

**1.4 149 HANSWORTH STREET, MULGRAVE
AMENDMENT TO AN EXISTING PLANNING PERMIT WHICH ALLOWS THE
DEVELOPMENT OF TWO RESIDENTIAL APARTMENT TOWERS UP TO 10 STOREYS
IN HEIGHT AND 30 TOWNHOUSES
(TPA/45451)**

EXECUTIVE SUMMARY:

Planning Permit TPA/45451 was issued on 8 November 2017 for the land at 149 Hansworth Street, Mulgrave for the development of residential apartments and townhouses.

The applicant has applied directly to VCAT to amend the Permit and plans pursuant to Section 87A of the Planning and Environment Act 1987. Whilst Council is not the decision maker in this instance, Council must form a position on the proposed application.

The proposed amendment seeks to stage the development, reduce the number of townhouses by 2, reduce the 3 storey townhouses to 2 storeys and vary setbacks and design details.

The application was advertised at the direction of the Tribunal. No submissions were received and no parties have joined the proceedings at VCAT.

Key issues to be considered relate to the staging of the development (and consequential changes to conditions), the massing of the townhouses, the internal amenity of townhouses and provision of landscaping within the site.

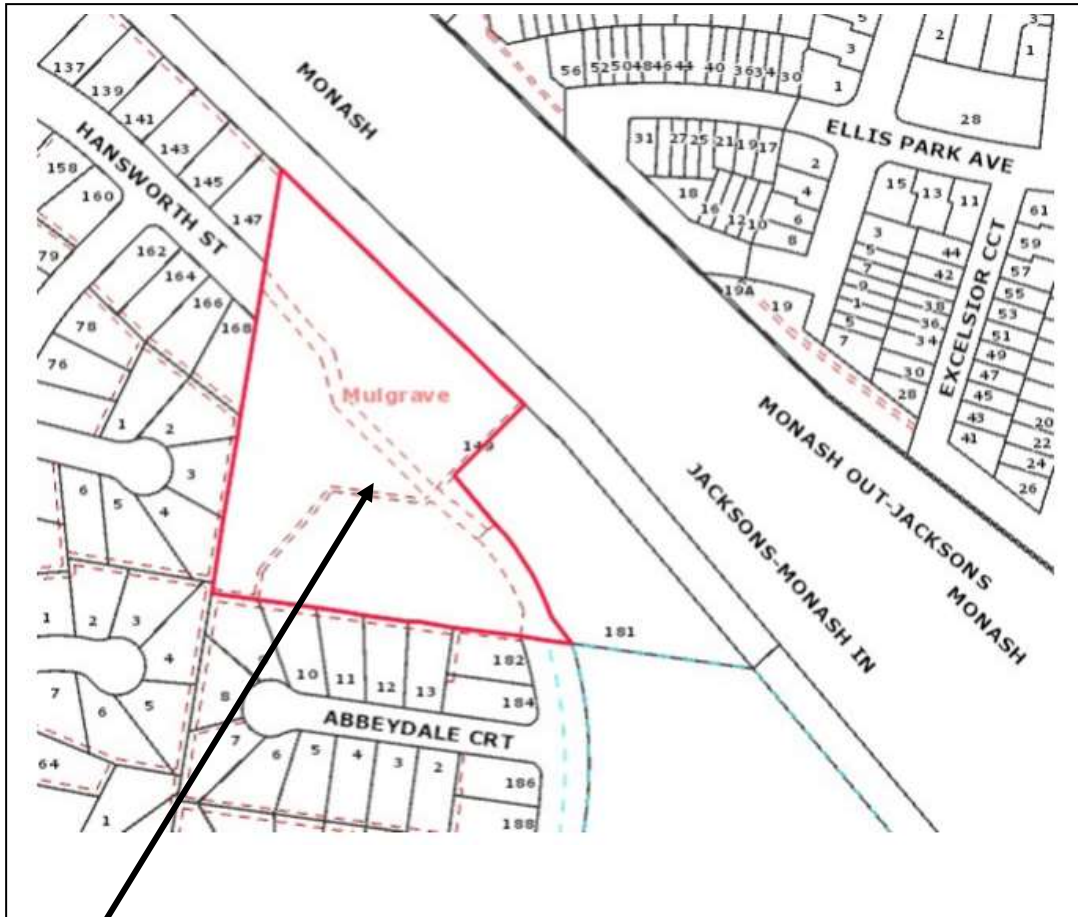
This report assesses the proposal against the provisions of the Monash Planning Scheme including the relevant state and local planning policy framework.

The reason for presenting this report is Council decided the initial application.

The proposal is considered appropriate having regard to the relevant provisions of the Monash Planning Scheme, subject to conditions. It is recommended that Council resolve to support the application to amend the permit and plans.

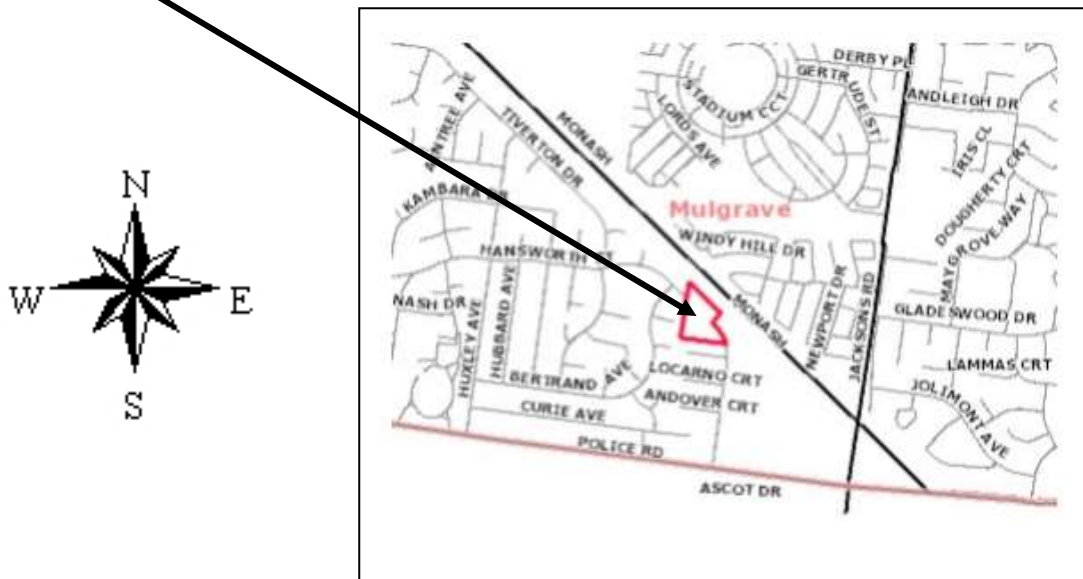
RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Alexandra Wade
WARD:	Mulgrave
PROPERTY ADDRESS:	149 Hansworth Street, Mulgrave
EXISTING LAND USE:	Vacant
PRE-APPLICATION MEETING:	Yes
NUMBER OF SUBMISSIONS:	Nil
ZONING:	General Residential Zone, Schedule 2
OVERLAY:	Nil
RELEVANT CLAUSES: <u>Planning Policy Framework</u> Clause 11.01-1R- Settlement – Metropolitan Melbourne Clause 15.01-1S&R- Urban Design Clause 15.01-2S- Building Design Clause 15.01-4S & R- Healthy Neighbourhoods Clause 15.01-5S- Neighbourhood Character Clause 15.02-1S- Energy and Resource Efficiency Clause 16.01-1S & R- Housing supply Clause 16.01-2S- Housing affordability Clause 17.01-1S&R- Diversified Economy Clause 18.02-1S & R- Sustainable Personal Transport Clause 18.02-4S- Car Parking Clause 19.03-3S- Integrated Water Management	<u>Local Planning Policy Framework</u> Clause 21- Municipal Strategic Statement) Clause 21.04- Residential Development Clause 21.08- Transport and Traffic Clause 21.13- Sustainability and Environment Clause 22.01- Residential Development and Character Policy Clause 22.04- Stormwater Management Policy Clause 22.13- Environmentally Sustainable Development Policy <u>Particular Provisions</u> Clause 52.06- Car Parking Clause 52.34- Bicycle Facilities Clause 53.18- Stormwater Management in Urban Development Clause 55- Two or more dwellings on a lot and residential buildings Clause 65 – Decision Guidelines
STATUTORY PROCESSING DATE:	N/A

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



149 Hansworth Street, Mulgrave – Amendment To An Existing Planning Permit Which Allows For The Development Of Two Residential Towers Up To 10 Storeys In Height And 30 Townhouses

RECOMMENDATION:**A**

That Council resolves to support the application for an amendment of Planning Permit **(TPA/45451)** under Section 87 of the *Planning and Environment Act 1987* for land at 149 Hansworth Street, Mulgrave as the application is lodged in general compliance with relevant Council Policies and the provisions of the Monash Planning Scheme, subject to the following changes:

Staging Plans

- a) The staging plan to include details of the built form of the apartment component;
- b) The staging plan to be revised to remove the colour hatching of the easement, and clarify that this area is located within Stage 1;
- c) The staging plan to include written details of all works to be included in each stage;
- d) The triangular open space / landscaped area on the eastern side of Townhouses 24-28 to be included within Stages 1 or 2;

Stage 1 Plans

- e) A landscaping area to be provided within the accessway, between the garages associated with Townhouse 8 and 9;

Stage 2 Plans

- f) Elevation plans to be titled which represent the elevation provided (i.e. north, south, east, west);
- g) The front fence to Townhouses 23, 25 and 27 reduced in height to 1.5 metres and set back a minimum of 500mm from the pedestrian footpath;
- h) The clothes lines associated with Townhouses 23, 25-28 removed and the clothes lines associated with Townhouses 22 and 24 relocated to be adjacent to the fence adjoining the vehicle driveway;
- i) Boundary fences on the northern side of Townhouses 22 and 24 to be a maximum of 1.8 metres in height;
- j) A minimum of two windows on the ground floor, south facing walls associated with Townhouses 27 and 28;
- k) The first floor master bedroom windows associated with Townhouses 23-28 to be screened using louvres which allow views downwards and up to the sky, however prevents overlooking to bedroom windows opposite;
- l) Full details as required by the endorsed Waste Management Plan;

Stage 3 Plans

m) Full details as required by the endorsed Waste Management Plan.

B

That the above resolution be Council's position at the VCAT hearing and authorises the Director City Development to consent to any further consequential amendments to the permit conditions required provided that they do not substantially alter the development from that agreed above.

BACKGROUND:**History**

Planning Permit TPA/45451 was issued on 8 November 2017 for the land at 149 Hansworth Street, Mulgrave at the direction of the Tribunal, following Council's decision to refuse the application. The Permit was issued for the development of two residential apartment towers (including podium) of 9 and 10 storeys in total height and associated landscaping works and for 30, two and three storey townhouses and associated landscaping and works.

The apartment towers are proposed on the northern side of the development, adjacent to the Monash Freeway and 181 Hansworth Street. The townhouses were proposed along the western and southern boundaries of the site, in addition to a triangular pocket through the centre of the site between the pedestrian and vehicle accessways.

Key issues considered by the Tribunal were the connectivity across the site (with the two extensions of Hansworth Street), whether or not the development is in keeping with the character of the area, and whether the proposal would result in any unreasonable external amenity impacts and consideration of traffic and car parking.

An extension of the permit was issued by the Tribunal on 16 November 2020 which allows the development to commence by 8 November 2021 and complete by 8 November 2024.

The Site and Surrounds

The site is large in area (approximately 1.67 hectares), and is generally triangular in shape.

The eastern end of the northern boundary is indented, as it moves around a three storey building associated with Blue Cross aged care facility which abuts the subject land on its north-eastern side.

There is a fall of approximately 8.2 metres diagonally across the site, down to the north-east corner.

The subject land lies in the middle of the extension of Hansworth Street both to the east and the west.

The Monash Freeway and a vacant linear parcel of land (owned by Melbourne Water) are located to the north east of the site. The site abuts residential properties to the west and south, which are also located within the General Residential Zone, Schedule 2.

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

PROPOSAL:

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

- Proposed Staging of the development into three stages as follows:
 - Stage 1 – Townhouses 1-18 (including the pedestrian pathway and vehicle accessway connecting to Hansworth Street, and visitor car parking spaces)
 - Stage 2 – Townhouses 19-21 and 22 - 28
 - Stage 3 – Apartment Building (including communal open space area to the east of Townhouses 24-28).
- Reduction of the number of townhouses by 2 (total of 28).
- Townhouses 10, 16, 17 and 20 reduced from 3 storey to 2 storey.
- Townhouses within the central area (Townhouses 22-28) reduced from 3 storey to 2 storey, with traditional ground floor open space areas (previously balcony areas).
- Various changes to setbacks.
- Relocation of visitor car spaces.

The proposal seeks to amend the Planning Permit conditions as follows:

- Amendment of Conditions 1, 3, 8, 9, 13, 14, 15, 20, 22, 24, 26, 29, 31 and 33 to reflect the staging of the development (allowing amended reports and plans to be submitted and endorsed prior to each stage).
- Amendment of Condition 35 (Permit Expiry) to reflect the extended timeframe allowed by the previous Tribunal order.

Attachment 1 details plans forming part of the application, and Attachment 1a details the changes to the conditions of the Planning Permit sought.

PERMIT TRIGGERS:**Zoning**

The subject site is located within a General Residential Zone – Schedule 2 (Clause 32.08) under the provisions of the Monash Planning Scheme.

A Planning Permit is not required for use of a dwelling within the General Residential Zone.

Pursuant to the requirements of Clause 32.08-6 a permit is required to construct a building or carry out works for a use in Section 2 of Clause 32.08-1. Pursuant to the requirements of Clause 32.08-4 a permit is required to construct two or more dwellings.

Clause 32.08-15 states that the minimum garden area requirements of Clause 32.08-4 and the maximum building height and number of storeys requirements of Clause 32.08-9 introduced by Amendment VC110 (on 27 March 2017) do not apply to: *“A Planning Permit application for the construction or extension of a dwelling or residential building lodged before the approval date of Amendment VC110”*.

It is considered that the lodgement of a s87A application is not defined as “a Planning Permit Application”, and therefore enjoys the benefit of the transitional provisions and the mandatory requirements are not applicable in this case as the original application was lodged in January 2016.

Overlays

The site is not subject to any Overlays.

Particular & General Provisions**Clause 52.06 (Car Parking)**

The Planning Permit which was issued did not grant a reduction of the standard car parking requirements on the site.

The proposal seeks to reduce the number of Townhouses on the site by 2. Therefore the number of resident car spaces on the site have also been reduced accordingly. Each townhouse is provided with 2 car spaces in accordance with the statutory requirement.

A total of 7 visitor car spaces, plus a more informal area of visitor parking (adjacent to Townhouse 2 and 3) was previously proposed for the townhouse component of the land. The revised plans show a total of 8 visitor spaces, all located within ‘Stage 1’. The number of visitor car spaces exceeds the statutory car parking requirement, as 5 spaces are required for 28 dwellings.

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

CONSULTATION:

Public Notice

The application was advertised to surrounding properties which was carried out by the Permit applicant. All persons who previously objected to the initial application were notified.

No statements of grounds were received by any residents.

Referrals

The application did not require any referrals.

DISCUSSION:

Planning Policy Framework (PPF)

The proposal seeks to continue the use and development of the land for residential apartments and townhouses. The proposal is consistent with the state planning policy framework with respect to providing new housing in designated locations that offer good access to jobs, services and transport (Clause 16.01-2S), and to provide for a range of housing types to meet diverse needs (Clause 16.01-3S).

Local Planning Policy Framework (LPPF)

Neighbourhood Character

The character of the overall development remains consistent with the approved development. Building fenestration and materials are generally consistent with the endorsed plans.

The key areas of change are the proposed townhouses through the centre of the site (Townhouses 22-28). The height of these townhouses have reduced to 2 storeys, and have been re-arranged with traditional ground floor living and open space areas.

As a consequence, fencing is proposed adjacent to the access roads, and to the north adjacent to the pedestrian pathway.

Fencing to the north is proposed to be a 2.1 metre high metal vertical picket fence. It is considered that this fence should be reduced to 1.8 metres in height, to reduce its bulk impacts to the internal pedestrian pathway area. There is no need for this fence to be 2.1 metres in height for limitation of overlooking.

Fencing to the east, adjacent to the communal open space area is proposed to be 1.5 metres in height, and also a metal picket fence with 25% transparency. Fencing

is proposed to be set back from the pedestrian pathway, allowing a landscaping buffer in front of the fencing. This is considered to be a satisfactory outcome.

Fencing to the west, associated with Townhouse 23, 25 and 27 is proposed to be a 2.1 metre high brick fence, with metal infill. The fencing is proposed to be directly adjacent to the pedestrian pathway. It is considered that the fence should be reduced to 1.5 metres in height, and the fence should be set back a minimum of 0.5m from the pedestrian pathway to allow for a small landscaping buffer.

The re-arrangement of these central dwellings has improved the 'garagescape' of these dwellings fronting the vehicle accessway. Townhouses 23-28 are now provided with a second pedestrian access point via this accessway, to create further activation of this space. The plans suggest that clothes lines are proposed adjacent to these entrances, which is not supported and should be removed.

The clothes lines associated with the open space of Townhouse 22 and 24 should also be relocated from adjacent to the public areas, to the northern side of the fence adjacent to the driveway.

Townhouses 27 and 28 have a varied interface to the south from the approved plans (previously Townhouses 29 and 30). The endorsed plans include windows to this interface, and an indentation in the built form for each of these Townhouses. The revised plans show a flat brick wall to this interface. It is considered that a minimum of two windows for each of these townhouses be provided on this interface (for example one window to the garage and a highlight window to the kitchen / dining area).

External Amenity Impacts

The proposed changes will have limited potential impacts on adjoining properties, given the limited nature of the changes adjacent to the southern and western boundaries of the site, where the development abuts adjoining residential properties. No changes are proposed adjacent to the boundaries of 181 Hansworth Street, within the south-east corner of the site.

With respect to the southern boundary, the ground floor interface has improved with the area between Townhouses 2 and 3 revised to be part of the secluded private open space of Townhouse 2 (previously identified for visitor car parking). The proposed setbacks of Townhouses to the southern boundary are not proposed to be varied. The floor levels associated with these townhouses remain the same. The general appearance and materials associated with these townhouses have also not varied.

Whilst additional windows will face the southern boundary due to internal layout changes, all habitable room windows are proposed to be screened with fixed obscure glass to 1.7m in height. A 2.1 metre high fence is proposed along the southern boundary of the site (in lieu of the 2.1 metre high fence plus 600mm

trellis previously proposed). The proposed fencing will appropriately screen all ground floor windows.

With respect to the western boundary, variations to setbacks include:

- First floor setback associated with Townhouse 10 reduced from 8.0 metres to 7.0 metres;
- First floor setback associated with Townhouses 13, 14 and 15 increased from 6.9 metres to 8.1 metres;
- First floor setback associated with Townhouse 16 reduced from 8.1 metres to 7.0 metres;
- First floor setback associated with Townhouse 15 increased from 6.9 metres to 8.1 metres; and
- First floor setback associated with Townhouses 16 and 17 increased from 7.1 metres to 8.1 metres.
- First floor setback associated with Townhouse 19 reduced in part from 8.2 metres to 7.4 metres; and
- First floor setback associated with Townhouse 20 reduced from 7.6 metres to 6.6 metres.

It is considered that the proposed changes to setbacks are minor in nature, and continue to exceed ResCode (Standard B17) requirements. This interface has also improved with the deletion of the third floor associated with Townhouses 16, 17 and 20.

Again, windows have been varied however all first floor habitable room windows are proposed to be screened with obscure glass or external screens as required. It is noted that the first floor western facing bedroom windows are not screened, as these windows are set back greater than 9 metres from the western boundary of the site.

Internal Amenity Impacts

The proposed amendments have overall improved the internal amenity of the proposed townhouses.

The loss of two townhouses within the central area of the site, and the conversion of these dwellings to have a traditional ground floor open space area has significantly improved the internal amenity of these dwellings. Each of the dwellings are provided with an area of 35sqm of secluded private open space at the ground floor, with living spaces adjoining. These ground floor areas are functional for each of the dwellings. Each these dwellings are provided with 3 bedrooms on the first floor which are all of functional size.

The distance between the two rows of townhouses in this location (Townhouse 22-27 and 24-28) has reduced. Previously, the townhouses were separated by 7.5 metres at the ground floor, 11.5 metres at the first floor (with a slight

encroachment for Townhouse 24) and 9.5 metres at the second floor. The proposal seeks to maintain the same setback at the ground floor (with the exception of indented front entrance doors) and 6.7 metres at the first floor.

The first floor bedroom windows are located opposite each other, less than 9 metres distance and will require to be screened. The proposed plans suggest that each of the bedroom windows facing the internal accessway at the first floor (being the master bedroom of Townhouses 23-28) is proposed to be screened with external screening to 1.7m in height. To allow for pedestrian surveillance of the accessway below, it is recommended that angled screens be utilised for screening in this instance, which allow downward and upward views, however restrict views at eye level on the angle. This will also improve the outlook and internal amenity of these master bedroom windows.

Landscaping

There is no existing landscaping on the site which is required to be retained. An amended landscaping plan has been prepared with the application. In general, areas for landscaping throughout the site have been maintained. A landscape plan has been provided with the application. However, it is considered that the plan should more clearly show the staging of the development and the individual components of each.

The staging plan has been prepared, showing the triangular parcel of land to the east of Townhouses 24-28 as being within Stage 3. There is concern that the townhouses in Stage 1 and 2 are constructed, and the third stage is sold off separately or not continued and this parcel of land is not landscaped and left as dirt. This parcel of land being landscaped is important for the amenity of these Townhouses. Therefore the recommendation requires that this parcel of land is included within Stage 1 or 2.

Of a minor note, landscaping has been lost between the two driveways of Townhouse 8 and 9. Given the design of these garages and accessway has not changed, it is considered that this landscaping space can be reinstated.

Car Parking, traffic and access

There are no changes to the general accessway layouts. As noted earlier in this report, no car parking reduction is sought.

The location of visitor car spaces have varied slightly, including the relocation of car spaces adjacent to the western side of Townhouses 29-23, to be located on the northern side of the accessway adjacent to Townhouse 28. The visitor car parking area adjacent to Townhouses 2 and 3 has also been deleted. This is considered to be an improvement on the existing situation, with improved opportunities for landscaping.

The bin collection area has been amended. Previously all bins were located on the southern side of Townhouses 29 and 30. The bin storage areas are now divided

into three spaces, adjacent to the internal accessway. It is considered that this is an improvement, as it will have less of a visual impact when bins are placed within the naturestrip.

An amended Waste Management Plan will be required for endorsement pursuant to the conditions of the Permit. It is noted in the tracked changes in the Waste Management Plan for Stage 1 within Condition 1, however not Stage 2 or 3. This should also be included within Stage 2 and 3 requirements.

Proposed Staging of the Development

The proposal seeks to split the development into three (3) stages. Whilst there is no concern with the overall staging of the development, the following aspects are of a concern and should be addressed via additional permit conditions:

- The staging plan is not clear as to which stage the pedestrian pathway (through the easement) is within the centre of the site. This area should clearly be shown to be within Stage 1.
- The staging plan should clearly indicate all works which will be completed upon each stage (in written form), such a pathways, access, landscaping, fencing etc.
- The triangular area to the east of Townhouses 24, 26 and 28 is proposed for communal open space, however is shown to be included within stage 3. The applicant has advised that this parcel of land is proposed to be used as a display suite, however there is concern (as noted earlier in this report), regarding the future of this parcel given its division from the remainder of Stage 3.
- The proposed staging plan should include the building envelope and details of the apartment building, within stage 3. The plans should be reflective of the previously endorsed plans for this area of the site.

Variations to Permit conditions

The variation of conditions of the Permit to stage the application is considered acceptable, given the scale of the development. Condition 1 requirements are proposed to be staged, to allow for more detailed plans for each staging prior to the commencement of that stage. This will allow for the commencement of the Townhouses to occur on time, prior to the expiry of the Permit.

The applicant has sought to amend Condition 35 (Permit Expiry) of the Permit to reflect the Tribunal's previous direction to extend the lapse date of the Planning Permit. It is not considered that this is necessary, however should the Tribunal feel that this is required, there is no concerns with this change.

CONCLUSION:

In summary, it is considered that the proposed amendments pose limited impact to the streetscape and broader neighbourhood character and to adjoining sensitive interfaces.

LIST OF ATTACHMENTS:

Attachment 1 – Proposed Development Plans.

Attachment 1a – Proposed changes to Planning Permit (shown as track changes)

Attachment 2 – Aerial Photograph (February 2020).

Attachment 3 – Zoning and Overlays Map.