

**1.3 161-171 JELLS ROAD, WHEELERS HILL  
AMENDMENT OF AN EXISTING PLANNING PERMIT WHICH ALLOWS FOR THE  
DEVELOPMENT OF A RESIDENTIAL AGED CARE FACILITY AND REFURBISHMENT  
OF THE EXISTING AGED CARE FACILITY  
(TPA/47296/B)**

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**EXECUTIVE SUMMARY:**

Planning Permit TPA/47296 was issued on 11 January 2018 for the land at 161-171 Jells Road for the development of a residential aged care facility and the refurbishment of the existing facility known as The Willows at 175 Jells Road. Concurrently with the application for the development, an amendment to the Planning Scheme (Amendment C136) was sought to make modifications to the Design and Development Overlay (Schedule 5) to allow a covered walkway between the two buildings. Amendment C136 was approved on 12 April 2018.

An amendment to the Permit was lodged on 25 February 2019 which sought changes to conditions of the Permit and variation to the plans. Specifically, it sought the deletion of Condition 18 (VicRoads Condition) which was at odds with Council's conditions regarding vehicle access within the site (in particular access for ambulances). Further changes to the plans were also sought including internal layout alterations, reduction in the number of car parking spaces, creation of the pedestrian link between the two buildings (allowed by Amendment C136), minor materials alterations and amendments to setbacks. The amendment was approved on 16 April 2019.

The proposed application seeks to amend conditions of the Permit and the plans pursuant to Section 72 of the Planning and Environment Act 1987 to improve the internal amenity of the building, increasing the number and size of communal areas, reduce bed numbers, increase the number of car parking spaces, reduce setbacks, and the like.

The application was subject to public notification. No objections to the proposal have been received.

Key issues to be considered relate to the scale and massing of the building and the materials as proposed within this revised scheme.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework.

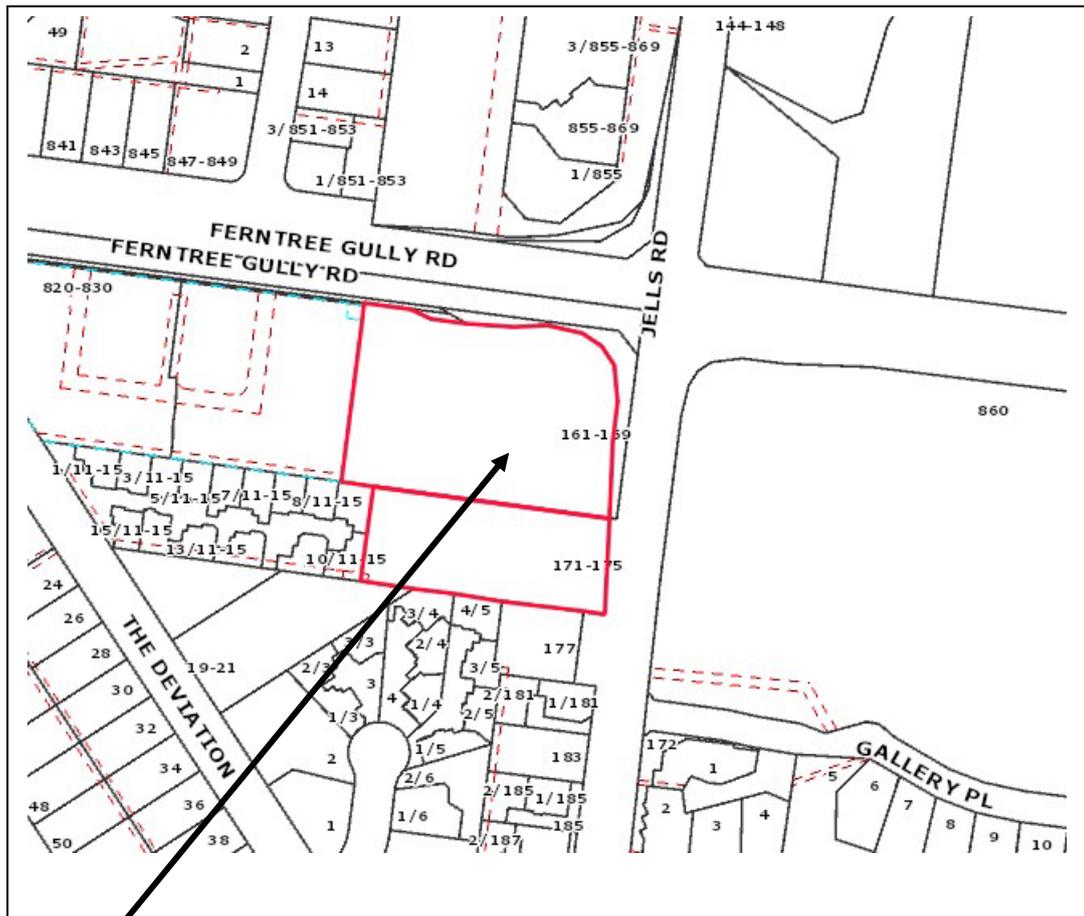
**The reason for presenting this report to Council is the proposed development cost of \$40 Million.**

The proposal is considered appropriate having regard to the relevant provisions of the Monash Planning Scheme. It is recommended that Council issue an amended Planning Permit subject to conditions.

<b>RESPONSIBLE DIRECTOR:</b>	Peter Panagakos
<b>RESPONSIBLE MANAGER:</b>	Natasha Swan
<b>RESPONSIBLE PLANNER:</b>	Alexandra Wade
<b>WARD:</b>	Mulgrave
<b>PROPERTY ADDRESS:</b>	161-171 Jells Road, Wheelers Hill
<b>EXISTING LAND USE:</b>	VACANT
<b>PRE-APPLICATION MEETING:</b>	Yes
<b>NUMBER OF OBJECTIONS:</b>	Nil
<b>ZONING:</b>	General Residential Zone, Schedule 5
<b>OVERLAY:</b>	Design and Development Overlay, Schedule 5
<b>RELEVANT CLAUSES:</b> <u>State Planning Policy Framework</u> Clause 11.01-1S – Settlement Clause 11.02-1S – Supply of Urban Land Clause 15.01-1S&R – Urban Design Clause 15.01-2S – Building Design Clause 15.01-4S – Healthy Neighbourhoods Clause 15.01-5S – Neighbourhood Character Clause 15.02-1S – Energy and Resource Efficiency Clause 16.01-1S&R – Integrated Housing Clause 16.01-2S – Location of Residential Development Clause 16.01-3S&R – Housing Diversity Clause 16.01-4S – Housing Affordability Clause 16.01-7S – Residential Aged Care Facilities Clause 18.02-4S – Car Parking	<u>Local Planning Policy Framework</u> Clause 21.04 – Residential Development Clause 22.01 – Residential Development and Character Policy Clause 22.13 – Environmentally Sustainable Development Policy Clause 22.06 – Wheelers Hill Neighbourhood Activity Centre Policy  <u>Particular Provisions</u> Clause 52.06 – Car Parking Clause 53.17 – Residential Aged Care Facility Clause 53.18 – Stormwater Management in Urban Development Clause 65.01 – Approval of an Application or Plan

<b>STATUTORY PROCESSING DATE:</b>	<b>24 May 2020</b>
<b>DEVELOPMENT COST:</b>	<b>\$40 million</b>

### LOCALITY PLAN



**SUBJECT SITE**

### NEIGHBOURHOOD PLAN



161-171 Jells Road, Wheelers Hill – Amendment Of An Existing Planning Permit Which Allows For The Development Of A Residential Aged Care Facility And Refurbishment Of The Existing Aged Care Facility

**RECOMMENDATION:**

That Council resolves to **Grant Amended Planning Permit (TPA/47296/B)** for the development of a residential aged care facility on land affected by the Design and Development Overlay-Schedule 5, including refurbishment of the existing Aged Care Facility (Lifeview the Willows) and alteration of access to a road in a road zone category 1, at 161-171 Jells Road, Wheelers Hill subject to the following conditions:

1. Before the development starts, one copy of amended plans drawn to scale and dimensioned, must be submitted to and approved by the Responsible Authority. When approved the plans will be endorsed and will then form part of the permit.

The plans must be generally in accordance with the plans prepared by CHT Architects, Revision F dated 24 March 2020 with the application, but modified to show:

- a) ~~On land at 161-169 Jells Road, between 3 and 12 metres from the southern boundary to 171 Jells Road, development must not exceed a height of 7 metres above natural surface level (excluding parapets and roof forms that enhances the articulation of the built form and improves the appearance of the building). This must be clearly dimensioned on elevation / section plans. (Deleted)~~
- b) ~~On land at 161-169 Jells Road, between 12 and 18 metres from the southern boundary to 171 Jells Road, development must not exceed a height of 10.5 metres above natural ground level (excluding parapets and roof forms that enhances the articulation of the built form and improves the appearance of the building). This must be clearly dimensioned on elevation / section plans. (Deleted)~~
- c) ~~On land at 161-169 Jells Road development must not exceed 14 metres above natural surface level. This must be clearly dimensioned on the elevation/section plans. (Deleted)~~
- d) The proposed retaining wall along the Jells Road frontage (Ground floor level – TP11) and fencing (First floor – TP12) setback 3 metres from the Jells Road frontage.
- e) Screening to prevent overlooking to all habitable room windows located within 9.0 metres of the boundary adjacent to the western boundary and the southern boundary adjacent to the secluded open space of 9/11-15 The Deviation.
- f) The retention of the existing bus shelter at the Ferntree Gully Road frontage of the site.

- g) Access to the site is to be redesigned to the satisfaction of Council and VicRoads as follows
- All vehicles are to enter the site via the western driveway located on the Ferntree Gully Road frontage.
  - The vehicle direction along the porte cochere access way is to be reversed so that vehicles head east and the proposed eastern entry point must be converted to 'exit only'. The exit point is to be reconfigured to enable vehicles to exit generally perpendicular to the left turn deceleration lane. The exit point is to be designed as a vehicle crossing and is to be reduced in width to 3.5 metres, or as agreed by Council.
- h) Deletion of proposed signage.
- i) The western façade and the southern façade of the new building (at the south west corner of the site) amended to provide a softer interface to adjoining residential properties to the south west. Vertical and horizontal fragmentation by use of varied materiality and architectural features is encouraged.
- j) Details of all mechanical ventilation (including heating and cooling units) located outside the building or on the rooftop with appropriate screening incorporated into the architectural design of the building. Heating and cooling units must not be located on the balconies, facade of the building or visible from outside the property.
- k) The location of all services and any required electricity substations, fire services, gas and water meters. The required services must be suitably painted, screened and landscaped to the satisfaction of the Responsible Authority to minimise their visual prominence.
- l) A corner splay or area at least 50% clear of visual obstruction (or with a height of less than 1.2m) extending at least 2.0 metre long x 2.5 metres deep (within the property) from the edge of the exit lane of the western vehicle crossing and both sides of the eastern vehicle crossing to provide a clear view of pedestrians on the footpath of the frontage road.
- m) Compliance with VicRoads conditions (refer to Vic Roads conditions of this permit)
- n) Compliance with Public Transport Victoria (PTV) Conditions (refer to PTV conditions of this permit)
- o) Modification of the fenestration of the central building module presenting to Ferntree Gully Road to provide a stronger horizontal presentation.

All to the satisfaction of Responsible Authority.

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Once the development has started the approved development must be continued and completed to the satisfaction of the Responsible Authority.
4. The amenity of the area must not be detrimentally affected by the use or development, through the:
  - a) transport of materials, goods or commodities to or from the land;
  - b) appearance of any building, works or materials;
  - c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
  - d) presence of vermin;
  - e) movement of commercial vehicles within the site.
5. The occupier of the premises must ensure that any noise emanating from the premises, during and post construction, must not exceed the standards of the State Environment Protection Policies No. N1 or any other applicable noise regulations.

If requested by the Responsible Authority noise testing must be undertaken to demonstrate compliance with EPA noise requirements. Noise testing is to be undertaken at no cost to the Responsible Authority.
6. Air-conditioning and other plant and equipment installed on or within the buildings must be so positioned and baffled that any noise emitted complies with the appropriate Australian Standards and EPA requirements.
7. Prior to the commencement of works on the site, the owner shall prepare a Waste Management Plan for the collection and disposal of garbage and recyclables for all uses on the site by private contractor. The Waste Management Plan shall provide for:
  - a) The method of collection of garbage and recyclables for both the aged care and retirement living uses;
  - b) Designation of methods of collection including the need to provide for private services;
  - c) Appropriate areas of bin storage on site and areas for bin storage on collection days;
  - d) Measures to minimise the impact upon local amenity and on the operation, management and maintenance of car parking areas;
  - e) Ongoing onsite litter management.

A copy of this plan must be submitted to and approved by Council. Once approved the plan will be endorsed to form part of this permit.
8. Waste storage rooms must be constructed so to prevent the entrance of vermin and must be able to be easily cleaned. The floor must be graded to a sewer connection located within the waste storage room.

9. No goods must be stored or left exposed outside the building so as to be visible from any public road or thoroughfare.
10. No bin or receptacle or any form of rubbish or refuse shall be allowed to remain in view of the public and no odour shall be emitted from any receptacle so as to cause offence to persons outside the land.
11. Adequate provision shall be made for the storage and collection of garbage and other solid wastes and these facilities are to be located on the site to the satisfaction of the Responsible Authority.
12. Parking areas shall be specifically signed for their intended use, to the satisfaction of the Responsible Authority.
13. Before the development permitted is completed and the premises is occupied, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:
  - a) constructed to the satisfaction of the Responsible Authority;
  - b) properly formed to such levels that they can be used in accordance with the plans;
  - c) surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
  - d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;
  - e) line-marked to indicate each car space and all access lanes to the satisfaction of the Responsible Authority.

Parking areas and access lanes must be kept available for these purposes at all times.
14. The accessible parking spaces should be designed in accordance with the Australian Standard for Off-Street Parking for people with disabilities, AS/NZS 2890.6. The vehicle path to and from each accessible space shall have a minimum headroom of 2200mm. The headroom above each dedicated space and adjacent shared area shall be a minimum of 2500mm.
15. Bicycle parking facilities shall generally follow the design and signage requirements set out in Clause 52.34 of the Monash Planning Scheme.
16. On site visitor parking spaces are required to be clearly marked.
17. The layout of the development shall generally follow the Design Standards for car parking set out in Clause 52.06-8 of the Monash Planning Scheme as detailed below:
  - a) Access ways to provide at least 2.1m headroom beneath overhead obstructions;
  - b) Ramp grades to be designed with a minimum of 2.0 metre grade transitions between different sections of ramp or floor changes in grade in excess of 12.5% (summit grade change) or 15% (sag grade change);
  - c) Minimum requirements for parking space dimensions to be in accordance with Table 2;

- d) Clearance to car parking spaces to be in accordance with Diagram 1 in relation to the placement of a wall, fence, column, tree, tree guard or any other structure that abuts a car space.

#### VICROADS CONDITIONS

18. Prior to the commencement of the permitted development, a functional layout drawing and functional stage Road Safety Audit must be submitted to and approved by VicRoads. The functional layout plans are to include the following:  
The provision of the left turn deceleration lane on Ferntree Gully Road.
19. Before the use of the permitted development, all works required by VicRoads under this permit must be completed to the satisfaction of and at no cost to VicRoads.
20. No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.

#### PUBLIC TRANSPORT VICTORIA

21. The existing bus stop and associated infrastructure on Ferntree Gully Road must not be altered without the prior consent of Public Transport Victoria. Any alterations including temporary works or damage during works must be rectified to the satisfaction of Public Transport Victoria and at the cost of the permit holder.
22. The permit holder must take all reasonable steps to ensure that disruption to bus operations along Ferntree Gully Road is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigations measures must be communicated to Public Transport Victoria fourteen days (14) prior.
23. If a temporary stop in an alternative location is required during construction, the temporary bus stop must be provided in consultation with, and to the satisfaction of Public Transport Victoria. Once the new stop is deemed suitable for operation, the temporary stop must be removed in consultation with Public Transport Victoria.
24. The preparation of the detailed engineering design and the construction and completion of all work must be undertaken in a manner consistent with current VicRoads' policy, procedures and standards and at no cost to VicRoads. In order to meet VicRoads' requirements for these tasks the applicant will be required to comply with the requirements documented as

“Standard Requirements - Developer Funded Projects” and any other requirements considered necessary depending on the nature of the work.

25. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
26. The loading and unloading of goods from vehicles must only be carried out on the land.
27. Before the development starts, a site drainage and stormwater plan drawn to scale and dimensioned must be approved by the Responsible Authority.  

The plans must show a drainage scheme providing for the *collection of* stormwater within the site and for the conveying of the stormwater to the nominated point of discharge.

The nominated point of discharge is the south-west corner of the property where the entire sites stormwater must be collected and free drained via a pipe to the private pit in the rear easement via a 150 mm pipe to Council Standards. (A new pit is to be constructed to Council Standards if a pit does not exist, is in poor condition or is not a Council standard pit). If the point of connection cannot be located then notify Council's Engineering Department immediately.
28. Stormwater discharge is to be detained on-site to the predevelopment level of peak stormwater discharge. Approval of any detention system is required from Council prior to works commencing.
29. The private drainage line located along the southern easement of 820-830 Ferntree Gully Road is to be CCTV and confirmed to be in good working condition prior to connection.
30. Any connection into a Council easement pit requires the approval of Council's Engineering Division prior to the works commencing. Please refer to the notes section of this permit for additional details. A refundable security deposit of \$500 is to be paid prior to the drainage works commencing.
31. All on-site stormwater is to be collected from hard surface areas and must not be allowed to flow uncontrolled into adjoining properties. The on-site drainage system must prevent discharge from all driveways onto the footpath. Such a system may include either:
  - a. a trench grate (150 mm minimum internal width) located within the property; and/or
  - b. shaping the driveway so that water is collected in a grated pit on the property; and/or
  - c. another Council approved equivalent.

32. Before the development starts, a Construction Management Plan must be prepared and submitted to the Responsible Authority for approval. The plan must be to the satisfaction of the Responsible Authority. Once approved, the plan must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:
- a) measures to control noise, dust and water runoff from the site;
  - b) prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
  - c) the location of where building materials are to be kept during construction;
  - d) site security;
  - e) maintenance of safe movements of vehicles to and from the site during the construction phase;
  - f) on-site parking of vehicles associated with construction of the development;
  - g) wash down areas for trucks and vehicles associated with construction activities;
  - h) cleaning and maintaining of surrounding road surfaces;
  - i) A Traffic Management Plan prepared by a qualified person is required to be submitted as part of the Construction Management Plan. This should detail the route to and from the site for large vehicles, proposed warning signs and traffic control;
  - j) a requirement that construction works must only be carried out during the following hours:
    - Monday to Friday (inclusive) – 7.00am to 6.00pm;
    - Saturday – 9.00am to 1.00pm;
    - Saturday – 1.00pm to 5.00pm (Only activities associated with the erection of buildings. This does not include excavation or the use of heavy machinery.)
33. No equipment, services, architectural features or structures of any kind, including telecommunication facilities, other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
34. A landscape plan prepared by a Landscape Architect, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority prior to the commencement of any works. The plan must show the proposed landscape treatment of the site including:-
- the location of all existing trees and other vegetation to be retained on site;
  - provision of canopy trees with spreading crowns located throughout the site including the major open space areas of the development;
  - planting to soften the appearance of hard surface areas such as driveways and other paved areas;

- a schedule of all proposed trees, shrubs and ground cover, which will include the size of all plants (at planting and at maturity), their location, botanical names and the location of all areas to be covered by grass, lawn, mulch or other surface material;
- the location and details of all fencing;
- the extent of any cut, fill, embankments or retaining walls associated with the landscape treatment of the site;
- details of all proposed hard surface materials including pathways, patio or decked areas;

When approved the landscape plan will be endorsed and will then form part of the permit.

35. Before the occupation of the buildings allowed by this permit, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.
36. This permit will expire in accordance with section 68 of the Planning and Environment Act 1987, if one of the following circumstances applies:
- The development is not started before 2 years from the date of issue.
  - The development is not completed before 4 years from the date of issue.

In accordance with section 69 of the Planning and Environment Act 1987, the responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months of the permit expiry date, where the development allowed by the permit has not yet started; or within 12 months of the permit expiry date, where the development has lawfully started before the permit expires.

#### NOTES-

1. The permit holder must notify PTV a minimum of 8 weeks prior to any bus stop relocation/or temporary relocation works approved under this permit. The permit holder must notify PTV by either call 1800 800 007 or email customerservice@ptv.vic.gov.au
2. Building approval must be obtained prior to the commencement of the above approved works.
3. Engineering permits must be obtained altered vehicle crossings and these works are to be inspected by Council (telephone 9518 3555).
4. A drainage contribution will not be accepted in lieu of a detention system. Detention system requirements for this property can be obtained by contacting Council's Engineering Department.
5. Three printed copies of the plans (A3-A1 size) for the drainage works must be submitted to and approved by the Engineering Division prior to the

- commencement of works. The plans are to show sufficient information to determine that the drainage works will meet all drainage conditions of the permit.
6. An on-site detention system for storm events up to the 1% AEP event to be retained on site for the basement carpark. The detention system for the basement is to be separated from the detention system for the property, which is to be at ground level and discharge by gravity.
  7. A licensed Surveyor or Civil Engineer (who is a Registered Building Practitioner) must certify that the stormwater detention system including all levels, pits, pipes and storage volumes is constructed in accordance with the approved plans. The certifier's registration number must be included on the certificate.
  8. Premises used for the sale or storage of food in any manner whatsoever are to be registered under the Food Act and require Council approval via the Chief Environmental Health Officer before occupation.
  9. Unless no permit is required under the planning scheme, no sign must be constructed or displayed without a further permit.
  10. Any new drainage work within the road reserve requires the approval of the Council's Engineering Division prior to the works commencing. A refundable security deposit is required to be paid prior to the drainage works commencing and the amount is to be determined once drainage plans have been submitted.
  11. Engineering permits must be obtained for new or altered vehicle crossings and new connections to Council pits and these works are to be inspected by Council (telephone 9518 3555).
  12. An on-site detention system for storm events up to the 1% AEP event is to be retained on site for the basement car park. The detention system for the basement is to be separate from the detention system for the site, which is to be at ground level and discharge by gravity.
  13. Three printed copies of the plans (A3-A1 size) for the drainage works must be submitted to and approved by the Engineering Division prior to the commencement of works and after Town Planning plans have been endorsed. The plans are to show sufficient information to determine that the drainage works will meet all drainage requirements of this permit.
  14. Disabled access to the building must be provided to the satisfaction of the Responsible Authority. All work carried out to provide disabled access must be constructed in accordance with Australian Standards Design for Access and Mobility AS 1428.1.

**BACKGROUND:****History**

The land at 161-169 Jells Road (corner site) has been vacant since 2006 having been used as a petrol station for a number of years prior.

The existing Lifeview The Willows aged care facility at 171 Jells Road was constructed in accordance with planning permit TPA/26830 which allowed the construction of a 60 bed aged care facility on the land. The approval will reduce the number of bedsits from 60 to 56 in the existing facility. The existing 29 on site car spaces will be retained.

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

**The Site and Surrounds**

The subject site is located at the south west corner of Jells Road and Ferntree Gully Road in Wheelers Hill. The intersection is occupied by prominent existing land uses including the Monash Gallery, Wheelers Hill Hotel, and an old gym site.

The site encompasses the vacant land adjoining the intersection (161-169 Jells Road) as well as the existing single storey aged care facility to the south (Lifeview The Willows) at 171 Jells Road which currently accommodates 60 high care beds supported by 29 onsite car parking spaces.

The highest point of the site is located within the north-east portion closest to the intersection of Jells Road and Ferntree Gully Road, with the land sloping in a south-westerly direction by approximately 4 metres.

The land is contained in two titles. No covenants or restrictions are registered on these titles.

Features of surrounding land is as follows:

**North:** Ferntree Gully Road extends along the northern boundary of the site. It is a busy Category 1 Road carrying three lanes of traffic in each direction. Land on the northern side of Ferntree Gully Road opposite the site is residentially zoned and accommodates a commercial building (vacant gym site). Planning Permit TPA/49256 was issued on 30 July 2019 for the construction of 65 dwellings (2-3 storeys in height). Works on the land are yet to commence.

**East:** Jells Road extends along the eastern frontage to the site. The Monash Gallery site is located on the eastern side of the road opposite the subject site.

**South:** A mix of commercial and residential uses adjoin the site to the south of the existing Lifeview The Willows aged care facility at 171 Jells Road. These comprise a massage clinic and pizza restaurant fronting Jells Road and medium density housing developments fronting County Court. Further south, other specialist uses including a physiotherapist and podiatrist exist alongside residential uses.

An existing unit development fronting The Deviation adjoins a small section of the south west corner of the vacant section of the site, and extends along the rear boundary of the existing aged care facility.

**West:** Land at 820-830 Ferntree Gully Road adjoins the site to the west. The land is currently being developed in accordance with planning permit TPA/43406/A which permitted the development of a 3-4 storey townhouse development on the site. The amended application plans have included the floor plans of the development on this site.

**PROPOSAL:**

The proposal seeks variation to the plans associated with the Planning Permit as follows:

- Reduction of bedsits from 206 to 194;
- Increase in car parking numbers from 103 to 111;
- Variation of building setbacks;
- Increase of building height by 1.85 metres (with a maximum height of 15.6 metres);
- Variation of building materials and design; and
- Variation of internal layout.

The proposal in turn seeks deletion of Conditions 1a), 1b) and 1c) which refer to maximum building heights. These conditions were implemented to reduce the height of the building in the southern portion of 161-169 Jells Road to comply with the height requirements of the Design and Development Overlay, Schedule 5.

The purpose of the amendment is to improve the internal amenity of the building for residents, increasing the number and size of communal areas so that each 'house' has their own facilities including a kitchen, dining, lounge, winter garden area and outdoor space.

Attachment 1 details plans forming part of the application.

Attachment 4 and 5 details the existing Planning Permit and endorsed plans for the site.

**PERMIT TRIGGERS:****General Residential Zone**

Pursuant to Clause 32.08-2, a Planning Permit is not required for the use of the land for a Residential Aged Care Facility.

Pursuant to Clause 32.08-8, a Permit is required to construct a building or construct or carry out works for a residential aged care facility. A development must meet the requirements of Clause 53.17 – Residential Aged Care Facility.

**Design and Development Overlay, Schedule 5**

Pursuant to Clause 43.02-2, a Permit is required to construct a building or construct or carry out works.

**Particular Provisions**

On site car parking provision satisfies planning scheme requirements.

Pursuant to Clause 52.29, a Permit is required to alter access to a Road Zone Category 1.

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

**CHANGES TO PLANNING POLICY**

Since the Planning Permit was issued, there are a number of changes that have occurred to the Planning Scheme.

Most importantly, Amendment VC152 was gazetted on 26 October 2018 which introduced Clause 53.17 (Residential Aged Care Facility) into the Planning Scheme. This clause applies to an application to construct a building or construct or carry out works for a residential aged care facility in the General Residential Zone. This Clause states that in the General Residential Zone, the maximum building height must not exceed 16 metres. It also provides guidelines with respect to front setback, side and rear setbacks, overshadowing, overlooking and site coverage and others.

Importantly, this policy states that if there is any inconsistency between a requirement in this clause and a requirement in another clause (such as the Design and Development Overlay), this clause prevails. Notwithstanding this, residential aged care facilities must still design and respond to the site and its context.

Clause 16.01-7S has also been introduced in the Planning Policy Framework which further encourages well designed and appropriately located residential aged care facilities. This policy identifies that residential aged care facilities are different to

dwellings in their purpose and function, and will have a different built form (including height, scale and mass).

### **CONSULTATION:**

Further information was requested of the Permit Applicant on 18 September 2019. In this letter, officers also raised preliminary concerns including the reduction of setbacks to Ferntree Gully Road, reduced articulation to the streetscapes as a result of revised setbacks, materiality and fenestration.

Officers advised the Applicant in writing that should these concerns not be addressed, that this application was unlikely to be supported.

The Permit Applicant amended plans prior to notice, and again following notice to assist with satisfying Council's concerns, with the latest amended plans submitted to Council on 25 March 2020.

The Applicant was advised that this application was coming to the April Council meeting, in addition to a letter that was sent to the Applicant formally informing them of the details of the Council meeting. The Applicant has been verbally advised that this application is recommended for approval subject to conditions, and an outline of the conditions and the ramifications of the conditions on the proposal has been explained.

### **Public Notice**

The application was advertised in accordance with section 52 of the Planning and Environment Act 1987 by way of letters sent to the surrounding property owners/occupiers, and one sign displayed on each frontage of the site.

No objections were received.

The amended plans submitted following advertising were not re-advertised as it was considered that there would be no additional unreasonable material detriment to surrounding property owners and occupiers as the changes were limited to a variation of setbacks to the north-east corner of the site and Jells Road frontage of the site, and variation of materials.

### **Referrals**

**Traffic and Transport** – No objection subject to conditions on the Permit being retained.

**Department of Transport** – No objection subject to VicRoads conditions currently on the Planning Permit be retained.

**DISCUSSION:****Increase in Height**

Whilst the proposal does not seek to increase the number of stories to the building, it seeks to increase the overall height of the building by 1.85 metres (now a maximum of 15.6 metres). The proposed increase in height allows for greater floor to floor heights to accommodate services required.

Clause 53.17-3 states that in a General Residential Zone, the maximum building height for a Residential Aged Care Facility should not exceed 16 metres. The proposal complies with this requirement. The maximum height imposed by the Design and Development Overlay 5 for the site would otherwise be 14m.

The proposed increase in height in itself will not result in any additional unreasonable overshadowing or building bulk to adjoining properties and is considered acceptable. Where heights have increased adjacent to 11-15 The Deviation, setbacks have been adjusted to reduce potential bulk to this interface.

Conditions 1a), b) and c) on the Planning Permit are sought to be deleted to reflect this increase in height. These conditions were initially implemented to achieve compliance with the mandatory Design and Development Overlay requirements which are no longer applicable.

**Variation of Setbacks****Variation of setbacks to the street frontages**

The proposal seeks to reduce the front setbacks proposed to both Ferntree Gully Road and Jells Road. The approved development allowed for setbacks to Ferntree Gully Road from 10 metres to 14 metres, with an encroachment of architectural features including the porte-cochere in accordance with the mandatory requirements of the Design and Development Overlay.

The proposal seeks a reduction in setbacks to Ferntree Gully Road to allow for a minimum setback of 7.49 metres with a maximum setback of 11.4 metres. Whilst the building is in a straight alignment, the setbacks vary given the title boundary alignment.

Setbacks to Jells Road are also proposed to be reduced from 10.945 metres – 13.755 metres to 7.0 metres – 10.9 metres.

Whilst the Design and Development Overlay Schedule 5 requires a setback of 10 metres from Jells Road and Ferntree Gully Road, it is noted that this does not apply to this application anymore given the proposal is for an aged care facility. Clause 53.17-3 identifies that the front setback of the site to Ferntree Gully Road should be a minimum of 9 metres, and the setback to Jells Road should be a minimum of 2 metres.

Whilst the mandatory requirements of the Design and Development Overlay 5 do not apply, it is still important to assess the setbacks in context of the site and character of the area which encourages landscaped front setbacks.

There are a variety of setbacks present within this major intersection, including greater setbacks than that specified in the DDO within the south-east and north-west corners of the intersection, and no setback provided to the building within the north-east corner of the intersection.

The proposed front setback alignment matches the adjoining property to the west (820-830 Ferntree Gully Road) and provides a streamlined approach to this interface. As a result of officer concerns, plans have been amended to increase the setback of the building to the north-east corner of the site (given the curvature of the title results in reduced setbacks) and will now provide an appropriate tapered response to this corner.

Along the Jells Road interface, an 8.0-10.9 metre setback is maintained for the northern end of the building with setbacks reducing towards the southern end. The setback proposed at the southern end of the Jells Road frontage (8.39 metres) will provide an acceptable response to the existing building at 171 Jells Road as will continue this alignment.

The proposed street setbacks will therefore allow an appropriate transition between adjoining buildings, will provide an acceptable response to the north-eastern corner of the site.

The proposal will also allow for sufficient landscaping to be provided. It is noted that the relocation of services (gas meter, fire services and substation) away from the north-eastern corner of the site is a positive change and will allow for a more substantial landscaping response in this area of the site than was previously approved. A revised landscaping scheme has been provided with the application which provides for canopy tree and shrub planting within the front setbacks of the site. The provision of landscaping has been discussed in more detail later in this report.

#### **Reduction of setbacks between building modules / 'houses'**

The approved development presented as three building modules to Ferntree Gully Road, which is maintained within the current proposal. However, the modules have been widened therefore resulting in a reduction of the separation between the modules from 13.85 metres and 14.23 metres to 9 metres.

The widening of the building modules allows the internal amenity of the rooms and the associated communal spaces to be improved. Notably, whilst the setbacks have reduced, the number of bedsits have also reduced as part of this application.

Within these internal setbacks, balcony spaces have been revised in terms of their size, and the introduction of two balconies at the third floor. However, the depth of these areas of separation remain similar to that which was previously proposed.

A strong visual separation is still provided between the modules as the building presents to Ferntree Gully Road, providing a satisfactory response.

#### **Variation of setbacks to western boundary**

The western side of the building seeks to vary setbacks due to the revised configuration. Whilst there are some areas where the building has reduced its setbacks adjacent to this interface, typically setbacks have increased and will provide a better building separation from the adjoining property.

The adjoining property at 820-830 Ferntree Gully Road is partway through construction. A four storey apartment building with habitable room windows and balconies is orientated towards the subject site.

The apartment building is setback a minimum of 4.855 metres from the boundary. The proposed aged care building will have a minimum setback of 4.375 metres, providing for a minimum separation between the two buildings of 9 metres therefore reducing potential overlooking impacts.

The proposal also maintains a similar level of articulation with respect to setback variations.

#### **Variation of setbacks to southern boundary**

Setbacks to the southern boundary, and in particular to the south-west corner of the site (161-169 Jells Road) have significantly increased from the original proposal. Where setbacks have been reduced, these are typically adjacent to the existing building on the site at 171-175 Jells Road.

Whilst wall heights have increased slightly, setbacks have been increased as follows, reducing the potential impact to adjoining properties:

	<b>Approved</b>	<b>Proposed</b>
Ground Floor	4.42m	6.741m
First Floor	4.42m	6.741m
Second Floor	6.92m (balcony) 12.0m-12.45m (wall)	5.2m-7.3m (balcony) 10.41m -24.3m (wall)
Third Floor	13.2m (balcony) 12.0m – 21.2m (wall)	19.662m (balcony) 10.61m – 24.1m (wall)
Fourth Floor	14.9m (balcony) 18.0m – 21.2m (wall)	10.41m (balcony) 20.99m – 24.57m (wall)

Setbacks at the ground floor have particularly increased in this corner, allowing for greater opportunities for landscaping.

Whilst the Design and Development Overlay 5 provides specific design guidelines with respect to the interface to 11-15 The Deviation and 171-175 Jells Road, it is noted that Clause 53.17 (Residential Aged Care Facility) overrides this requirement, which reverts to ResCode (Clause 55) requirements with respect to side and rear setbacks. The proposal complies with these requirements with respect to the southern boundary of the site. Whilst the second and third floors are set closer to this boundary than originally proposed, this is within the subject site at the interface with the existing building at 171-175 Jells Road and is considered appropriate.

From the second floor and above, the building form maintains a substantial recess within the south-west corner of 161-169 Jells Road at its interface with 11-15 The Deviation. The second floor provides the greatest change with outdoor space provided. Screening is provided to the south east corner of the balcony to 1.7m high to ensure no unreasonable overlooking from this location.

A covered walkway is maintained at the ground floor between the proposed building and the existing building at 171-175 Jells Road.

#### **Overshadowing**

Shadow will be cast within the private open space of the two eastern most units of No. 11-15 The Deviation between 9am and 11am on 22 September. The shadow cast by the proposal is generally consistent with that of the existing approved development for the site. Whilst there will be a small amount of additional shadow into the secluded private open space of 9/11-15 The Deviation at 9am, shadowing will be reduced within this space at 10am and 11am compared with the approved design.

#### **Overlooking**

The proposal will not result in any unreasonable overlooking. Condition 1e) will be maintained on the Permit which requires screening within 9 metres of 11-15 The Deviation.

Overlooking to the west will continue to be minimal given the setback of windows and balconies from the boundary.

#### **Variation of materials / design fenestration**

The palette of materials has varied as part of this application, moving away from the use of predominantly precast concrete to a higher quality set of materials primarily including brick with metal cladding highlights.

The revised design provides a more complex presentation to the streetscapes and adjoining properties with the use of vertical and horizontal emphasis allowing the building to be more articulated across the different levels of the building.

Whilst each building ‘module’ uses similar materials, each are presented in a different manner allowing the three building forms to present to Ferntree Gully Road as separate buildings which also emphasises the separation between each building module.

Some concern is raised with respect to the building fenestration of the central building module as it presents to Ferntree Gully Road. Its strong emphasis on vertical lines makes the building appear taller and more robust. It is acknowledged however that its variation to the two other building modules is a positive aspect.

A proposed condition of the Permit (Condition 1o) will require this fenestration to be altered in a manner which introduces a further element or variation which provides emphasis on the horizontal lines of this façade. This will require minimal adjustment and may simply require the horizontal lines to be more pronounced than the vertical lines (currently the vertical lines are more pronounced than the horizontal lines).

#### **Variation to landscaping and front fencing**

Changes to the landscaping and fencing within the frontage of the site include:

- Relocation of the proposed substation, gas meter and fire services further south fronting Jells Road;
- Relocation of front fencing within the north-east corner of the site;
- Removal of visitor bicycle spaces from Ferntree Gully Road frontage of the site; and
- Addition of a pergola structure adjacent to the north-east corner of the site (associated with House 4).

The proposed relocation of the substation and other services is an improvement both to the streetscape presentation and the internal amenity for future residents, by moving this service away from the prominent corner of the site. As a result, this has enabled this space to provide for a more functional formal outdoor space and a better landscaping outcome.

Whilst the proposed fencing (1.8m high iron picket fence) has encroached within the Ferntree Gully Road frontage of the site, the fence has been designed in a curved form which is set back from the title boundaries of the site allowing for landscaping in front of the fencing in this corner location.

Proposed landscaping allows for canopy tree planting and lower shrub planting within the front setbacks of the site.

It is noted that the Landscaping Plan does not reflect the most recent amendments to the plans, and therefore revised landscaping plans will be required to be submitted in accordance with Condition 34 of the Planning Permit. It is noted that

these changes will be minor and will not have any impact on the overall landscaping proposed.

### **Internal Amenity**

The amendments seek to improve the internal amenity for residents. The proposal is based on a model of care called the ‘Small House Model’ which means that the home is broken up into 12 smaller ‘houses’ of 12 residents each. Residents live in a household with a carer. These houses each have their own kitchens, laundries, lounge room, dining room and outdoor space. This allows for each house to cater for different needs across the development such as higher care, respite and lower care.

The amendment seeks to improve communal facilities such as the introduction of greater areas at the ground floor including a cinema, dedicated library, activity rooms, private dining, hairdresser, lounge spaces, shop and café. At the upper levels, greater space is provided for equipment and storage, laundry services, and lounge spaces.

### **Variation of car parking numbers and basement layout**

Whilst the proposed number of bedsits are to be reduced, the number of car spaces are proposed to be increased. The below table identifies the difference between the approved and proposed schemes. The proposal exceeds the car parking requirements set out in Clause 52.06.

	<b>Number of Bedsits</b>	<b>Clause 52.06 Requirement</b>	<b>Car spaces required</b>	<b>Car spaces provided</b>
Approved Development	206 bedsits	0.3 spaces per lodging room	61 car spaces	103 car spaces (including 10 visitor spaces, 1 mini bus space and 4 motorcycle spaces)
Proposed Development	194 bedsits	0.3 spaces per lodging room	58 car spaces	111 car spaces (including 12 visitor spaces and 1 mini bus space)

Whilst the basement layout has been revised, the layout still remains functional and in accordance with Clause 52.06. The porte cochere has been redesigned to improve traffic maneuverability with the removal of the parallel parking bays and includes a drive through drop-off area. Council’s Traffic Department are satisfied with the proposed layout. The requirements of VicRoads including the notations with respect to access and traffic movement have been retained.

Conditions on the Permit associated with the proposed car parking requirements, VicRoads Conditions and Public Transport Victoria conditions are all proposed to be retained.

#### **Variation of bicycle parking numbers**

The revised basement layout has also resulted in changes to the number of bicycle parking. Importantly, since the issuing of the Permit, the requirements for bicycle parking have been varied and there is no longer a specific requirement to provide any bicycle parking on the site for a Residential Aged Care Facility. Nevertheless, a total of 18 spaces are retained on the site. This is detailed in the table below:

	<b>Number of Bedsits</b>	<b>Clause 52.34 Requirement</b>	<b>Bicycle spaces required</b>	<b>Bicycle spaces provided</b>
Approved Development	206 bedsits	1 to every 7 beds for employees  1 to every 60 beds for visitors	29 spaces for employees  3 spaces for visitors	31 spaces for employees.  7 spaces for visitors
Proposed Development	194 bedsits	N/A	0 spaces	18 spaces

Notably, visitor bicycle spaces originally proposed within the front setback of the site has been replaced with landscaping which is considered to be an improvement to the streetscape presentation.

Evidence has shown that bicycle parking is rarely used by visitors or residents, and therefore the allowance would be primarily for staff. It is considered that the provision of 18 bicycle spaces for staff is considered acceptable.

#### **CONCLUSION:**

The proposed amendments respond to changes in the Planning Scheme, however the outcome of the amendment results in improved internal amenity for future residents and provides an acceptable outcome with respect to its presentation to both street frontages and adjoining properties.

It is recommended that the changes be supported with the addition of one condition to improve the presentation to Ferntree Gully Road, and conditions of the permit that are no longer relevant deleted.

**LIST OF ATTACHMENTS:**

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (January 2019).

Attachment 3 – Zoning and Overlays Map.

Attachment 4 – Current Planning Permit

Attachment 5 – Current Endorsed Plans