

**1.3 112-116 LUM ROAD, WHEELERS HILL
CONSTRUCTION OF NINE (9) DWELLINGS
(TPA/51712)**

EXECUTIVE SUMMARY:

This application proposes the construction of nine dwellings comprising seven double storey and two single storey dwellings.

The application was subject to public notification. Ninety (90) objections to the proposal have been received.

Key issues to be considered relate to neighbourhood character, retention of existing vegetation, landscaping opportunities, amenity impacts to adjoining properties, internal amenity and car parking provision.

This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework, Clause 55, and issues raised by objectors.

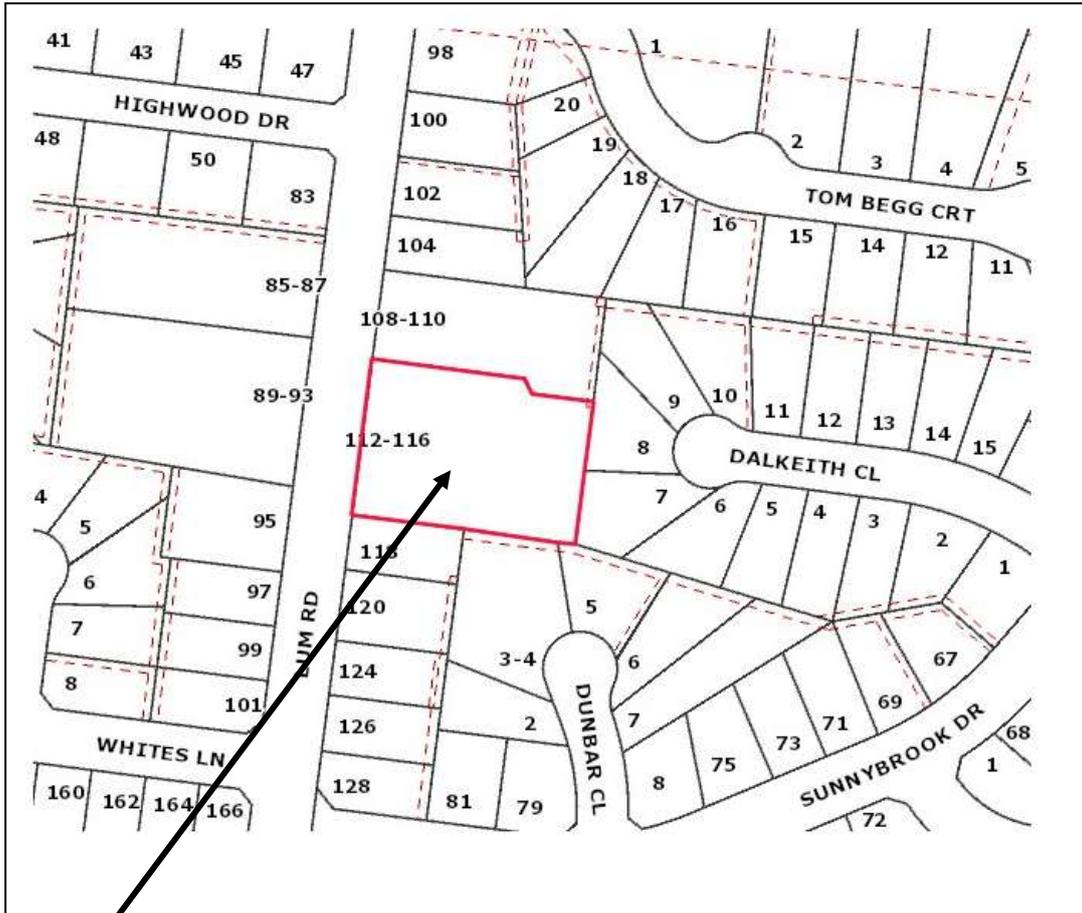
The reason for presenting this report to Council is because Councillor Samardzija has called this application in to be decided at a Council meeting.

The proposed development is considered appropriate having regard to the relevant provisions of the Monash Planning Scheme. It is recommended that Council resolve to issue a Notice of Decision to Grant a Planning Permit, subject to conditions.

RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Jeanny Lui
WARD:	Mulgrave
PROPERTY ADDRESS:	112-116 Lum Road, Wheelers Hill
EXISTING LAND USE:	Single dwelling
PRE-APPLICATION MEETING:	No
NUMBER OF OBJECTIONS:	Ninety (90)
ZONING:	Neighbourhood Residential Zone Schedule 4 (NRZ4)
OVERLAY:	Vegetation Protection Overlay
RELEVANT CLAUSES: <u>State Planning Policy Framework</u> Clause 11.01-1R – Settlement – Metropolitan Melbourne	<u>Local Planning Policy Framework</u> Clause 21- Municipal Strategic Statement

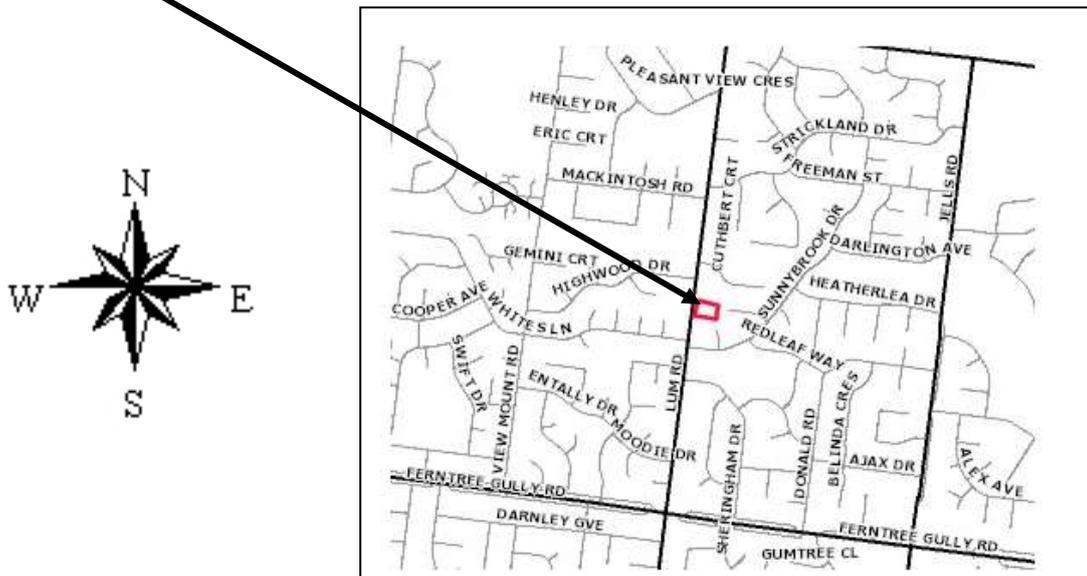
<p>Clause 11.02-1S – Supply of Urban Land</p> <p>Clause 13.07-1S- Land Use Compatibility</p> <p>Clause 15.01-1S & R – Urban Design</p> <p>Clause 15.01-2S – Building Design</p> <p>Clause 15.01-4S & R – Healthy Neighbourhoods</p> <p>Clause 15.01-5S – Neighbourhood Character</p> <p>Clause 15.02-1S – Energy and Resource Efficiency</p> <p>Clause 16.01-1S & R – Housing Supply</p> <p>Clause 16.01-2S – Housing Affordability</p> <p>Clause 18.01-1S- Land Use and Transport Planning</p> <p>Clause 18.02-4S – Car Parking</p> <p>Clause 19.03-3S- Integrated Water Management</p>	<p>Clause 21.04 – Residential Development</p> <p>Clause 21.08 – Transport and Traffic</p> <p>Clause 21.13 – Sustainability and Environment</p> <p>Clause 22.01 – Residential Development and Character Policy</p> <p>Clause 22.04 – Stormwater Management Policy</p> <p>Clause 22.05 – Tree Conservation Policy</p> <p>Clause 22.13 – Environmentally Sustainable Development Policy</p> <p><u>Particular Provisions</u></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</p> <p>Clause 65 – Decision Guidelines</p>
STATUTORY PROCESSING DATE:	18 January 2021
DEVELOPMENT COST:	\$3 Million

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



RECOMMENDATION:

That Council resolves to issue a **Notice of Decision to Grant a Planning Permit (TPA/51712)** for the construction of seven (7) double storey and two (2) single storey dwellings, at 112-116 Lum Road Wheelers Hill subject to the following conditions:

Amended Plans Required

1. Before the development starts, 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 submitted to Council prepared by Millar Merrigan (Version 03 dated 26 October 2020) but modified to show:
 - a) A notation to read 'all existing trees to be retained (including trees on the naturestrip and adjoining properties) to be protected in accordance with the arborist report prepared by Ironbark Environmental Arboriculture dated 6 November 2020';
 - b) The meter box enclosure relocated behind the front setback area.
 - c) Detail of the proposed ramp grades with AHD levels for all ramp sections. The layout of the development shall follow the Design Standards for car parking set out in Clause 52.06-9 of the Monash Planning Scheme as detailed below:
 - Driveway gradient to be no steeper than 1 in 10 (10%) within 5 metres of the frontage to ensure safety for pedestrians and vehicles.
 - Ramp grades (except within 5 metres of the frontage) to be designed as follows:
 - i. Maximum grade of 1 in 4.
 - ii. Provision of minimum 2.0 metre grade transitions between different section of ramp or floor for changes in grade in excess of 12.5% (summit grade change) or 15% (sag grade change).
 - iii. Grade changes greater than 18% or less than 3 metres apart are to be assessed for clearances in accordance with Appendix C of the Australian Standard for Off - Street Car Parking, AS/NZS 2890.1.
 - d) The access aisle width increased to 6.4 metres for the proposed visitor parking space between dwellings 3 and 4.
 - e) Provision of an internal radius of 4 metres at the change in direction to the northwest of dwelling 9's garage and southwest of dwelling 4's garage.

- f) Gradient details of the visitor parking spaces in accordance with *Australian Standard for Off - Street Car Parking AS/NZS 2890*.
- g) A Landscape Plan prepared in accordance with Condition 4;
- h) A Tree Management Plan prepared in accordance with Condition 5;
- i) A Waste Management Plan prepared in accordance with Condition 6; and
- j) A Sustainable Management Plan prepared in accordance with Condition 7.

All to the satisfaction of the Responsible Authority.

Layout not to be Altered

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

Satisfactory Continuation

- 3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

Landscaping Plan

- 4. Concurrent with the endorsement of any plans pursuant to Condition 1, a landscape plan prepared by a Landscape Architect or a suitably qualified or experienced landscape designer, drawn to scale and dimensioned must be submitted to and approved by the Responsible Authority. When endorsed, the plan will form part of the Permit. The Landscape Plan must be generally in accordance with the Landscape Concept Plan prepared by Millar Merrigan (Version 3) dated October 2020.

Tree Management Plan

- 5. Concurrent with the submission of amended plans required by Condition 1 and prior to any demolition or site works, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified and experienced Arborist and must set out recommendations and requirements in relation to the management and maintenance of Tree Nos. 5 & 6 (as identified in the Arborist Report prepared by Ironbark Environmental Arboriculture dated 6 November 2020) submitted with the application.

The TMP must be approved by the Responsible Authority prior to the commencement of any works, including demolition and/or levelling of the site. The TMP must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on

Development Sites and detail the following to the satisfaction of the Responsible Authority ensuring the trees to be retained remain healthy and viable during construction:

- a) A Tree Protection Plan drawn to scale that shows:
 - i. Tree protection zones and structural root zones of all trees to be retained;
 - ii. All tree protection fenced off areas and areas where ground protection systems will be used;
 - iii. The type of footings within any tree protection zones;
 - iv. Any services to be located within the tree protection zone and a notation stating all services will either be located outside of the tree protection zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the Project Arborist; and
 - v. A notation to refer to the Tree Management Plan for specific detail on what actions are required within the tree protection zones.
- b) Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the Project Arborist;
- c) Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the responsible authority; and
- d) Any remedial pruning works required to be performed on tree canopies located within subject site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will occur.

The recommendations contained in the approved tree management plan must be implemented to the satisfaction of the Responsible Authority.

Waste Management Plan

6. Concurrent with the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted and approved by the Responsible Authority. The plan must provide details of a regular Council waste collection service (including recyclables) for the subject land and be prepared in accordance with the Multi-Unit and Commercial Developments Waste Management Plan Guide for Applicants. The plan must include the following:
 - a) The method of collection of all waste from the land;
 - b) Waste volume calculations and total waste generated per waste stream;

- c) Plans showing the location of bin storage areas, required bin storage equipment and features, number of bins and location of temporary bin storage at collection point(s); and
- d) Details of who will be responsible for taking out and returning bins to kerb (only use if collection is proposed from street).

Sustainable Management Plan

7. Concurrent with the endorsement of plans pursuant to Condition 1, a Sustainable Management Plan (SMP) must be submitted to and approved by the Responsible Authority. Upon approval the SMP will be endorsed as part of the planning permit and the development must incorporate the sustainable design initiatives outlined in the SMP to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the plan prepared by Frater Consulting Services dated 19 October 2020.

Construction Management Plan

8. Prior to the commencement of any site works (including demolition and excavation), a Construction Management Plan must be submitted and approved by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the construction management plan will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:
 - a) Hours for construction activity in accordance with any other condition of this permit;
 - b) Measures to control noise, dust and water and sediment laden runoff;
 - c) Prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
 - d) Measures relating to removal of hazardous or dangerous material from the site, where applicable;
 - e) A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site;
 - f) Cleaning and maintaining surrounding road surfaces;
 - g) A site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support the siting of site sheds within Council road reserves;
 - h) Public Safety and site security;
 - i) A plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the

land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;

- j) A Traffic Management Plan showing truck routes to and from the site;
- k) Swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;
- l) Measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the Construction Management Plan;
- m) Contact details of key construction site staff; and
- n) Except with the prior written consent of the Responsible Authority, 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 that does not exceed the EPA guidelines); and
 - No works are permitted on Sundays or Public Holidays.

The provisions, recommendations and requirements of the endorsed Construction Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

Landscaping and Tree Retention

9. The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained as detailed in the endorsed Tree Management Plan and are advised of any obligations in relation to the protection of those trees.
10. No building material, demolition material, excavation or earthworks shall be stored or stockpiled within the Tree Protection Zone (TPZ) of the trees to be retained (including trees on site, on nature strip and adjoining properties) during the demolition and construction period of the development hereby permitted without the prior written consent of the Responsible Authority.
11. No vehicle access or parking within the Tree Protection Zone of any tree to be retained.
12. All works (including demolition works) within the dripline of any tree to be retained (including trees on site, on nature strip and adjoining

properties) 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.

13. 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.
14. All landscaping works shown on the endorsed landscape plan(s) must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.

Drainage

15. The site must be drained to the satisfaction of the Responsible Authority.

Privacy screens

16. Prior to the occupancy of the development, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority. The use of obscure film fixed to transparent windows is not considered to be 'obscure glazing' or an appropriate response to screen overlooking.

Other

17. Prior to the occupancy of the development, all fencing must be constructed in accordance with the endorsed plans and be in good condition to the satisfaction of the Responsible Authority.

Time for Starting and Completion

18. In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:

- (a) The development is not started before two (2) years from the date of issue.
- (b) The development is not completed before four (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:

- (i) within six (6) months afterwards if the development has not commenced; or

- (ii) within twelve (12) months afterwards if the development has not been completed.

Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.

NOTES

- A. This is not a Building Permit. Building Permit approval must be obtained prior to the commencement of the above approved works.
- B. Building Permit approval for this development must take into consideration the location of future subdivision boundaries and their compliance with the Fire Separation Provisions of the Building Code of Australia, including Separating Walls and Openings near Boundaries, as well as the requirements of the Building Regulations.
- C. 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.
- D. One copy of the plans for the drainage and civil works must be submitted to and approved by the Monash City Council Engineering Department 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.
- E. All stormwater collected on the site is to be detained on site to the predevelopment level of peak stormwater discharge. The design of any internal detention system is to be approved by Council's Engineering Department prior to drainage works commencing.
- F. The nominated point of stormwater connection for the site is to the north-east corner of the property where the entire site's stormwater must be collected and free drained via a pipe to the Council pit in the rear easement and to be constructed to Council standards.
Note: If the point of connection cannot be located then notify Council's Engineering Department immediately.
- G. A drainage contribution of approximately \$32,217 will be accepted in lieu of a detention system. This amount is valid until 30 June 2021. After this date an amended amount in accordance with Clause 22.04 of the Monash Planning Scheme will be applicable. This contribution is based on the plans provided and any additional hard surfaced areas included on the landscape or drainage plans will alter this amount.

- H. Stormwater detention requirements may be obtained from the City of Monash prior to the design of any stormwater detention system.
- I. Engineering permits must be obtained for new or altered vehicle crossings and new connections to Council drains and these works are to be inspected by Council's Engineering Department. A refundable security deposit is to be paid prior to the drainage works commencing.
- J. All new crossings are to be no closer than 1.0 metre measured at the kerb to the edge of any power pole, drainage or service pit, or other services. Approval from affected service authorities is required as part of the vehicle crossing application process.
- K. The existing redundant crossing is to be removed and replaced with kerb and channel to the Council Standards.
- L. Approval of the proposed crossing, and a permit for installation or modification of any vehicle crossing is required from Council's Engineering Department.
- M. The proposed crossing is to be constructed in accordance with the City of Monash standards.
- N. Any request for a variation of this Permit shall be lodged with the relevant fee as determined under the Planning & Environment (Fees) Regulations 2016.
- O. Residents of the approved development will not be entitled to car parking permits for on street car parking.

BACKGROUND:

History

A number of planning applications have been considered by Council prior to this application.

TPA/25446

Planning Permit TPA/25446 was issued on 15 April 1999 for a two lot subdivision on the land previously known as 108-116 Lum Road, Wheelers Hill. This permit allowed the land to be subdivided into two lots. Lot 1 is the northern allotment known as 108-110 Lum Road, Wheelers Hill. It is 2,233 square metres in area.

Lot 2 is the southern allotment known as 112-116 Lum Road, Wheelers Hill, which is the subject land of this application. It is 3,656 square metres in area. The subdivision has been completed.

TPA/46979

Planning application TPA/46979 was refused at Council's November 2017 meeting for the construction of fifteen (15) two and three storey dwellings and removal of 15 trees. Main grounds of the refusal related to neighbourhood character in terms of building bulk and massing, insufficient provision for landscaping and private open space, impact to existing trees (including a street tree) and inappropriate car parking provision and vehicle access arrangement. No appeal to Council's decision was lodged to VCAT.

TPA/50829

Planning application TPA/50829 was refused on 30 September 2019 for removal of the 12 metres high *Ficus rubiginosa* 'Port Jackson Fig tree' located within the front setback of the site. The grounds of refusal included inadequate justification for the removal of the tree, and the tree makes a significant contribution to the landscape character of the area. No appeal to Council's decision was lodged to VCAT.

TPA/51276

Planning application TPA/51276 was refused on 26 February 2020 for removal of the 14 metres high *Quercus robur* 'English Oak' within the front setback. The refusal was based on the lack of information provided to warrant the support of tree removal. No appeal to Council's decision was lodged to VCAT.

The Site and Surrounds

The subject land is located on the eastern side of Lum Road, approximately 630 metres north of Ferntree Gully Road in Wheelers Hill. The subject land is rectangular in shape. It has a frontage to Lum Road of 51.47 metres, a northern boundary of 122.72 metres, an eastern (rear) boundary of 75.96 metres and a southern boundary of 122.77 metres, yielding a total land area of 3,656 square metres.

The land has a significant fall from the south-west to the north-east of approximately 9 metres. There are two significant trees on site within the front setback of the existing dwelling. The remaining area of the land is generally devoid of significant vegetation.

The site contains a double storey dwelling which is setback approximately 35 metres from the front boundary. There is a tennis court and a swimming pool at the rear of the dwelling.

The site is affected by Covenant PS432116V. The Covenant imposes restrictions to Lot 1, known as 108-110 Lum Road, Wheelers Hill, which does not allow construction of more than one dwelling on the site, construction of any dwelling outside the designated building envelope or to a height greater than the indicated height shown on the Schedule to the Covenant. The covenant does not impose any restrictions to Lot 2 which is the subject land.

Surrounding land is developed with single and double storey dwellings, majority with pitched, tiled roof forms. Lot sizes vary greatly ranging from 660 to over 2000 square metres.

Features of adjoining land are as follows:

- East:** 7 & 8 Dalkeith Close- These properties are located at the rear of the subject land with land sizes of approximately 750 and 830 square metres. 7 Dalkeith Close contains a double storey dwelling and 8 Dalkeith Close contains a single storey dwelling.
- South:** 118 Lum Road & 3-4 Dunbar Close- 118 Lum Road is approximately 660 square metres and 3-4 Dunbar Close is approximately 1600 square metres. Each lot contains a double storey dwelling.
- West:** On the opposite side of Lum Road is 89-93 Lum Road which is over 3700 square metres in size and contains a double storey dwelling.
- North:** 108-110 Lum Road which is subdivided from the subject land and is over 2200 square metres in size. There is an outbuilding within the site and the remaining part of the land is vacant.

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

PROPOSAL:

The proposal is for the construction of seven (7) double storey and two (2) single storey dwellings. Details of the proposal are as follows:

- Each dwelling is proposed to have 3 or 4 bedrooms.
- Two vehicle access points to the site are proposed. A new 3 metre wide crossover is proposed adjacent the north-western corner of the site providing access to the garage of dwelling 1. The existing crossover will be converted to a double crossover (6 metre wide) located centrally within the site for vehicle access to the central driveway of dwellings 2 to 9.
- The proposed maximum building height is 8.33 metres.
- The proposed site coverage is 40% with permeability of 49%.
- The site is provided with a garden area of 46%.
- The dwellings are proposed to be constructed with brick and rendered cladding. All dwellings are proposed to have pitched roofs with eaves.
- Each dwelling is provided with secluded private open space ranging in size between 59.3 to 76.8 square metres, with the exception of the front and rear dwellings which contain a secluded private open space area between 88 and 170 square metres.
- Two significant trees within the front setback are proposed for retention. All other trees on site are proposed for removal.
- Future lot sizes range from 300 to 405 square metres.

- Each dwelling is provided with two car parking spaces within a double garage.
- Two visitor parking spaces are proposed within the development. One is located approximately 12 metres from the front boundary at the side of the central driveway; the other is located between dwellings 3 and 4.

Attachment 1 details plans forming part of the application.

PERMIT TRIGGERS:

Zoning

The subject site is zoned Neighbourhood Residential Schedule 4 (NRZ4). Pursuant to Clause 32.09-6 (Neighbourhood Residential Zone), a permit is required to construct two or more dwellings on a lot. No permit is required for use of a 'dwelling' within the zone.

The zoning includes a number of mandatory requirements including garden area, building height and minimum lot size.

Clause 32.09-4 requires a minimum garden area of 35% for the site and Clause 32.09-10 allows a maximum building height of 9 metres (2 storeys). A building may exceed the maximum building height by up to 1 metre (i.e. 10 metres) depending on the slope of land.

Whilst the application is for development it is noted that Schedule 4 to the Neighbourhood Residential Zone specifies a minimum lot size for subdivision of 300 square metres.

The proposal satisfies all above development requirements in the NRZ4 which will be further discussed in the discussion of this report. It is also noted the site could achieve the subdivision requirements.

Overlays

The land is subject to the Vegetation Protection Overlay under the provisions of the Monash Planning Scheme.

A permit is required to remove or destroy any vegetation in accordance with Clause 42.02-2.

Existing trees on site higher than 10 metres are proposed for retention and all trees to be removed in the proposal are less than 10 metres in height, therefore no permit is required under this provision.

Clause 52.06: Car Parking

Prior to a new building being occupied the required parking spaces must be provided on the land or as approved by the responsible authority. A permit is

required to reduce the number of car parking spaces required under Clause 52.06-5.

The proposal provides the requisite number of car parking spaces, and therefore no permit is required under this provision.

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

CONSULTATION:

Further information was requested of the Permit Applicant on 13 July 2020. In this letter, officers also raised the following preliminary concerns:

- Removal of Tree No.5 is unjustified. The tree is rated high retention value and recommended for retention in the Tree Assessment Report.
- The extent of hard surface associated with the driveways within the front setback and the common property appears excessive.
- The garage of dwellings 1 and 10 should be recessed to avoid garages dominating the dwelling facades.
- The balcony of dwelling 3 will overlook the north adjoining property in anticipated that it will be developed with a dwelling.
- The first floor windows of dwellings 7, 8 and 9 will overlook the south adjoining properties.
- Bedroom 2 window of dwelling 6 and bedroom 3 window of dwelling 10 do not contain sufficient light court.
- Dwelling 10 does not contain a secluded private open space of 35 square metres with minimum dimension of 5 metres.
- Solar protection should be provided to the north and west facing habitable room windows to improve energy efficiency.

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

The Permit Applicant responded to this letter on 18 August 2020 by providing the requested information. In relation to the preliminary concerns, the Applicant submitted an amended plan on 10 November 2020 and advised that that they had addressed all concerns. The key changes to the proposal are that all significant trees are now proposed for retention. As a result, the number of dwellings were reduced from ten (10) to nine (9) with one less vehicle crossovers. Each dwelling is now provided with a larger secluded private open space and all balconies were removed from the proposal. All garages were also redesigned to reduce the dominance of garages to the street, and eaves were provided to the dwellings for solar protection.

The Applicant was verbally advised that this application was coming to the February 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 sending notices to the surrounding property owners/occupiers, and display of a sign on the street frontage of the site.

Ninety (90) objections have been received to the application which include the following concerns:

- Site not suitable for high density development and the proposal does not fit in the neighbourhood character
- The proposal will impact the heritage character of the area
- The proposal does not satisfy the *Guidelines for multi-storey development of three storeys and above*
- The proposed dwellings do not provide a 5 metre rear setback
- Average lot size is just over 300 square metres indicating this is an overdevelopment
- Tree removal and impacts to existing trees
- Car parking, traffic and safety issues
- Additional vehicle crossover and impacts to emergency vehicles
- The proposal does not provide good accessibility for people with limited mobility
- Increase in noise
- Three storey development is out of character
- Waste collection
- Stormwater management and infrastructure
- Loss of amenity
- Loss of privacy
- Overshadowing/ daylight
- The proposal will set a precedent of multi-dwelling developments
- Planning history of the land
- Impact of the restrictive covenant at 110 Lum Road, Wheelers Hill

Attachment 4 details the location of objector properties.

Referrals

External Referral

There are no external referral authorities.

Internal Referral

Traffic Engineer

The application has been referred to Council's Traffic Engineers who have provided advice and recommended conditions in relation to the ramp grades of the driveway

and visitor parking spaces, the widening of access aisle and the provision of a 4-metres turning radius to the garages of dwellings 4 and 9.

These requirements will be satisfied by permit conditions.

Drainage Engineer

No concerns subject to conditions including submitting a stormwater drainage plan for approval.

Horticultural Services

Horticultural Services advised that no excavation should be allowed within 3.7 metres of the street trees located in front of the subject site, in between the two vehicle crossovers. The proposed crossovers will be setback a minimum of 3.8 metres from these trees which satisfy Council's requirements.

DISCUSSION:

Consistency with State and Local Planning Policies

Planning Policy Framework

The Planning Policy Framework encourages an increase in the supply of housing in existing urban areas which offer good access to jobs, services and transport (Clause 16.01-2S). These guidelines also encourage a diversity of housing to be provided to meet diverse needs which includes a mix of housing types, densities, design, and affordability (Clause 16.01-2S). The appropriate location of new housing can also foster healthy neighbourhoods and community wellbeing (Clause 15.01-4S).

The proposed development, is for nine townhouses over this large lot of land within the established area of Wheelers Hill. The proposal provides a variety of dwelling types including single and double storey, and mix of 3 or 4 bedroom dwellings. This satisfies the objectives of the Planning Policy Framework.

However while increasing housing provision, the neighbourhood character of an area must be protected, and maintains and creates urban environments that are safe, healthy, functional and contribute to a sense of place and cultural identity (Clause 15.01-1S and Clause 15.01-5S). The Local Planning Policy explores these concepts further.

Local Planning Policy Framework

Clause 21.04 (Residential Development) identifies the site as being located within *Category 6 'Dandenong Creek Escarpment'* and *Category 8 'Garden City Suburbs'*. Neighbourhood character of areas in these categories will be further discussed in the balance of this report. Clause 21.04-2 identifies key issues surrounding housing development within the City of Monash being increased residential densities, the retention of neighbourhood character, changing lifestyles, ageing population and sustainability.

Clause 22.01 (Residential Development and Character Policy) further details the specific character of each garden city suburb area. This policy identifies the site as being located within the 'Dandenong Valley Escarpment Areas' precinct.

Relevant to this application, the desired future character statement for this area includes:

- *Large numbers of native trees spread throughout the public and private realm providing an overhead canopy which unifies the diverse built-form of some neighbourhood.*
- *Maintain the view lines to the Dandenong Ranges, along street and between buildings.*
- *Building scale, height and bulk will enhance and reinforce the existing landscape and built form character.*
- *Garages will be incorporated into dwelling design so as not to dominate the façade of the building.*
- *New developments will be sited to address the street, well designed, energy efficient and sustainable.*
- *Front setbacks will be generous to enable the development and maintenance of significant native tree canopy and understorey vegetation.*
- *Dwellings will be designed to sympathetically integrate with existing native trees and shrubs.*
- *Facades will be articulated with recesses, openings and balconies. Long expanses of blank wall will be avoided.*
- *Existing trees will be retained where possible, and landscaping will reduce the dominance of buildings. Gardens will be open to the street with no walls or fences, allowing the soft naturalistic qualities of neighbourhoods to be retained. Large walls and fences will be discouraged.*
- *The soft quality of the street will be maintained by ensuring there is one single crossover per lot frontage.*

The proposed development of nine (9) townhouses of various sizes, layouts and designs satisfies the objectives, subject to an appropriate design response. A built form and character assessment is provided within the assessment section of this report.

Clause 22.05 (Tree Conservation Policy) applies to all land within the City of Monash, and seeks to promote the retention of mature trees and encourage planting of new canopy trees with spreading crowns. It is considered that the removal of vegetation proposed on the land is acceptable given the health and species of trees being removed. Importantly, the large *Ficuz rubiginosa* 'Port Jackson Fig' and *Quercus robur* 'English Oak' within the front setback of the site will be retained which contribute significantly to the landscape character of the area. The provision of landscaping will be further discussed within the assessment section of this report.

Clause 22.13 (Environmentally Sustainable Development Policy) provides a framework for early consideration of environmental sustainability at the building design stage. For the proposed development of nine dwellings, a Sustainability

Design Assessment is required to be prepared and submitted. A Sustainability Design Assessment was prepared by Frater Consulting Services which included a BESS assessment for the application. The BESS assessment shows that the proposal meets the minimum best practice requirements.

Neighbourhood Residential Zone, Schedule 4

Schedule 4 of the Neighbourhood Residential Zone applies to the 'Dandenong Valley Escarpment Areas'. The schedule includes three neighbourhood character objectives as follows:

- *To ensure new development maintains the important view lines to the Dandenong Ranges, along the streets and between buildings.*
- *To ensure development is defined by its spacious and generous garden settings, tall canopy trees and consistent built form and setbacks.*
- *To encourage open gardens to the street, and the planting and retention of significant trees.*

The schedule to the Zone, specifies that the minimum lot size for subdivision is 300 square metres. The potential lot areas are indicated between 300 and 405 square metres and would satisfy the relevant requirement should subdivision be sought in the future.

The maximum height of the proposed dwellings is 8.33 metres which does not exceed the maximum mandatory height permissible on the site which is 10 metres, due to the slope of the land.

The proposed garden area of 46% exceeds the garden area requirement of 35%.

The zone also includes the following variations to Clause 55 (ResCode):

Standard	Variation	Complies?
Minimum street setback – B6	Minimum setback from front street – 7.6 metres. Where a new development is located on a corner site the setback to the side street is the same distance as the setback of the front wall of any existing building on the abutting allotment facing the side street or 3 metres, whichever is the lesser.	Compliance achieved. The proposed front dwellings (1 and 9) are setback 7.6 and 19.52 metres respectively from the front boundary.
Site Coverage – B8	50%	Compliance achieved. Proposed site coverage of 40%
Permeability – B9	30%	Compliance achieved. Proposed permeability of 49%.
Landscaping – B13	Retain or provide at least one canopy tree plus one canopy tree per 5 metres of site width with a	Compliance achieved.

	<p>minimum mature height equal to the height of the roof.</p> <p>The species of canopy trees should be native, preferably indigenous.</p>	<p>The site width is 51.47 metres which equates to a requirement of 11 trees.</p> <p>The proposal includes retention of 2 existing trees within the front setback which are greater than the proposed building height of 8.33 metres. The proposal is capable of an additional 9 trees to satisfy this requirement.</p>
Side and Rear Setbacks – B17	<p>Side setbacks – 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.</p> <p>Rear setback – 5 metres</p>	<p>Compliance achieved.</p> <p>The proposed dwellings are setback a minimum of 1.5 metres from the side boundaries.</p> <p>The proposed dwellings 5 & 6 are setback 5 metres from the rear (eastern) boundary.</p>
Private Open Space – B28	<p>An area of 75 square metres, with one part of the private open space to consist of secluded private open space at the side or the rear of the dwelling or residential building with a minimum area of 35 square metres, a minimum dimension of 5 metres, convenient access from a living room and clear of all structures and services.</p>	<p>Compliance achieved.</p> <p>All private open space areas are greater than 75 square metres with an area of 35 square metres of secluded private open space.</p>
Front Fence Height – B32	<p>1.2 metres.</p>	<p>Compliance achieved.</p> <p>The existing 1.4 metres high front fence will be removed. The proposal does not include any front fencing.</p>

The proposal satisfies the above variations to the Clause 55 requirements and achieves the objectives of the Neighbourhood Residential Zone. The proposed single and double storey dwellings will maintain the view lines to the Dandenong Ranges, and the generous front setbacks and private open space provision will maintain the spacious garden setting in the area. Existing significant trees will be retained within the front setback to maintain the leafy setting of the streetscape, and the proposal provides for sufficient room for additional canopy tree planting and landscaping to satisfy the Garden City Character objective.

The proposed dwellings are setback a minimum of 5 metres from the rear boundary, meeting the requirement of Standard B17. This setback is more generous than the existing setback of the properties directly behind the subject land in Dalkeith Close. The proposal will allow for a green corridor to be developed along the rear property boundary and will contribute to the leafy character of the area.

Assessment under Clause 55 (ResCode)**Neighbourhood Character and Built Form**

New development must be designed to ensure that it respects existing neighbourhood character, contributes to the preferred character and responds to the features of the site. The height and setbacks of buildings must also respect existing or preferred neighbourhood character and limit the impact on the amenity of existing dwellings.

Council's Residential Development and Character Policy (Clause 22.01) seeks to ensure that development is responsive to the key characteristics that make up the preferred neighbourhood character of each character type. In addition to the matters discussed above in response to the zone objectives, the proposal is considered to satisfy the existing and desired character of the area with 'Dandenong Valley Escarpment Areas', as:

- The proposed development respects the scale, height, massing and character of the surrounding area which consists of other two storey dwellings of similar scale and bulk.
- Dwelling 9 will be setback 19.5 metres from the front boundary. Its visual impact to the streetscape will be minimal with the retention of the 16 Metres high *Ficus rubiginosa* 'Port Jackson Fig' within the front setback.
- The development provides opportunities for new landscaping along premises of the site and within secluded private open space areas.
- Garages are mainly located behind the front setback and will be accessed via a central driveway. One new crossover will be created for access of the garage of dwelling 1. The combined width of the two crossovers will take up approximately 17.5% of the street frontage which is significantly less than the 33% allowed in Standard B14 of Clause 55.03-9.
- Except the garage of dwelling 1, no walls are proposed to be constructed on property boundaries to maintain the rhythm of spacing in the neighbourhood.
- The dwellings are generally setback 3-5 metres from the property boundaries which is sufficient for canopy tree planning to soften the visual impacts from adjoining properties.
- The first floors are separated and recessed from the ground floor walls to avoid a continuous built form of the two storey buildings.
- The proposed dwellings have been designed to maximise north facing windows to achieve energy efficiency. The wall and roof materials proposed for each of the dwellings reflects the existing character of the area.
- The meter box will be higher than 1.2 metre after meeting the minimum clearance requirement by the relevant Authority. A permit condition will require it to be relocated outside the front setback to minimise its visual disruption to the streetscape.

Landscaping and Vegetation Removal

Tree Retention

The land is subject to a Vegetation Protection Overlay. An arborist report was submitted with the application concerning trees and vegetation on the subject land as well as neighbouring land. Two trees over 10 metres in height of high retention value are identified as No. 5 and 6.

No.5 is a 16 metres high *Ficus rubiginosa* 'Port Jackson Fig' and No.6 is a 14 metres high *Quercus robur* 'English Oak'. They are in fair and good health and fair condition. Both trees are proposed for retention within the front setback of the development.

The report indicates that the retaining wall cut for the proposed dwelling 9 will encroach into the Tree Protection Zone (TPZ) of Tree No.5 by 11%. This tree has moderate drought tolerance so is likely to cope with the encroachment, and relevant tree health measures are recommended for its ongoing health which will form a permit condition if a permit was to issue.

The footprint of the proposed dwelling 1 will encroach into the TPZ of Tree No.6 by 10%. This tree has high drought tolerance and is likely to copy with the encroachment. Similar to Tree No.5, relevant tree health measures are recommended, and they will form a permit condition if one was to issue.

The central driveway and visitor car park will be built above natural ground level using permeable material. The extent of this encroachment is 15% of the TPZ of Tree No.5 and 27% of the TPZ of Tree No.6. This will have minimal impacts on both trees' health and no impact to their stability as there are no encroachments within the Structural Root Zone (SRZ). The driveway and carpark surfaces will be permeable which will allow rainwater to infiltrate into the soil.

Tree Removal

Apart from the two significant trees to be retained within the front setback, the remaining trees on site all have low retention value and are proposed for removal. These trees are all between 2-8 metres high and removal of these tree do not require planning approval within the provision of Vegetation Protection Overlay.

Whilst regard must be given more broadly to the retention of trees within a development, all of these trees have poor to fair health and structure, with the exception of Trees No.7-11 which have good health but low retention value with life expectancy of less than 10 years.

It is considered that an improved landscape outcome can be achieved for the site as part of the development by removing these trees and replacing them with new canopy trees.

Neighbouring Trees

The proposed development does not encroach into the TPZs of the majority of the trees on adjoining properties, however the proposed retaining walls or outdoor paving will encroach into the TPZs of Trees No.30, 35 and 43 by 9%, 2% and 10%. These encroachments are minor and these trees will remain viable. Suggested protection measures will be incorporated by permit conditions if one was to issue.

The site provides for landscaping opportunities along both street frontages and within perimeters of the site. A comprehensive landscape plan has been prepared with the application. In addition to the retention of the *Ficus rubiginosa* 'Port Jackson Fig' and *Quercus robur* 'English Oak', the plan includes the provision of two new canopy trees within the front setback of dwellings 1 and 9, at least one canopy tree within the secluded private open space of each dwelling and additional trees in front of dwellings 2-8 and along the central driveway. The proposed canopy trees will have a mature height of 8 to 15 metres.

External Amenity Impacts**Daylight to Windows**

The proposal will not unreasonably impact daylight to any existing habitable room windows on neighbouring properties. Only dwellings 8 and 9 are sited adjacent the adjoining dwelling at 118 Lum Road and they are setback 5 metres from the southern property boundary which is sufficient to avoid impacting the habitable room windows.

Overshadowing of Secluded Private Open Space

Clause 55.04-5 Standard B21 *Overshadowing Open Space Objective* requires at least 75 per cent or 40 square metres, with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space of an existing dwelling to receive a minimum of five hours of sunlight between 9am and 3pm on 22 September.

Additional shadows generated by the proposed dwellings will, for the most part, fall within the subject site. The rear yards of properties adjoining to the east will have a small amount of additional shadowing at 3pm that is not significant.

Overlooking

The proposal will not result in any unreasonable overlooking into adjoining habitable room windows or secluded private open space to the north and south, as all habitable room windows at the upper levels are screened using highlight windows or obscured glazing to a height of 1.7 metres. The proposed 2.1 metres high fence on the northern boundary and 2.4 metres high on the southern boundary are sufficient to prevent overlooking from the ground floor or alfresco areas of the dwellings.

Internal Amenity Impacts

The proposal provides for a high level of internal amenity for residents as:

- Majority of the proposed dwellings are provided with a secluded private open space exceeding the minimum requirement of 35 square metres; where there are ample room to meet the needs of outdoor recreation for future residents.
- In addition to the main secluded private open space areas, each dwelling is provided with a service yard for storage of rainwater tank and garbage bins.
- The secluded private open space of dwellings 2, 3, 4, 5, 6 and 9 will receive adequate north solar access due to their orientation.
- The secluded private open space of dwellings 7 and 8 is located on the southern side of the dwellings, however it will receive adequate sunlight given the sufficient setback.
- Six of the dwellings contain at least one bedroom and bathroom on the ground floor for people with limited mobility.
- Each dwelling is provided with its own entry and canopy which provides a sense of identity and address, and externally accessible secure storage.
- Each dwelling is provided with a double garage and vehicles from the central driveway can exit the site in a forward direction without multiple manoeuvre.

Car Parking, traffic and access

The requisite car parking spaces required under Clause 52.06 would be provided as shown in the following table:

Use	Number of Dwellings	Clause 52.06 Requirement	Car spaces required	Car spaces provided
Three bedrooms or more dwelling	9 Dwellings	2 spaces per dwelling	18 spaces	18 spaces
Visitor Parking	9 Dwellings	1 space for every 5 dwellings	1 spaces	2 spaces within the development
Total	9 Dwellings		19 spaces	20 spaces

The proposal provides for one surplus visitor car park and does not seek a reduction of car parking.

The existing centralised vehicle crossover to Lum Road is proposed to be widened to 5.6-6.1metres providing for 2-way traffic. One additional crossover is proposed towards the northern end of the street frontage, with a width of 3 metres. The location of the proposed crossover will not adversely impact on any street trees

All vehicles can exit the site in a forward's direction.

Waste will be collected by Council. There is considered to be adequate area within the naturestrip for bins on collection day.

Construction Management

A Construction Management Plan including details of staging construction works and construction vehicle access traffic management detail would be a permit condition requirement, should a permit be recommended. Construction Management Plan requirements seek to minimise amenity impact of the proposed development on the surrounding area.

Objections not previously addressed

- *The proposal will impact on the heritage character of the area.*
Existing dwelling of the land is not heritage listed and the subject site and adjoining properties are not within the Heritage Overlay.
- *The proposal does not satisfy the Guidelines for multi-storey development of three storeys and above.*
There is no three storey component in this proposal.
- *Additional vehicle crossover and potential impact on access of emergency vehicles.*
The combined width of the crossovers takes up approximately 17.5% of the street frontage, which will not impact on access of emergency vehicles.
- *The proposal does not provide good accessibility for people with limited mobility.*
The proposed dwellings are constructed in response to the slope of the land and generally provide minimal steps from the driveway to the porch in front of the dwellings. In addition, the proposal includes two single storey dwellings, and majority of the double storey dwellings (except dwellings 3, 7 and 9) contain a bedroom with bathroom on ground level to cater for people with limited mobility.
- *Noise from future residents.*
A Planning Permit is not required for the use of the land for residential dwellings. Therefore the noise generation from future residents is not a relevant planning consideration.
- *The proposal will set a precedent of multi-dwelling developments.*
The zone of the land does not prohibit multi-dwelling development. Each application will be assessed on its merits.

CONCLUSION:

The proposed development provides for an increase in housing diversity, satisfying the objectives of the planning policy framework including the local planning framework. The design of the proposed dwellings allows for retention of significant trees within the generous front setback. The proposed development allows for good opportunities for additional landscaping, maintaining the Garden City Character which is a key objective of the Neighbourhood Residential Zone

The proposed dwellings are designed to respect the neighbourhood character in terms of building height and mass. The dwellings will provide for a good level of internal amenity, with generous secluded private open space areas. The proposal will not cause unreasonable overlooking or overshadowing impacts to adjoining properties after conditions are satisfied.

Whilst canopy trees are proposed to be removed from the site, the large *Ficus rubiginosa* 'Port Jackson Fig' and *Quercus robur* 'English Oak' are to be retained. A new and well-designed landscape setting will be provided for the new development which includes additional canopy tree planting.

It is therefore recommended that approval be granted for the application subject to conditions.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Development Plans.

Attachment 2 – Aerial Photograph (January 2019).

Attachment 3 – Zoning and Overlays Map.

Attachment 4 – Objector Properties Location Map.