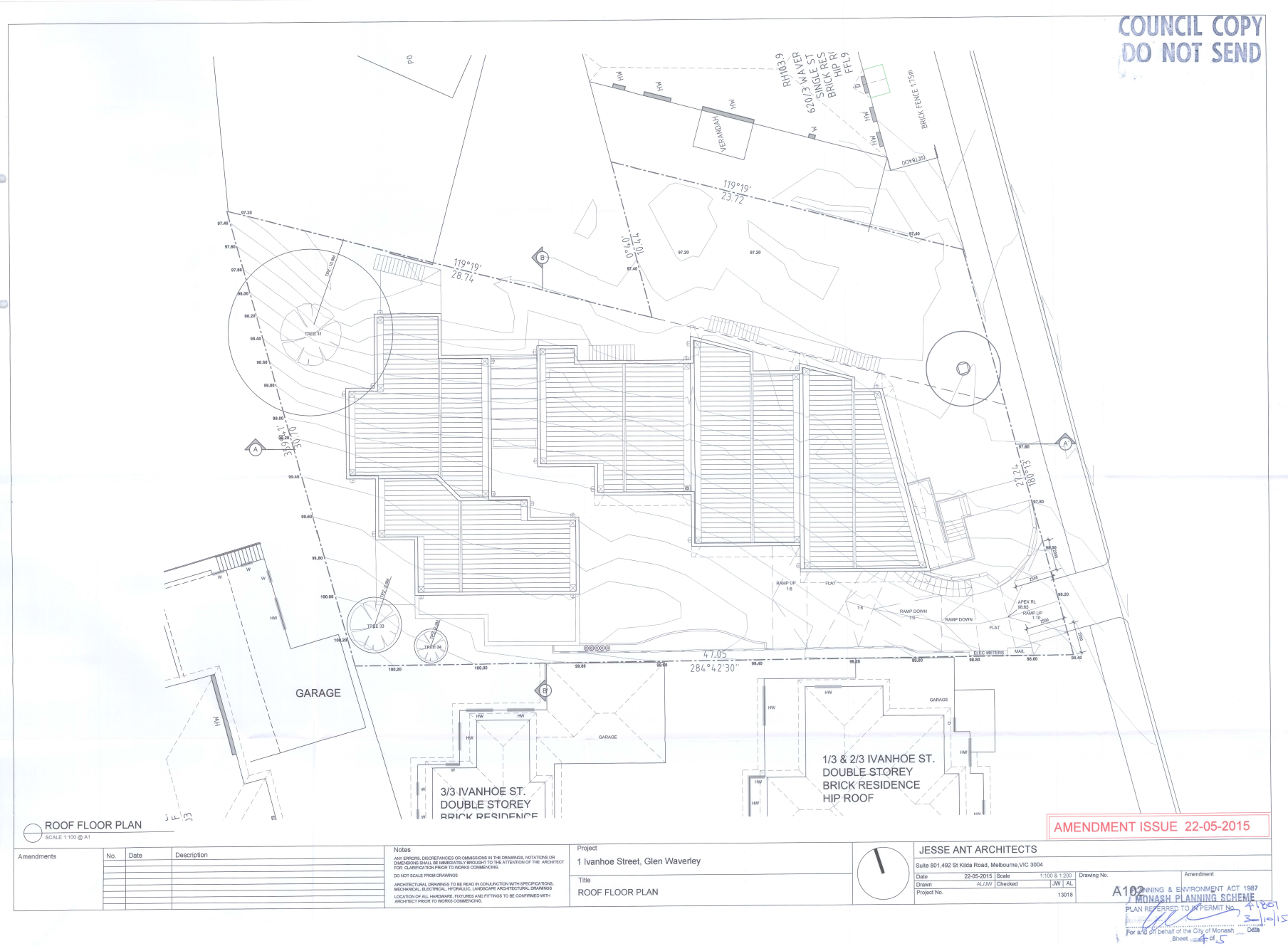
A1000 PLANNING & ENVIRONMENT ACT 1987  
MONASH PLANNING SCHEME  
PLAN REFERRED TO IN PERMIT No. 41807  
36/12/20  
For and on behalf of the City of Monash  
Sheet 1 of 5 Date



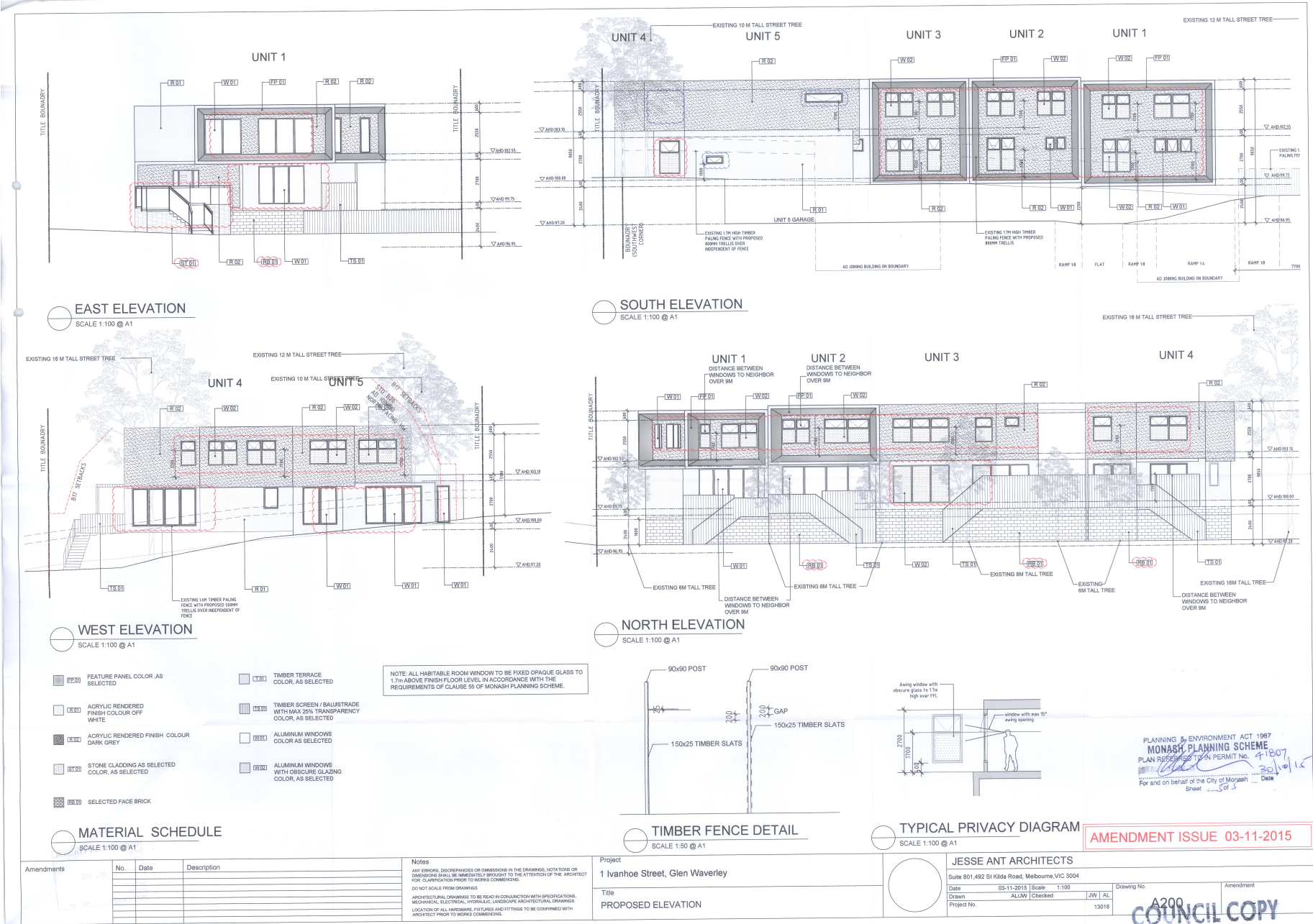
















PLANTING SCHEDULE				Height x Width (m)	Planting Maturity (m)	Site Installation
	ID	Qty	Common Name	Botanical Name		
<b>Trees</b>						
	A/Bu	1	Purple Willow Myrtle	<i>Agave flexuos Burgundy</i>	5.0 x 3.0	25
	E/EU	1	Dwarf Gum	<i>Eucalyptus Tully Dwarf</i>	7.0 x 4.5	25
	EL/S	3	Dwarf Snow Gum	<i>Eucalyptus Little Snowman</i>	7.0 x 4.5	25
<b>Shrubs &amp; Groundcovers</b>						
	Ac/L	5	Dwarf Bottle Wattle	<i>Acacia cognata Littlelight</i>	1.2 x 1.2	14
	Bm	37	Crested Leafy	<i>Banksiaopae multicaulis</i>	0.25 x 0.50	14
	C/C	20	Coastal Ivy	<i>Cassipouia glauca Coast Ivy</i>	0.10 x 0.85	14
	Ca	16	Common Everlasting	<i>Chrysanthemum apiculatum</i>	0.30 x 0.50	14
	Cg	6	Rock Correa	<i>Correa glabra</i>	3.0 x 1.5	14
	Ia	18	Austral Indigo	<i>Indigofera australis</i>	2 x 1.5	14
	JSK	31	Pencil Pine	<i>Juniperus Skyrocket</i>	3.0 x 0.40	14
	SHG	7	Dwarf Lilly Pilly	<i>Syzygium Bush Chickens</i>	3.0 x 1.5	14
	S/CM	7	Dwarf Lilly Pilly	<i>Syzygium Gold Mazer</i>	3.0 x 1.0	14
	WR	4	Coast Rosemary	<i>Westringia fruticosa</i>	1.5 x 1.5	14
<b>Grasses</b>						
	D/B	48	Dianella	<i>Dianella Breeze</i>	0.60 x 0.60	14
	Dta	22	Tasman Flax Lily	<i>Dianella tasmanica</i>	1.0 x 1.0	14
	FEF	29	Blue Fescue	<i>Festuca Elgin Blue</i>	0.30 x 0.30	14
	Po	32	Low Purple Flax	<i>Pteranotis occidentalis</i>	0.50 x 0.50	14
	Pa	49	Cream Fountain Grass (non invasive)	<i>Pennisetum alopecuroides Cream Leaf</i>	1.5 x 0.60	14

EXISTING TREE SCHEDULE			
CODE	BOTANICAL NAME	HEIGHT (M)	RETAIN REMARK
T1	Lophanthus sp.	13.5/7.0	Retain
T2	Albizia saman var. dulce	3.0/3.0	Retain
T3	Crotalaria	8.0/3.0	Retain
T4	Crotalaria	8.0/3.0	Retain
T5	Albizia saman	11.0/3.0	Retain
T6	Acacia	6.2/6.2	Retain
T7	Lophanthus sp.	10.8/8.0	Retain
T8	Albizia saman	3.0/3.0	Retain
T9	Albizia saman	7.0/7.0	Retain
T10	Prunus sp.	5.0/4.0	Retain
T11	Albizia saman	3.0/3.0	Retain
T12	Eucalyptus sp.	8.0/8.0	Retain
T13	Burkholderia sp.	14.0/10	Retain
T14	Burkholderia sp.	14.0/10	Retain
T15	Liquidum sp.	8.0/8.0	Retain
T16	Lophanthus sp.	9.0/4.0	Retain
T17	Albizia saman	3.0/3.0	Retain
T18	Eucalyptus sp.	8.0/8.0	Retain
T19	Callitriche sp.	5.0/3.0	Retain
T20	Callitriche sp.	5.0/3.0	Retain
T21	Ononis	5.0/5.0	Retain
T22	Fraxinus	12/10	Retain
T23	Fraxinus	12/10	Retain
T24	Fraxinus	6.0/4.0	Retain
T25	Clavennum	8.0/8.0	Retain
T26	Philanthus sp.	5.0/5.0	Retain
T27	Helios	5.0/5.0	Retain
T28	Eucalyptus sp.	6.0/3.0	Retain
T29	Malvaceae sp.	5.0/5.0	Retain
T30	Eucalyptus sp.	6.0/3.0	Retain
T31	Fraxinus	18/18	Retain
T32	Fraxinus	12/12	Retain
T33	Fraxinus	12/10	Retain

A 05/15 Design 1

NO.	DATE	NOTE
		THE BUILDER IS RESPONSIBLE FOR THE SETTING OUT OF THE WORKS, THE CHECKING OF ALL DIMENSIONS AND LEVELS ON SITE, AND THE REPORTING OF ANY DISCREPANCIES TO THE PROPRIETOR PRIOR TO COMMENCEMENT OF WORK. DO NOT SCALE FROM DRAWINGS.
	Client	

Address  
1 Ivanhoe Street,  
Glen waverley

Project  
Proposed Development

## Drawing

### Landscape Plan

Zenth Concepts  
Landscape Design  
171 Abbott Street, Sendangram  
PO Box 9067  
P 03 8998 2129  
M 0411 399 837  
E [landscapes@zenthconcepts.com](mailto:landscapes@zenthconcepts.com)

Scale	1:100
Date	May 2015

Rev.	Dwg No.
A	Sheet 1 of 1 (A1)

10/15

### PREPARING A GARDEN BED ON A BUILDING SITE

**CLEANING:**  
Clean the site of debris & weeds.  
In cases where soil is contaminated by pit or concrete wash (debris these are avoided) this soil should be dug out and removed from the site. If it is in a Tree Protection Zone it should be exposed by hand to avoid cutting roots.

**GRADING & DRAINAGE:**  
In areas with existing topsoil that are going to be paths or paved areas the topsoil can be excavated (unless in Tree Protection areas) and stockpiled - to be later used on garden beds.  
Grade the area into garden beds and lawn or gravel areas. Garden beds should be edged with brick.  
Check the drainage of the area by running a spit roller for 5 - 10 minutes (if water restrictions or tank water storage permitting) and check where the water goes. Look for water tracks or ponding in corners, at an overhang, near a house, below a fence, on gravel areas, next to concrete kerbs etc or all other

Other ways to address drainage issues include the creation of a swale, which can be made into a creek bed with rock piles or a pump hole or French drain filled with crushed rock and covered with lawn or garden bed.

Garden beds with existing soil can be prepared with the addition of organic material such as well-rotted manure or mulch from plant and animal sources that are added as soil improvers or cover.

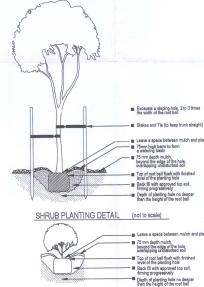
and prepared to Australian Standards. These can be just top dressed (placed over the top of the soil) and their cover will match.

If there is existing silt/clay from previous garden beds or natural vegetation then top dressing with organic matter and mulch will be enough to improve the soil.

Hard clay soils can be fractured or ripped to break them up without destroying their structure. This can be done in small areas with vertical action by a garden fork or spade and subsequent placement of washed garden or organic matter into the vertical spaces. This should be top dressed to avoid further oxidation and following placement organic mulch added over the top of the rippled soil and organic matter.

Clay based soils should never be cultivated in any way when they are wet.

TREE PLANTING DETAIL (not to scale)



ALL TREE PROTECTION MEASURES FOR THE EXISTING TREES  
REFERENCED ON THE SITE IN ACCORDANCE WITH THE TREE INSPECTION  
REPORT PREPARED BY PETER YALL FROM RSY INVESTMENTS PT. LTD.

ARBOCULTURE REPORT - Ref: P01/22/11/223

All existing vegetation shown on endorsed plans must be suitably marked before any development starts on the site and that vegetation must not be removed, destroyed or topped without written consent of the Responsible Authority.

Prior to the commencement of any works that are permitted by the permit, all trees that are to be retained or are located within or adjacent to any works area shall be marked and provided with a protective barricade and verified by an authorised officer of the Responsible Authority.

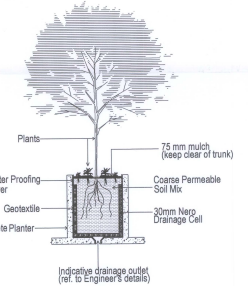
All work within the dropline of any tree to be retained shall be supervised by a qualified Landscape Architect or Horticulturist who shall ensure that the works are done in a manner which protects and minimises any damage to those trees in accordance with the Tree Inspection Report, prepared by Peter Yau.

No building material, demolition material or earthworks shall be stored or stockpiled under the canopy line of any tree to be retained during the construction period of the development hereby permitted.

VISIBILITY DISPLAY:

Clear sight lines shall be provided at the property line to ensure adequate visibility between vehicles leaving the driveway and pedestrians on the frontage road. This requires the provision of a corner splay or area extending min. 2m long & 2.5m deep and less than 900mm high on both sides of the proposed vehicle crossing

PLANTER BOX DETAIL  
NOT TO SCALE



Indicative drainage outlet  
(ref. to Engineer's details)

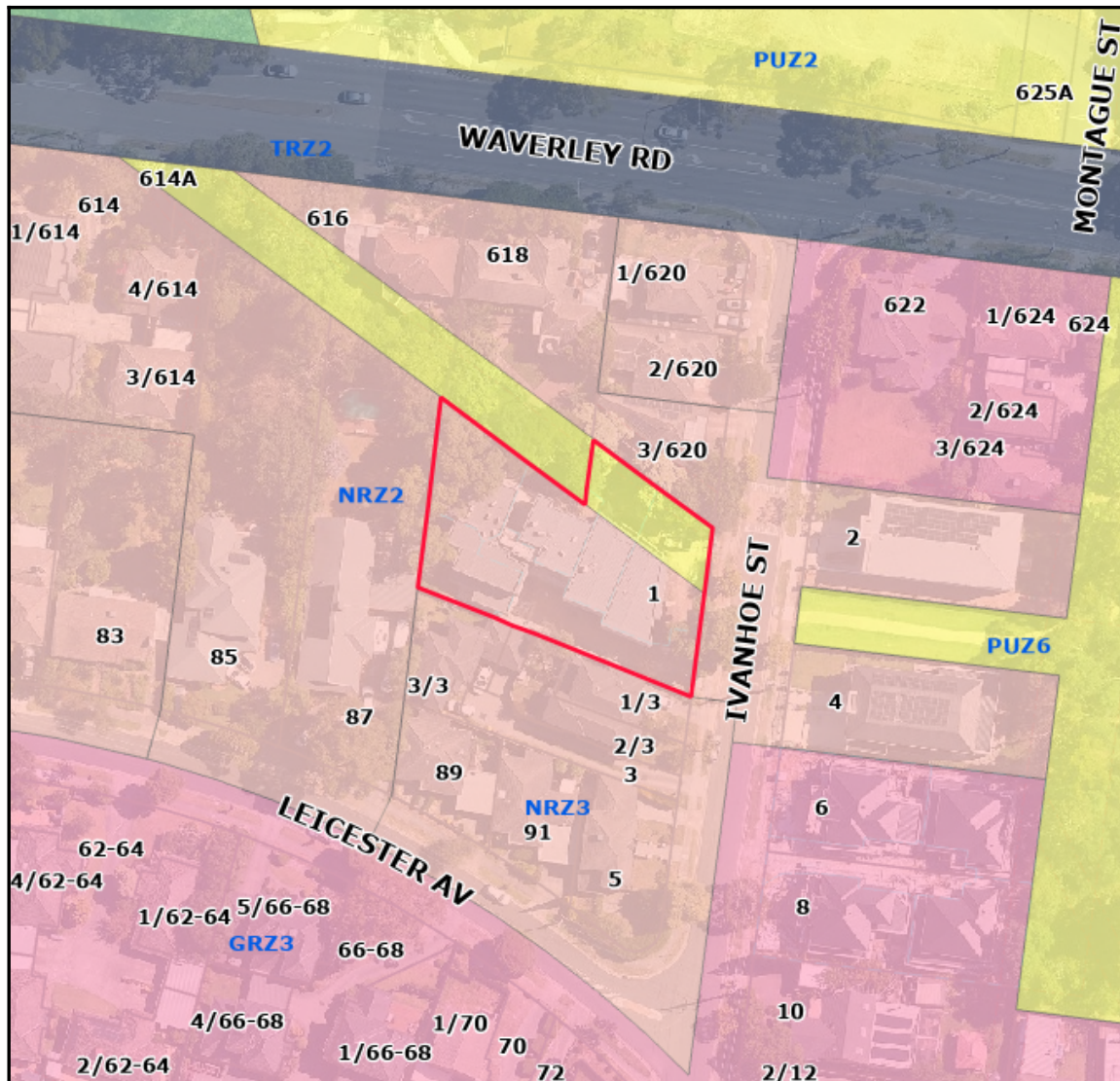








## Planning Overlays and Zones



### Legend Planning Zones

C1Z	GRZ10	GRZ7	MUZ2	PCRZ	PUZ4	RGZ1	SUZ3
C2Z	GRZ2	GRZ8	NRZ1	PPRZ	PUZ5	RGZ3	SUZ4
CA	GRZ3	GRZ9	NRZ2	PUZ1	PUZ6	RGZ4	SUZ5
CDZ1	GRZ5	IN1Z	NRZ3	PUZ2	PUZ7	RGZ5	SUZ6
GRZ1	GRZ6	MUZ	NRZ4	PUZ3	RDZ1	SUZ2	UFZ

### Planning Overlays

DDO	EAO	IPO	NCO	PO
DPO	HO	LSIO / SBO	PAO	VPO

### Address

1 Ivanhoe Street GLEN WAVERLEY VIC 3150

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