

**1.4 71 CLAYTON ROAD, OAKLEIGH EAST
EXTENSION OF TIME - DEVELOPMENT OF TWO DWELLINGS (COMPRISING A DOUBLE STOREY DWELLING TO THE FRONT AND A SINGLE STOREY DWELLING TO THE REAR)
(TPA/38967)**

EXECUTIVE SUMMARY:

An application has been received for an extension of time to Planning Permit TPA/38967 for the development of two dwellings. The original permit was issued on the 25 May 2011. The permit has been extended on three (3) previous occasions. The first two extensions were each for 2 years and the more recent 1 year.

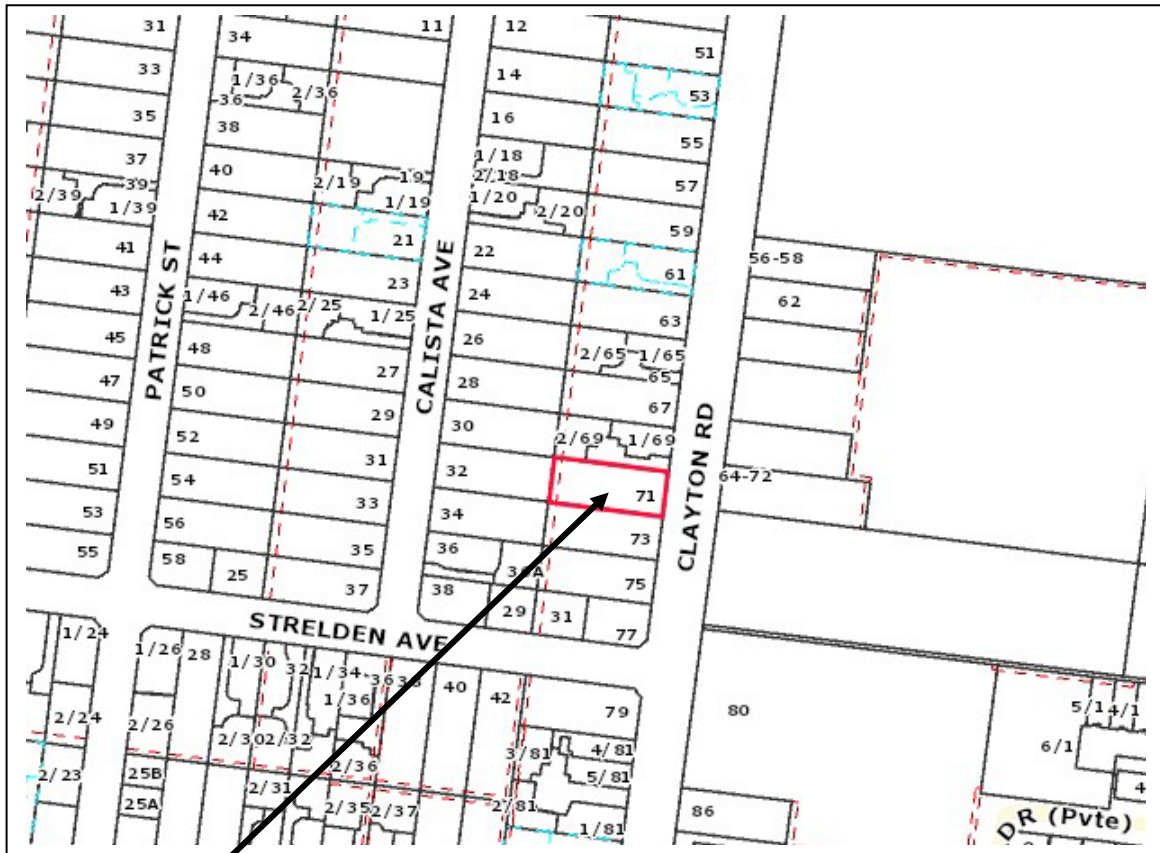
Public notification of the application for an extension of time is not considered necessary given that the approved development is consistent with existing applicable planning controls and policy.

The reason for presenting this report to Council is this is the fourth request for an extension of the permit.

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

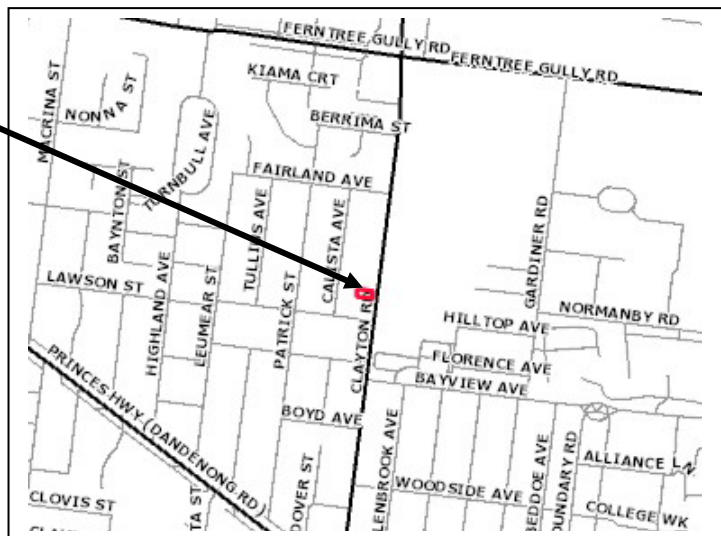
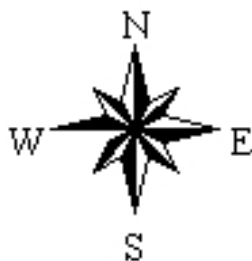
RESPONSIBLE DIRECTOR:	Peter Panagakos
RESPONSIBLE MANAGER:	Natasha Swan
RESPONSIBLE PLANNER:	Steven Oscari
WARD:	Oakleigh
PROPERTY ADDRESS:	71 Clayton Road, Oakleigh East
EXISTING LAND USE:	Residential
NUMBER OF OBJECTIONS:	N/A
ZONING:	General Residential Zone 2
OVERLAY:	-
AMENDMENT C125 (adopted)	General Residential Zone 3
RELEVANT LEGISLATION:	Section 69 of the P&E Act 1987

LOCALITY PLAN



SUBJECT SITE

NEIGHBOURHOOD PLAN



71 Clayton Road, Oakleigh East - Extension Of Time - Development Of Two New Dwellings (Comprising A Double Storey Dwelling To The Front And A Single Storey Dwelling To The Rear) Together With Associated Car Parking And Landscaping

RECOMMENDATION:

That Council:

1. Resolves to issue an **Extension of time** to Planning Permit No. TPA/38967 for the development of two new dwellings (comprising a double storey dwelling to the front and a single storey dwelling to the rear) together with associated car parking and landscaping at 71 Clayton Road, Oakleigh East, pursuant to the provisions of Section 69 of the Planning and Environment Act 1987.

The permit expiry dates extended as follows:

- The development is not started before 25 May 2020
 - The development is not completed before 25 May 2022
2. Advises the applicant that it is unlikely that further extensions will be granted should the development not be commenced by 25 May 2020.

BACKGROUND:**History**

Planning Permit TPA/38967 was issued on the 25 May 2011 allowing the development of two new dwellings. The original application was decided under delegation and there were two (2) objections to the proposal.

The permit has been extended on three (3) previous occasions. The revised expiry date was 25 May 2018 and the request for extension of time was made within 6 months of the expiry date in accordance with the requirements of the *Planning and Environment Act 1987*.

The Site and Surrounds

The subject site is located on the western side of Clayton Road, north of Strelde Avenue, Oakleigh East. The subject site measures 16.589 metres by 42.893 metres, with a total site area of 711.47 square metres.

A single-storey brick veneer dwelling and associated outbuildings exist on the land.

The surrounding land is used for residential purposes and generally developed with single storey dwellings. On the opposite side of Clayton Road is Carlson Reserve and the Monash Community Inn.

PROPOSAL:

The requested extension to the permit is for a further two (2) years due to personal financial and administrative difficulties of the owner.

PERMIT TRIGGERS:

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

“Before the permit expires or within six months afterwards, the owner or the occupier of the land to which it applies may ask the Responsible Authority for an extension of time”.

The request was made on 9 March 2018, within 6 months of the expiry date in accordance with the requirements of the *Planning and Environment Act 1987*.

DISCUSSION:**Assessment**

The total elapse time between the date of issue of the permit and the date of the request to extend the permit is approximately 7 years.

VCAT decision *Kantor v Murrindindi Shire Council (1997)* established the following tests to determine if a permit should be extended:

- Whether there has been a change of planning policy;
- Whether the land owner is seeking to “warehouse” the permit;
- Intervening circumstances bearing on the grant or refusal of the extension;
- The total elapse of time;
- Whether the time limit originally imposed was adequate;
- The economic burden imposed on the land owner by the permit; and
- The probability of a permit issuing should a fresh application be made.

Since the issue of the original permit, Amendment C125 to the Monash Planning Scheme has been adopted by Council in February 2017 and the State initiated Amendment VC110 has been implemented. In accordance with Council’s decision on 28 February 2017, the changes proposed in Amendment C125 should be regarded with any new development. The changes introduced by Amendment VC110 are mandatory to the consideration of a development.

Under the Council adopted Amendment C125, the proposed new residential zone for the subject site is General Residential Zone – Schedule 3 (GRZ3). The proposed changes that will impact development are:

Proposed Change to the subject site under the C125 Amendment	Assessment of approved development
Decreasing the maximum building site coverage from 60% to 50%	Complies – 37.31%
Increasing onsite permeability from 20% to 30%	Complies – 40% (minimum)
Require the planting of a minimum of 1 canopy tree plus 1 canopy tree for every 5m of site width in new multi-unit development	Satisfactory – four trees are shown on the endorsed landscape plan.
Requiring that secluded private open space of 35m ² be clear of all structures and services	Complies Dwelling 1 – the bins and storage are located outside of the main open space area. Dwelling 2 - all services are located outside of the main open space area.
Requiring a minimum 5 metre rear setback	Approx. 70% of Dwelling 2 is setback 3m; the remainder is setback 7.1m and 15.5m
Requiring garages/ carports to be set back behind the front wall of the dwelling.	Complies – both garages are centrally located on the site

Amendment VC110 requires 35% garden area for land above 650 square metres and limits building heights to 11 metres. The proposal has 36.9% garden area and maximum overall building height of 7.3 metres.

Plans of the development were endorsed on 4 June 2012. The applicant has advised that for financial reasons, they have not been able to commence the construction, as well as a legal issue causing delay in acquiring a suitable builder/ contractor.

It is likely that a permit would issue as the development meets all the requirements of current regulations other than the 5.0 metres rear setback. The objective of the setback is to respect the valued garden city character, particularly of those on adjacent lots.

The neighbouring property to the north is developed with two dwellings. The rear dwelling has its garage on the common boundary and is setback 3.0 metres from the rear boundary, with its wider primary open space to the northern side of the dwelling. The neighbouring property to the south has a number of sheds and water tanks occupying the majority of its rear boundary. The property to the rear has an open garden area with little vegetation.

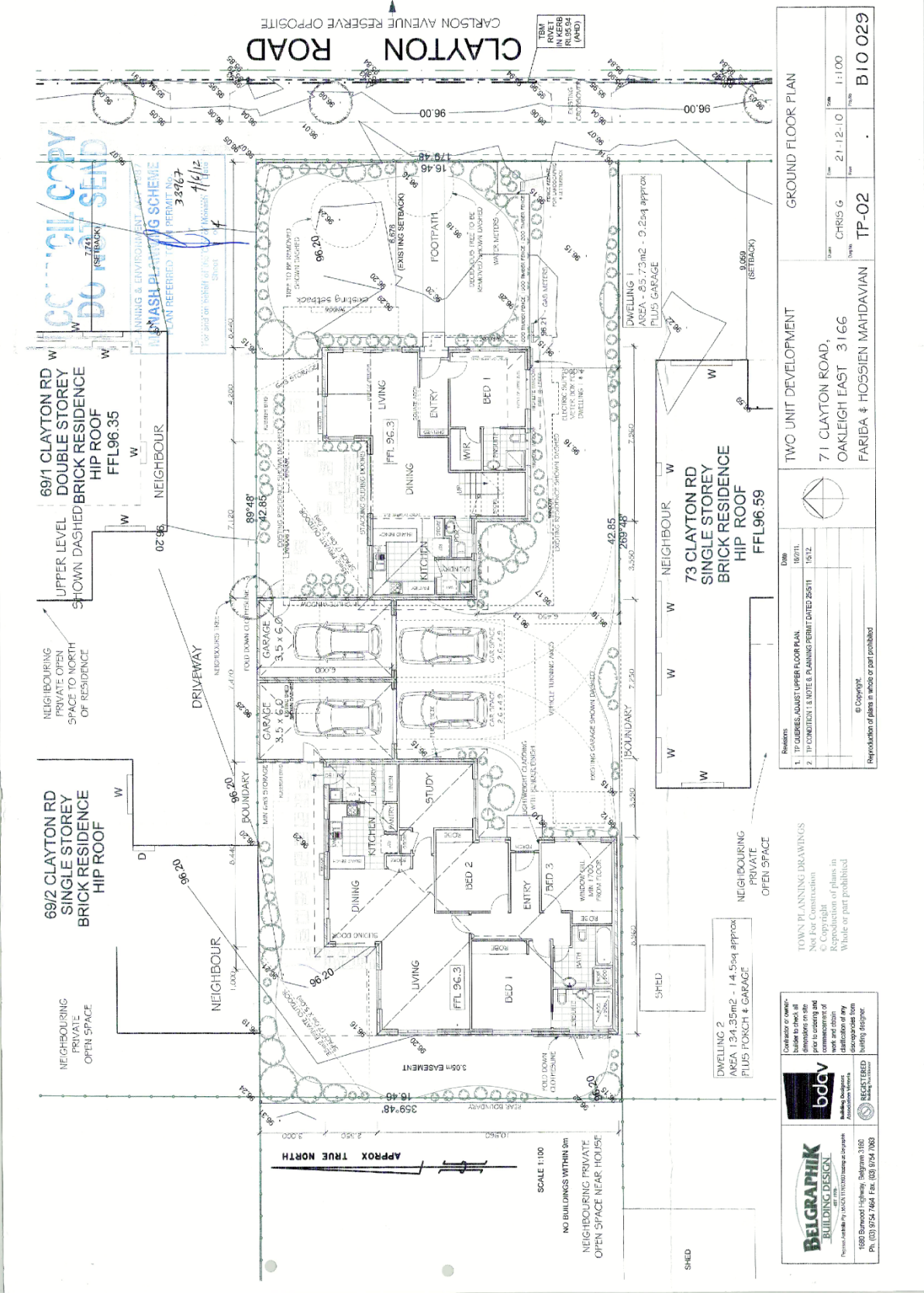
The development has responded to the extent of buildings and structures surrounding the rear of the site, and captured the natural sunlight provided to its north. A 5.0 metres wide landscaped corridor is not characteristic of this area and therefore the adopted approach is considered to support the intent of Amendment C125 for additional landscaping opportunities.

CONCLUSION:

While the development would not meet all the varied standards of Council's proposed amendment, it is considered it achieves a high level of compliance with the objectives of the amendment.

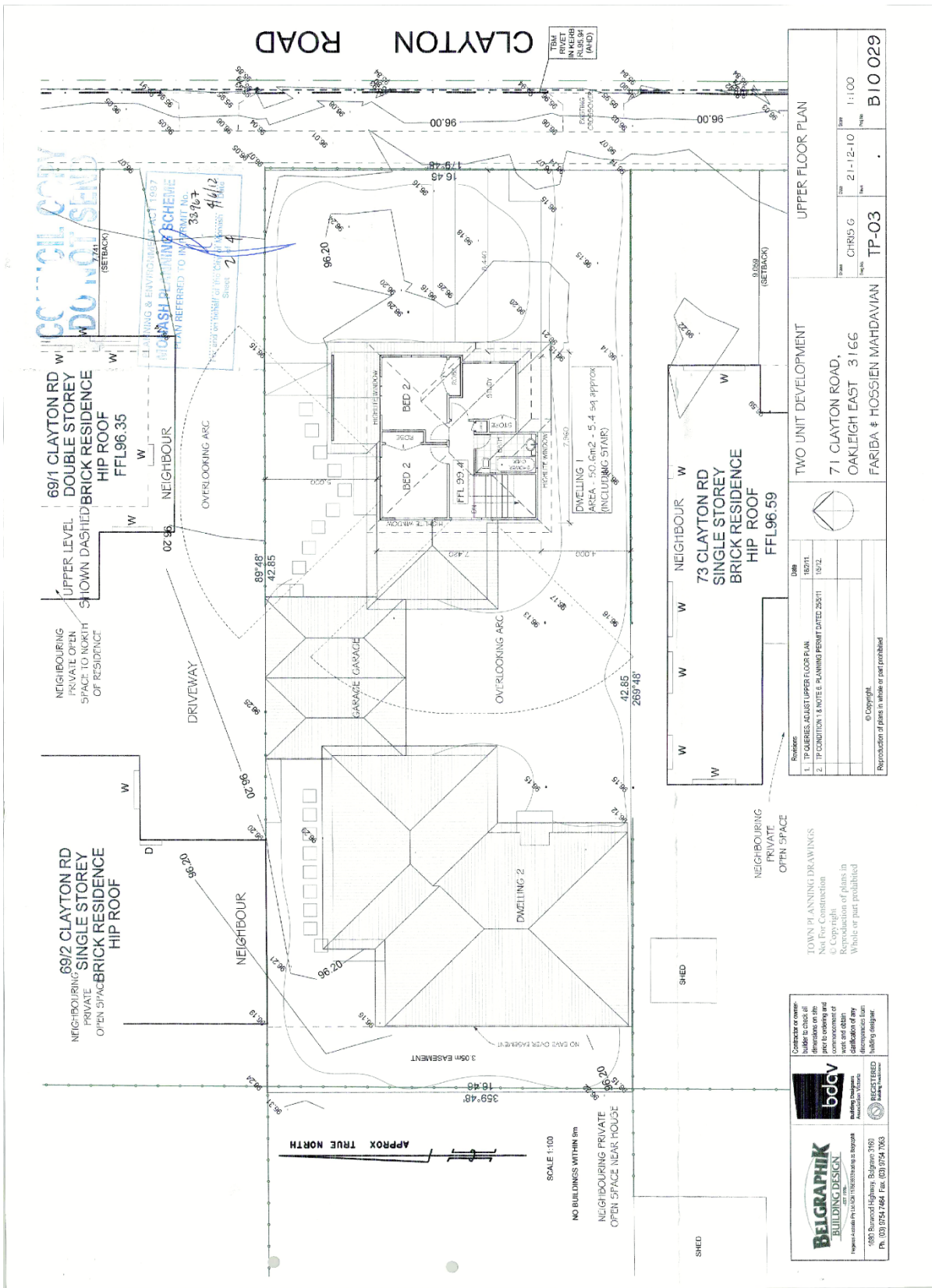
It is recommended the Council approve an extension of two years for the commencement of the development and two years for completion.

ATTACHMENT 1



71 Clayton Road, Oakleigh East - Extension Of Time - Development Of Two New Dwellings (Comprising A Double Storey Dwelling To The Front And A Single Storey Dwelling To The Rear) Together With Associated Car Parking And Landscaping

ATTACHMENT 1 (Continued)



UPPER FLOOR PLAN

TWO UNIT DEVELOPMENT
71 CLAYTON ROAD,
OAKLEIGH EAST 3166
FARIBA & HOSSIEI MAHDAVIAN

DATE: 15/01/18
DRAWN: 15/02/18

Residence:
1. TP CLERKES SOLICITORS FLOOR PLAN
2. TP CLERKES SOLICITORS FLOOR PLAN DATED 20/11/17

TOWN PLANNING DRAWINGS
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Contractor or owner:
Building to check all dimensions on site prior to commencing and confirm with the contractor work and details.
Certification of any discrepancies from building manager.

bdav
Building Design Associates
1/100 Glenview Highway, Bayswater, VIC 3003
Ph: (03) 9354 7466 Fax: (03) 9754 7063

BELGRAPHIK BUILDING DESIGN
1/100 Glenview Highway, Bayswater, VIC 3003
Ph: (03) 9354 7466 Fax: (03) 9754 7063

TP-03
CHRIS G
2-1-12-10
1:100
BIO 029

71 Clayton Road, Oakleigh East - Extension Of Time - Development Of Two New Dwellings (Comprising A Double Storey Dwelling To The Front And A Single Storey Dwelling To The Rear) Together With Associated Car Parking And Landscaping

ATTACHMENT 1 (Continued)

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PLANNING & ENVIRONMENT ACT 1987
MONASH PLANNING SCHEME
 PLAN REFERRED TO IN PERMIT No. **38967**
 For and on behalf of the Council of Monash **4/6/17**
 Sheet **3** of **4**

DWELLING 1 - EAST ELEVATION

STREET ELEVATION

NORTH ELEVATION

REMARKS

- TP CLERKS: ADJUST UPPER FLOOR PLAN
- TP CONDITION 1 & NOTE & PLANNING PERMIT DATED 25/8/17

DATE: 18/07/17

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ELEVATIONS

TWO UNIT DEVELOPMENT
 71 CLAYTON ROAD,
 OAKLEIGH EAST 3166
 FARIBA & HOSSIEEN MAHDAVIAN

Scale: 1:100
 Date: 21-12-10
 Author: CHRIS G
 Title: TP-04
 Project: B10 029

Belgraphik BUILDING DESIGN
 1980 Birwood Highway, Bayswater 3180
 Ph: (03) 9754 7464 Fax: (03) 9754 7989

bday
 Building Design
 Incorporated
 Building Design
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 Building Design
 Incorporated

71 Clayton Road, Oakleigh East - Extension Of Time - Development Of Two New Dwellings (Comprising A Double Storey Dwelling To The Front And A Single Storey Dwelling To The Rear) Together With Associated Car Parking And Landscaping

ATTACHMENT 1 (Continued)

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PLANNING & ENVIRONMENT ACT 1997
MONASH PLANNING SCHEME
PLAN REFERRED TO IN PERMIT NO. 3867
FOR AND ON BEHALF OF THE CITY OF MONASH
Sheet 4 of 4
Date 4/11/12

DWELLING 2 - EAST ELEVATION

DWELLING 2 - WEST ELEVATION

DWELLING 1 - WEST ELEVATION

SOUTH ELEVATION - DRIVEWAY

DWELLING 2 - WEST ELEVATION

Resources

1. DIMENSIONS, ADJUST UPPER FLOOR PLAN
2. TP COMMENT IN RED IN PLAN PERMIT DATED 26/11/12

Date: 18/7/18

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Contractor or owner
 to check all dimensions on site prior to commencing work and obtain verification of any discrepancies from planning department

bdca
 Building Design Centre of Australia

BELGRAPHIK BUILDING DESIGN
 1800 Burnwood Highway, Burngrave 3100
 Ph: (08) 9254 7864 Fax: (03) 9742 7003

ELEVATIONS

TWO UNIT DEVELOPMENT
 71 CLAYTON ROAD,
 OAKLEIGH EAST 3166
 FARIDA & HOSSIEEN MAHDAVIAN

NAME: CHRIS G.
 DESIGNER: TP-05
 DATE: 21-12-10
 SCALE: 1:100
 PERMIT NO: B10 029