

**1.1 21 BANKSIA STREET, CLAYTON
EXTENSION OF TIME - DEVELOPMENT OF TWO DOUBLE STOREY DWELLINGS
(TPA/39858)**

EXECUTIVE SUMMARY:

An application has been received for an extension of time to Planning Permit TPA/39858 for development of two double storey dwellings. The original permit was issued on the 7 November 2012. The permit has been extended on three (3) previous occasions.

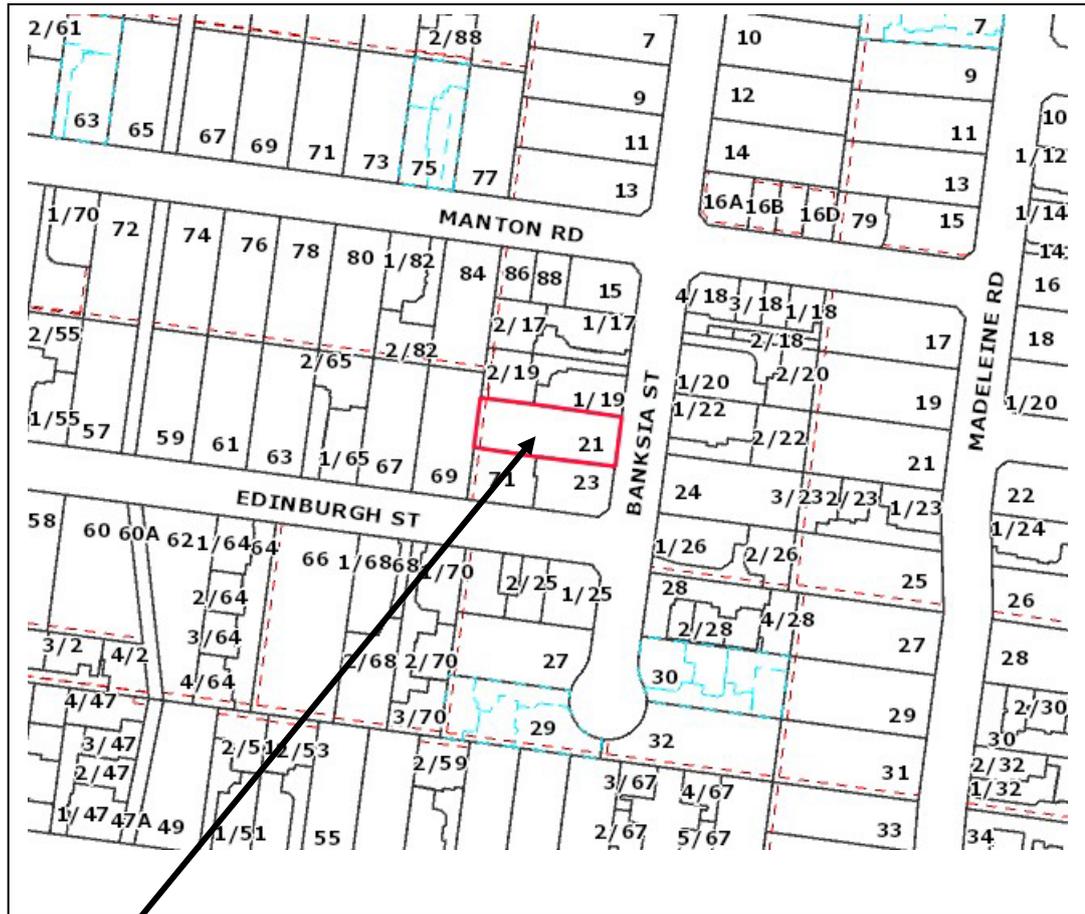
Construction of the development has not commenced. The subject site is in the process of being demolished and the site being cleared.

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

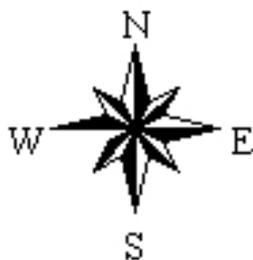
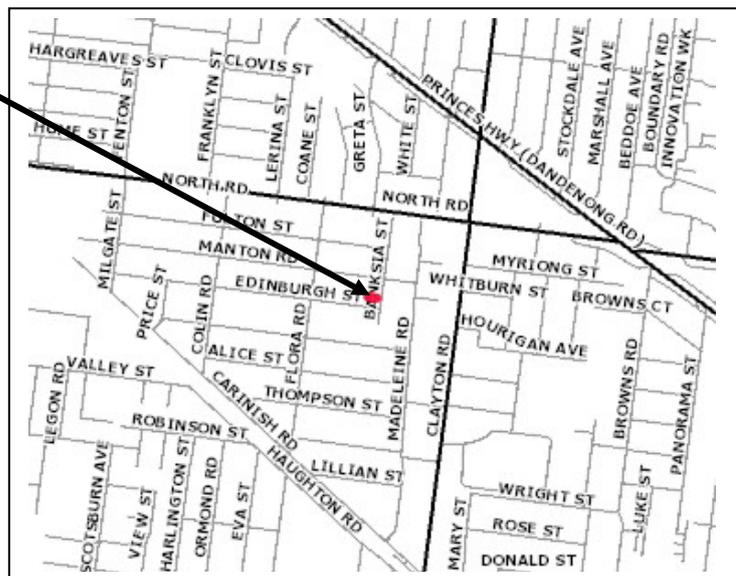
RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Steven Oscari
WARD:	Oakleigh
PROPERTY ADDRESS:	21 Banksia Street, Clayton
NUMBER OF OBJECTIONS:	N/A
ZONING:	General Residential Zone 2
OVERLAY:	N/A
ADOPTED AMENDMENT C125	General Residential Zone 3
RELEVANT LEGISLATION:	Section 69 of the P&E Act 1987

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



RECOMMENDATION:

That Council resolves to issue an **Extension of time** to Planning Permit No. **TPA/39858** for the development of two double storey dwellings at 21 Banksia Street, Clayton, pursuant to the provisions of Section 69 of the *Planning and Environment Act 1987*.

The permit expiry dates extended as follows:

- The development is not started before 7 November 2020.
- The development is not completed before 7 November 2022.

BACKGROUND:**History**

Planning Permit TPA/39858 was issued on the 7 November 2012 allowing the development of two double storey dwellings. (Refer to Attachment 1)

The original application was decided under delegation and there were 2 objections to the proposal.

Council has extended the permit on three (3) previous occasions. The current expiry date was 7 November 2018. The current extension of time request was made within 6 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 Banksia Street. The subject site measures 15.8 metres by 44.1 metres, with a total site area of 702 square metres.

The site currently contains the original single storey dwelling, garage and outbuildings, which are in the process of being demolished. Land surrounding the subject site features mainly residential dwellings comprising of both single and double storey dwellings, many being multi-unit developments.

PROPOSAL:

The applicant has requested an extension of the permit's start and completion dates for a further two (2) years due to personal family reasons. The applicant intends to start construction in the first half of 2019.

PERMIT TRIGGERS:

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

“Before the permit expires or within six months afterwards, 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 27 November 2018, within six months of the expiry date in accordance with the requirements of the *Planning and Environment Act 1987*.

DISCUSSION:**Assessment**

The total elapsed time between the date of issue of the permit and the date of the request to extend the permit is six (6) years.

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 are to be considered 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:

Proposed Change to the subject site under the C125	Amendment C125 Assessment of submitted plans
Decreasing the maximum building site coverage from 60% to 50%	Complies – 39.63%
Increasing onsite permeability from 20% to 30%	Complies – 43.16%
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 – 3 canopy trees are shown on the proposed plans for endorsement 2 canopy trees in the SPOS and 1 in the front setbacks of all dwellings.
Requiring that secluded private open space of 35m ² be clear of all structures and services	Complies Both dwellings have complied with the open space requirements and are clear of all structures.
Requiring a minimum 5 metre rear setback	Dwelling 2 has a rear setback of 5m and 4.16m.
Requiring garages/ carports to be set back behind the front wall of the dwelling.	Complies – both garages are setback behind the front wall of the dwellings.

Amendment VC110 requires 35% garden area for land above 650 square metres and limits building heights to 11 metres. The proposal has 38% garden area and maximum building height of 7.8 metres for Unit 1 and 7.7 metres for Unit 2.

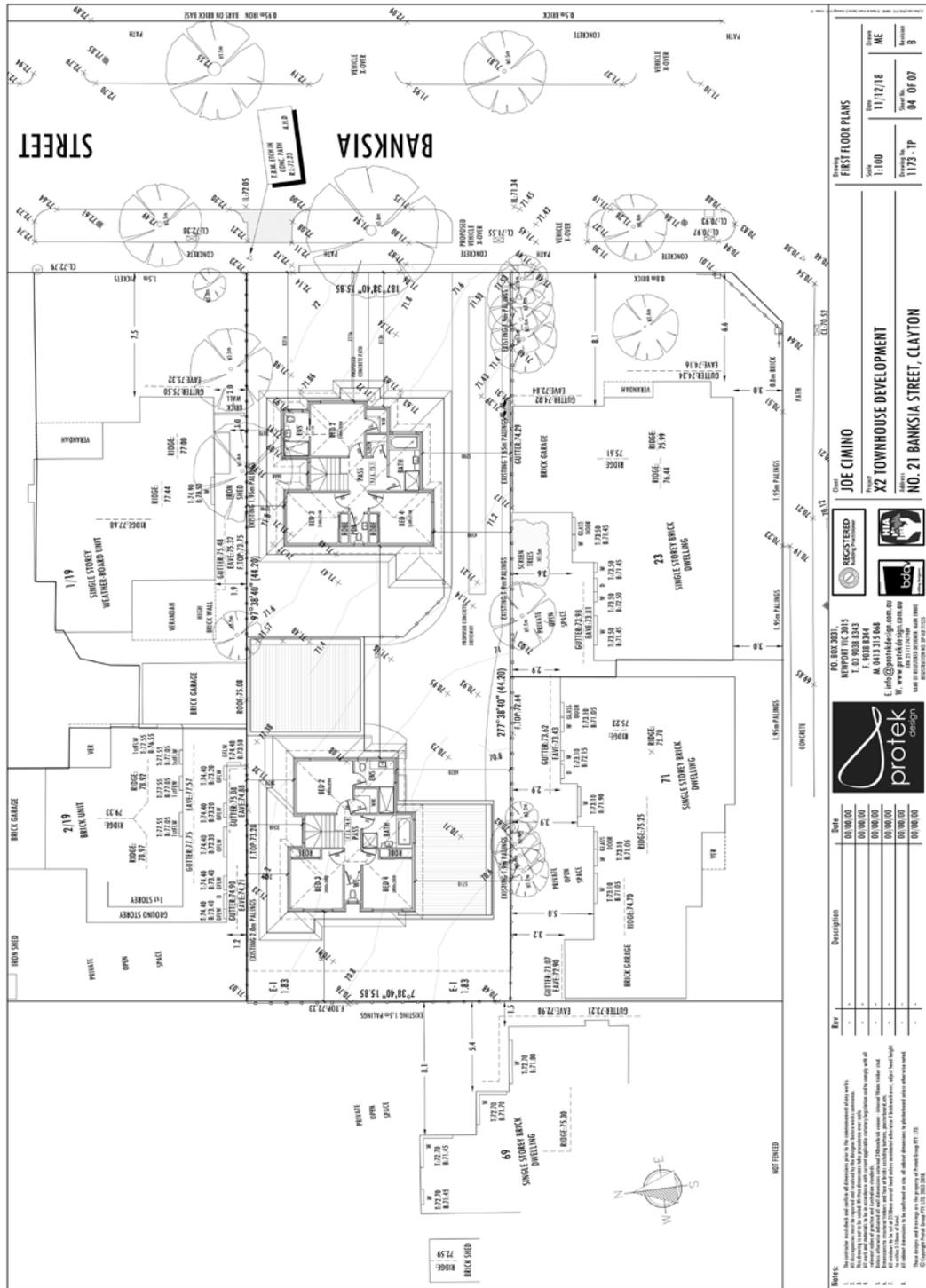
Plans to meet the requirement of Condition 1 of the permit have been submitted to Council for endorsement on 11 December 2018 but cannot be considered until an extension is granted. An application for demolition of the dwelling and structures on the site was given consent on 17 December 2018. The applicant has advised that due to personal family issues, the development has been put on hold. The applicant is in the process of getting a building permit issued.

It is considered that the development meets the requirements of the current regulations, including Amendment C125, as set out above. Dwelling 2 complies with the rear setback of 5 metres, however there is a portion of the kitchen which has a setback of 4.16 metres which is 26% of Dwelling 2's wall. The design provides the secluded open space to the rear of each dwelling. This is common for the area with a majority of dwellings in the area having the same layout.

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 commencement of the development.

ATTACHMENT 1 (Continued)



21 Banksia Street, Clayton - Extension of Time - Development of Two Double Storey Dwellings

ATTACHMENT 1 (Continued)

UNIT 1 & 2-PROPOSED SOUTH ELEVATION

UNIT 1 & 2-PROPOSED NORTH ELEVATION

UNIT 1-PROPOSED WEST ELEVATION

UNIT 1-PROPOSED EAST ELEVATION

UNIT 2-PROPOSED WEST ELEVATION

UNIT 2-PROPOSED EAST ELEVATION

REVISIONS

Rev	Description	Date
-	-	00/00/00
-	-	00/00/00
-	-	00/00/00
-	-	00/00/00
-	-	00/00/00

PROTEK design

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CLIENT
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 X2 TOWNHOUSE DEVELOPMENT
 NO. 21 BANKSIA STREET, CLAYTON

ELEVATIONS PROPOSED

Scale: 1:100
 Drawing No: 1173 - TP
 Date: 11/17/18
 Drawn By: 05 01 07
 Revision: B