

Ordinary Meeting of Council

Olympia, Ibbott & Hawdon Rooms; Level 4, 1 Flintoff Street, Greensborough

27 July 2020

ATTACHMENTS

3.1	Adopting a Dive	rsity Statement for Banyule City Council	
	Attachment 1.	Diversity Statement Implementation Plan	.3
5.1	Proposed Decla Centre Special (ration of Special Charge - Rosanna Village Shopping Charge Scheme	
	Attachment 1.	Attachment 1: Map of Participating Properties	.5
	Attachment 2.	Attachment 2: List of Participating Properties	.7
5.2	Proposed Decla Centre Special I	ration of Special Rate: The Bell Street Mall Shopping Rate Scheme	
	Attachment 1.	Attachment One. Map of Participating Properties	11
	Attachment 2.	Attachment Two. List of Participating Properties	13
5.4		: & 55-60 Rosanna Road, Heidelberg - Proposed Four nts - (P457/2020)	
	Attachment 1.	Advertised plans	17
	Attachment 2.	Planning Permit P554/2015	51
5.5		t & 45 Linden Avenue IVANHOE - Amendment to Mixed Development (P635/2015)	
	Attachment 1.	37-63 Bell Street, IVANHOE Stamped Advertised Plans	51
	Attachment 2.	37-63 Bell Street Ivanhoe P635/2015 - Alternative Floorplan deleting 12 apartments)9
	Attachment 3.	Plans endorsed under Condition 1 as at 29 January 2020 37-65 Bell Street, IVANHOE P635/20151	11
	Attachment 4.	37-63 Bell Street IVANHOE - P635/2015 - Summary of Urban Design Advice for S.72 Amendment14	45
	Attachment 5.	37-63 Bell Street IVANHOE - Consideration of Threshold Issues -VCAT Caselaw18	51
	Attachment 6.	37-63 Bell Street, IVANHOE - Onsite amenity, accessibility and offsite amenity impacts	57
5.6	3 Waverley Ave	nue, Ivanhoe - 3 Storey Apartment Building	

Development (P1246/2018)

	Attachment 1.	Amended Plans Lodged Post Notification	161
	Attachment 2.	Advertised Plans	189
	Attachment 3.	Technical Consideration	217
6.1	Draft Banyule C Exhibition	ommunity Engagement Policy 2020 - For Public	
	Attachment 1.	Draft Banyule Community Engagement Policy 2020	225

Diversity Statement (DS) Implementation Plan

Implementation Action Areas

Key areas proposed that the statement be adopted include:

- 1. To be read out at Council meetings, after the Acknowledgment of Country.
 - It has been advised by the Governance Team that the most appropriate way to action this is to wait until the Meeting Procedures Code is replaced by the Governance Rules as a result of the new Local Government Act, in September 2020. It is anticipated that the new Governance Rules may allow for more flexibility for the Mayor to amend or add to the Order of Meetings.
- 2. To be read out at the start of Advisory Committee meetings, after the Acknowledgment of Country.
 - Contact Officers would be notified of this and supported via the Contact Officer Meetings.
- 3. To be incorporated into the 'on hold' messages the community hears when they ring Council.
 - Collaboration with the Communications and IT team to identify when the next round of
 professional recordings are taking place and schedule in the DS to be included. This is
 the only Action Area that has a cost associated with it and it is expected that it will be
 covered by the Community and Social Planning Team budget.
- 4. To be placed on the Council website at the bottom of the first page, after the Acknowledgement of Country.
 - This requires placing a request with the Communications team.
- 5. On the Brian intranet site home page including information to support staff with how to apply the DS and use it in their teams.
 - \circ $\;$ This will be managed by the Community and Social Planning Team.

This approach strikes a balance by involving key facets of Council- internally with staff, externally with community and the elected members (Councillors). The work associated with implementing the points above is manageable and should give Council good feedback to conduct a review in the future.

Relevant Staff

The Community and Social Planning (CSP) team will be completing the implementation and evaluation of the DS. It also requires consultation with Governance, Communications and IT.

Timeline

Once endorsed by Council, the DS should be introduced to the Implementation Action Areas from August 2020 to June 2021. Following this there will be a report sent to Council including recommendations for next steps.

Evaluation

The evaluation will include consultation with Councillors, advisory committees and Council staff regarding their feedback about the DS during its implementation phase. This will also include anecdotal evidence from community and engagement numbers with content on websites.



Attachment 1 – Map of Participating Properties

Attachment 2 – List of Participating Properties

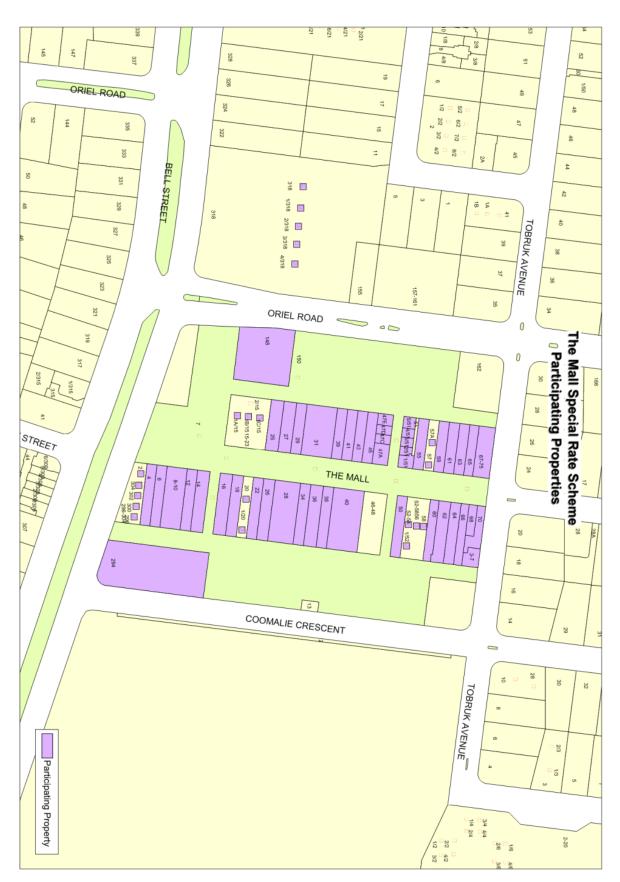
Address	Annual Amount
26 Beetham Parade Rosanna	\$500.00
28 Beetham Parade Rosanna	\$500.00
30 Beetham Parade Rosanna	\$500.00
32 Beetham Parade Rosanna	\$500.00
36 Beetham Parade Rosanna	\$500.00
40 Beetham Parade Rosanna	\$500.00
42 Beetham Parade Rosanna	\$500.00
44 Beetham Parade Rosanna	\$500.00
46 Beetham Parade Rosanna	\$500.00
50 Beetham Parade Rosanna	\$500.00
52 Beetham Parade Rosanna	\$500.00
56 Beetham Parade Rosanna	\$500.00
58 Beetham Parade Rosanna	\$500.00
3/65 Beetham Parade Rosanna	\$500.00
2/65 Beetham Parade Rosanna	\$500.00
1/65 Beetham Parade Rosanna	\$500.00
65 Beetham Parade Rosanna	\$500.00
63 Beetham Parade Rosanna	\$500.00
61 Beetham Parade Rosanna	\$500.00
59 Beetham Parade Rosanna	\$500.00
57 Beetham Parade Rosanna	\$500.00
47-49 Beetham Parade Rosanna	\$500.00
45 Beetham Parade Rosanna	\$500.00
43 Beetham Parade Rosanna	\$500.00
53 Beetham Parade Rosanna	\$500.00
55 Beetham Parade Rosanna	\$500.00
51 Beetham Parade Rosanna	\$500.00
8 Bellevue Avenue Rosanna	\$500.00
9 Bellevue Avenue Rosanna	\$500.00
2 Bellevue Avenue Rosanna	\$500.00
6 Bellevue Avenue Rosanna	\$500.00
4 Bellevue Avenue Rosanna	\$500.00

Attachment 2 – List of Participating Properties

	I
90-94 Lower Plenty Road Rosanna	\$500.00
108 Lower Plenty Road Rosanna	\$500.00
106 Lower Plenty Road Rosanna	\$500.00
1/104 Lower Plenty Road Rosanna	\$500.00
104 Lower Plenty Road Rosanna	\$500.00
100-102 Lower Plenty Road Rosanna	\$500.00
82 Lower Plenty Road Rosanna	\$500.00
96 Lower Plenty Road Rosanna	\$500.00
88 Lower Plenty Road Rosanna	\$500.00
86 Lower Plenty Road Rosanna	\$500.00
114 Lower Plenty Road Rosanna	\$500.00
109 Lower Plenty Road Rosanna	\$500.00
98 Lower Plenty Road Rosanna	\$500.00
129 Lower Plenty Road Rosanna	\$500.00
103 Lower Plenty Road Rosanna	\$500.00
148 Lower Plenty Road Rosanna	\$500.00
1/147 Lower Plenty Road Rosanna	\$500.00
147 Lower Plenty Road Rosanna	\$500.00
145 Lower Plenty Road Rosanna	\$500.00
143 Lower Plenty Road Rosanna	\$500.00
141 Lower Plenty Road Rosanna	\$500.00
139 Lower Plenty Road Rosanna	\$500.00
137 Lower Plenty Road Rosanna	\$500.00
135 Lower Plenty Road Rosanna	\$500.00
133 Lower Plenty Road Rosanna	\$500.00
112 Lower Plenty Road Rosanna	\$500.00
1/129 Lower Plenty Road Rosanna	\$500.00
110 Lower Plenty Road Rosanna	\$500.00
117 Lower Plenty Road Rosanna	\$500.00
111 Lower Plenty Road Rosanna	\$500.00
113 Lower Plenty Road Rosanna	\$500.00
107 Lower Plenty Road Rosanna	\$500.00
131 Lower Plenty Road Rosanna	\$500.00
	\$555.50

Attachment 2 – List of Participating Properties

I.	
1/116 Lower Plenty Road Rosanna	\$500.00
2/116 Lower Plenty Road Rosanna	\$500.00
118 Lower Plenty Road Rosanna	\$500.00
119 Lower Plenty Road Rosanna	\$500.00
120 Lower Plenty Road Rosanna	\$500.00
121 Lower Plenty Road Rosanna	\$500.00
123 Lower Plenty Road Rosanna	\$500.00
124 Lower Plenty Road Rosanna	\$500.00
125 Lower Plenty Road Rosanna	\$500.00
115 Lower Plenty Road Rosanna	\$500.00
1 Ground Level/76-82 Turnham Avenue Rosanna	\$500.00
2 Ground Level/76-82 Turnham Avenue Rosanna	\$500.00
1 Level 1/76-82 Turnham Avenue Rosanna	\$500.00
2 Level 1/76-82 Turnham Avenue Rosanna	\$500.00
44 Turnham Avenue Rosanna	\$500.00



The Bell Street Mall

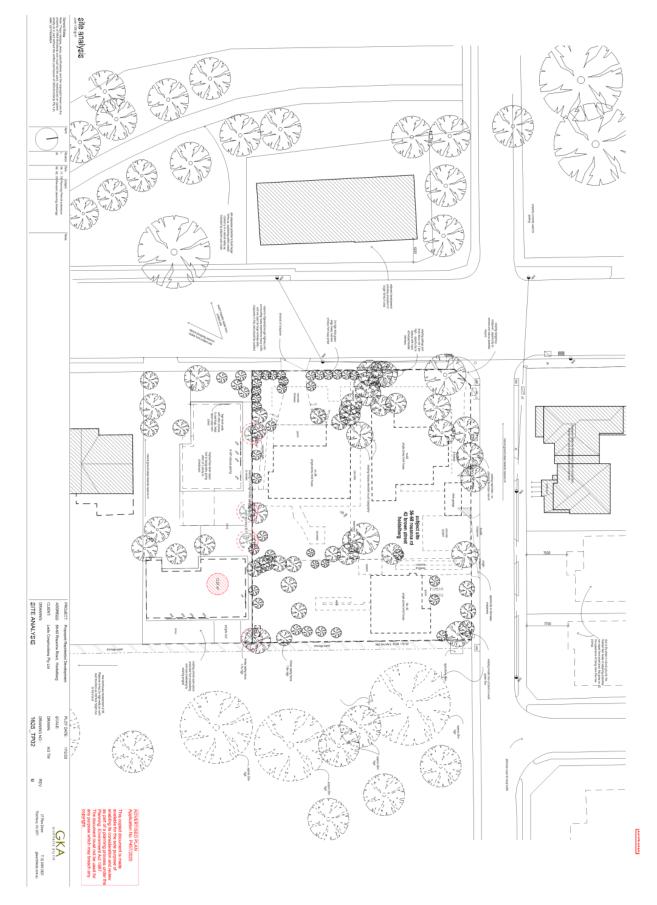
Table showing land and properties in relation to which the Special Rate is declared and the amount payable.

Address	Annual Amount
8-10 The Mall, HEIDELBERG WEST	1440.28
47A The Mall, HEIDELBERG WEST	469.30
18 The Mall, HEIDELBERG WEST	873.88
22 The Mall, HEIDELBERG WEST	695.87
29 The Mall, HEIDELBERG WEST	647.32
43 The Mall, HEIDELBERG WEST	825.33
4/51 The Mall, HEIDELBERG WEST	350.00
59 The Mall, HEIDELBERG WEST	679.68
60 The Mall, HEIDELBERG WEST	614.95
65 The Mall, HEIDELBERG WEST	614.95
62 The Mall, HEIDELBERG WEST	631.13
63 The Mall, HEIDELBERG WEST	598.77
66 The Mall, HEIDELBERG WEST	631.13
6 The Mall, HEIDELBERG WEST	744.41
1/51 The Mall, HEIDELBERG WEST	350.00
14 The Mall, HEIDELBERG WEST	1116.62
2/51 The Mall, HEIDELBERG WEST	350.00
68 The Mall, HEIDELBERG WEST	350.00
25 The Mall, HEIDELBERG WEST	922.43
40 The Mall, HEIDELBERG WEST	1715.39
3/51 The Mall, HEIDELBERG WEST	350.00
64 The Mall, HEIDELBERG WEST	663.50
47D The Mall, HEIDELBERG WEST	350.00
4 The Mall, HEIDELBERG WEST	712.05
34 The Mall, HEIDELBERG WEST	582.58

36 The Mall, HEIDELBERG WEST809.1528 The Mall, HEIDELBERG WEST1812.49	
28 The Mall, HEIDELBERG WEST 1812.49	
55 The Mall, HEIDELBERG WEST 663.50	
61 The Mall, HEIDELBERG WEST 663.50	
70 The Mall, HEIDELBERG WEST 534.04	
45 The Mall, HEIDELBERG WEST 792.96	
47E The Mall, HEIDELBERG WEST 350.00	
16 The Mall, HEIDELBERG WEST 1229.90	
5/51 The Mall, HEIDELBERG WEST 350.00	
50 The Mall, HEIDELBERG WEST 647.32	
38 The Mall, HEIDELBERG WEST 712.05	
27 The Mall, HEIDELBERG WEST 890.06	
148 Oriel Road, HEIDELBERG WEST 2000.00	
12 The Mall, HEIDELBERG WEST 1035.71	
26 The Mall, HEIDELBERG WEST 744.41	
31 The Mall, HEIDELBERG WEST 1699.21	
39 The Mall, HEIDELBERG WEST 825.33	
47C The Mall, HEIDELBERG WEST 350.00	
3-7 Tobruk Avenue, HEIDELBERG WEST 350.00	
3/318 Bell Street, HEIDELBERG WEST 1941.95	
4/318 Bell Street, HEIDELBERG WEST 1472.64	
20 The Mall, HEIDELBERG WEST 679.68	
318 Bell Street, HEIDELBERG WEST 2000.00	
2/318 Bell Street, HEIDELBERG WEST 1990.50	
2 The Mall, HEIDELBERG WEST 566.40	
296-298 Bell Street, HEIDELBERG WEST 598.77	
1B/15-23 The Mall, HEIDELBERG WEST 1197.54	
300 Bell Street, HEIDELBERG WEST 350.00	
302 Bell Street, HEIDELBERG WEST 350.00	

1/318 Bell Street, HEIDELBERG WEST	2000.00
52-54 The Mall, HEIDELBERG WEST	420.76
304 Bell Street, HEIDELBERG WEST	350.00
1/20 The Mall, HEIDELBERG WEST	350.00
1C/15-23 The Mall, HEIDELBERG WEST	695.87
1A/15-23 The Mall, HEIDELBERG WEST	1068.07
57A The Mall, HEIDELBERG WEST	350.00
58 The Mall, HEIDELBERG WEST	350.00
57 The Mall, HEIDELBERG WEST	631.13
56 The Mall, HEIDELBERG WEST	350.00
1/52-58 The Mall, HEIDELBERG WEST	350.00
294 Bell Street, HEIDELBERG WEST	2000.00
67-75 The Mall, HEIDELBERG WEST	388.39

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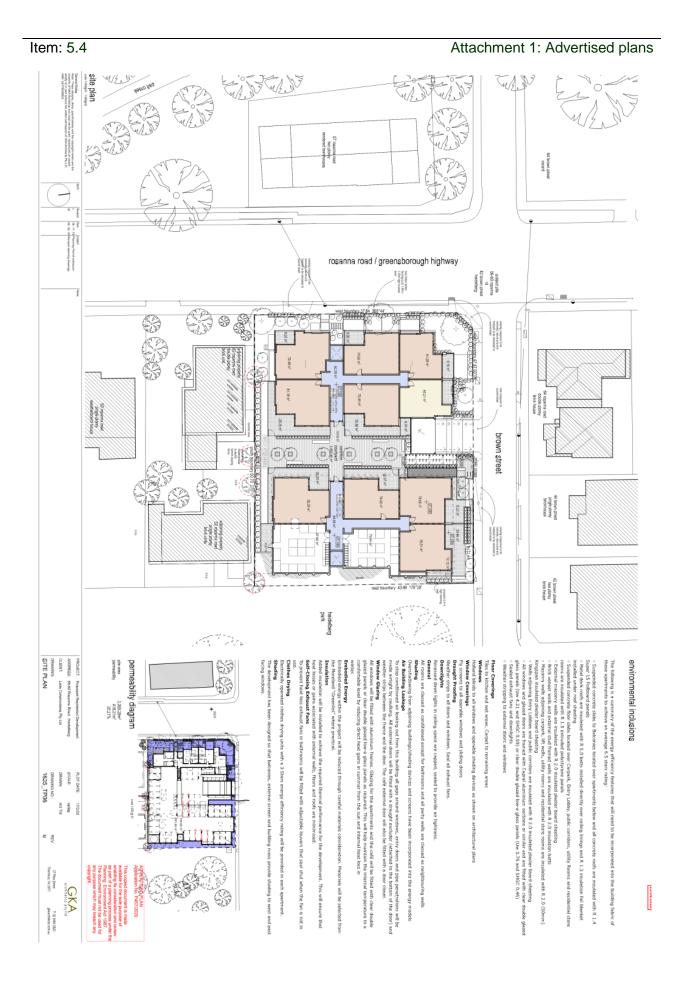




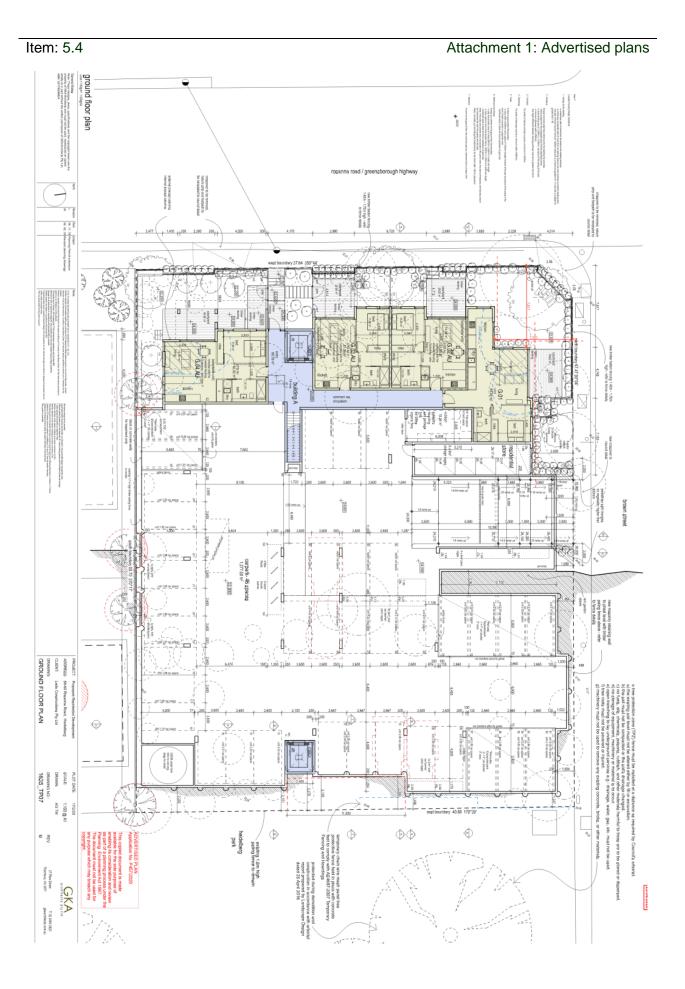
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any purpose which may breach any copyright.														development summary
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available for the sole purpose of enabling its consideration and revie								139.26	347.23		302.17	sublatal floar area		
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			17.00 14.38 18.4	6 6 6 6 0 0 0 0 0 0	1 6.38 1 10.4 9.5	N N	12 12 - K	7.18 14.94 25.89			60.31 75.44 81.18	unit 04 unit 04 unit 04		
			18.4		- 10	- 10	2 12	8.95			74.63	FIRST FLOOR		
								219.21	1626.28	1393,71	232.57	subtotal floor area		
												common circulation and services services, rubbish, storage, parking		
			18.12 14 20.4	<u></u>	10.12 1 6 1 12.4			78.62 28.05 27.99 84.55			64.99 51.96 63.93	unit 01 unit 02 unit 03 unit 04		
												GROUND FLOOR		
			rata storage (m ³)	storage total it outside storage unit (m ²) (m ³)	storage st accessibility within unit a s (AU) (m ³) u	. of baths	no, of beds no, of		NFA (m ²) common (m ²) GFA (m ²). Outdoor space (m ²)	mon (m²) GF/	NFA (m²) com	DETAILED SCHEDULE		
											2988.02 m² 4966.08 m²	total net floar area (apartments) total grass building area		
						46	44			33	5	apartment building		
						Dupu	cages 6m3 car parking	spaces slorage	nits bite		418.21 m*	Summary- Building		
									1 21	78.05		Site area (approx) Site coverage (ground floor of building) Permeable area (including fences and		
			4/3/20		10%. L					adension	Planning Permit extension			
									ment	Infial develops Road, Heidelbs Ions Phy Ltd	Proposed residential development 54-60 Rosanna Road, Heidelberg Leda Contractions Phy Isd	Project Address Client		

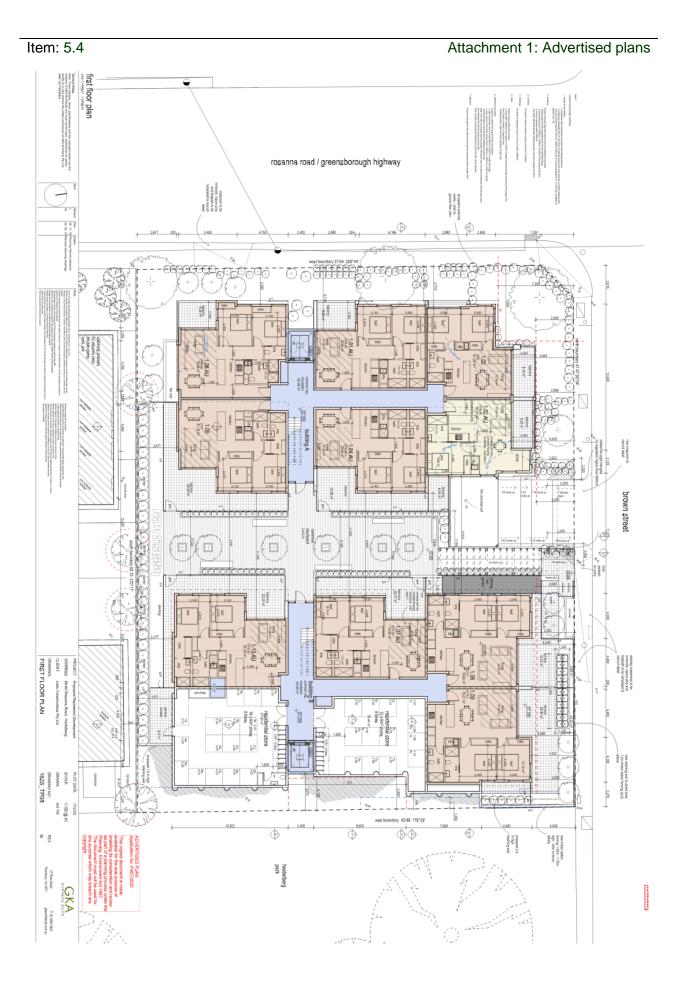
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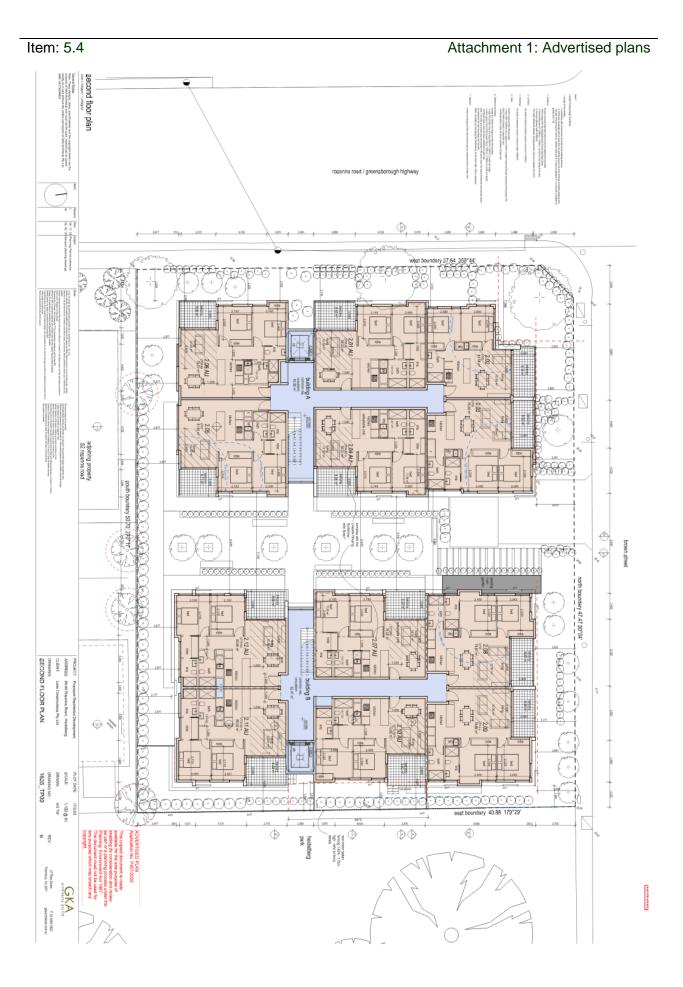
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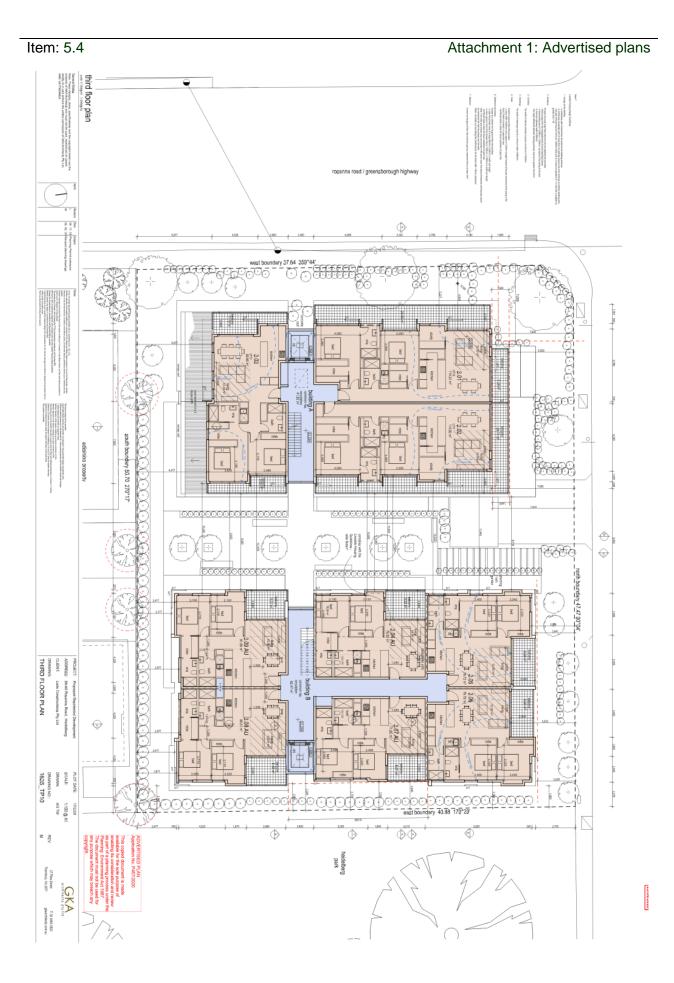


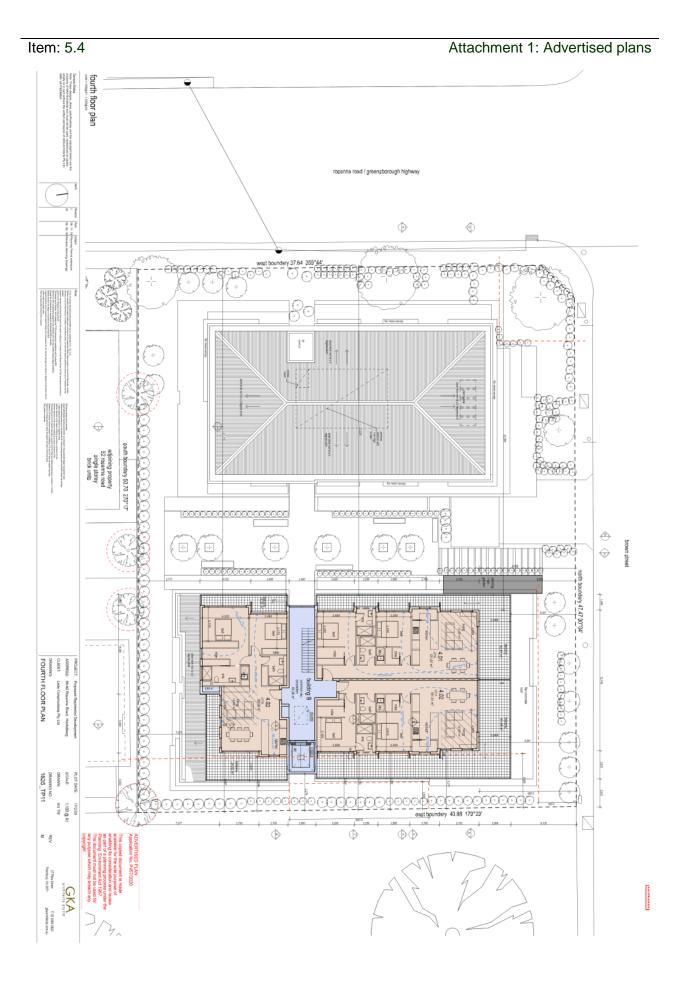
Ordinary Meeting of Council - 27 July 2020

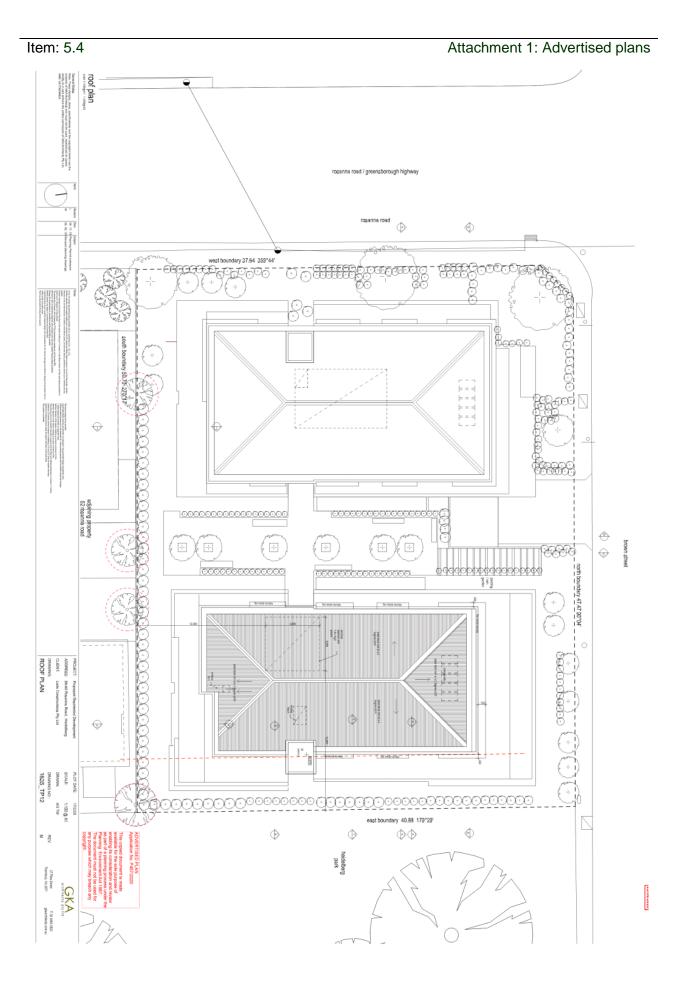






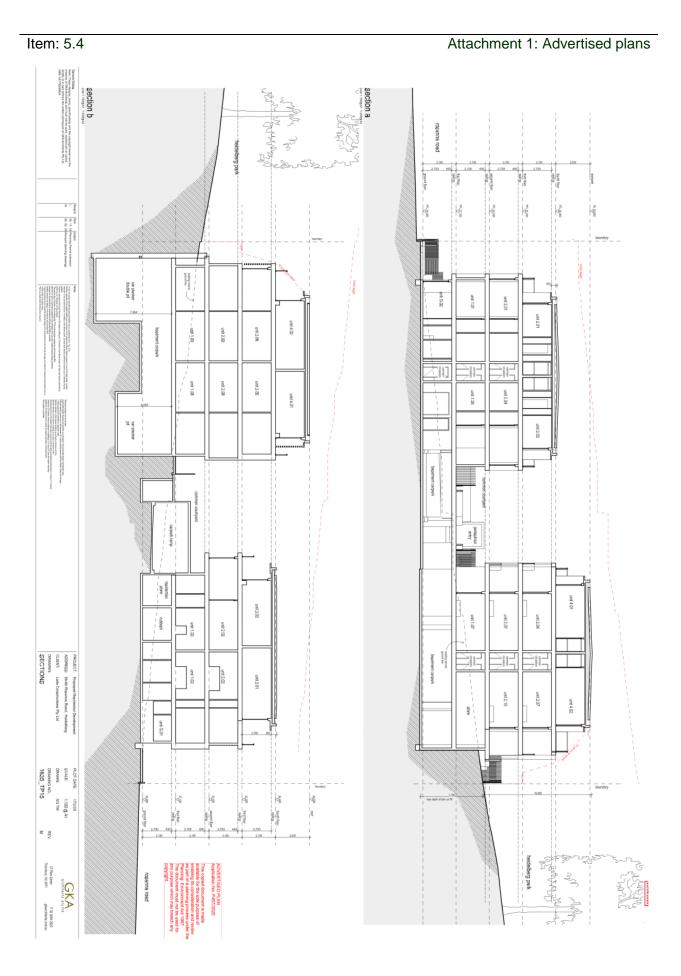








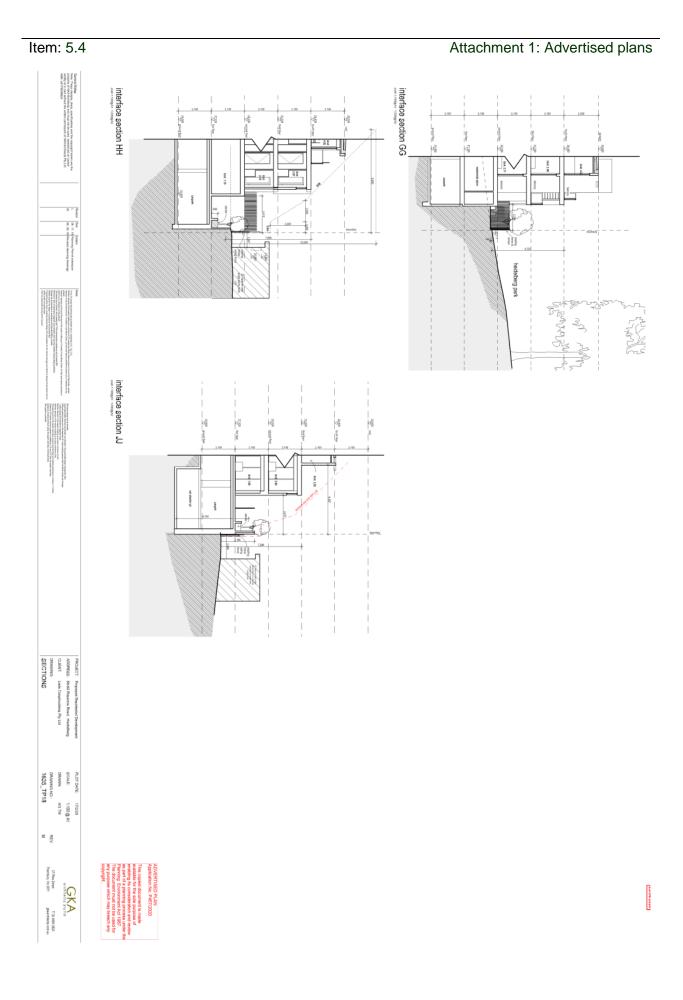


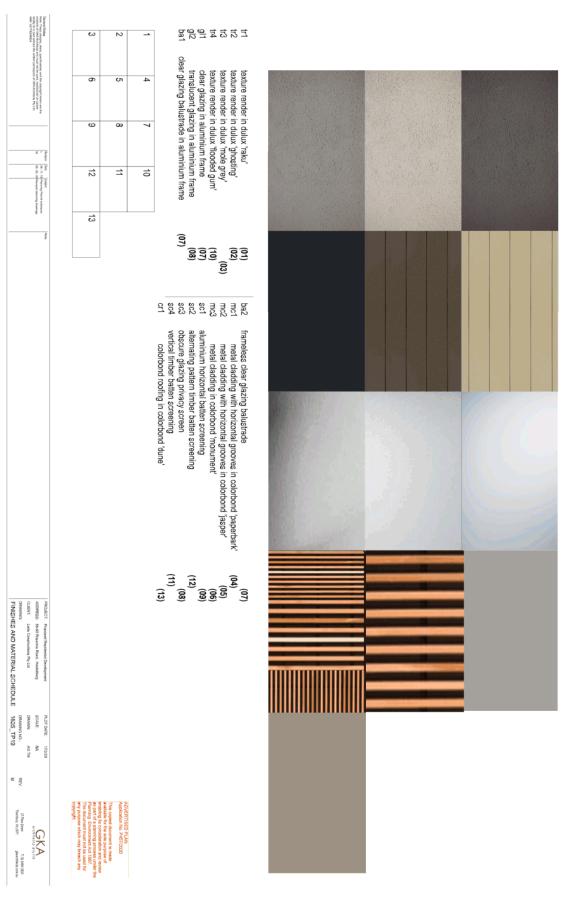


Ordinary Meeting of Council - 27 July 2020



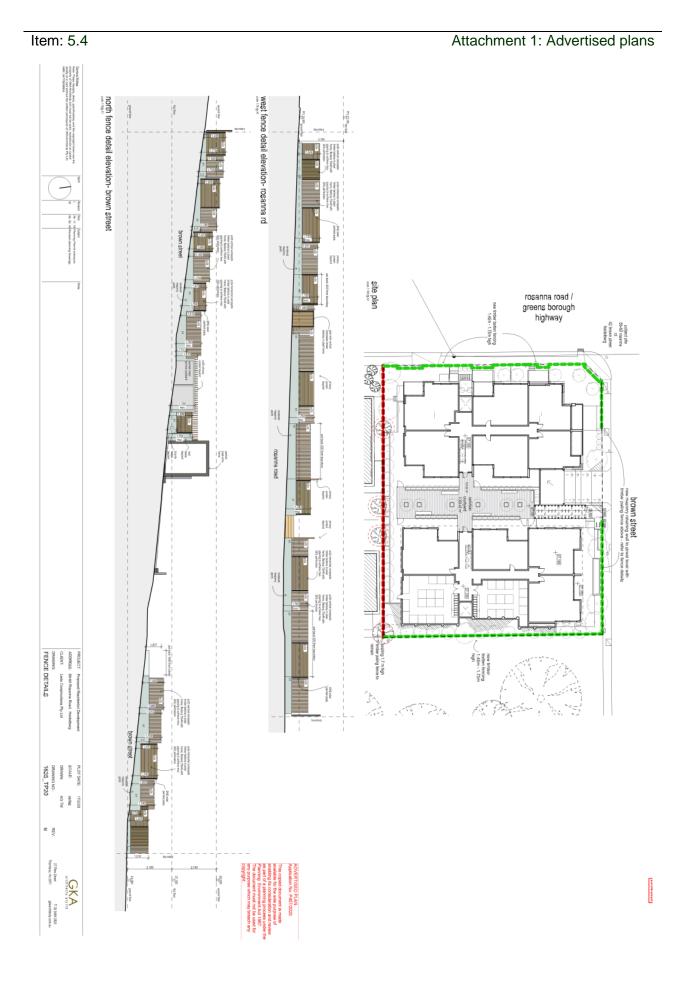


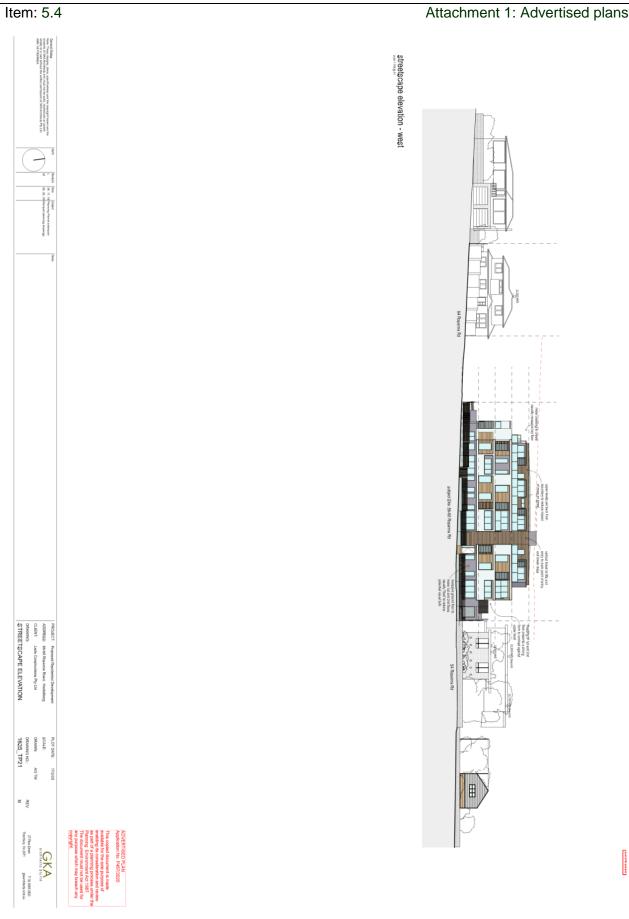




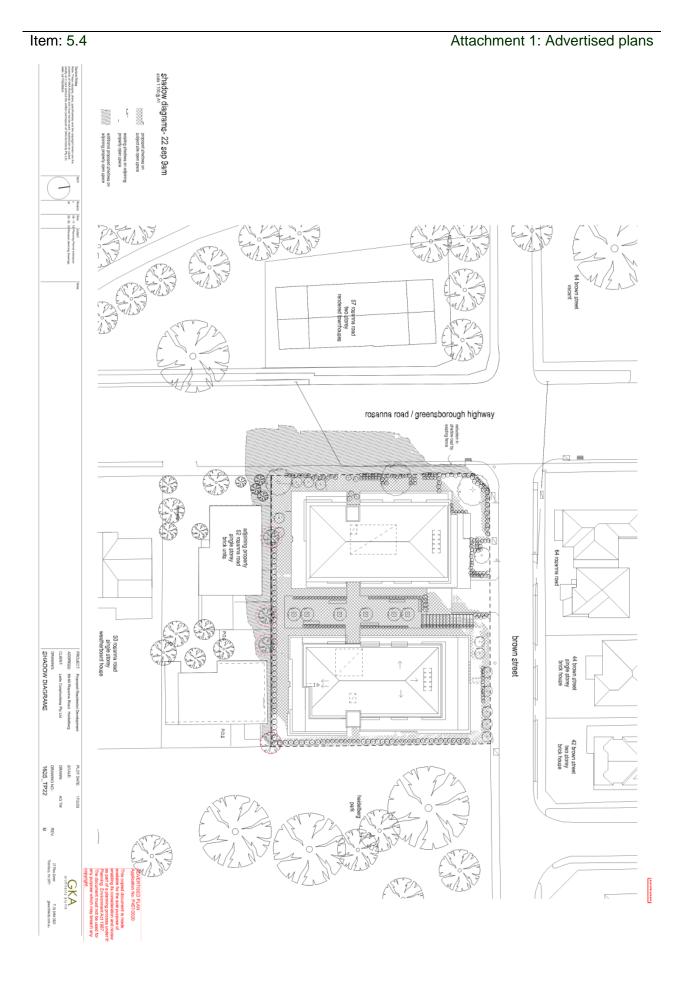
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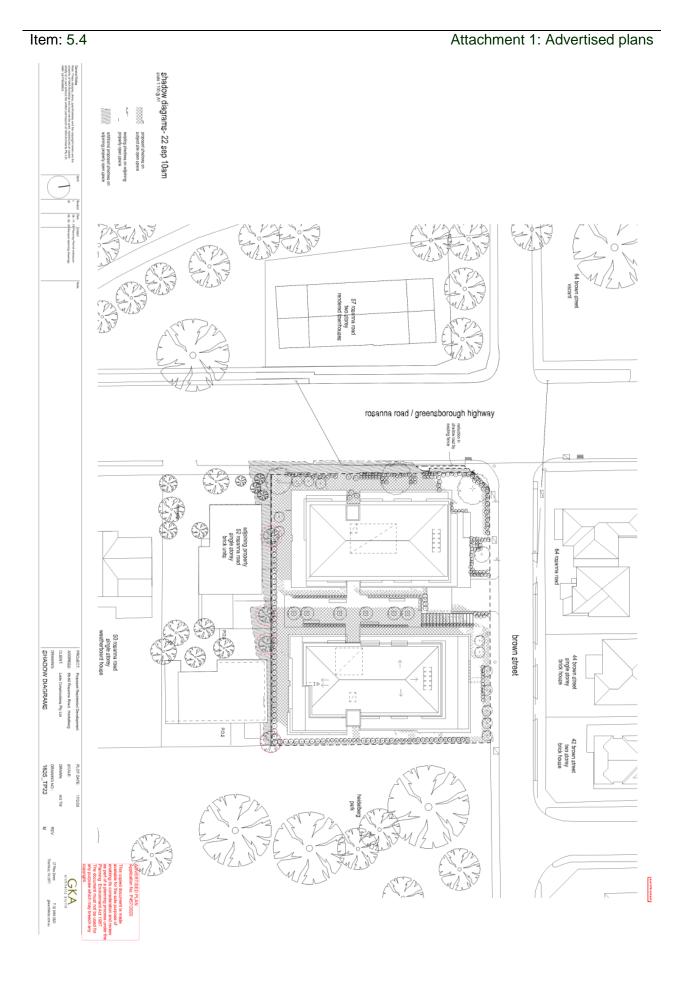
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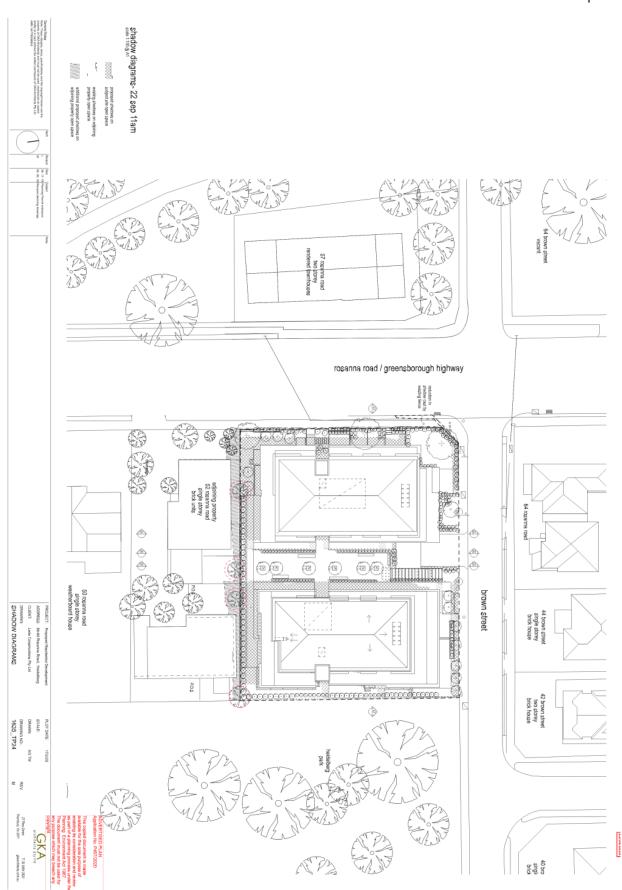


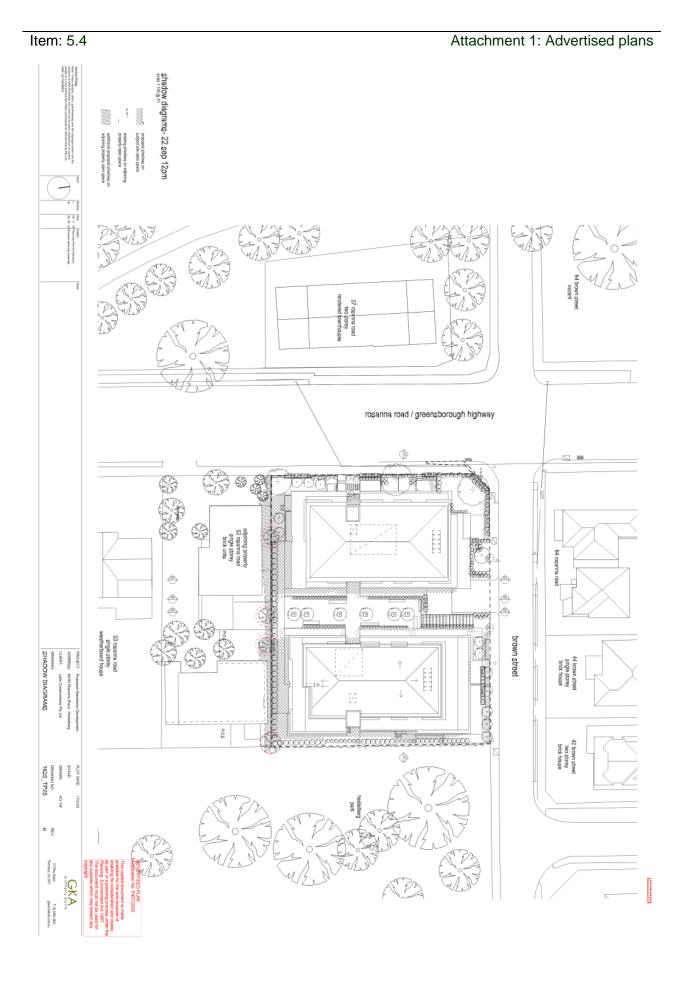


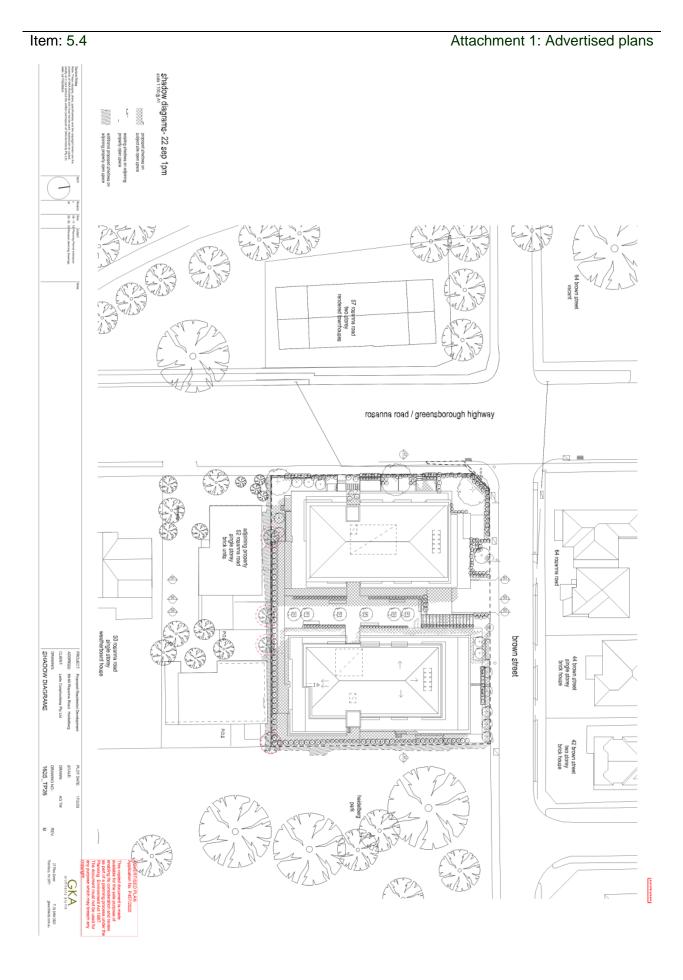
Attachment 1: Advertised plans

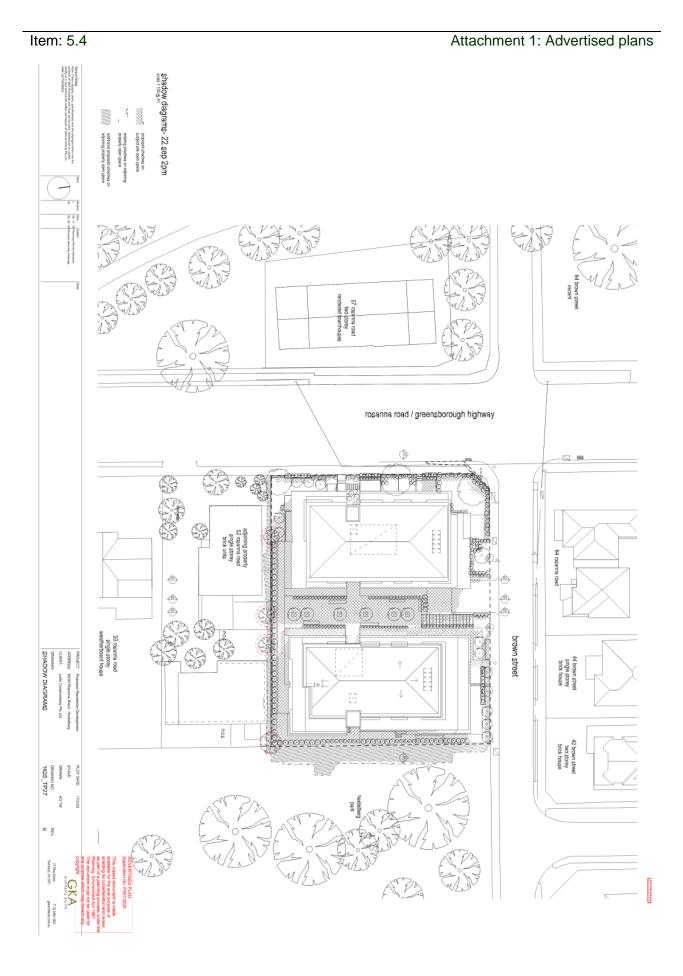


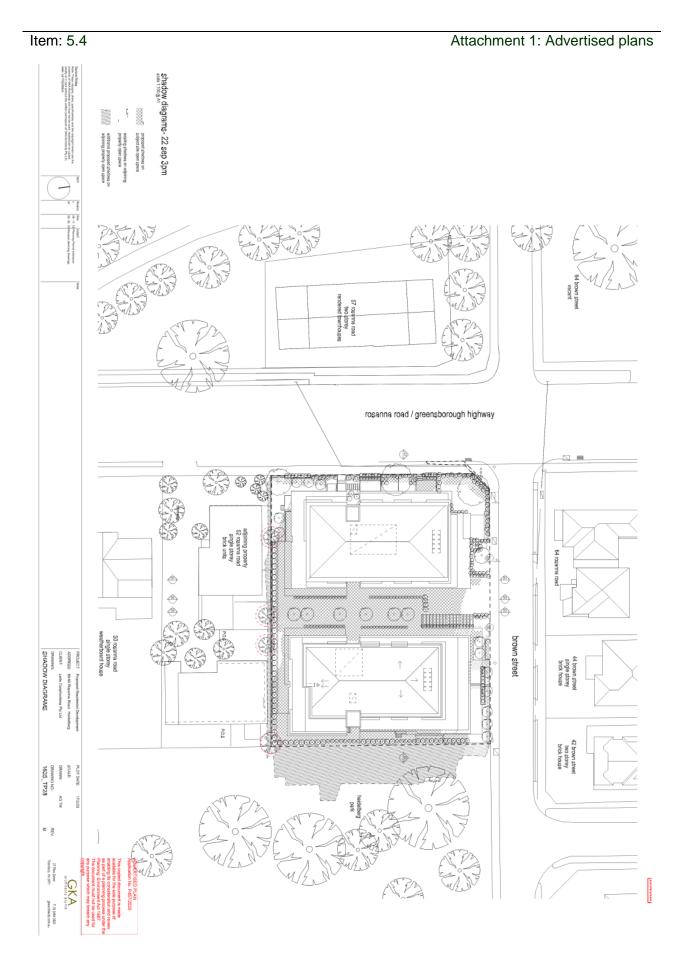
















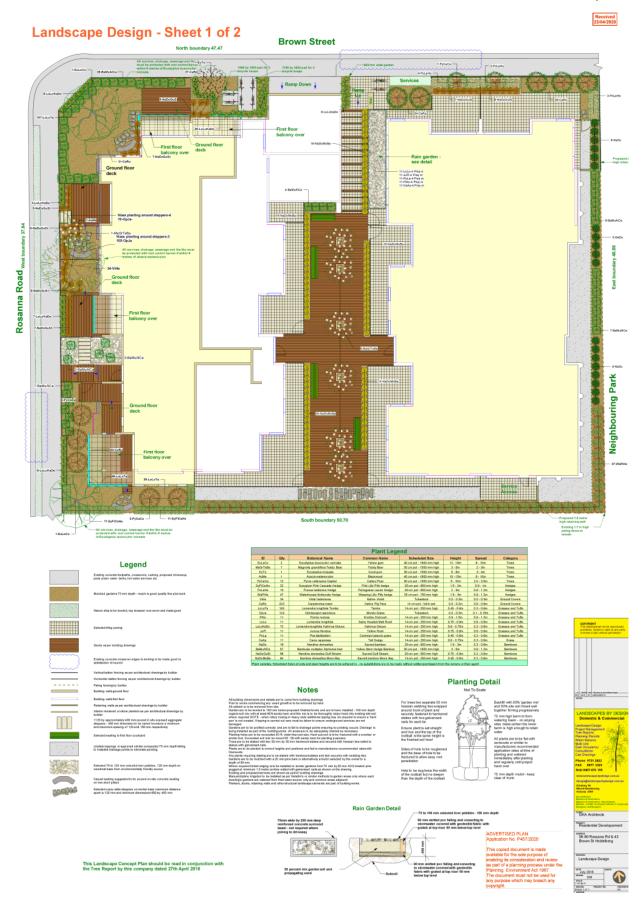


Attachment 1: Advertised plans

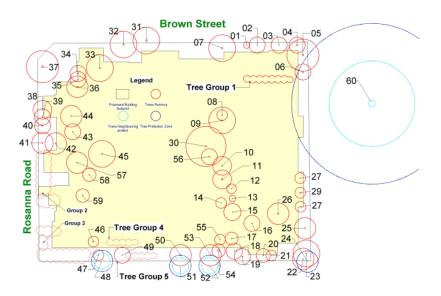


Item: 5.4

Attachment 1: Advertised plans



Existing Trees - Sheet 2 of 2





P554/2015



Planning and Environment Regulations 1988 Form 4.4

PLANNING SCHEME:

BANYULE

RESPONSIBLE AUTHORITY:

BANYULE CITY COUNCIL

ADDRESS OF THE LAND:

56 - 60 Rosanna Road and 43 Brown Street HEIDELBERG

THE PERMIT ALLOWS:

- The construction of a multi-dwelling development (apartment complex);
- construction of buildings and works; and
- native vegetation removal

in accordance with the endorsed plans.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Plans

- 1 Before the development permitted by this permit starts, amended plans to the satisfaction of the responsible authority 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 drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by JAM Architects and as amended by Drawing No's TP07 to TP28 dated 31/08/2016 but further modified to show:
 - (a) Deletion of one bedroom from apartments G.01, 1.02, 2.02 on each level of the north-western corner of the building and part of the balcony of apartment 3.01 to create a 7m x 7m canopy tree planting area;
 - (b) The northern elevation of the western building (beyond the 7m x 7m planting area) set a minimum of 3.5 metres in from Brown Street at ground, first and second floor levels with the northern elevation of the third floor level set 7.6 metres in from Brown Street with the third floor level balcony permitted to extend up to 1.6 metres into this setback;
 - (c) The northern elevation of the fourth floor level of the eastern building set 7.6 metres in from Brown Street with the third floor level balcony permitted to extend up to 1.6 metres into this setback;
 - (d) The precise line of Section HH of Drawing No. TP18 to demonstrate compliance with Standard B20 – North facing windows of Clause 55.04-4 of the Banyule Planning Scheme;
 - (e) A minimum of 20% of apartments designed to be compliant with Council's Liveable Housing Design Guidelines;
 - (f) Storage for all apartments in accordance with Standard B30 Storage of Clause 55.05-6 of the Banyule Planning Scheme;

DATE ISSUED: 19 April 2017

Page 1 of 10

SIGNATURE FOR RESPONSIBLE AUTHORITY:

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

- Mailbox location and design in accordance with Standard B34 Site services of Clause 55.06-4 of the Banyule Planning Scheme;
- (h) Landscaping as required by Condition 2 of this permit;
- (i) Engineering plans showing a properly prepared design with computations for the internal drainage and method of disposal of stormwater from all roofed areas and sealed areas including:
 - (i) The use of an On-site Stormwater Detention (OSD) system;
 - (ii) The connection to the Council nominated legal point of discharge;

Please note the Engineering plans must show all protected and/or retained trees on the development site, on adjoining properties where tree canopies encroach the development site and along proposed outfall drainage and roadway alignments (where applicable) and every effort must be made to locate services away from the canopy drip line of trees and where unavoidable, details of hand work or trenchless installation must be provided;

- (j) The Tree Preservation Fencing in accordance with Condition 11 of this permit;
- (k) A schedule of external building materials and colours, including details of cladding and roofing materials; the schedule should be presented on a separate sheet and must include colour samples;
- The provision of a rainwater storage tank for the development including its location, sizing and a notation of the connections and end use;
- (m) All sustainable design features indicated in the submitted Sustainable Design Management Plan prepared by ARC Enviroconcepts dated June 2015. Where sustainable design features outlined in the Sustainable Design Management Plan cannot be visually shown, include a notes table providing details of the requirements (i.e. energy and water efficiency ratings for heating/cooling systems and plumbing fittings and fixtures, etc);
- (n) Detailed scale drawings of the boundary fencing to Rosanna Road and Brown Street demonstrating materials, colour scheme and a variable height of between 1.45 and 1.75 metres to provide a balance of privacy and reduction in road noise to apartments on Levels 1 and 2 whilst also providing an element of visual permeability to provide views of landscaping;
- (o) Eight bicycle parking spaces in the basement for residents and four visitor spaces within the Brown Street site frontage for visitors in accordance with Clause 52.34 – Bicycle Facilities of the Banyule Planning Scheme;
- (p) The provision of seven (7) visitor car spaces and a total of 46 car spaces to be provided onsite;
- (q) The northern elevation of the eastern building be set back a minimum of 3.5 metres from Brown Street at first, second and third floors;
- (r) The northern elevation of the eastern building be set back a minimum of 9 metres to the building line (not including balconies) at fourth floor from Brown Street;

Page 2 of 10

DATE ISSUED: 19 April 2017

SIGNATURE FOR RESPONSIBLE AUTHORITY:

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- (s) A tree planting zone to the eastern boundary at ground and first floor to be the following dimensions: 3 metres x 11 metres;
- A setback of a minimum 2.5 metres adjacent to dwellings 2.10 and 3.07 from the eastern boundary;
- A setback of a minimum 5 metres along the eastern boundary of the fourth level (not including the lift and balconies);
- (v) Relocation of the service plant area on the eastern building to achieve a setback of 12 metres from the southern boundary and 13 metres from the eastern boundary and be limited to a size of 5 metres x 5 metres and screened to a height of 1.4 metres;
- (w) The reduction of the lift overrun by 200mm to an RL of 40.87m on the eastern building;
- (x) The provision of a rain garden of minimum dimension 2 metres x 10 metres adjacent to the car park ramp.
- 2 The development permitted by this permit must not be commenced until a satisfactory detailed landscaping plan is submitted to and approved by the responsible authority. Such plan must be prepared by a person suitably qualified or experienced in landscape design and shall include:
 - (a) Details of planting throughout the site including the following;
 - One large canopy tree in both the north-western and south-western corners of the site with a minimum height of 12 metres and root barriers to protect on site drainage detention works, as required;
 - One medium canopy tree with a minimum height of 10 metres in the western street setback of apartment G.03 to Rosanna Road;
 - (iii) The planter box in the northern setback of apartments 1.08 and 1.09 to Brown Street increased in depth to the northern site boundary to provide additional planting space for deciduous screen planting;
 - Screening planting of at least five medium sized deciduous/evergreen trees within the northern Brown Street building setback based on the location of apartment habitable room windows;
 - (v) Landscaping either side of the basement car park entry to soften the visual impact of the entry in the streetscape.
 - (b) The identification of existing vegetation (which is not intended to be removed), and nomination of vegetation for removal throughout the site;
 - Planting adjacent to driveways and within landscaping zones to consist of varying heights and species;
 - Provision of replacement planting for vegetation that is to be removed including a large canopy tree (mature height of at least 12m) planted at a semi-advanced state (minimum pot size 40 litre) in the north-western corner of the site;
 - (e) An indigenous and/or drought tolerant planting theme;

DATE ISSUED: 19 April 2017

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12405 24/3/14

Page 3 of 10

- (f) A schedule of all proposed trees, shrubs and ground cover, which includes the location and size at maturity of all plants, the botanical names of such plants and the location of all areas to be covered by grass, lawn or other surface material as specified;
- (g) Location and details of paving, steps, retaining walls, water tanks, clotheslines, fence design details and other landscape works including cut and fill.
- (h) Location, details and cross section drawings of all Water Sensitive Urban Design features in accordance with the endorsed Sustainable Design Management Plan and STORM report, with reference to connection details on the engineering plans.

General

- 3 The development as shown on the endorsed plans or described in the endorsed documents must not be altered or modified except with the written consent of the responsible authority.
- 4 Unless otherwise agreed in writing by the responsible authority the development permitted by this permit must not be commenced until the tree protection measures required by Condition 11 are installed to the satisfaction of the responsible authority.
- 5 Unless otherwise agreed in writing by the responsible authority the development permitted by this permit must not be occupied until the development has been completed to the satisfaction of the responsible authority in accordance with the permit and endorsed plans (including, but not limited to built form and layout, parking, landscaping, drainage, street numbering, replacement of street trees).

Urban Design / External Appearance

6 The walls of the development on the boundary of adjoining properties must be cleaned and finished in a manner to the satisfaction of the responsible authority.

VicRoads

7 All disused and redundant vehicle crossings to Rosanna Road must be removed and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Roads Corporation prior to the occupation of the buildings hereby approved.

Construction Management Plan

- 8 Before the development starts, a Construction Management Plan to the satisfaction of the responsible authority must be submitted to, and approved in writing by, the responsible authority. The Construction Management Plan must address the following issues:
 - (a) measures to control noise, dust and water runoff;
 - (b) prevention of silt or other pollutants from entering into the Council's underground drainage system or road network;
 - (c) the location of where building materials are to be kept during construction;

Page 4 of 10

DATE ISSUED: 19 April 2017

SIGNATURE FOR RESPONSIBLE AUTHORITY:

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- (d) site security;
- (e) maintenance of safe movements of vehicles to and from the site during the construction phase and on the surrounding road network;
- (f) on-site parking of vehicles associated with construction of the development;
- (g) wash down areas for trucks and vehicles associated with construction activities;
- (h) cleaning and maintaining surrounding road and footpath surfaces.

The development must be undertaken in accordance with the approved Construction Management Plan unless otherwise approved in writing by the responsible authority.

- 9 Areas set aside for the parking and movement of vehicles as shown on the endorsed plan(s) must be made available for such use and must not be used for any other purpose.
- 10 Vehicular access or egress to the subject land from any roadway or service lane must be by way of a vehicle crossing constructed in accordance with Council's Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will use the crossing(s). The location, design and construction of the vehicle crossing(s) must be approved by the responsible authority. Any existing unused crossing(s) must be removed and replaced with concrete kerb, channel and naturestrip to the satisfaction of the Council prior to occupation of the building. All vehicle crossing works are to be carried out with Council Supervision under a Memorandum of Consent for Works which must be obtained prior to commencement of works.

Tree Protection / Landscaping

- 11 Except with the further written consent of the responsible authority, no vegetation (other than that indicated on the endorsed plan, or exempt from planning permission under the provisions of the Banyule Planning Scheme) shall be damaged, removed, destroyed or lopped.
- 12 Unless otherwise agreed in writing by the responsible authority, prior to the commencement of works (including demolition) on the site Tree Preservation Zones must be established around Tree 59 of the arborist report prepared by Landscape By Design dated 24 April 2016. You must contact Council's Development Planning Arborist on 9457 9878 once the Tree Preservation Fencing is erected so that an inspection of the fencing can be carried out. Once installed and inspected the Tree Preservation Zones must be maintained to the satisfaction of the responsible authority, and meet the following requirements:
 - (a) Extent

Tree Preservation Zones are to be provided to the extent of the calculated Tree Protection Zone (TPZ) where it occurs within the subject property of all trees indicated as being retained on the endorsed plan. The fencing can be realigned and suitable ground protection provided to allow the approved construction therein only to the satisfaction of the project arborist and only when approved by the responsible authority.

- (b) Management of works
 - (i) A suitably qualified arborist must supervise or undertake all approved activity within the calculated TPZ of a retained tree. Any root severance within the TPZ must be undertaken to their satisfaction using a clean sharp and sterilised pruning saw. There Page 5 of 10

DATE ISSUED: 19 April 2017

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must be no root pruning within the SRZ unless consent is received in writing by the responsible authority, and there must be no root pruning within the TPZ for works other than those endorsed by the responsible authority.

- (ii) All and any excavations within the TPZ of retained trees must be undertaken by hand or by approved non-destructive techniques suitable in the vicinity of trees, and must only be undertaken by, or directed and supervised by, a suitably qualified arborist for endorsed works or for works subsequently approved by the responsible authority.
- (c) Weed control

Any weeds located within the Tree Preservation Zone are to be removed and the area mulched with 100mm of composted coarse grade woodchips.

- (d) Fencing
 - (i) Protective fencing must consist of chain wire mesh panels held in place with concrete feet. Fencing must comply with Australian Standard AS 4687-2007 Temporary fencing and hoardings.
 - (ii) The fences must not be removed or relocated without the prior consent of the responsible authority.
- (e) Signage

Fixed signs are to be provided on all visible sides of the Tree Preservation Fencing, stating "Tree Preservation Zone – No entry without permission from the City of Banyule".

(f) Irrigation

The area must be irrigated during the summer months with 1 litre of clean water for every 1 cm of trunk girth measured at the soil / trunk interface on a weekly basis.

- (g) Access to Tree Preservation Zone
 - (i) No persons, vehicles or machinery are to enter the Vegetation Protection Zone except with the consent of the responsible authority;
 - No fuel, oil dumps or chemicals are allowed to be used or stored within the Vegetation Preservation Zone and the servicing and re-fuelling of equipment and vehicles must be carried out away from the root zones;
 - (iii) No storage of material, equipment or temporary building is to take place within the Vegetation Preservation Zone;
 - (iv) Nothing whatsoever, including temporary services wires, nails, screws or any other fixing device, is to be attached to any tree.

NOTE:

Requests for consent of the responsible authority (City of Banyule) pursuant to this Condition should be directed to Council's Arborist – Development Planning on 9457 9878. Consent for the conduct of works within the Tree Protection Zone, where granted, may be subject to conditions.

Such conditions may include a requirement that:

DATE ISSUED: 19 April 2017

Page 6 of 10

SIGNATURE FOR RESPONSIBLE AUTHORITY:

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- Any underground service installations within the Tree Protection Zone be bored to a depth of 1.5 metres;
- All root excavation be carried out by hand digging or with the use of 'Air-Excavation' techniques;
- Roots required to be cut are to be severed by saw cutting and undertaken by a qualified arborist.

Or other conditions, as relevant, to ensure the ongoing health and stability of the subject tree/s.

13 Unless otherwise agreed in writing by the responsible authority, the landscaping areas shown on the endorsed plans must be used for landscaping and no other purpose and any landscaping must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

Waste Management

- 14 Concurrent with the endorsement of plans, a Waste Management Plan must be submitted to and approved by the responsible authority. The Waste Management Plan must include:
 - (a) Dimensions of waste areas.
 - (b) The number of bins to be provided and capacity.
 - (c) Details on method and frequency of cleaning and maintenance of waste areas.
 - (d) Details of ventilation.
 - (e) Details of unwanted goods storage.
 - (f) Method of waste and recyclables collection including the need to provide for private services.
 - (g) Hours of waste and recyclables collection.
 - (h) Measures to minimise impact upon local amenity.
 - (i) Method of presentation of bins for waste collection.
 - (j) Strategies for how the generation of waste and recyclables from the development will be minimised.

When approved, the plan will be endorsed and will then form part of the permit and must be complied with at all times. Waste collection from the development must be in accordance with the plan, to the satisfaction of the responsible authority.

15 Unless otherwise agreed in writing by the responsible authority, prior to the Certification of the Plan of Subdivision, the owner/s of the land at 56-60 Rosanna Road and 43 Brown Street, Heidelberg must enter into an agreement with the responsible authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the responsible authority.

Such agreement shall require that all refuse and recycling collection for the property shall be provided internally by a private contractor at the expense of the owner of the land. A memorandum of the Agreement is to be entered on title and the cost of the preparation and execution of the Agreement and entry of the memorandum on title is to be paid by the owner.

Page 7 of 10

DATE ISSUED: 19 April 2017

SIGNATURE FOR RESPONSIBLE AUTHORITY:

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

Time Limits

- 16 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 commenced within two years of the date of this permit;
 - (b) The development is not completed within four years of the date of this permit.

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:

- (a) Before the permit expires, or
- (b) Within six months afterwards, or
- (c) Within 12 months afterwards if the development started lawfully before the permit expired.

PERMIT NOTES

A. Expiry of Permit

In the event that this permit expires or the subject land is proposed to be used or developed for purposes different from those for which this permit is granted, there is no guarantee that a new permit will be granted. If a permit is granted then the permit conditions may vary from those included on this permit having regard to changes that might occur to circumstances, planning scheme provisions or policy.

B. Building Permit Required

Building Permit must be obtained prior to the commencement of any works associated with the proposed development.

C. Building over Easements

No structure, including sheds and water tanks shall be built over any easement on the subject land except with the consent of the relevant Responsible Authority.

D. Completion of Development

Immediately upon completion of the development permitted by this permit, the owner or developer of the subject land must notify Council's Development Planning Section that the development is complete and complies with all requirements of the permit. The development will then be inspected to ensure compliance.

An early inspection process will ensure that the subdivision approvals including the Statement of Compliance can be issued without delay.

E. Street Numbering

Please note that property addresses are allocated by Council. This is usually formalised at the time of the issue of a certified plan.

Page 8 of 10

DATE ISSUED: 19 April 2017

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Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

F. Memorandum of Consent for Works

Council's Construction Department must supervise all works undertaken on Council assets within private property, Council Reserves, easements, drainage reserves and/or road reserves, including connection of the internal drainage system to the existing Council assets. Prior to the commencement of any works, an application must be made and a permit received for:

- · A "Memorandum of Consent for Works" for any works within the road reserve; and/or
- · A "Drainage Connection Permit" for any works other than within a road reserve.

G. Building Site Code of Practice

All construction works must comply with the requirements of the 'Building Site Code of Practice – Banyule City Council'. A copy of the Code is available on the Banyule City Council website or at Council Service Centres.

This permit has been issued in accordance with the Victorian Civil and Administrative Tribunal's Order P2598/2016 dated 19 April 2017.

Page 9 of 10

DATE ISSUED: 19 April 2017

SIGNATURE FOR RESPONSIBLE AUTHORITY:

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.

IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

The Responsible Authority has issued a permit at the direction of the Victorian Civil and Administrative Tribunal.

(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987.)

CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?

The Responsible Authority may amend this permit under Division 1A of Part 4 of the Planning and Environment Act 1987.

WHEN DOES A PERMIT BEGIN?

A permit operates:

- from the date specified in the permit, or
- if no date is specified, from:
 - (i) the date of the decision of the Victorian Civil Administrative Tribunal, if the permit was issued at the direction of the Tribunal, or
 - (ii) the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?

- 1. A permit for the development of land expires if:
 - > the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.
- 2. A permit for the use of land expires if:
 - > the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit, or
 - the use is discontinued for a period of two years.
- 3. A permit for the development and use of land expires if:
 - > the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
- 4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision:-
 - > the use or development of any stage is to be taken to have started when the plan is certified; and
 - > the permit expires if the plan is not certified within two years of the issue of the permit.
- 5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

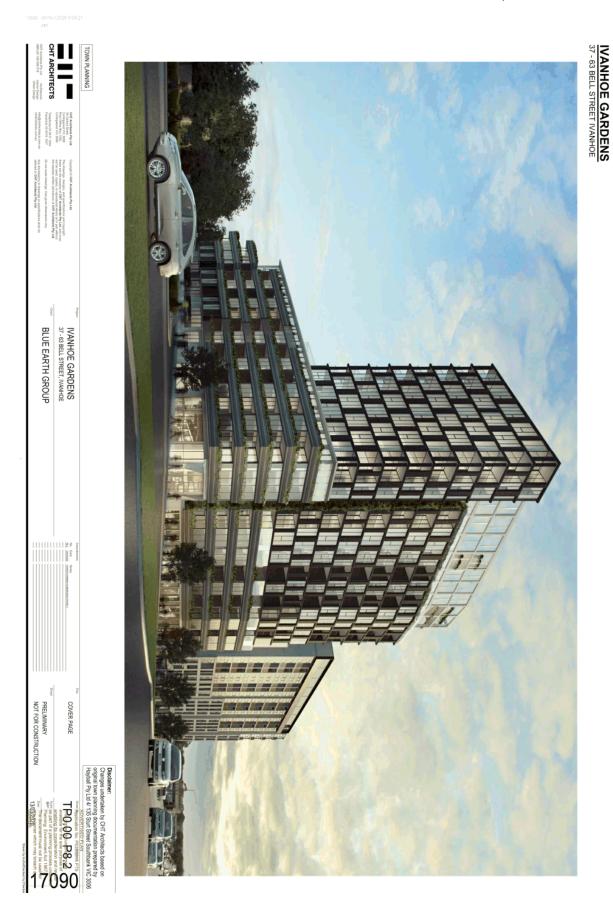
WHAT ABOUT APPEALS?

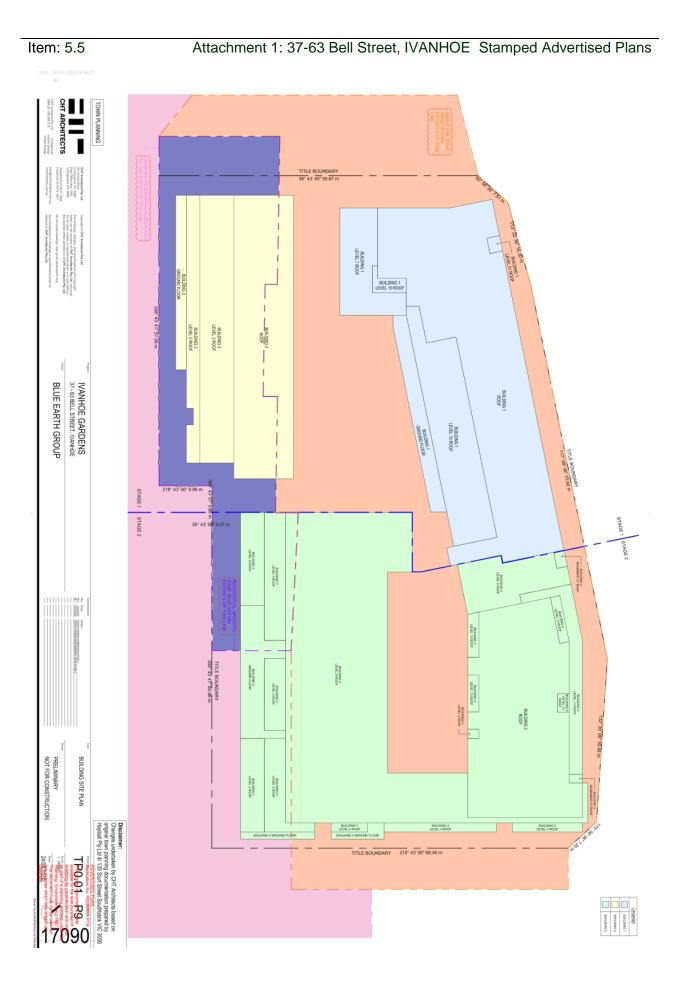
- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the appeal must be lodged within 60 days after the giving of that notice.
- > An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- > An application for review must state the grounds upon which it is based.
- An application for review must also be served on the Responsible Authority.
- Details about application for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

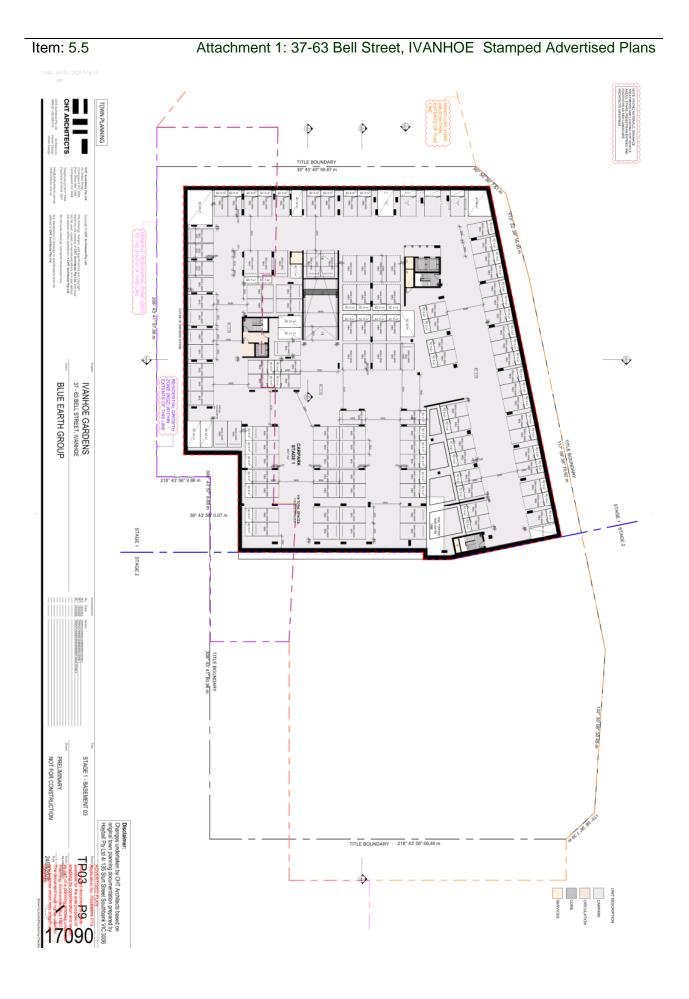
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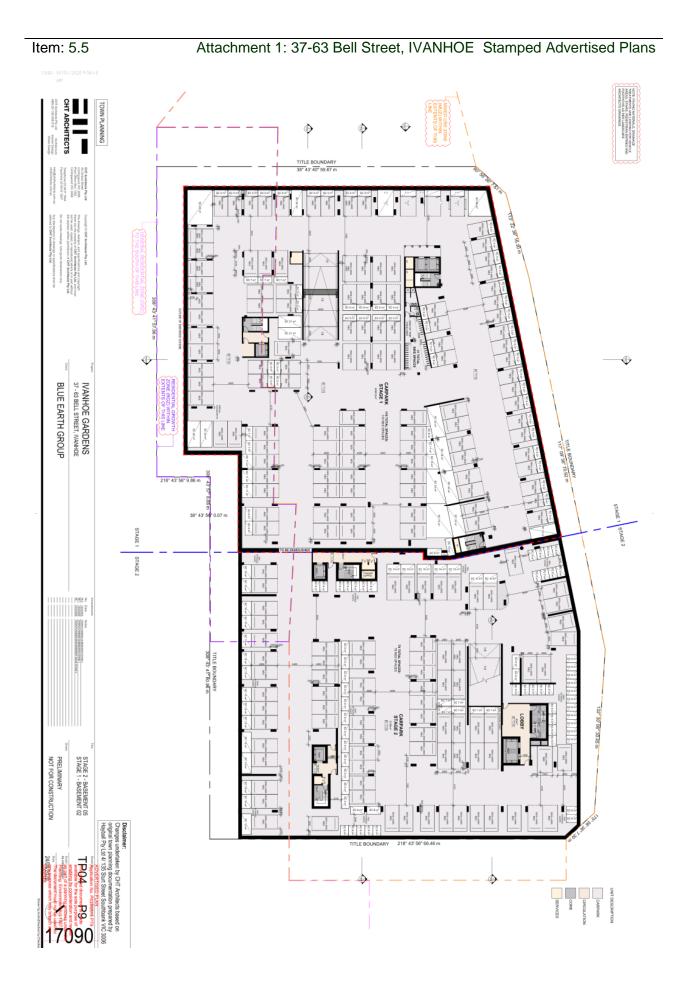
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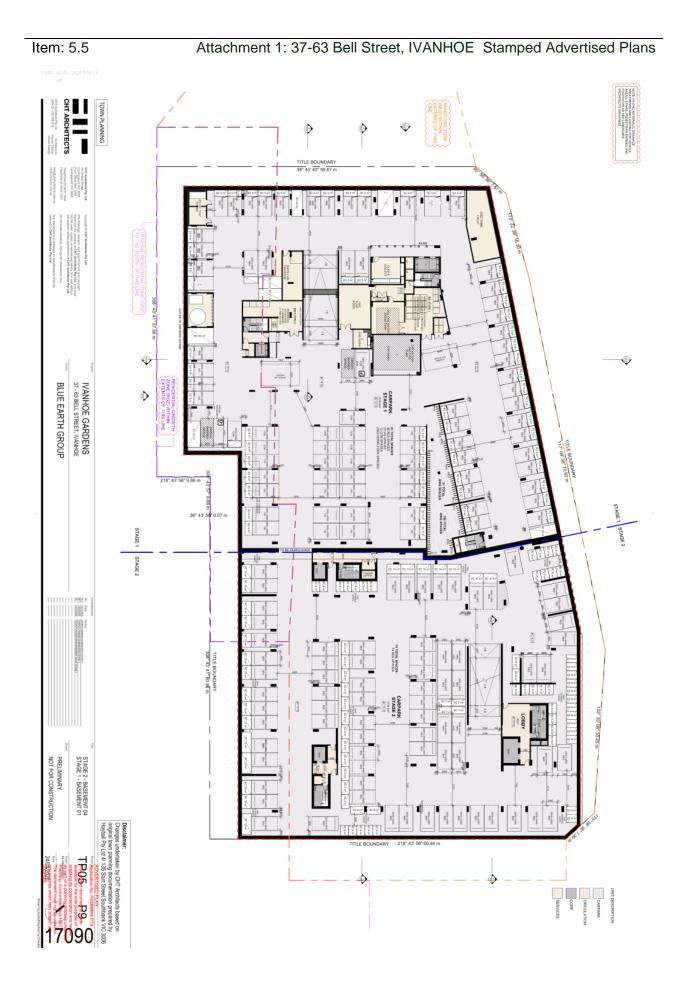
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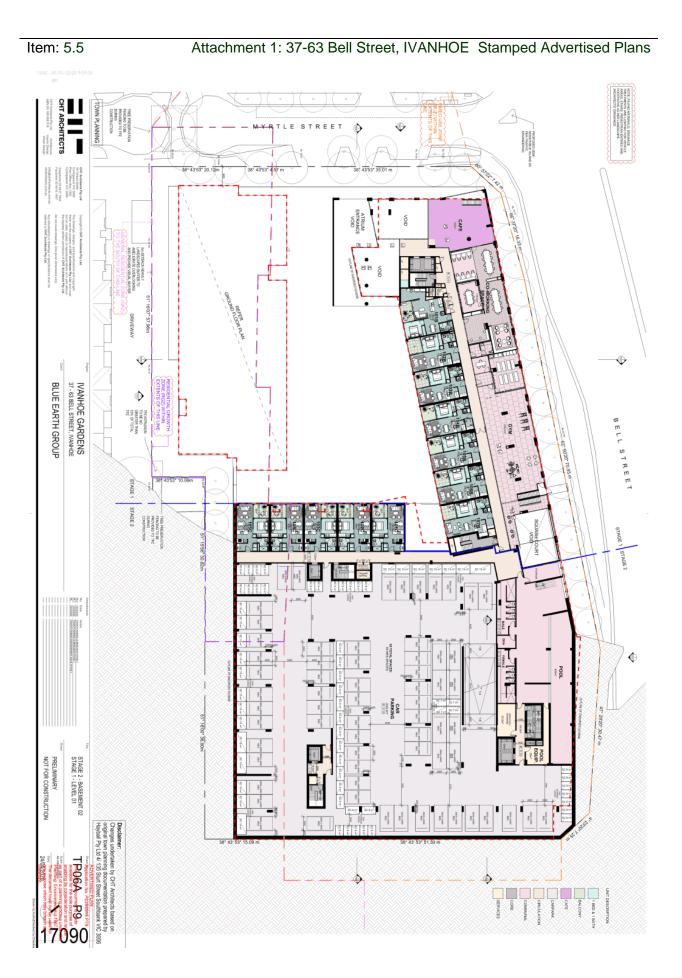














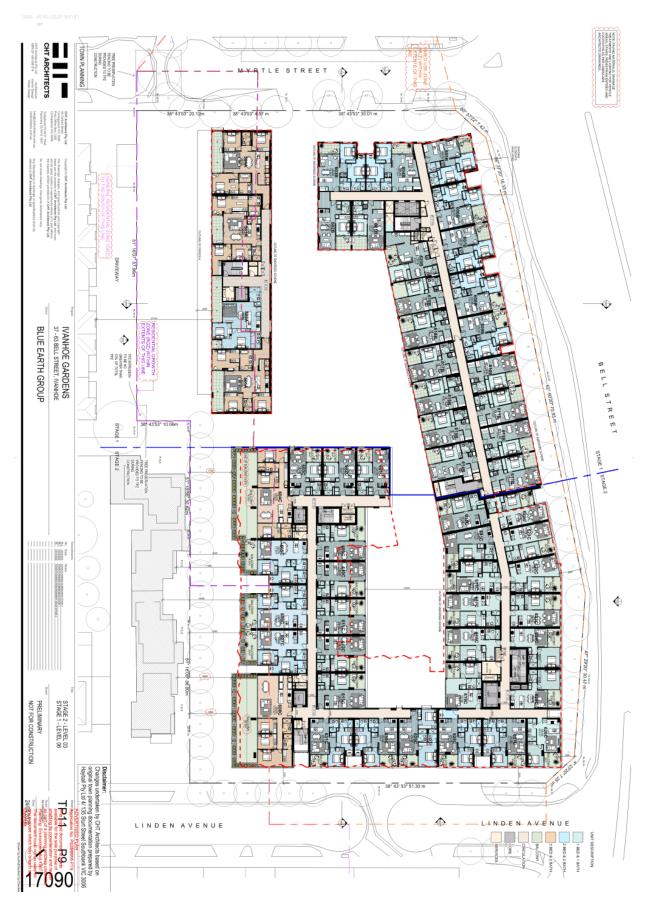






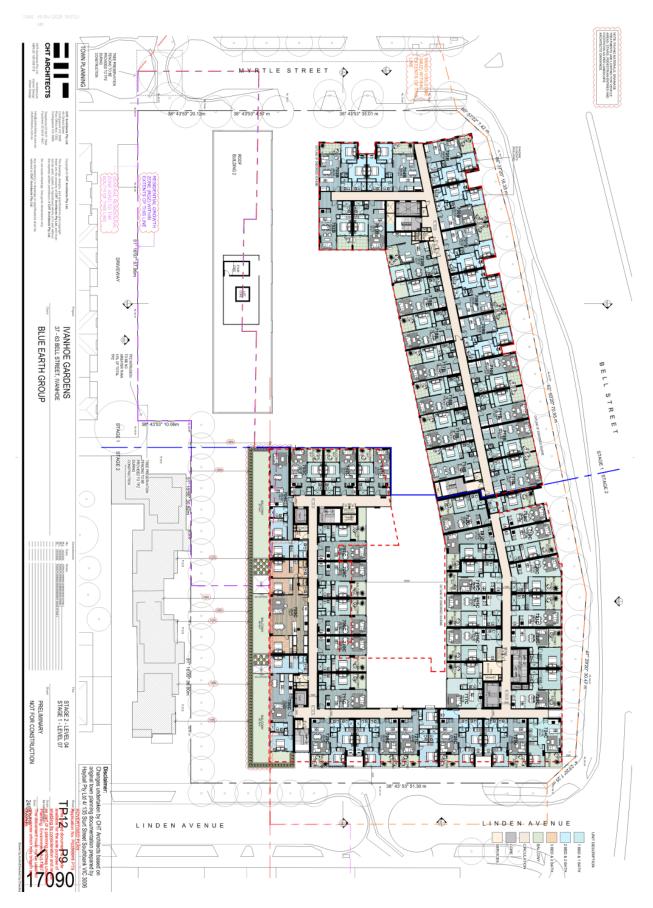


Attachment 1: 37-63 Bell Street, IVANHOE Stamped Advertised Plans



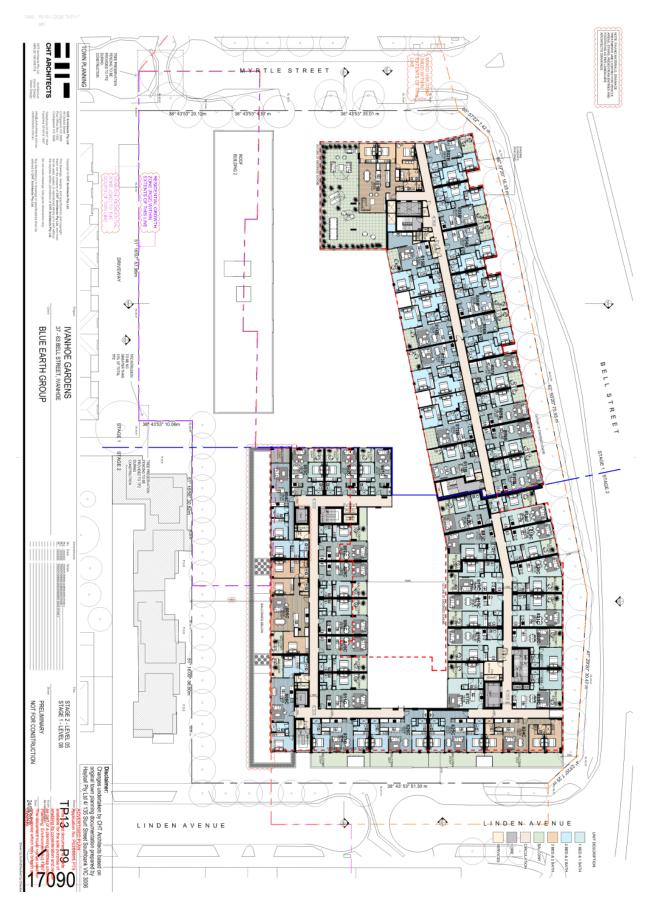


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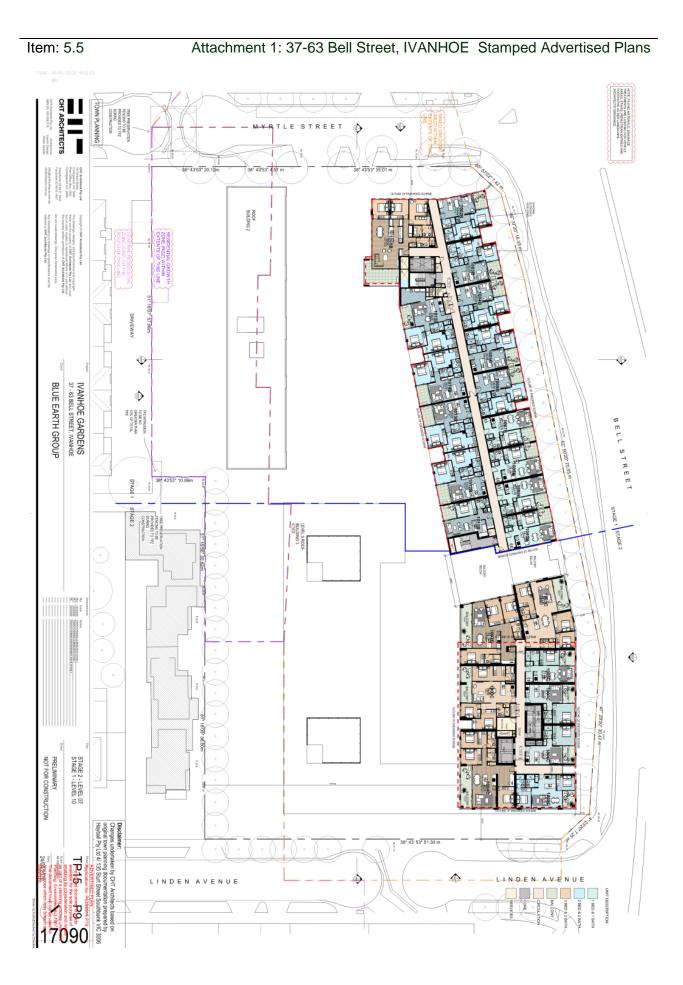
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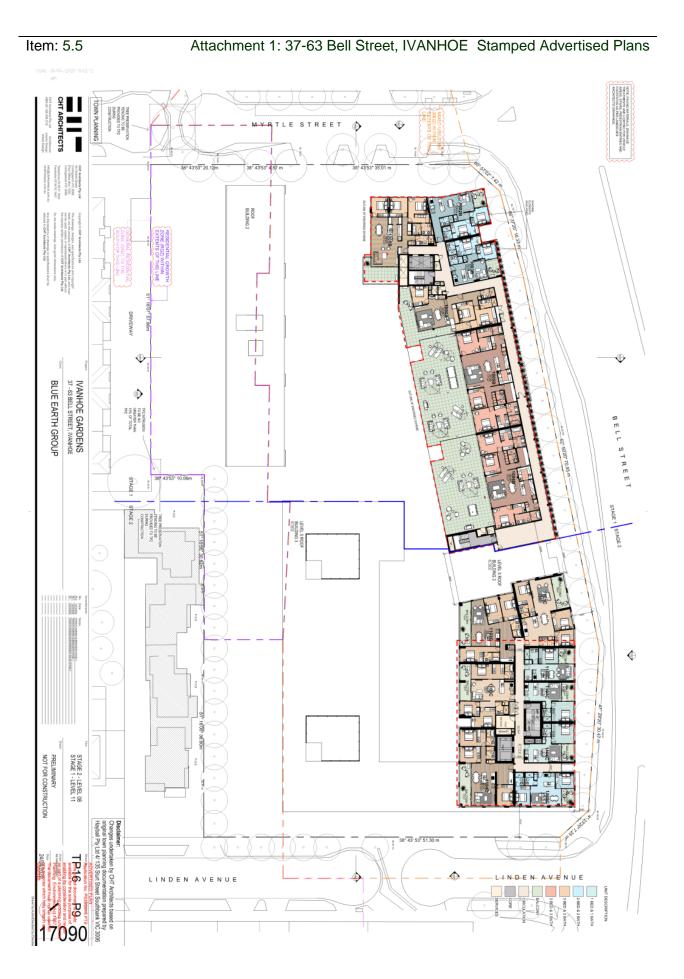


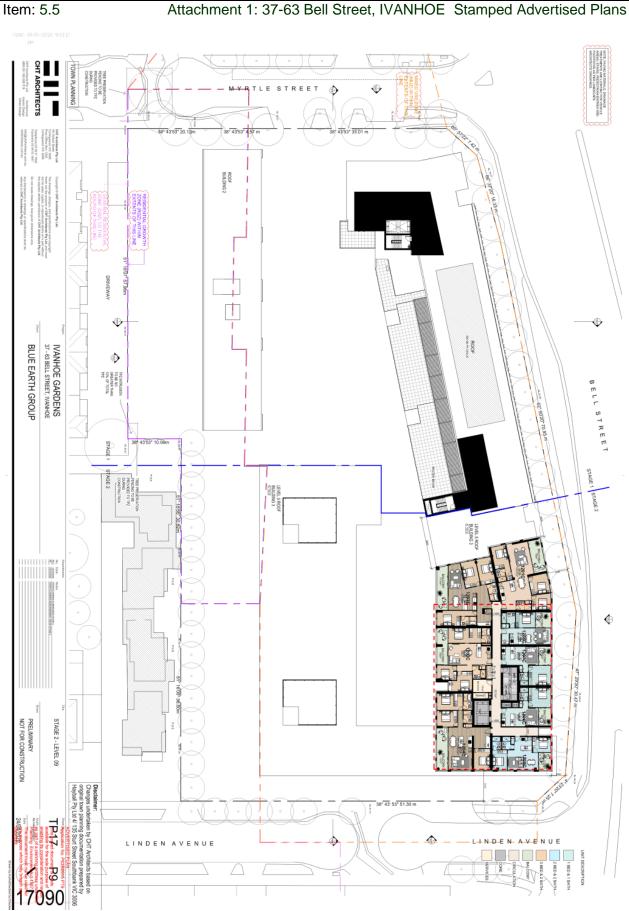


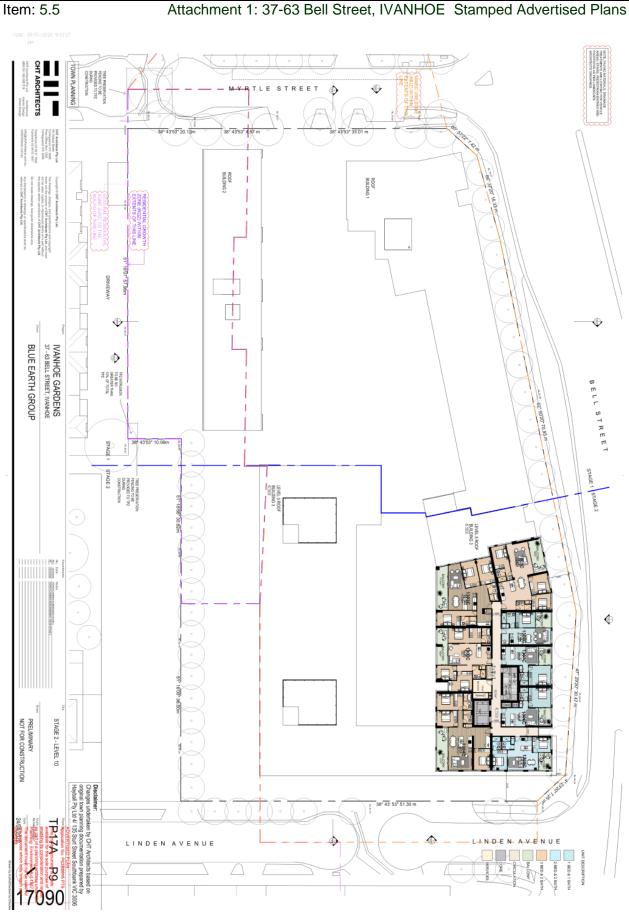
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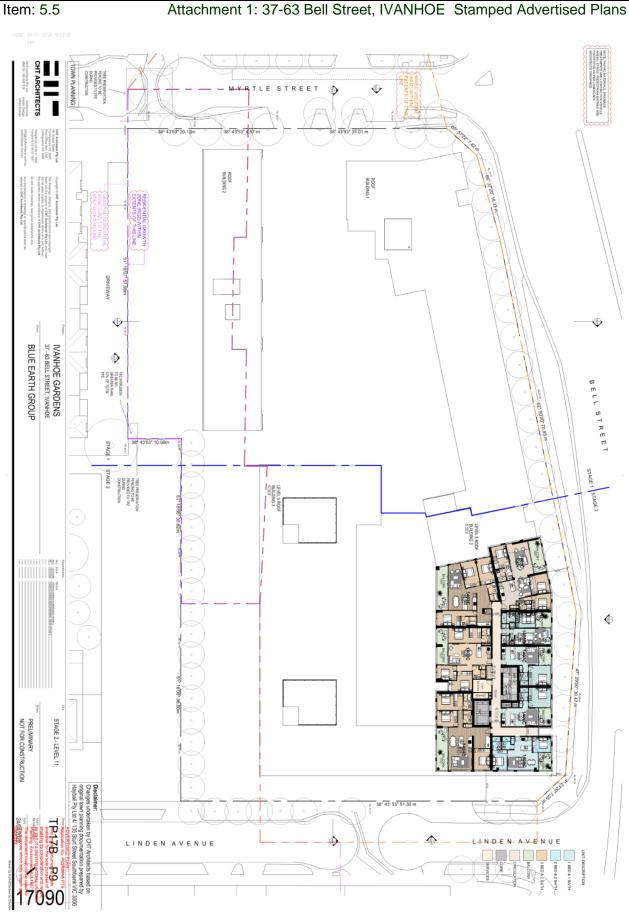


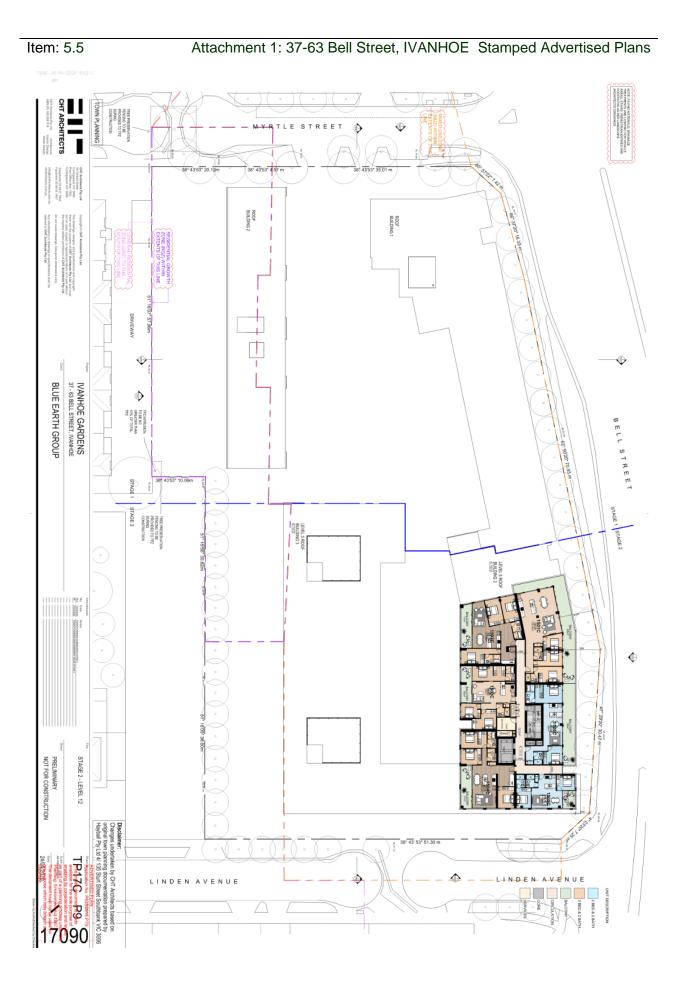


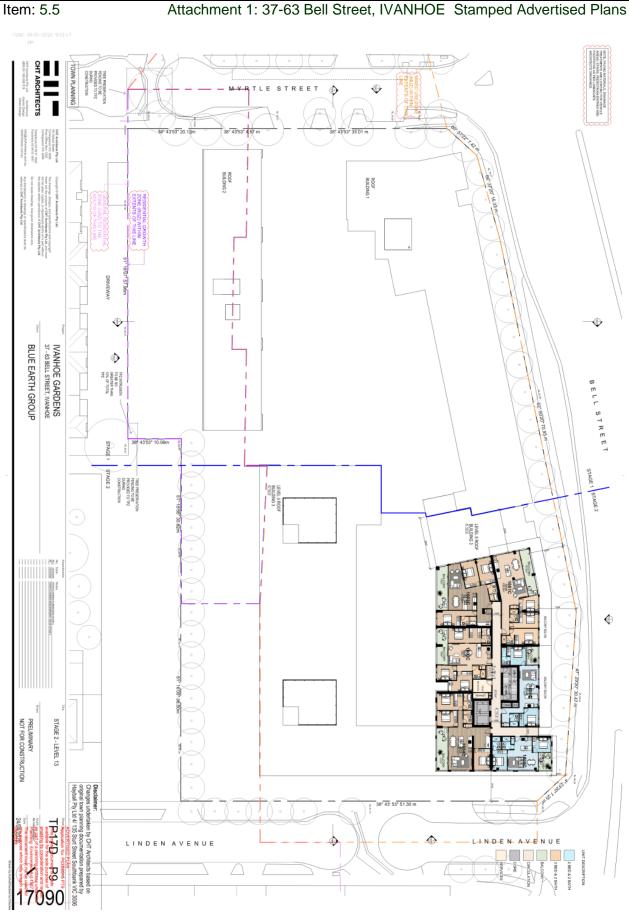


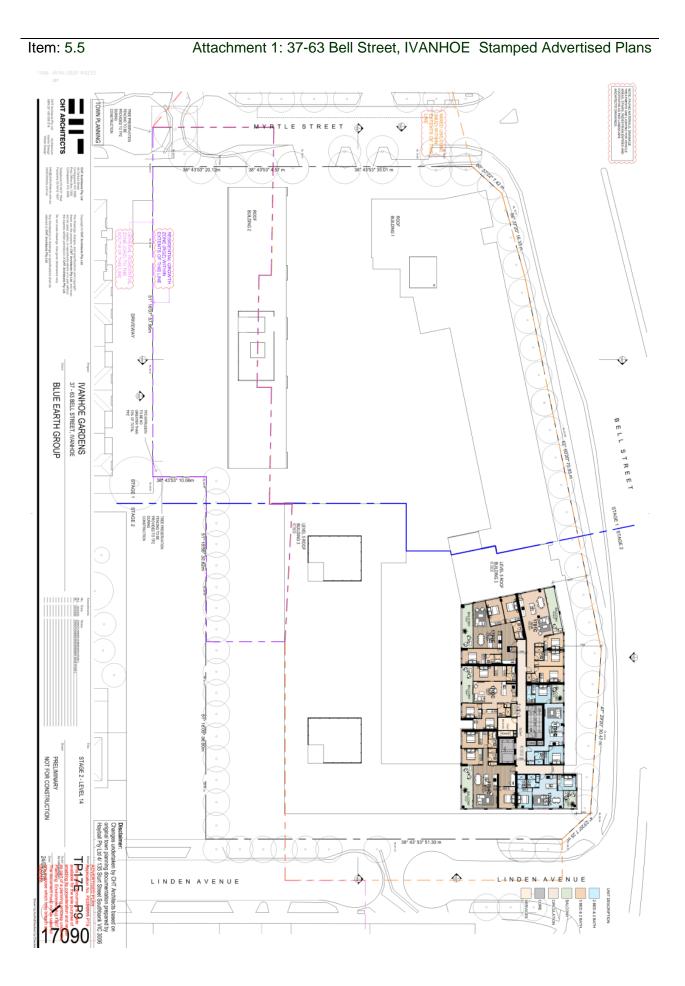




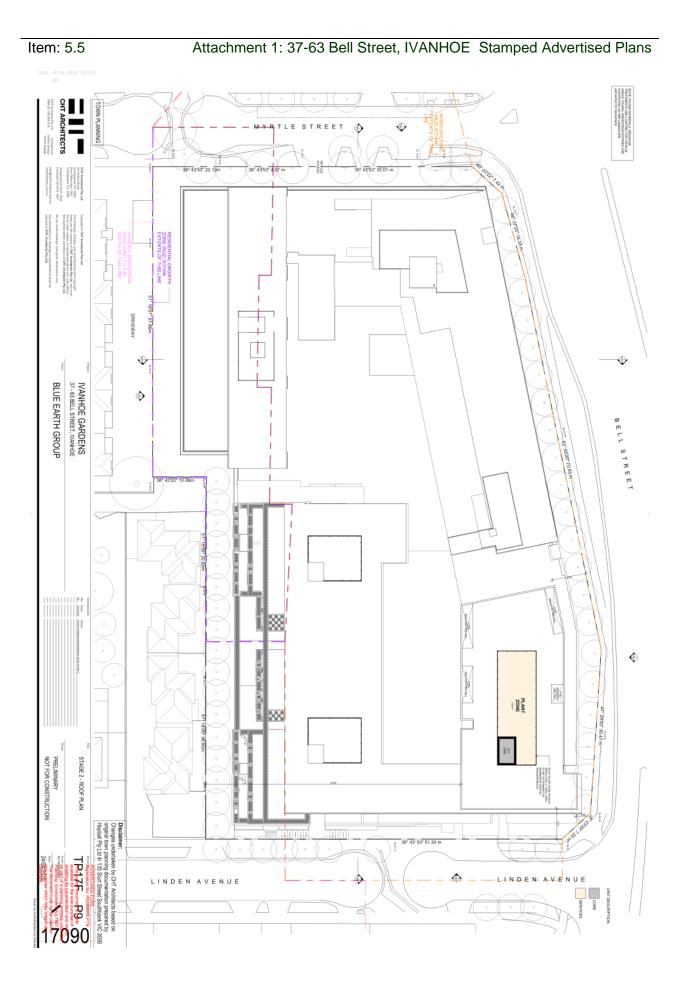


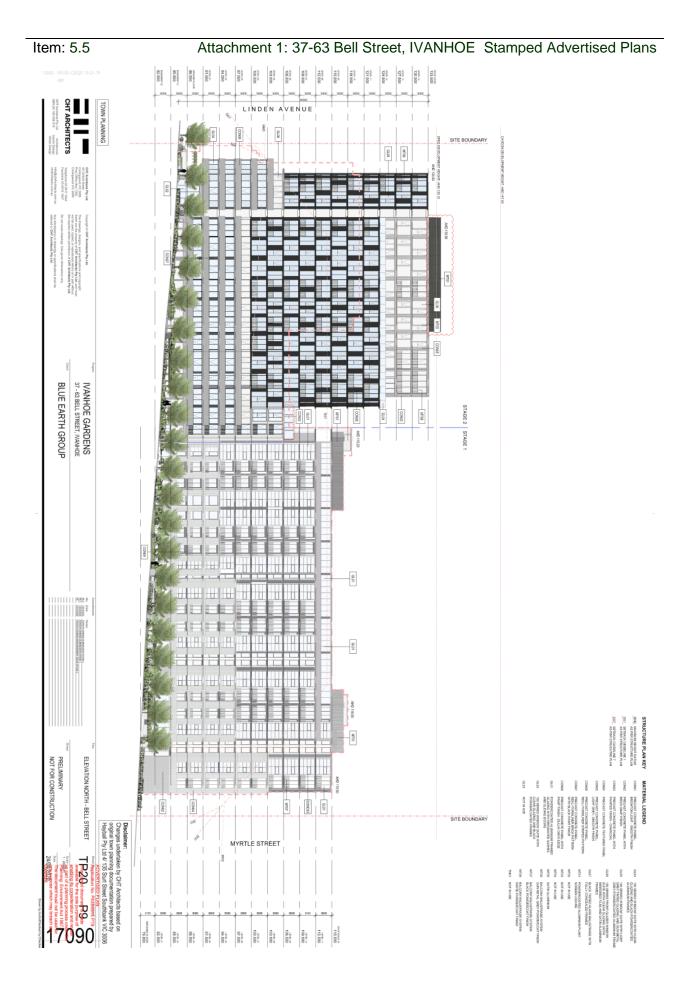




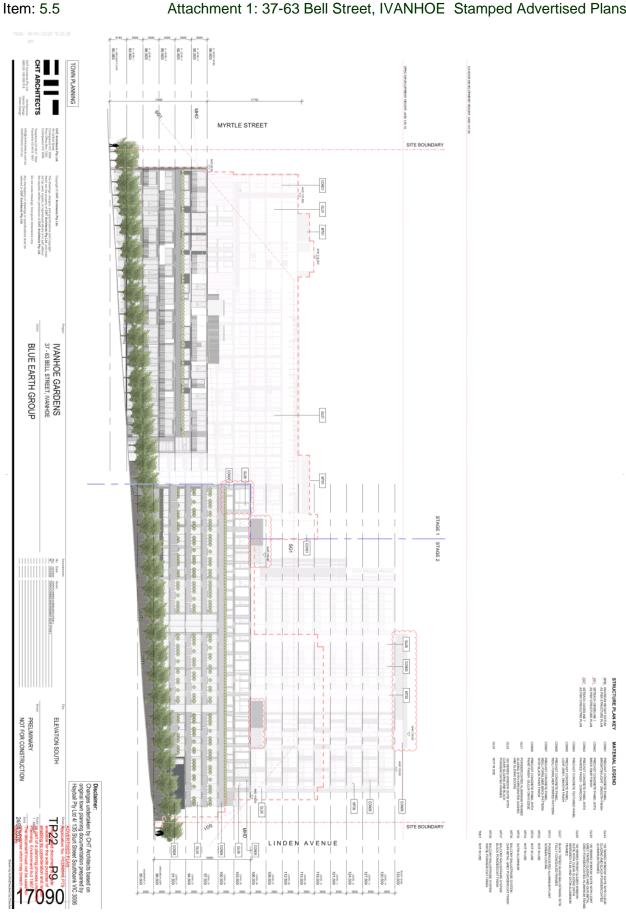


Ordinary Meeting of Council - 27 July 2020

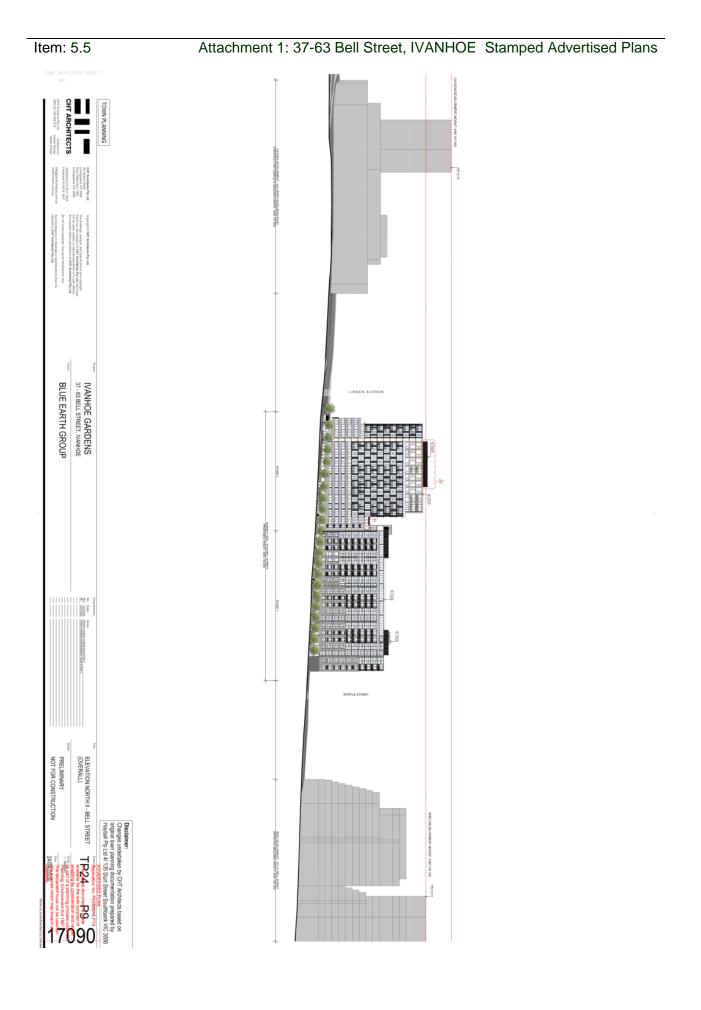


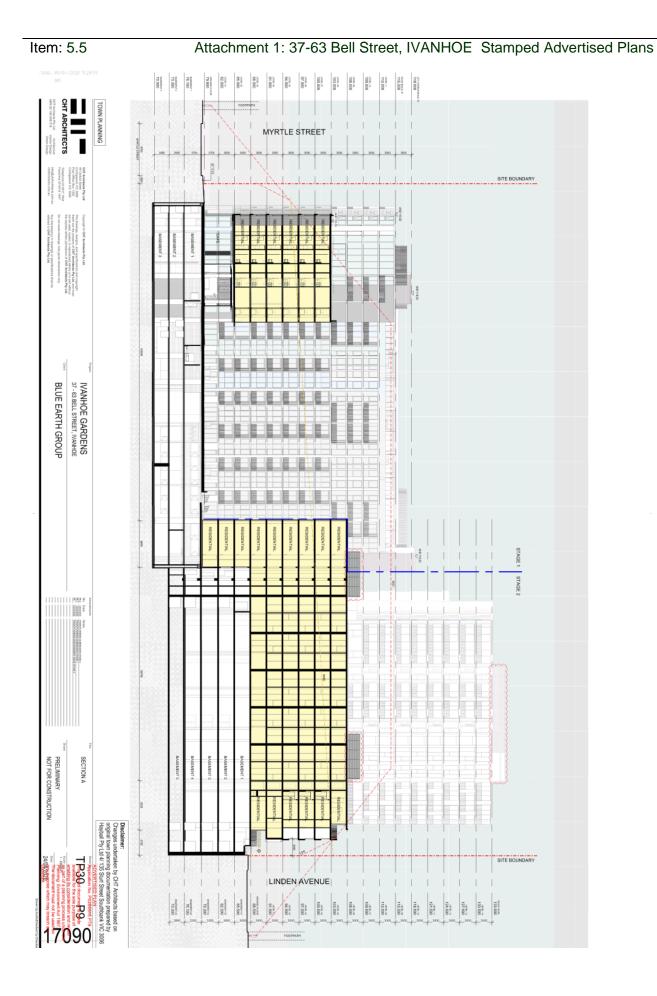






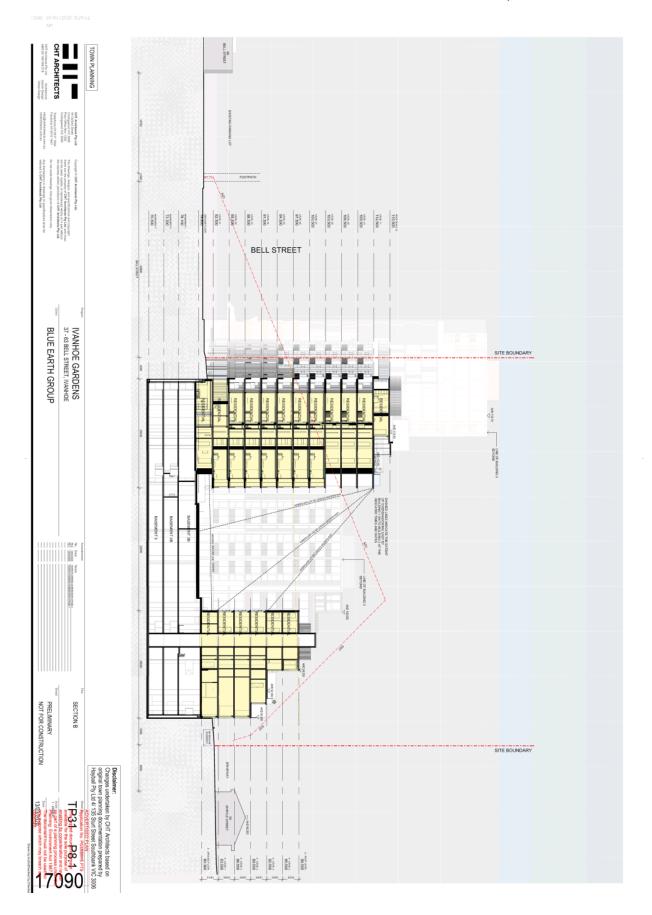


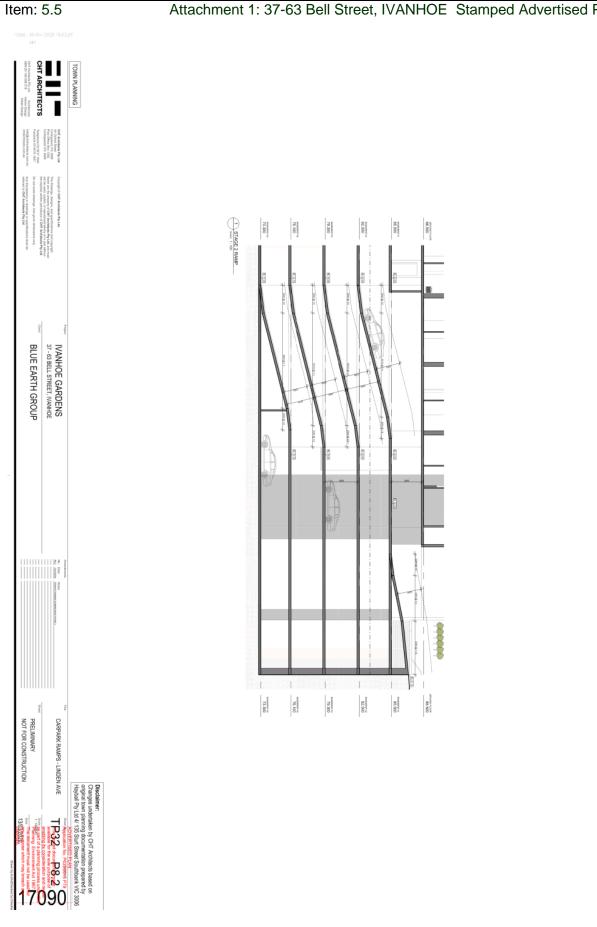


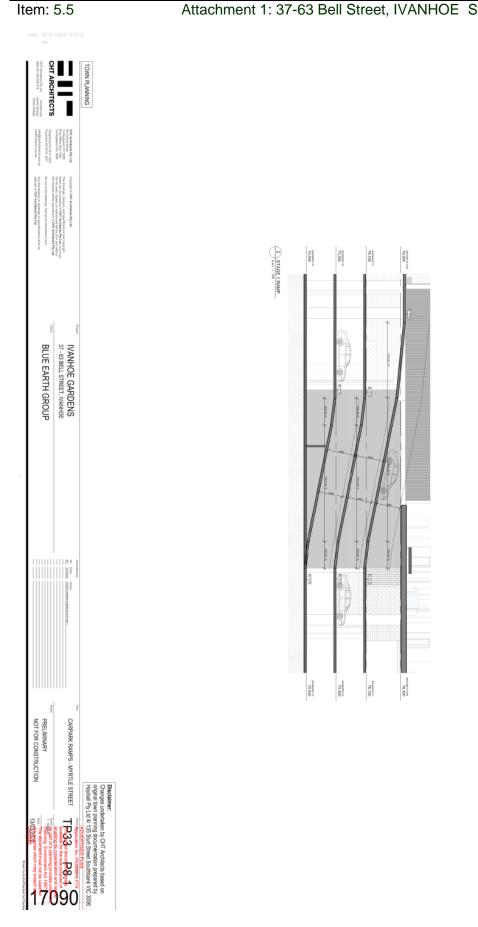


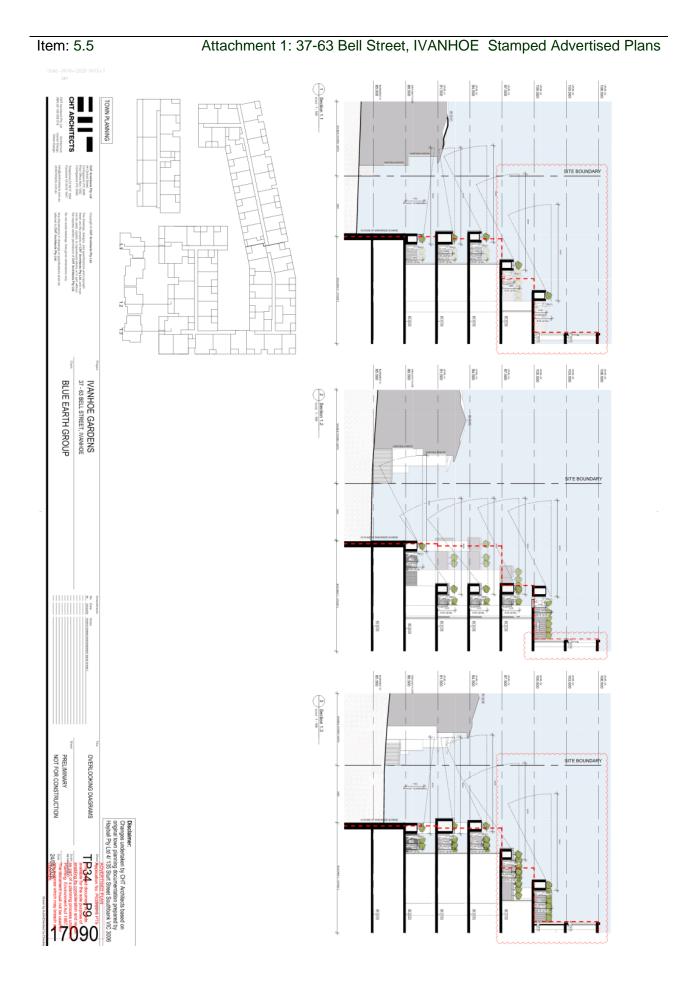


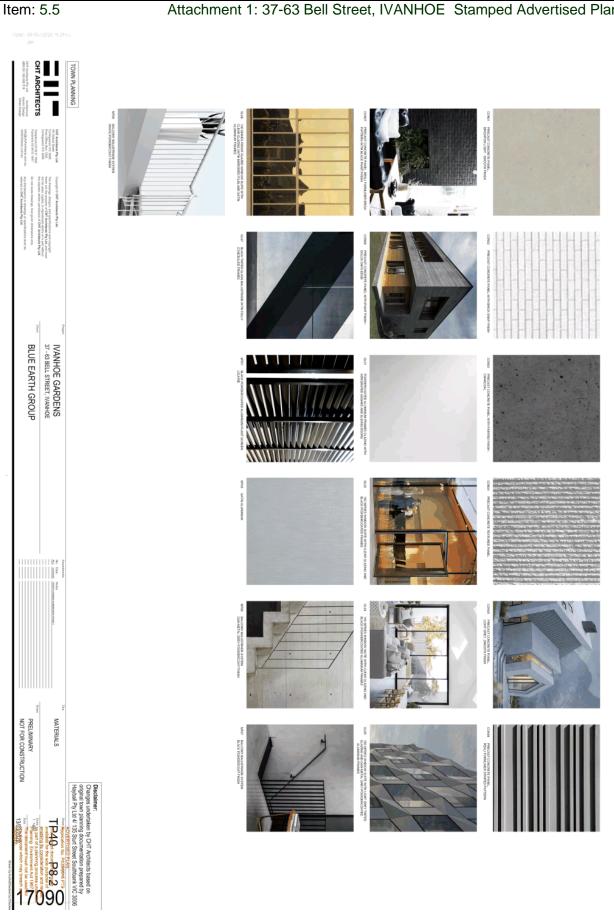
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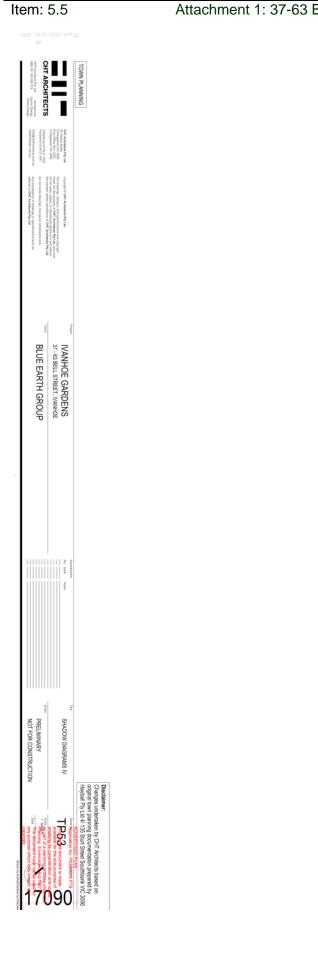


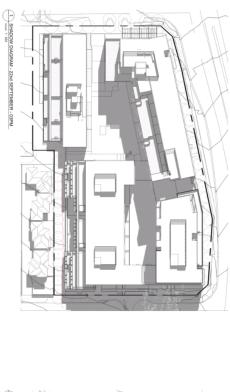


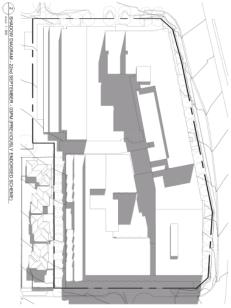
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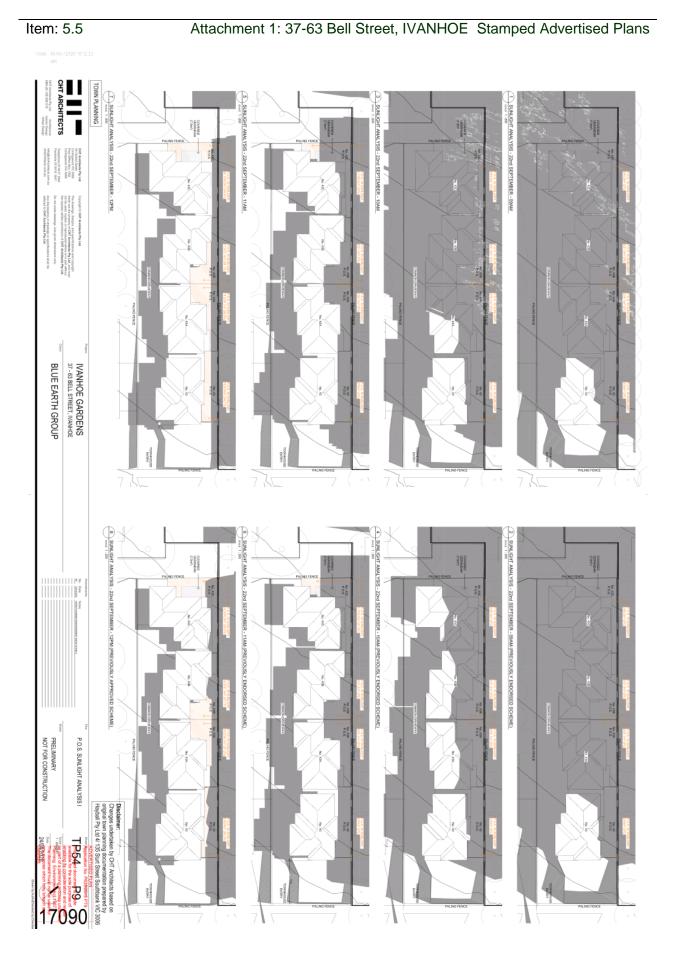
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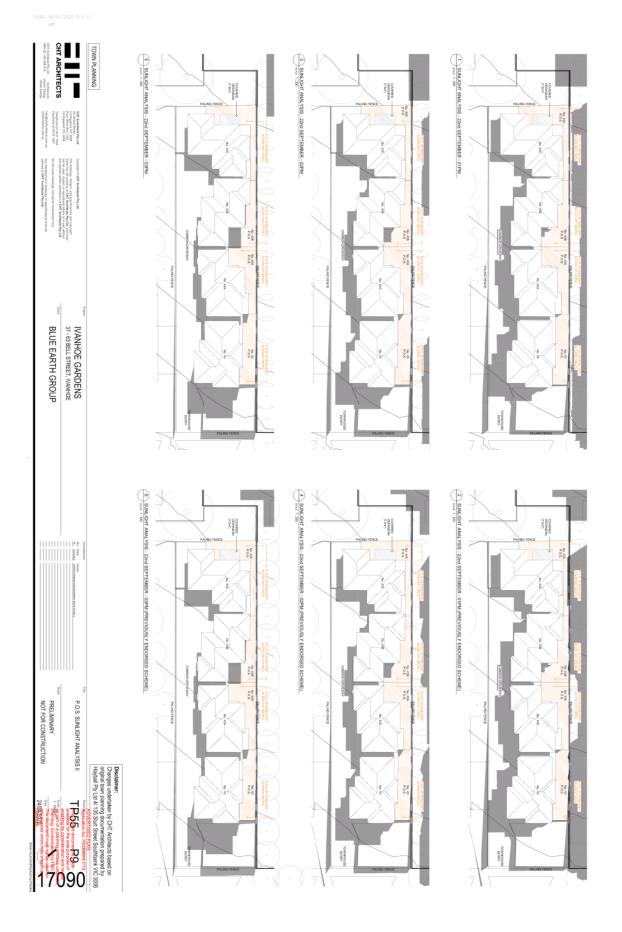








Attachment 1: 37-63 Bell Street, IVANHOE Stamped Advertised Plans

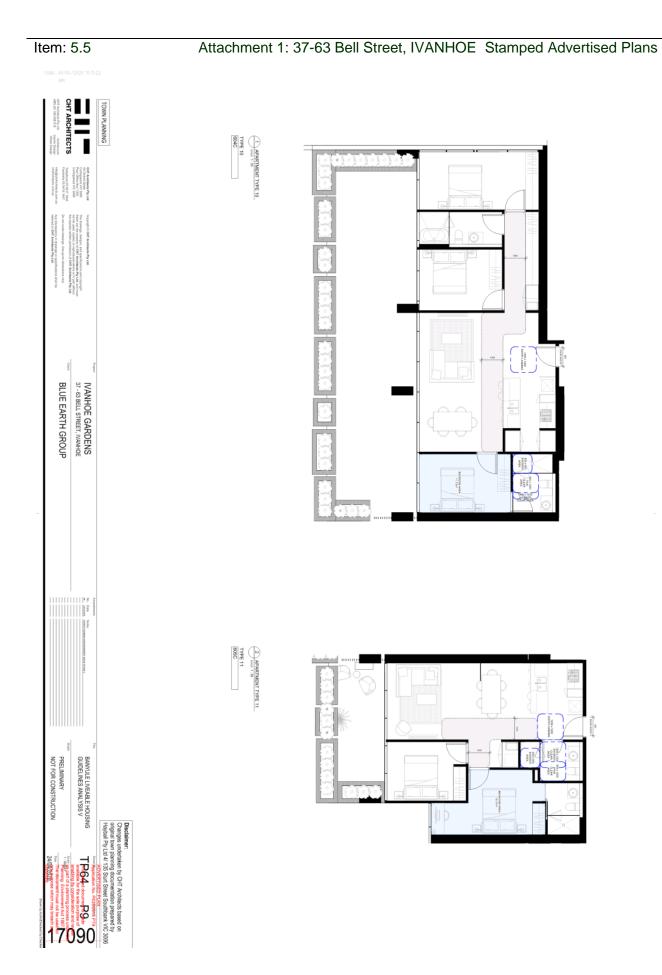


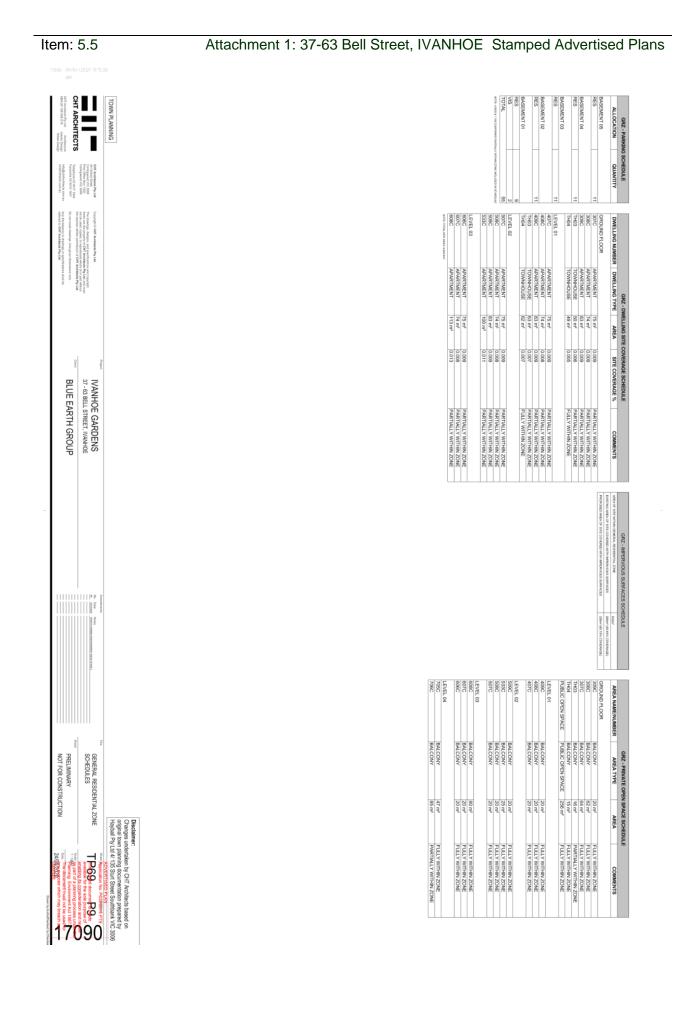
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Item: 5.5	Att	achment 1: 37-	-63 Bell Street,	IVANHOE	Stamped /	Advertised	Plans
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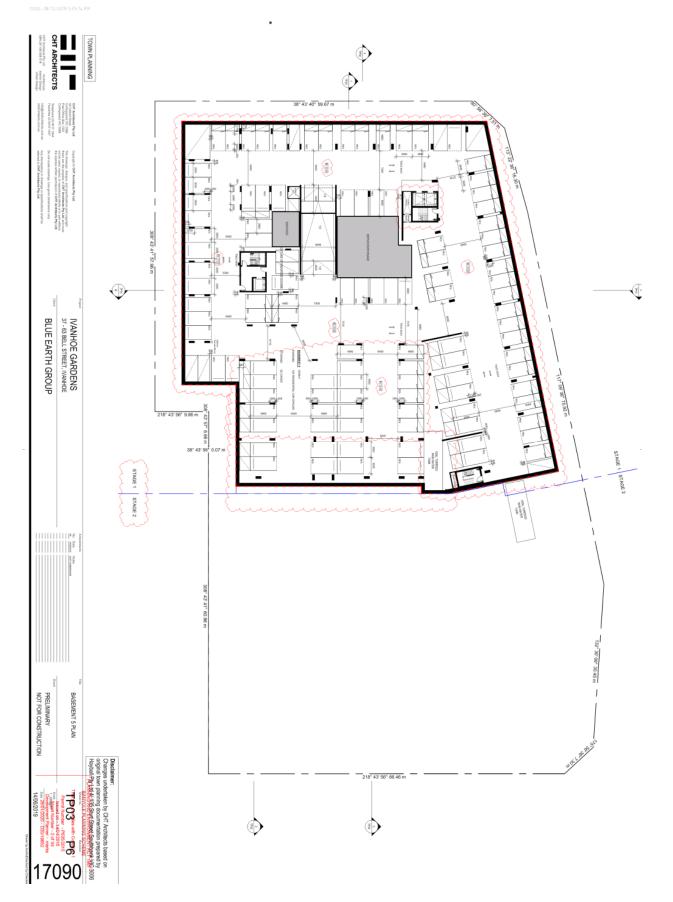


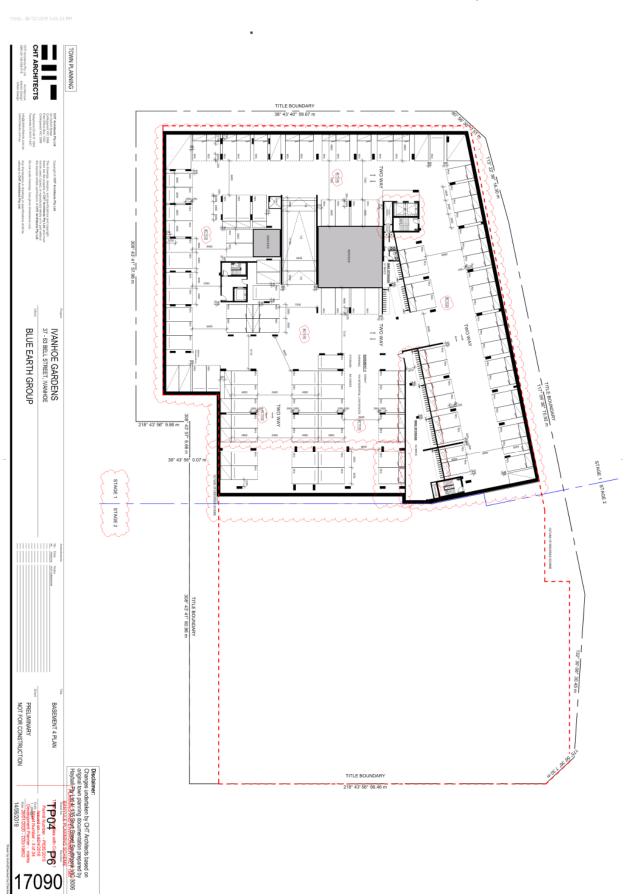


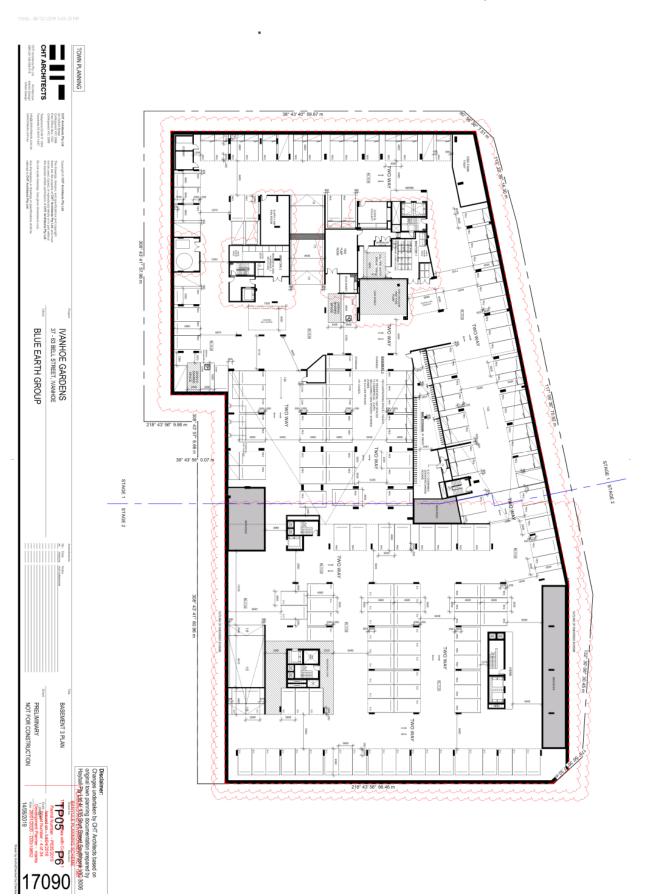
Item: 5.5 Attachment 2: 37-63 Bell Street Ivanhoe P635/2015 - Alternative Floorplan deleting 12 apartments

	y - 37-69 Bell Street, Ivanh	oe							
17090 22.08.2019 Section 72A (Building A TP08	Top 2 Levels)							6	Rece
A SUMMARY				m²					1/10
				8924				L	
of Site Covered with Impervi	ious Surfaces			88%					
en Space (at street level)				905					
suding basement and balco	nies)			60452					
APARTMENT - BUILDING 1									
	1 Study 2 Bed 1 Bat		3 Bed 2 Bath Pentho	use Total Apt's	(excl. BAL)	(excl. BAL)			
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13		11		24	1385	1202	150		
13		7		20	1426	1254	157		
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5		9	1	15	1227	1055	128		
		2	4	6	937	711	408		
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APARTMENT - BUILDING 2					GFA	NSA	¥ BAL		
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48%			4%	0%		77%			
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				9 10	980	843	94		
				9 10 9 10	980 980	843 843	89		
				13 15	1327	1158	126		
				6 6	602	520	70		
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BEDS				76 84	8888	6907			
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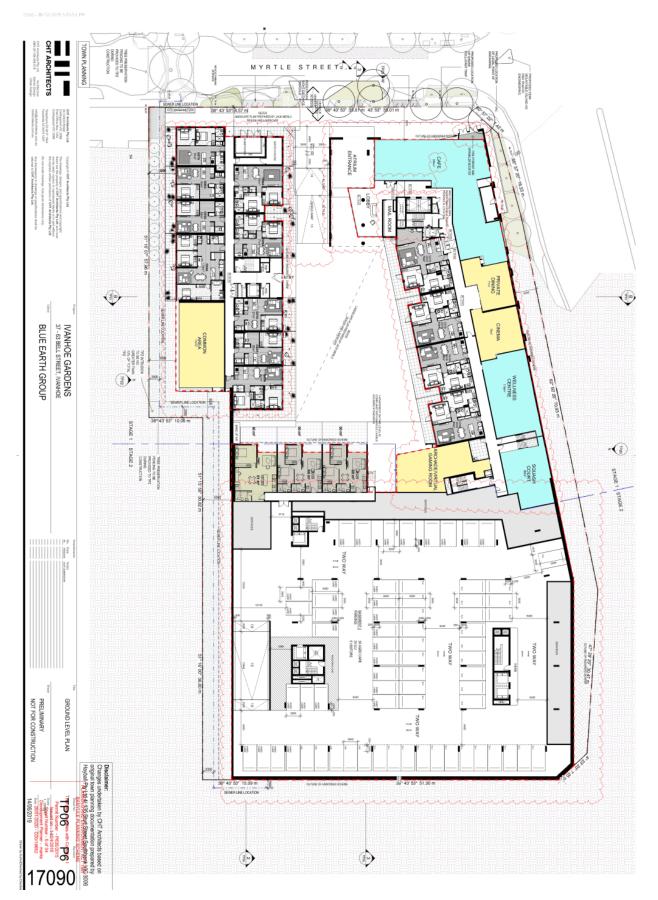




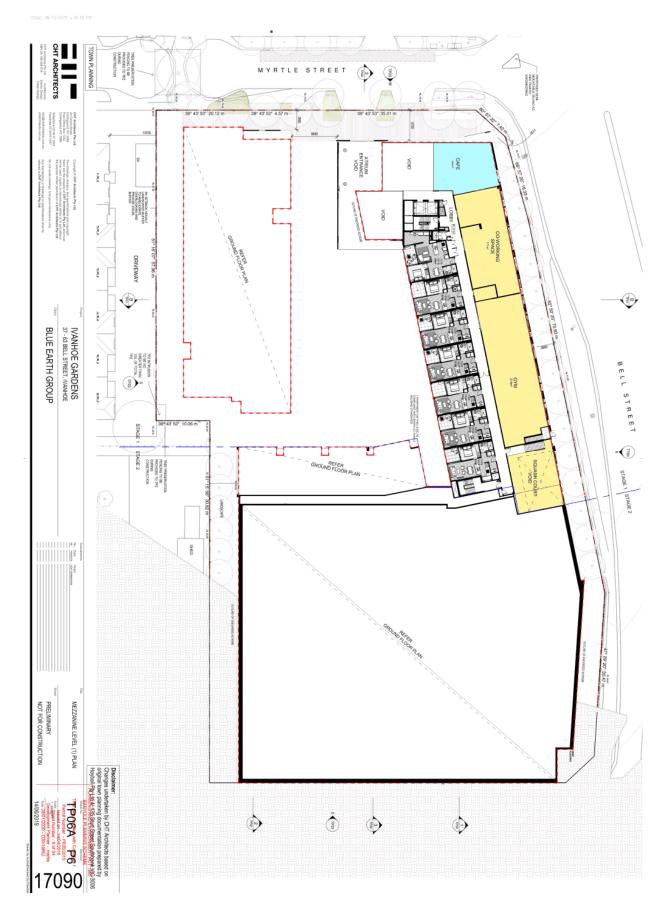




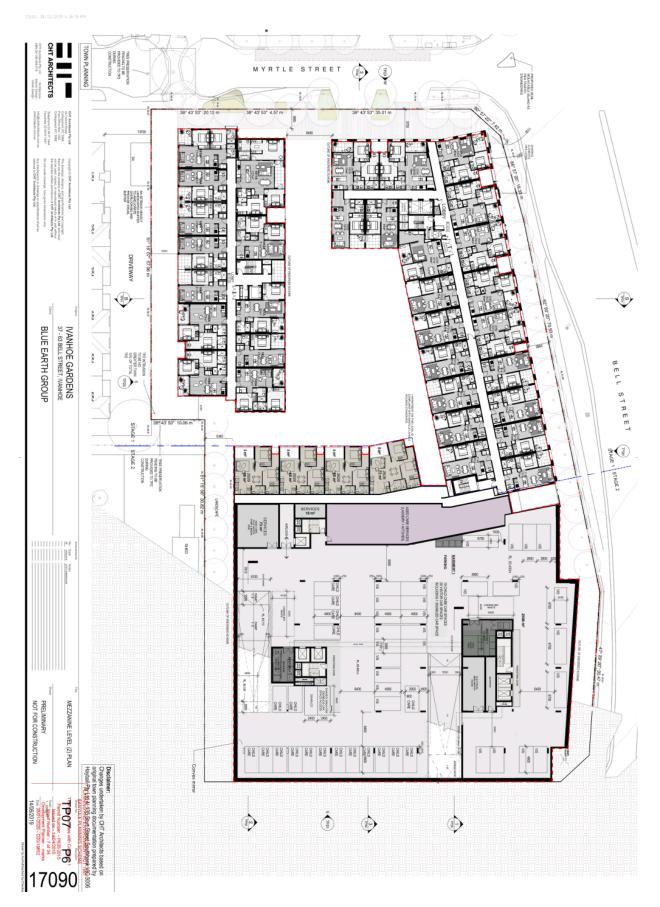




Item: 5.5 Attachment 3: Plans endorsed under Condition 1 as at 29 January 2020 37-65 Bell Street, IVANHOE P635/2015

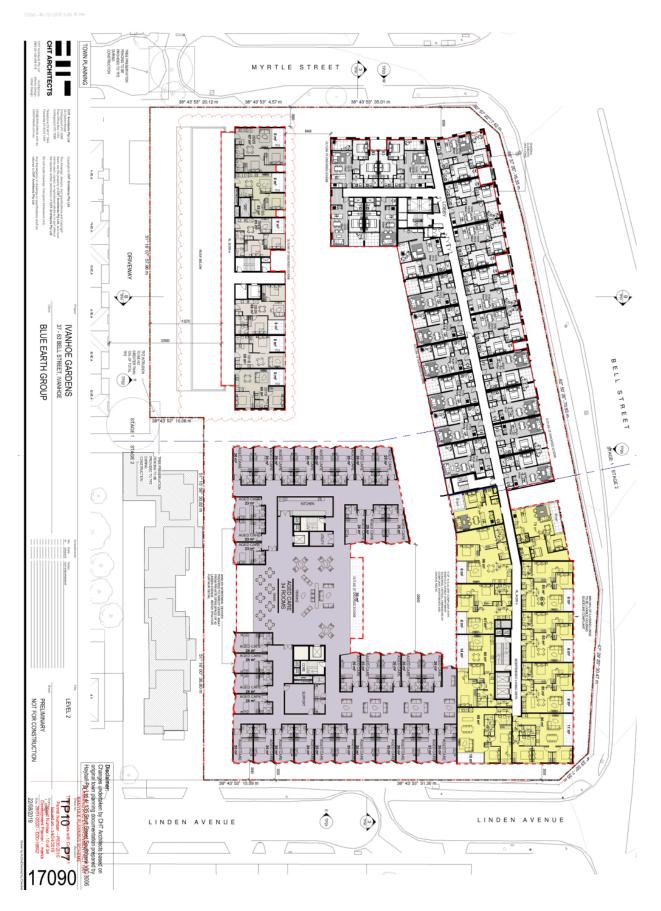




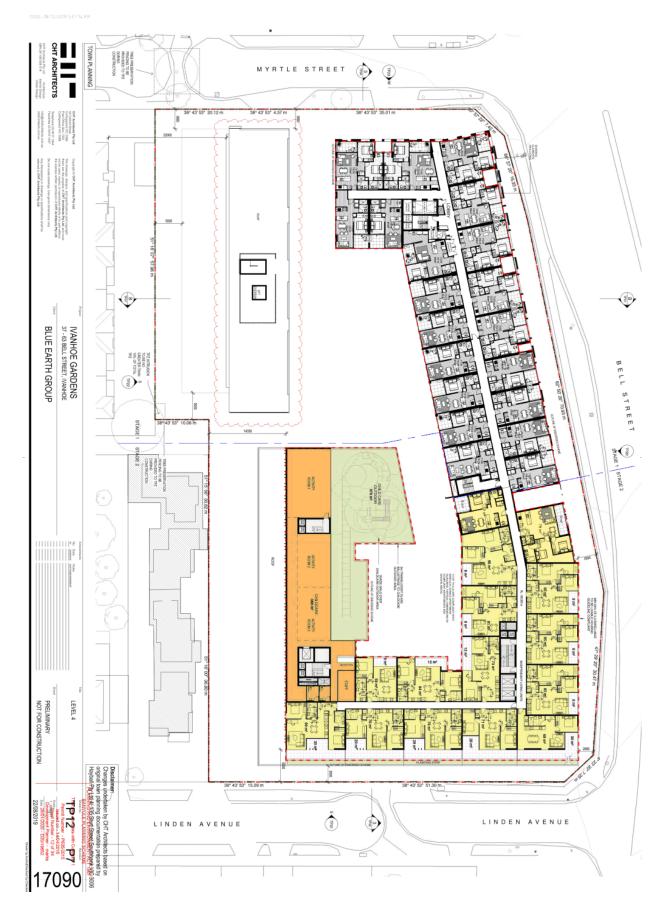


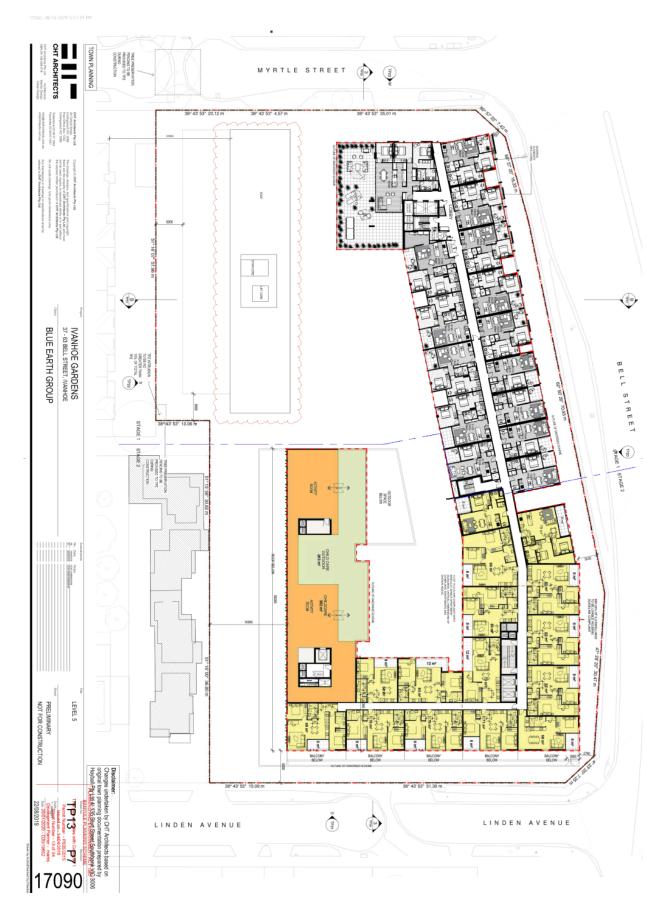




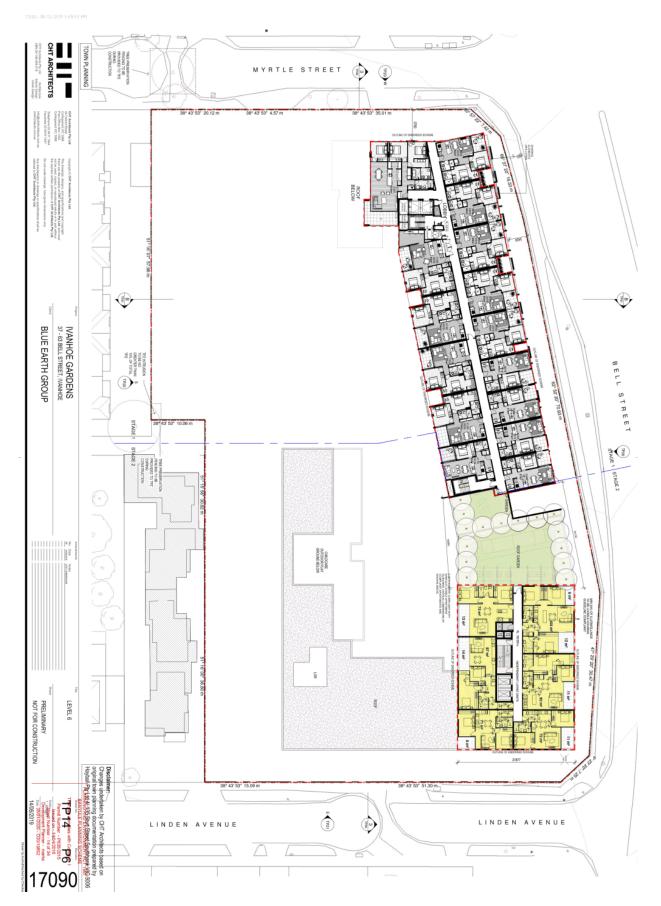




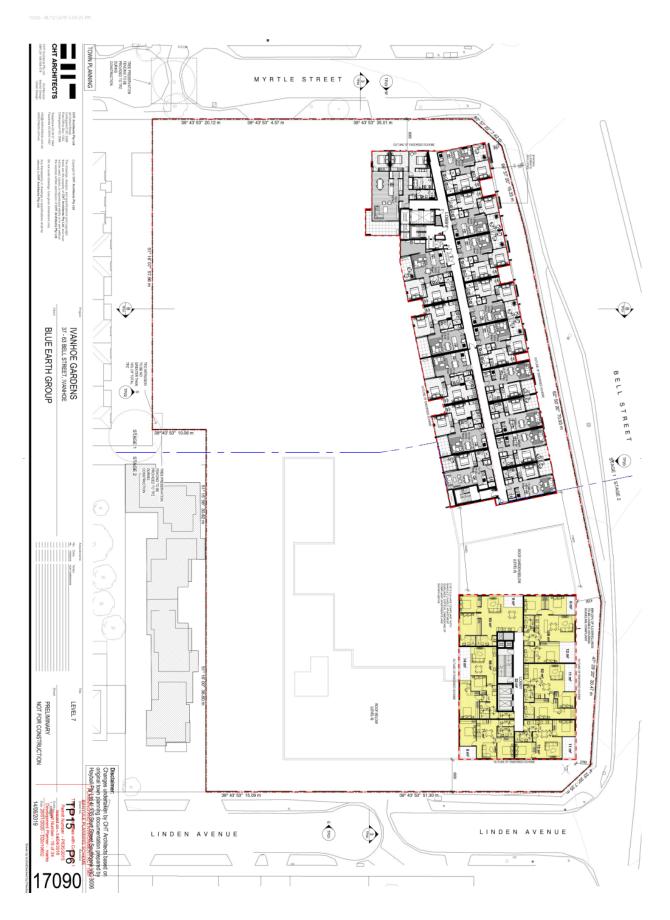




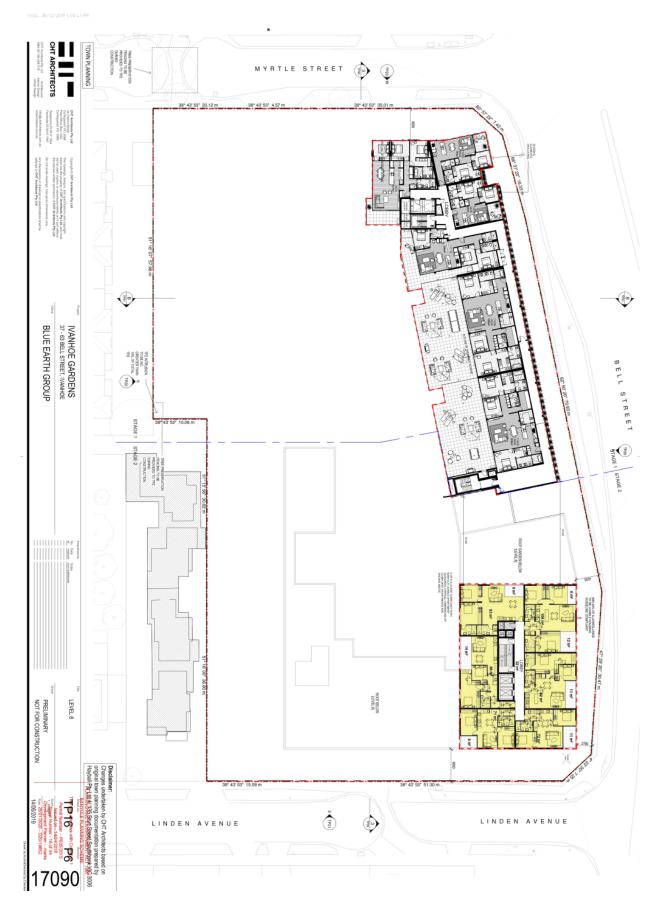




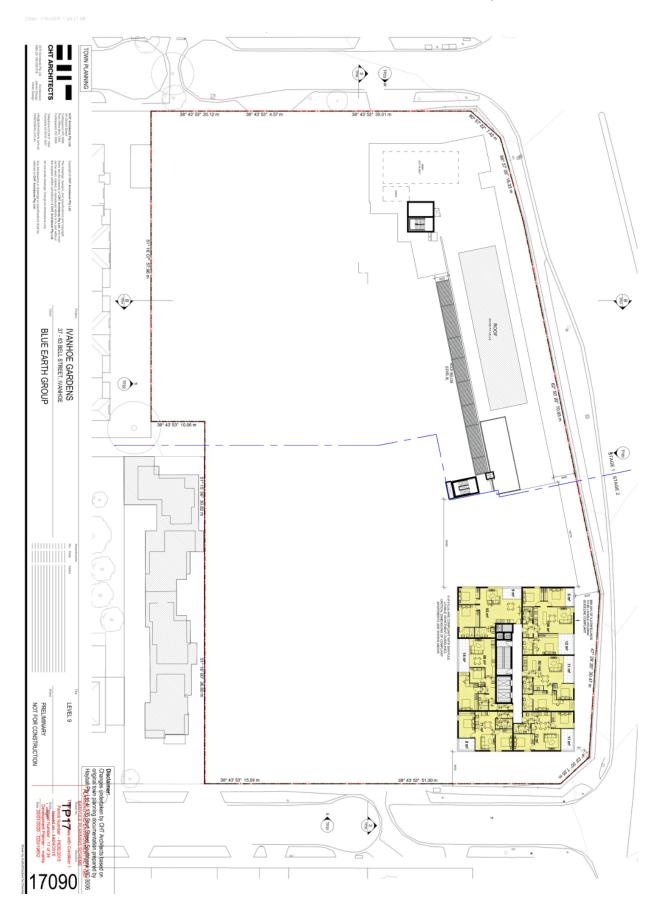
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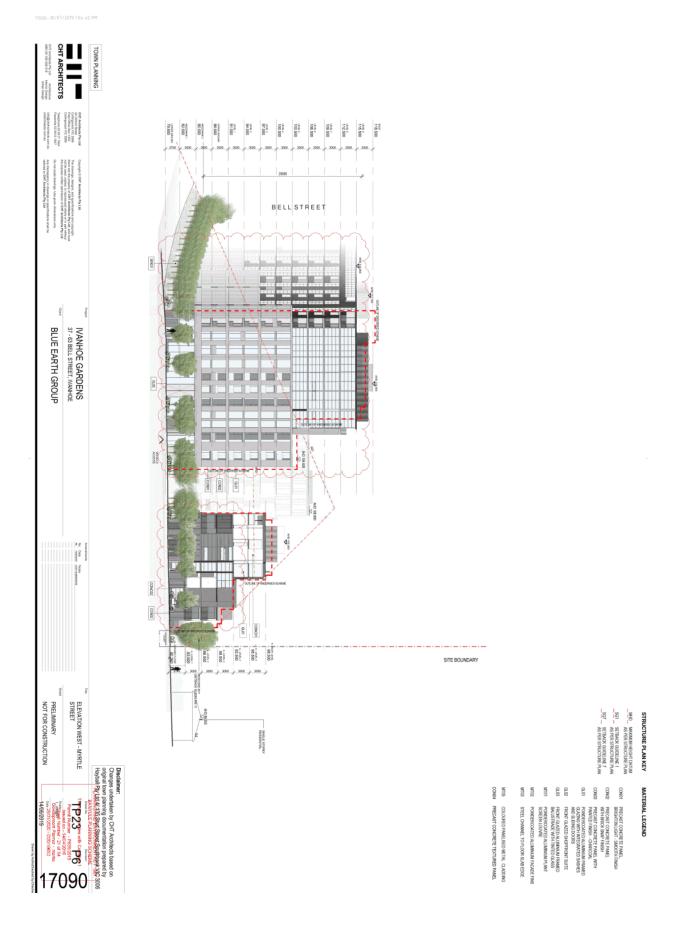




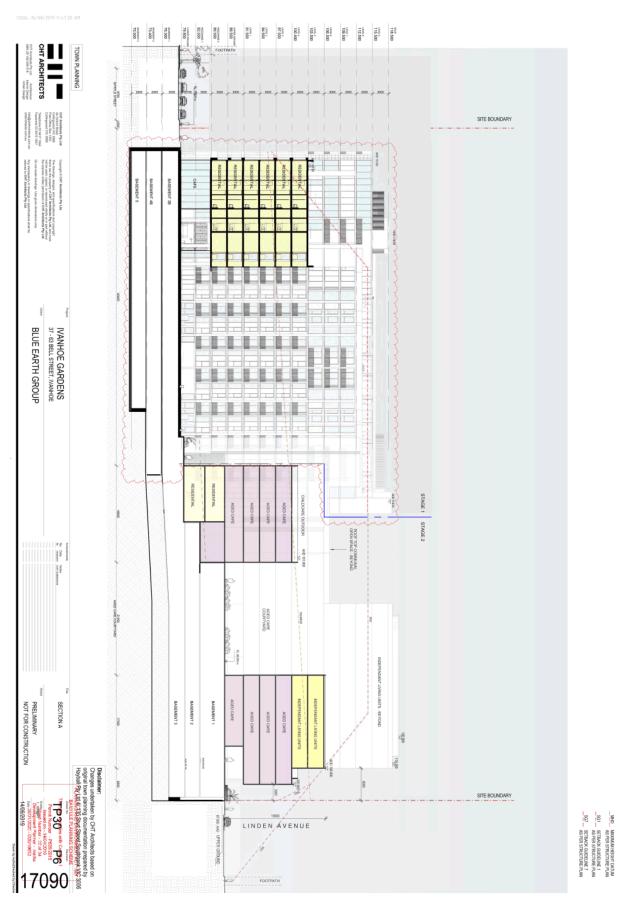




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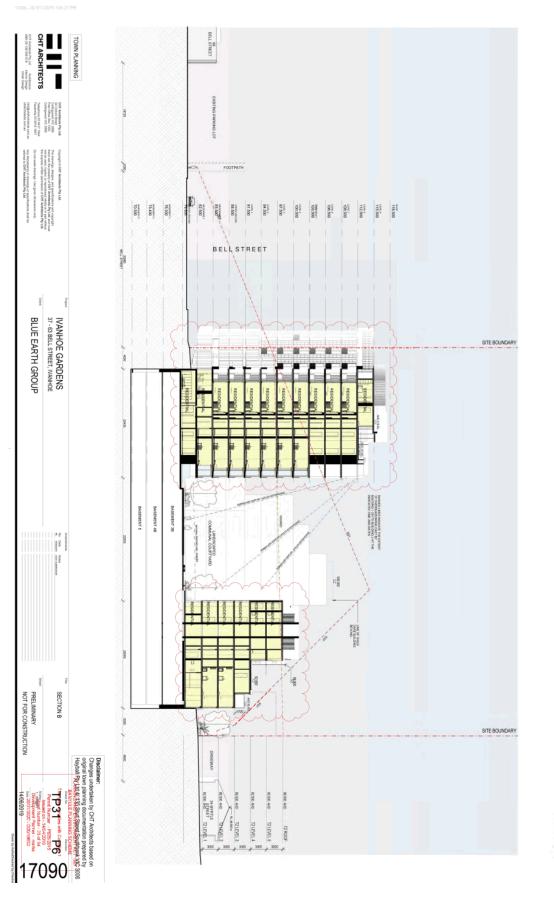


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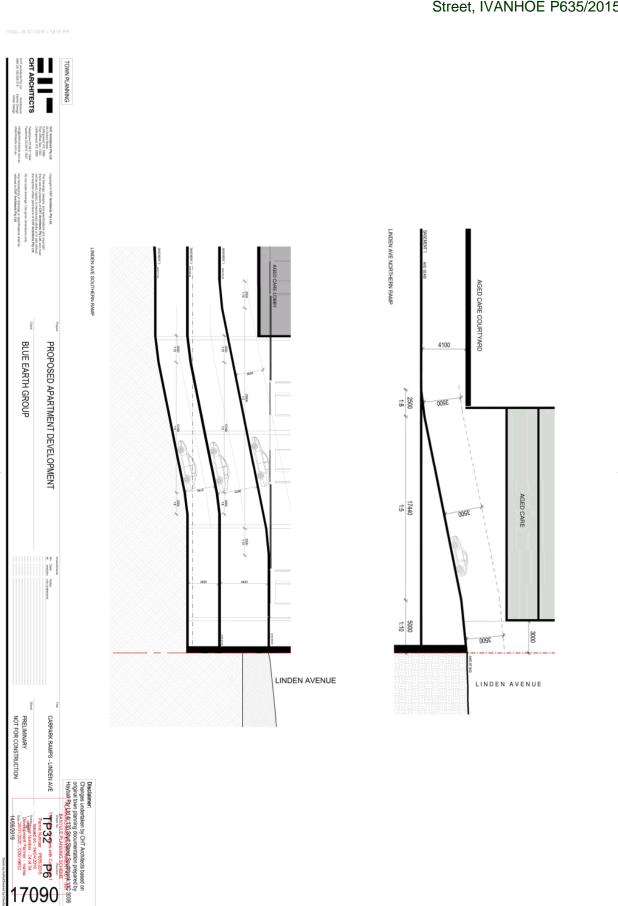


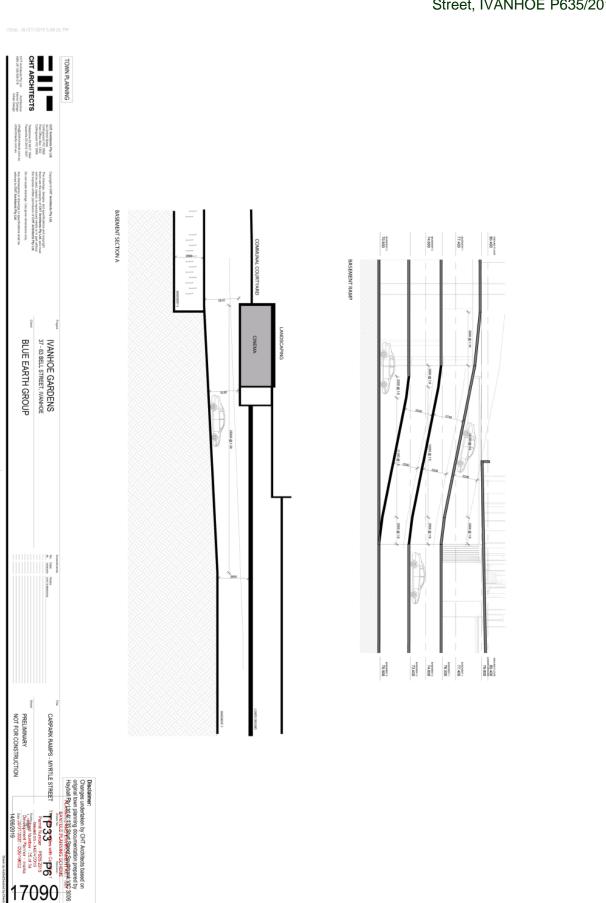
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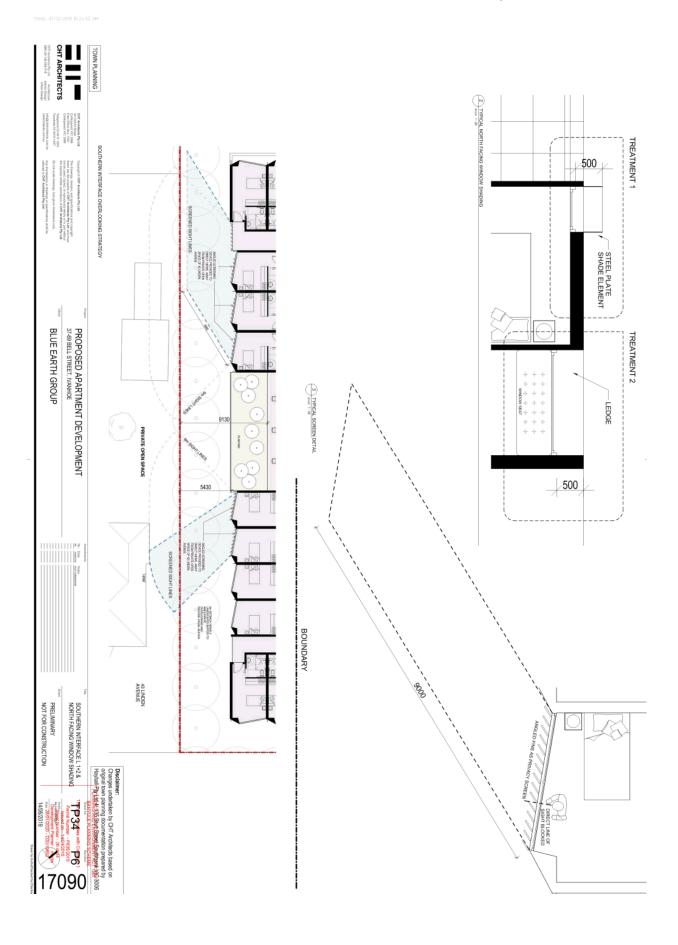


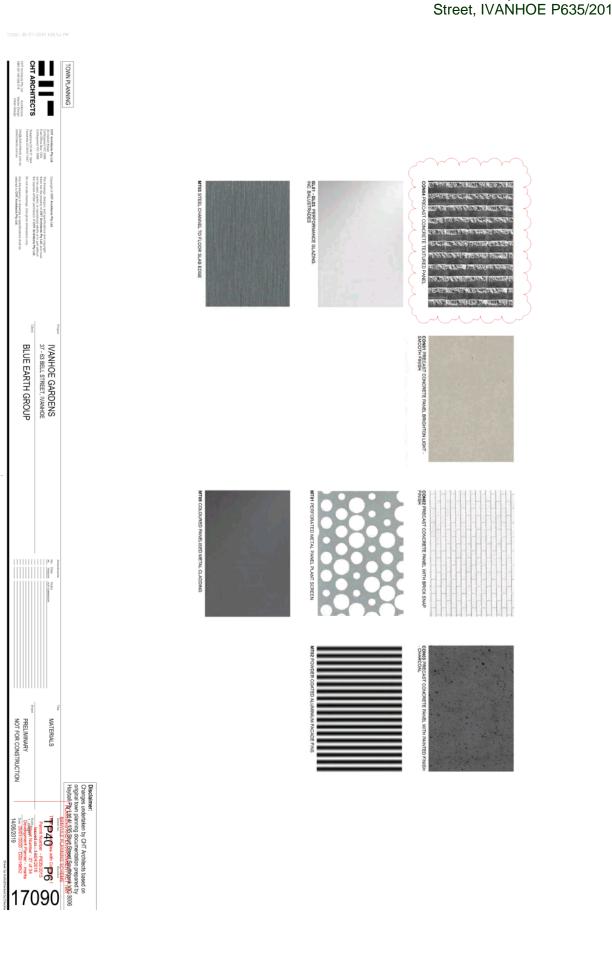
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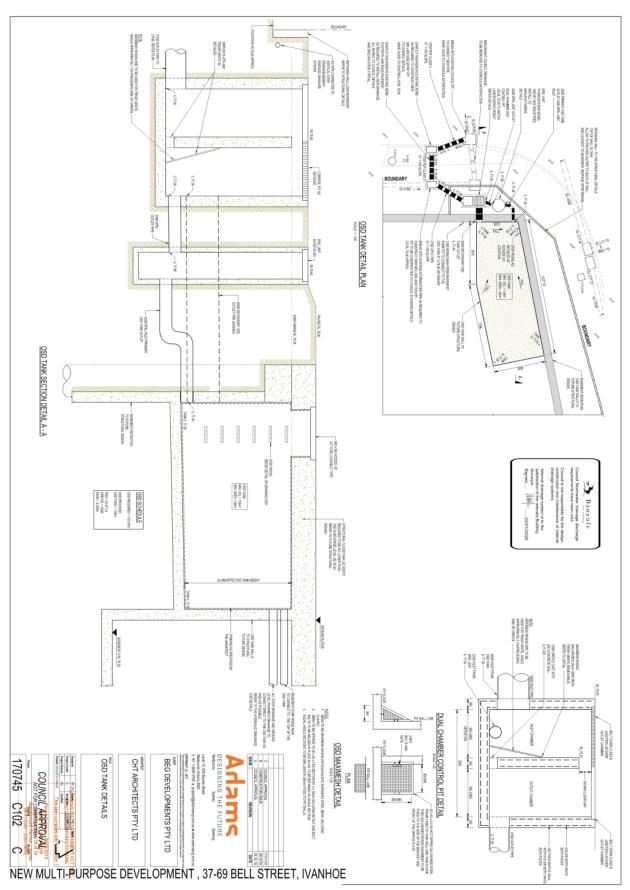


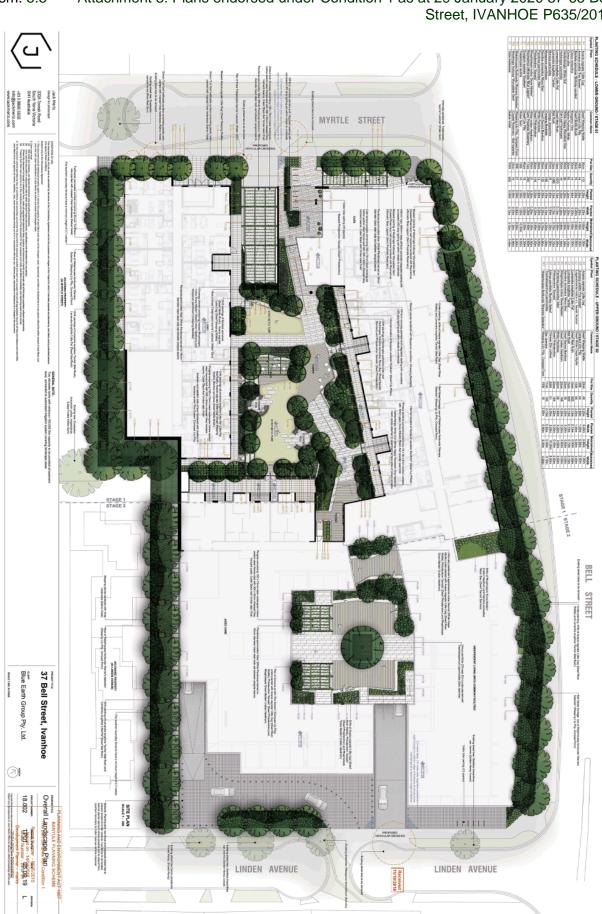


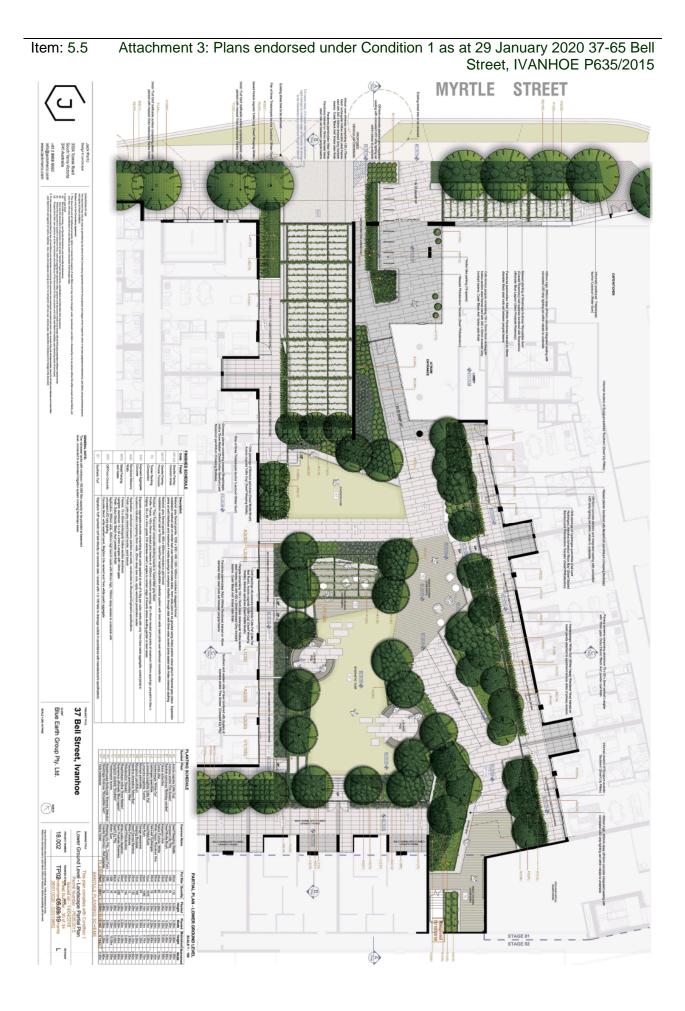


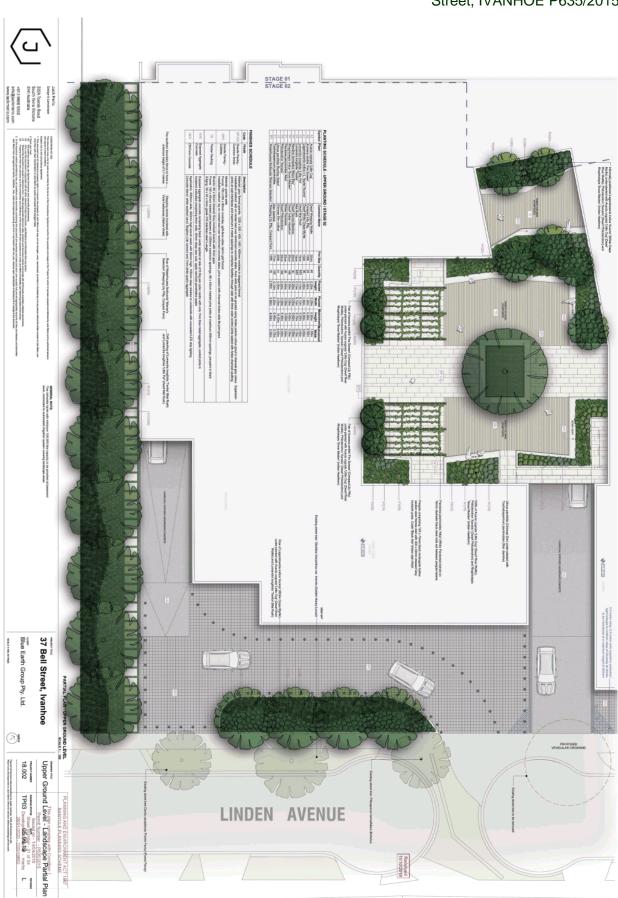




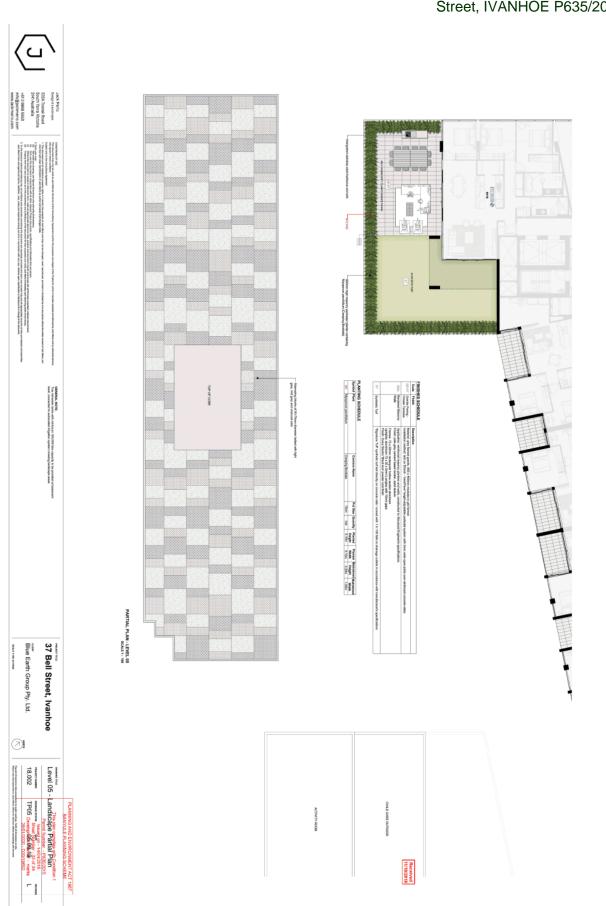


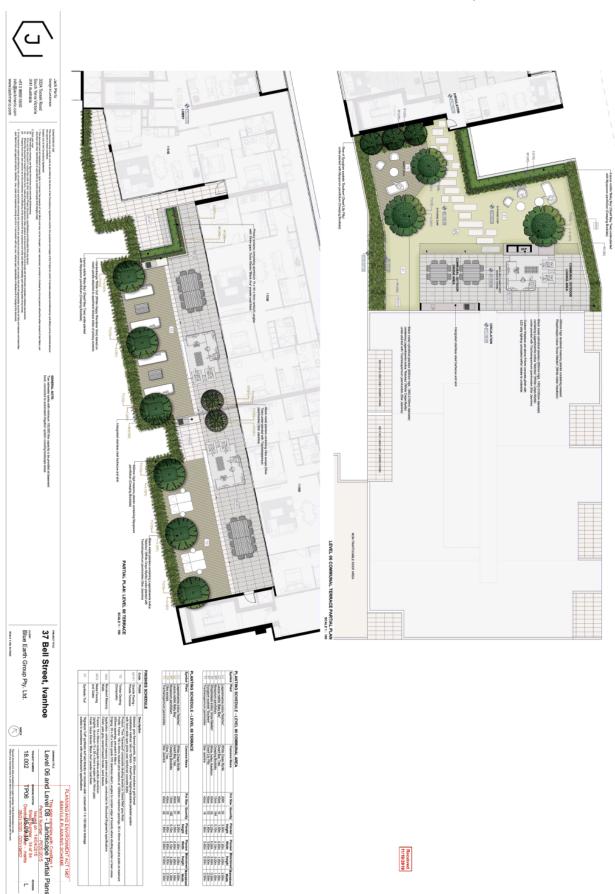












Attachment 4 Summary of Urban Design Advice

The following is a summary of the Urban Design from Global South Pty Ltd dated June 2020 as it relates to the proposed amendments:

Building Layout

The general 'perimeter' layout of buildings is appropriate as it supports definition of the frontages and public realm interfaces, while creating useable open space between the buildings.

Building Setbacks

The provision of significant setbacks from Ground Floor Level to Bell Street is considered appropriate and desirable. The significant front setbacks to Linden Avenue closer to Bell Street also provide opportunities for increased pedestrian space and landscape buffering to the traffic impacts from Bell Street, for commercial and residential uses. Landscaped setbacks will contribute to a contextual response.

Building 3 is set back 5.365m from the southern boundary interface to the 4 townhouses at 43 Linden Avenue (to the outside edge of the balcony planters). The proposal utilises 1.7m high privacy screens to three ground floor dwellings, with the other three south-facing apartments set further back behind large balconies. This Ground Floor frontage continues through Levels 1 and 2. The south portion of the building is 6-7 levels in height with the two uppermost levels (Levels 5-6) set back approximately 14.3m from the southern boundary (to the wall line), and 9.6m to the balcony edge at Level 5.

The building profile is appropriately recessive in relation to the residential interface.

Some of the south-facing balcony spaces (and internal spaces, by extension) are significantly compromised in terms of amenity because of the need for high privacy screens or planters, coupled with narrow balcony depths (see Section 1.1: Ground Level and Level 1; and Section 1.3: Level 1). Modifications are required – south facing balconies should not be further enclosed by high edge screens.

Urban Design Recommendation 1:

That the interface be modified so balconies do not require high privacy screens or planters to restrict outlook.

Building Spacing

The gap between Building 1 and the extension of Building 3 is relatively tight at approximately 6m - 6.5m, particularly affecting the amenity of Apartments 314B, 414B, 514B, 614B, 714B and 811B.

Urban Design Recommendation 2:

That the separation between Buildings 1 and 2 at the centre of the site be increased to at least 9m, to improve residential amenity and enhance the sense of openness within the site.

> Eastern Courtyard

The eastern courtyard is interfaced by proposed 6-storey built form to the south (approx. 18m high), and 15-storey built form to the north (approx. 45m high). The shadow diagrams show that this space is fully in shadow at the equinox before 2pm, with some solar access to its southern areas by 3pm. It would be fully overshadowed in winter throughout the day. This space will have limited usage value for residents because of its limited width, very deep proportions and restricted solar access. The northern building is likely to feel quite overbearing at some 45m tall, relative to the 15m wide space. However, this space is a result of spacing between buildings and may provide some outlook value to residents.

Urban Design Recommendation 3:

This space should be designed for amenity without solar access, to encourage some level of usage.

Based on the assessment undertaken, the built form siting of the proposal is generally supported, with some recommendations for enhancement.

➤ Land Use

The allocation of non-residential uses at the lower levels facing Bell Street is appropriate. The food and drink premises proposed at the Bell Street corner is appropriate in supporting its visibility and utilising the side street for more amenable dining.

The location is appropriate for higher-density residential development, because of its Activity Centre location and proximity to various facilities and services. Residential development along the Bell Street corridor should however ameliorate amenity impacts associated with the traffic corridor location. These impacts are otherwise likely to be detrimental to internal amenity.

The proposed communal facilities for residents are appropriate and useful for residents, and their location along the harsh Bell Street interface is also appropriate. They will contribute to activation of the streetscape environment through visible activities and some public access, while avoiding direct residential interfaces to Bell Street.

Urban Design Recommendation 4:

The proposal would benefit from one or more rooftop communal open spaces, potentially coupled with communal kitchen and lounge areas, to provide:

- Options for entertaining for residents;
- Enhanced solar access relative to the ground floor courtyards;
- Additional open space which is more removed from the traffic impacts on Bell Street; and
- Access to expansive views
- Building Height

The key consideration is the scale of the Building 3 form in the north-east part of the site, which extends to 15 levels. The Bell Street streetscape elevation (TP24) illustrates that:

- Item: 5.5 Attachment 4: 37-63 Bell Street IVANHOE P635/2015 Summary of Urban Design Advice for S.72 Amendment
 - The proposed height of the lift overrun aligns with the uppermost roof height of the approved neighbouring development at 87-131 Bell Street, west of the site, even though the subject site is higher topographically than that site (by in the order of 2- 3 floor levels);
 - The proposed height of the lift overrun is in the order of 3-4 floor levels lower than the top of the building at 442 Heidelberg Road (Ivanhoe Apartments), east of the site;
 - The lower proposed form, or the western part of the site is generally aligned with the mid-rise forms approved to the west.

Based on the above, the height appears to be generally in accordance with the emerging local built form along Bell Street. The locality is one of big scale – roadway widths, infrastructure, built form, institutions such as the hospital, and it is reasonable to expect new development of significant scale.

It is an appropriate location for mid-rise development which exceeds the DDO5 controls, rather than high-rise built form. The proposal constitutes a mid-rise development, albeit with a taller 'marker' form in the north-east part of the site, that part of the development which reaches 15 levels being relatively small.

Building heights are considered acceptable.

> Upper Level Setbacks - Bell Street

Although DDO5 calls for a much more recessive, tapered or stepping form, with a 3storey frontage wall, the width of Bell Street and other contextual factors support a more substantial and direct built form edge. The proposed setback profiles to Bell street are acceptable.

> Upper Level Setbacks – Linden Avenue

The built form to Linden Avenue extends to 6-storeys (with uppermost levels set back), while there are also setbacks to the tower form at Bell Street (from Level 5), in addition to the overall ground floor setbacks.

This interface is acceptable, noting that the taller form is separated from the existing houses across Linden Avenue by the fenced 'break' in the street.

> Public Realm Interfaces

The location of communal, non-residential spaces at the lower levels of the Bell Street frontage is supported. It is also appropriate to have ground floor dwellings facing Linden Avenue.

The severe noise impacts and potential air quality and vibration impacts from Bell street present a significant challenge for the amenity of upper level apartments. The Bell Street facades so not appear to incorporate solar shading for internal spaces (except from balconies above, to balconies and living spaces below, in some locations), or acoustic buffering to balconies such as 'winter garden' operable glass screens.

Urban Design Recommendation 5:

Item: 5.5 Attachment 4: 37-63 Bell Street IVANHOE - P635/2015 - Summary of Urban Design Advice for S.72 Amendment

- There should be a more protective façade design for the north-facing units fronting Bell Street. Appropriate solar shading and acoustic screening should be included to make outdoor spaces more useable.
- Overshadowing Building 3

The proposed development significantly overshadows the private open spaces of the adjoining four (4) double-storey units at 43 Linden Avenue, between 9am and 12noon. It would be preferable if solar access were retained from at least 11am through a more recessive building form.

> Architectural Expression - Bell Street (East)

As appropriate for a development of this scale, the proposal is designed as a composition of distinct elements, with distinct facade treatments and clear divisions between them. This effectively breaks down the overall building mass across the frontage into discrete elements. The expression to the Bell Street frontage is rectilinear and robust but reflects an appropriate level of design consideration and resolution.

Urban Design Recommendation 6:

- The junction between the glazing at the top of the expressed podium and the bottom of the dark upper level form, at the Bell Street frontage, appears unresolved and awkward as the heavy tower form is resting on glass. It would be preferable for the horizonal banding to continue at this level, with a discrete transition level, as occurs at the Linden Avenue frontage.
- > Architectural Expression Linden Avenue (street interface)

This lower-scale frontage and horizontal expression is appropriate to the side street interface close to Bell Street, while the vertical balcony recesses create a finer-grain expression at Linden Avenue. There is a distinct transition down in height at the southern end of this frontage, which 'turns the corner' into a terraced expression to the rear interface. This approach is supported.

> Architectural Expression – solar shading

Upper west-facing levels of the tower form in Building 3 contain extensive unshaded glass which will be subject to solar impacts from the north and west.

Urban Design Recommendation 7:

- Good design practice should incorporate demonstrated responses to these clear site factors and likely amenity impacts.
- > Architectural Expression Linden Avenue (residential interface)

The south elevation comprises continuation of the horizonal bands of striped or ridged concrete, but with subtle variations in heights of these edge planters, and two vertical breaks. The proposed balcony-edge planters fronting Linden Avenue and the southern interface provide greening and visual softening of the facades, but the landscape design and maintenance strategy must ensure these are maintained and durable. The use of mirrored film on windows (GL06) on upper level, south-facing windows to Building 3 (Linden Avenue side of South Elevation) is questioned.

The architectural expression of the proposal is generally supported.

Conclusion

The proposed development at 37-63 Bell Street, Ivanhoe builds upon the existing approval for the site, which is already under construction, in response to a changing context of higher built form and recent approvals nearby.

Overall, the proposal is considered acceptable from an urban design perspective, subject to several recommendations for design refinements.

Attachment 5 Consideration of Threshold Issues -VCAT Caselaw

Amending a Permit following successful mediation

The issue of a planning permit being amended following a successful mediation was considered by VCAT in 478 St Kilda Road Land Pty Ltd v Port Phillip CC (Red Dot) [2016] VCAT 445 ('478 St Kilda Road').

In *478 St Kilda Road* an application pursuant to s87A of the Act was before the Tribunal seeking an amendment to a permit that was issued by consent following a successful mediation. At issue was whether it was possible to approve an amendment that sought to 'win back something that was foregone at mediation'.

The Tribunal had regard to principles established in the earlier cases of *The King David School v Stonnington CC & Ors (includes Summary) (Red Dot)* [2011] VCAT 520 and *Marone Pty Ltd Joint Venture v Glen Eira CC and Ors* [2011] VCAT 1650. In *478 St Kilda Road* the mediated outcome was considered by all parties to be highly relevant. The parties' positions differed about the weight to be given to the mediated agreement, the relevance or importance of a new land owner, and the extent to which the amendments represented a material, substantial and/or unreasonable departure from the approval and sought to win back conceded or foregone development aspirations. The Tribunal found that (as summarised):

- > The *King David* and *Marone* decisions concur that:
 - A degree of caution should be exercised in making "substantive changes to permit conditions" upon which a permit was predicated (including by mediation/consent orders).
 - "Good and sound reason" or "sound justification", including a change of circumstance, are relevant to a decision that would depart from a mediated outcome at least in the immediate period following the original Tribunal decision (or mediated outcome).
- The "principles" or matters that formed the basis of consideration in *Marone* should not be taken out of context and/or overly simplified. They should not be applied as if any mediated solution must override, and therefore prevent, an amendment requested under section 87A without proper consideration of what is different and what the planning outcome will be.
- In the decision of *Teperman v Boroondara CC* [2016] VCAT 180, the Tribunal found amendments to a permit, issued after successful Tribunal mediation, had no unreasonable amenity impacts. The amendments being pursued were under s72 of the Act rather than s87A, but the Tribunal found that was not a critical point with respect to the fact that the amendments related to a permit that was issued after successful mediation.
- Agreements reached at mediation and compulsory conferences about planning disputes need to be understood in the context that circumstances can and do change. It is important that the opportunity to respond to changes is available subject to consideration of the merits and impacts of the changes.
- A change in ownership cannot be assumed to always be a sound reason or sufficient justification to amend a permit. Each reason for an amendment must be advanced and considered in light of all relevant facts and circumstances.

- A Council's position on the planning merits of an amendment proposal is a relevant change in circumstances.
- Finality cannot be achieved in relation to any site whether in the planning process, while a building is being constructed, or even after a development is completed. There cannot be 100% finality for a number of reasons. Planning permits are not required to be acted upon and the Act allows amendment applications to be made.
- Great caution is required with respect to changes that are requested shortly following mediation/compulsory conference that undermine an agreement.
- In absence of a Section 173 agreement under the Act that formalises an agreement, or another transparent legal mechanism, there is no basis in the Act or VCAT Act for such a consent agreement to carry overriding weight in perpetuity or to bind every new owner to an agreement they were not party to.

Having regard to the above guiding principles it is relevant that four years have passed since the mediated outcome and that the ownership of the property has changed, with the new owners clearly not party to the 2016 mediation agreement. Along with the question of whether the proposal is transformative and whether the building can exceed 3 storeys and 11 metres height within the GRZ, this leaves an assessment of the planning merits of the proposal as the remaining issue for determination (refer to body of report).

Whether the amendments being requested to the approved development are substantive in the context of the overall building scale and intensity and are within the parameters set by the current Planning Scheme provisions and expected to be achieved in this location is considered in the body of the report.

Is the proposal a Transformation of what has been approved?

Section 73 of the *Planning and Environment Act* 1987 ('the Act') provides that Sections 47 to 62 of the Act apply to an s72 application to the responsible authority to amend a permit as if the application were an application for a new permit i.e. the responsible authority must process the Application in the same manner as a fresh permit application. This process has been followed in assessing the amendment proposal.

The distinction between an amendment application and the concept of transformation was considered in the VCAT decision of *Alkero Development Pty Ltd v Stonnington CC* (Red Dot) [2018] VCAT 1120 ('Alkero'). In that case, the Tribunal had before it an amendment application that sought to amend a permit allowing the development of an aged care facility to a development comprising dwellings. The permit applicant relies on *Alkero* (as per the submitted legal advice provided to it by Best Hooper Solicitors) in advancing the position that the proposal is not transformative.

In *Alkero*, the Tribunal in referring to previous decisions stated that the determination of this threshold issue is a question of fact that will depend on the facts and circumstances of each case. Among others, *Alkero* referred to the Tribunal's decision in *Coles Property Group Developments Limited v Boroondara CC* where the proposed amendment removed all previously authorised residential components, a restaurant and office use, and converted seven individual shop tenancies into a single supermarket. The proposed built form was completely different in scale, design and typology, and multiple changes were sought to the original conditions. In the *Coles* case the proposal was found to be transformative.

The following commentary in *Alkero* is considered relevant to the consideration of this proposal:

Item: 5.5 Attachment 5: 37-63 Bell Street IVANHOE - Consideration of Threshold Issues - VCAT Caselaw

- 20 'In the present case, we acknowledge that no permission is or was required for use of the land for the purpose of an aged care facility or for dwellings. Nevertheless, what the permit allowed was development for a specific type of use, namely building and works for an aged care facility. The form and layout of the buildings were specifically designed for this use. The basis on which the right under the permit was granted to construct the buildings and works was:
 - because of the specific needs of a development for an aged care facility; and
 - because the State section of the planning scheme explicitly acknowledges that residential aged care facilities are different to dwellings in their purpose and function, and will have a different built form (including height, scale and mass).
- 21 The Tribunal in Matthies explicitly took the view that the proposed height of the building, to the extent that it exceeded the discretionary controls then existing and contained in proposed amendment C155, was justified because of the proposed use of the development as an aged care facility.
- 22 In our view, it is telling that the State section of the planning scheme deals separately with different sorts of housing form. Clause 16.01-1 recognises that housing that meets community needs will take different forms. The planning system must support the appropriate quantity, quality and type of housing, including the provision of aged care facilities, supported accommodation for people with disability, rooming houses, student accommodation and social housing, as well as more conventional housing developments. Clause 16.02-4 specifically deals with the design and location of residential aged care facilities and recognises that residential aged care facilities are different to dwellings in their purpose and function, and will have a different built form.
- 23 We do not consider it is sufficient to say that because dwellings and residential aged care facilities will both provide housing for people (and consequently will both fall within the definition of accommodation and within the accommodation group in the nesting diagrams in clause 75.01 of the planning scheme), they should be treated as being for the same type of use for the purposes of considering an application under section 87A. Rather, as in Central Estate Properties Pty Ltd, where the Tribunal found that a retirement village was a different planning concept from a conventional multi-dwelling development, so we consider a residential aged care facility is a different planning concept from a conventional multi dwelling development. In our view, a proposal to convert a residential aged care facility to conventional dwellings would be a transformation of the use rather than an amendment or modification. It does not matter that both are as-of-right uses, which do not require a permit for use. The net outcome of the proposed changes to the permit in terms of the development permitted would result in this change of use.
- In our view, the issue of whether the proposed changes to the permit constitute an amendment or a transformation is not so much about the extent of change to an approved envelope (although the proposal is not confined to the approved envelope). Rather, it is the fact that the fundamental nature of the development approved by the permit is proposed to be changed. We find that in a town planning sense, the right to construct buildings and works for an aged care facility is fundamentally different to the right to construct buildings and works for a multi-dwelling development. In addition, we find that the appearance and layout of the proposed development are qualitatively different and the proposed car parking provisions are significantly increased. The differences in the appearance and layout of the development and the car parking provisions are a product of the change in the proposed purpose of the use.'

In contrast to a complete or total change of land use proposed in *Alkero*, the proposal remains a mixed-use building comprising dwellings, food and drink premises, restricted recreational facility (gymnasium). The land use amendments are confined to removing uses which required planning permission, with some of the original land uses remaining. The built form changes include alterations to reflect changes to the land use mix (additional dwellings), an increase in the height of Building 3 (not on the part of the land contained in the GRZ), decreasing the separation between buildings comprising the development, and other internal reconfigurations (including the car park). There are minimal changes proposed to

permit conditions and the built form is not considered to be completely different in scale, design and typology.

In summary, the proposal is properly to be considered as an amendment to an existing permit and not a transformation.

Maximum Building Height & Maximum Storeys in the GRZ

In respect of the mandatory maximum building height considerations, the southeast corner of the site is within the GRZ (land formerly known as 45 Linden Avenue). The proposed amendments seek to alter the rear profile of Building 3 on the GRZ1 land (to the south-east form) at the interface with four townhouses at 43 Linden Avenue, resulting in both increased and decreased setbacks for this elevation when compared with the endorsed plans. Relevantly, the current proposal exceeds 11 metres and 3 storeys in height on the GRZ land, however the approved development also exceeds 11 metres and 3 storeys in this location and no additional increase in height is being sought (to the extent of the GRZ land). This situation poses the question: Is there an accrued right under the permit that allows Council to consider this built form element of the proposal which would otherwise be prohibited?

In answering the above question in the affirmative, the permit applicant relies on the legal opinion of Best Hooper Solicitors (forming part of the advertised documentation) which considers recent planning caselaw.

Relevantly, VCAT recently considered accrued rights under a planning permit in the decision of *llex Holdings Pty Ltd v Port Phillip CC* (Corrected) [2019] VCAT 2047 (27 March 2020) ('the llex case'). In the llex case, the Tribunal considered the extent of accrued rights under a planning permit issued under the former South Melbourne Planning Scheme in 1993 for an illuminated panel promotion sign. The permit holder sought to amend the permit via Section 72 of the Act to, among other things, change the format of the sign. Council opposed the amendment application on the basis that the change of format was a transformation of the proposal which was prohibited under the current controls applying to the land. The Tribunal found that a change in the format of the sign was an accrued right under the permit for the sign.

The llex decision (heard by a legal member) provides that the following two step process is to be undertaken to determine the extent of any accrued right under a permit:

- 1) Determine the scope of the permit; and
- 2) Determine the scope of the right that has accrued under the permit.

Applying the above to the existing permit, Permit P635/2015 allows a mixed-use development comprising dwellings (as of right use) and various other uses (requiring a permit). The endorsed plans show a proposal contained within a defined building envelope.

It is considered that the scope of the accrued right under the Permit allows the uses specified in the permit (not at issue in this case as none of them are prohibited under the controls that apply) and with respect to height on the land within the GRZ, the accrued right is the height of the building envelope approved.

In the *Alkero* case referred to above the Tribunal said the following (considered to be relevant here):

51 'The extent of any accrued rights under a permit are limited only to the rights created by that permit. They do not extend to whatever was possible to be approved at the time the permit was granted. Accordingly, if the effect of a permit condition is that the development may only be lawfully constructed to a nominated height, then that height

Item: 5.5 Attachment 5: 37-63 Bell Street IVANHOE - Consideration of Threshold Issues - VCAT Caselaw

defines the extent of the accrued right. The same reasoning applies to other parameters of development that may be set out in a planning scheme, such as setbacks, minimum garden areas etc.

- 52 To the extent that the Tribunal's decision in Caydon High Street Development Pty Ltd v Darebin CC suggests that it is not necessary to seek to limit the accrued right to the measure of maximum height depicted on the currently endorsed set of plans because it would have been possible to exceed this height at the time the permit was granted, we respectfully consider this aspect of the decision to be wrong. The nature of the accrued right must be determined by reference to the permit itself, not by what may have been lawfully approved at the time of the permit.
- 53 In most cases, the accrued right will not be constrained to a precise height because a permit will usually require a development to be "generally in accordance with" specified plans. This means that the accrued right includes a right to develop to a height that is generally in accordance with the height shown on these plans, but not more than this. However, this right of "general accordance" arises under the permit and is part of the accrued right represented by the permit.'

For the above reasons, it is considered that the Council can consider a building height (and number of storeys) on the GRZ land that would otherwise be prohibited, provided there is no (or substantial) additional increase in the height.

Attachment 6 - Onsite amenity, accessibility and offsite amenity impacts

On-site amenity

Neither Clause 58 nor Clause 55 are relevant to the consideration of internal amenity, noting the original proposal was assessed against the former DSE Guidelines for Higher Density Housing.

The Council's urban design advice has touched on amenity considerations to the extent of observations about potential noise impacts from Bell Street, overshadowing of the eastern courtyard (discussed under landscaping) and the need for some solar shading for (north facing) Bell Street facades. Relevantly, while the north-facing orientation is advantageous for internal amenity, impacts associated with the large volumes of traffic carried by Bell Street present a significant challenge for amenity. The Bell Street facades do not incorporate solar shading for internal spaces (except from balconies above, to balconies and living spaces below, in some locations), or acoustic buffering to balconies such as 'winter garden' operable glass screens. This can be addressed by permit conditions.

Council's urban design advice does raise a level of concern about a reduced break between buildings, particularly to the extent of amenity impacts on Apartments 314B, 414B, 514B, 614B, 714B and 811B. It is important to consider that despite these apartments having a southerly aspect and being within approximately 6.5m of the adjacent form, the width of the adjacent form is not significant. This generally allows angled views away from the adjacent building within the development, providing an acceptable outlook and avoiding a sense of enclosure. To improve this condition however, consideration could be given to permit conditions requiring secondary obscure glazing windows and treatment of the northern wall of Apartment 101C (and the apartments above), together with the addition of obscure glazed windows and different colours and materiality to this wall to improve the view/outlook from the northern apartments. Draft permit conditions have been framed accordingly.

Provision of the communal facilities is supported. Given that the proposal contains 494 dwellings, these communal facilities are appropriate and useful for residents, and their location along the Bell Street interface is an appropriate response to this condition. The spaces will contribute to activation of the streetscape environment through visible activities and limited public access, while avoiding direct residential interfaces to Bell Street.

Despite that additional communal open space in the form of roof gardens are generally desirable additions, it is not considered necessary in this instance to require them, noting the acceptable provision of private and communal spaces across the development.

Liveable Housing Guidelines

The proposal complies with Council's Liveable Housing Guidelines as demonstrated in the report prepared by *Morris Goding Access Consulting* and on the relevant floor plans.

In addition to the designs of individual apartments that are compliant with Council's guidelines, it is highlighted that the public/communal spaces are also fully accessible including carparking, pathways, entrances, café / retail spaces, and on-site resident facilities including the squash court, beauty salon, games arcade, art room and workshop, gym and pool.

Any loss of the compliant apartments (as assessed against the guidelines) arising from the provision of additional commercial floor space as outlined in this report would need to be picked up elsewhere in the development to ensure the minimum 20% provision is achieved.

Off-site amenity impacts

The following commentary addresses proposed changes to the buildings within Stage 2.

Wind impacts

Vipac Engineers & Scientists Ltd (VIPAC) was commissioned by the proponents to carry out a wind tunnel test to determine the likely pedestrian level wind conditions for the proposed development. VIPAC prepared a report setting out its findings and this report formed part of the application documentation.

The results show the wind effects in ground level public areas adjacent to the development (as proposed). The wind modelling study investigated safety and comfort in ground level pedestrian access-ways adjacent to the proposed development. These areas were assessed against the recommended 'walking criterion' whilst the entrances of the proposed development were assessed against the 'standing criterion'.

The VIPAC report concludes that with the proposed design (without modification), the development fulfils the recommended criterion for standing at the main entrance areas. It also concludes that with the proposed design and recommended changes (as set out in the report):

- The development fulfils the recommended criterion for safety at all test locations.
- The development fulfils the recommended criterion for walking along Myrtle Street, Linden Avenue and Bell Street.
- The development fulfils the recommended walking criterion at high level terraces.

In summary, the recommended changes involve the construction/installation of wind barriers of varied heights and materiality (porous and non-porous) in specified locations, across both stages of the development. The locations identified are within the title boundaries and are largely within areas set aside for landscaping purposes.

It is considered that the full extent of the recommendations should be implemented and that the details of each structure should be shown on amended plans. This can be addressed by permit condition(s).

Overshadowing

The shadow diagrams (Plans TP50-TP55) show that the secluded private open spaces of the 4 existing dwellings to the south-east at 43 Linden Avenue are generally not further overshadowed at the September equinox (when compared with the endorsed scheme). There are however some exceptions as described below.

Amendments have been made to the south-east facing terraces on Levels 03, 04, 05 to reduce the extent of overshadowing, with a marginal reduction in shadowing to most of these spaces at 12pm and 1pm (sunlight access to the SPOS of Unit 2 is reduced from 57.2% to 56.6% at 12.00pm), with the 11am shadow largely unchanged for all but Unit 4 which has sunlight access reduced from 21.5% of its SPOS to 20% of its SPOS. The secluded private open spaces are already wholly in shadow at 9am and 10am and this would continue to be the case under the amended proposal, with longer shadows cast over the roofs of the dwellings and the common driveway. The diagrams show there are no shadowing impacts to 43 Linden Avenue at 2pm, with the shadows likely to no longer affect this site at some stage between 1pm and 2pm.

Item: 5.5 Attachment 6: 37-63 Bell Street, IVANHOE - Onsite amenity, accessibility and offsite amenity impacts

The extent of overshadowing beyond 43 Linden Avenue is not particularly clear from the information provided, however an examination of the plans (including the impacts to 43 Linden Avenue) would suggest that any additional shadow impacts for other nearby properties would be acceptable.

Given there is no additional overshadowing of the adjoining areas of SPOS at 43 Linden Avenue other than marginal increases at 11am for Unit 4 and at 12.00pm for Unit 2, the proposed changes are considered acceptable.

Overlooking

The Linden Avenue interface is illustrated in three section diagrams on Plan TP34. These diagrams rely on the accepted 9m separation limitation for overlooking from ResCode (Clause 55.04-6, Standard B22) and demonstrate the following:

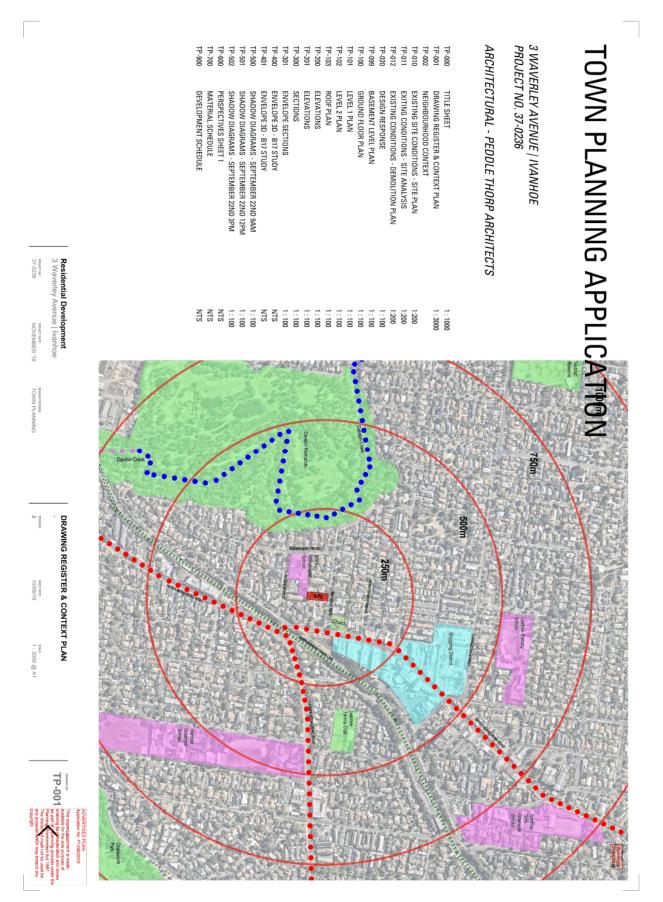
- Section 1.1 (east):
 - 1.7. high privacy screen (Ground Floor) and 1.4m high planter (Level 1) are required to prevent overlooking to neighbouring habitable room windows;
 - 1.1m high planters at Levels 2, 3 and 4 prevent direct downward views from balconies to the neighbouring properties;
- Section 1.2 (middle):
 - The Ground Floor balcony space (behind edge planter) is exactly 9m from a habitable room window opposite;
 - o Other levels are well above 9m from habitable room windows;
- Section 1.3:
 - The balcony spaces (behind edge planters) are more than 9m from habitable room windows opposite;
 - o A 1.4m high planter is required at Level 1

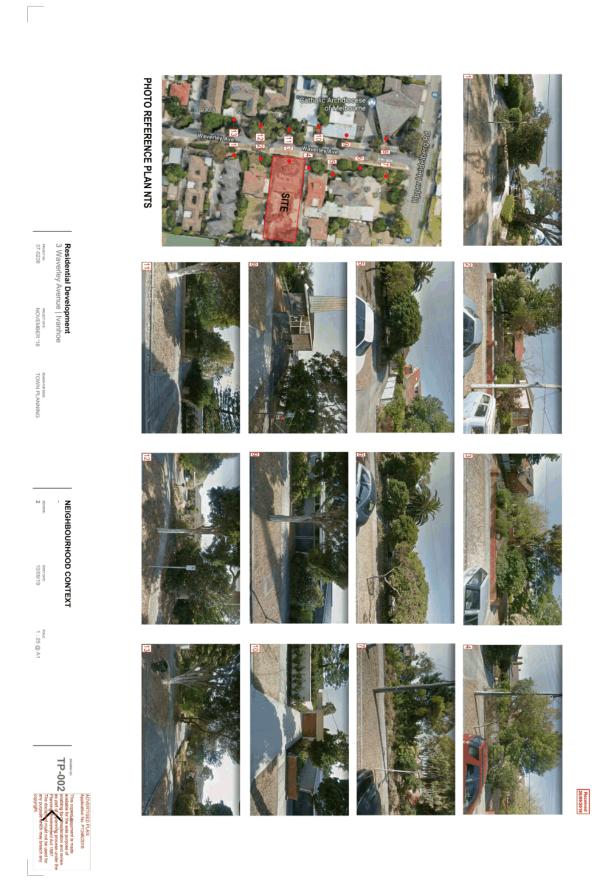
All potential overlooking opportunities are managed from the lower levels of the building to ensure that no unreasonable overlooking occurs to the properties located to the south east of the site. This is achieved through a combination of overlooking devices and extensive setbacks at the upper levels of the building.

A consequence of the screening for some of the south-facing balcony spaces (and internal spaces, by extension) is that they are significantly compromised in terms of amenity because of the need for high privacy screens or planters, coupled with narrow balcony depths, such as in Section 1.1: Ground Level and Level 1; and Section 1.3: Level 1.

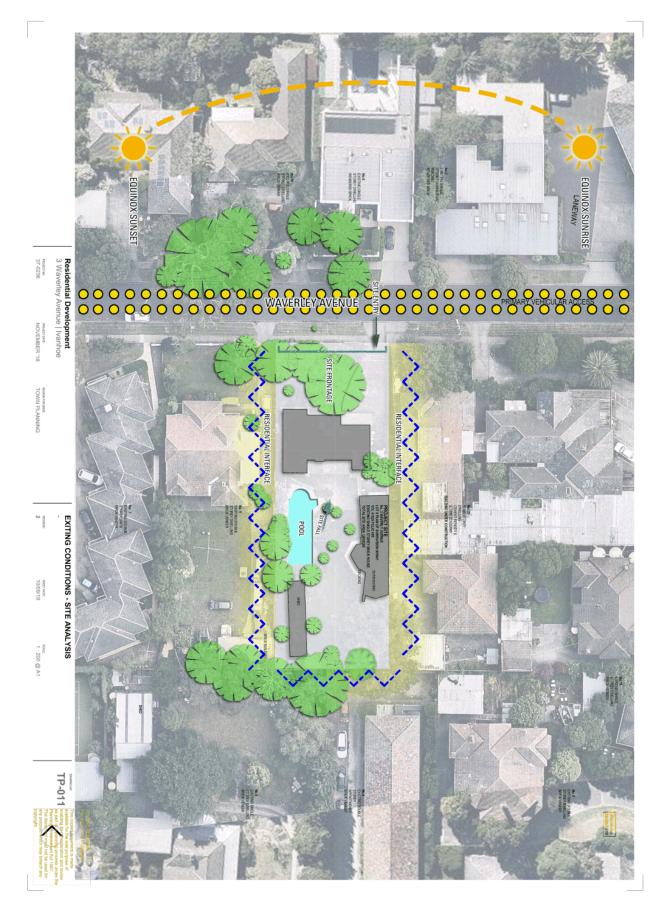
Windows opposite will be visible to occupants beyond 9 metres, however this is a generally accepted minimum offset distance for overlooking. However, when high privacy screens or planters are required to further restrict outlook form balconies, this requires modification. Because these are south-facing balconies with little or no solar access, they should not be further enclosed by high edge screens. This can be addressed by permit condition.









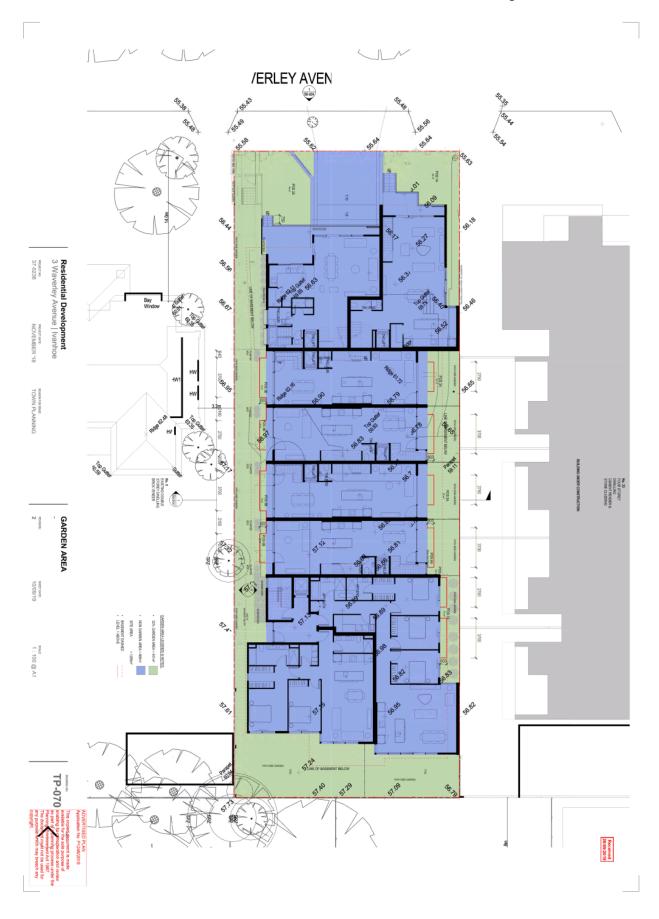


Attachment 1: Amended Plans Lodged Post Notification

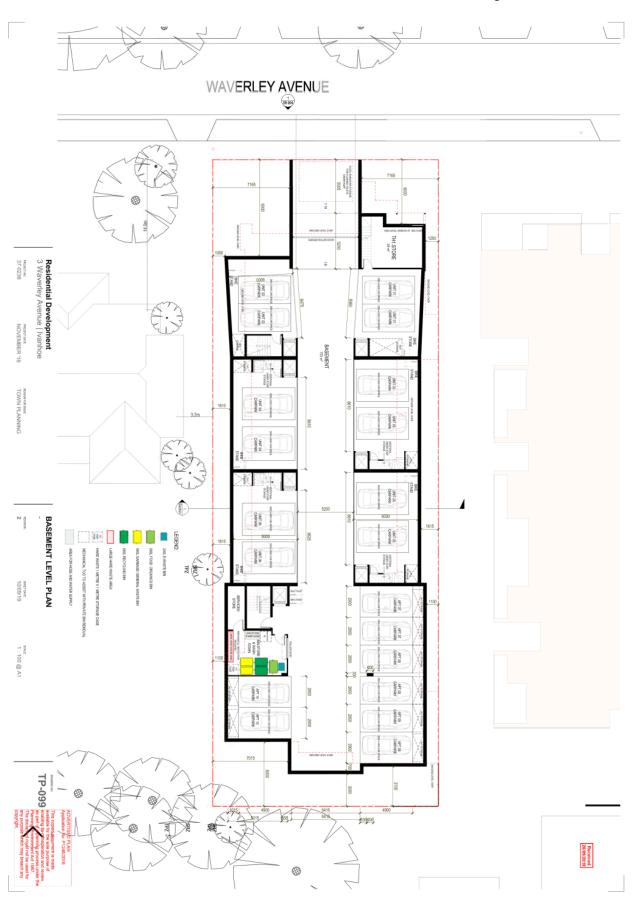




Attachment 1: Amended Plans Lodged Post Notification



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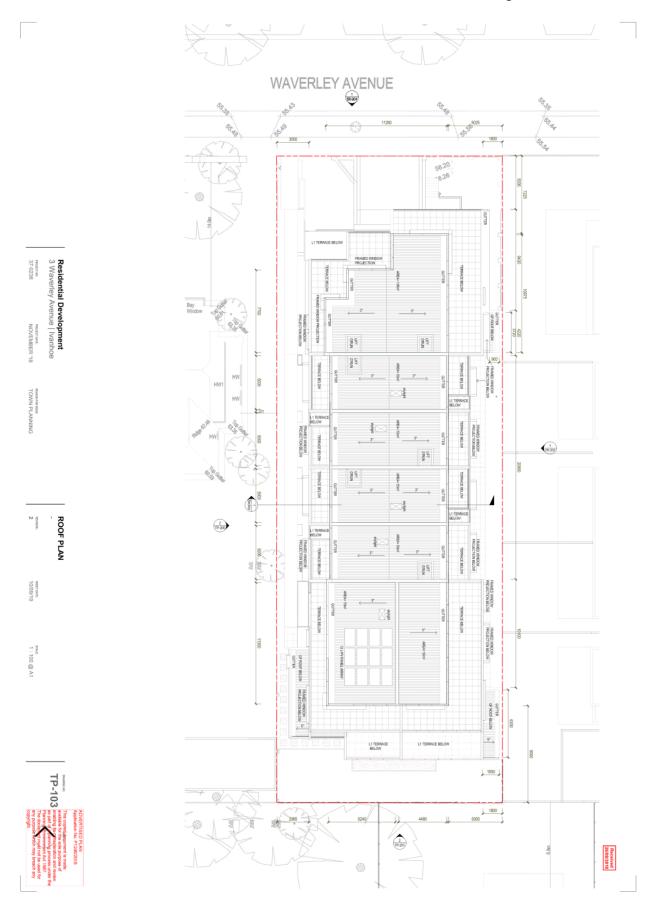
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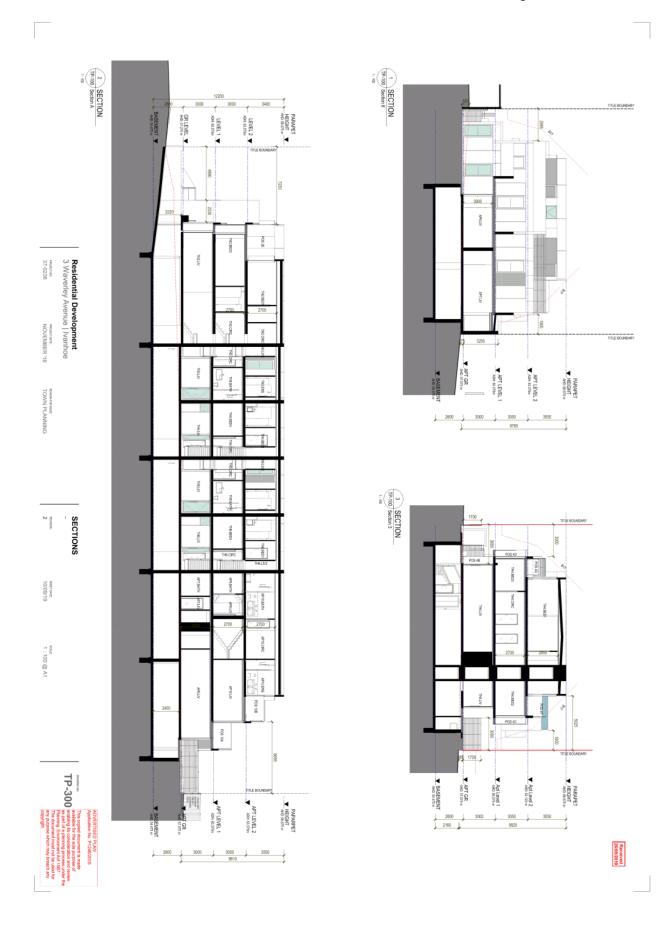


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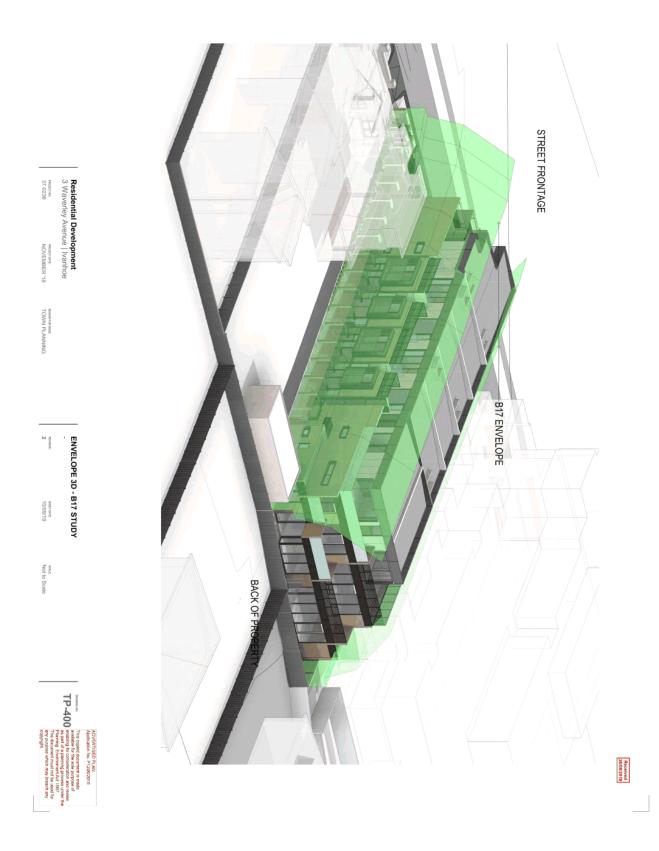


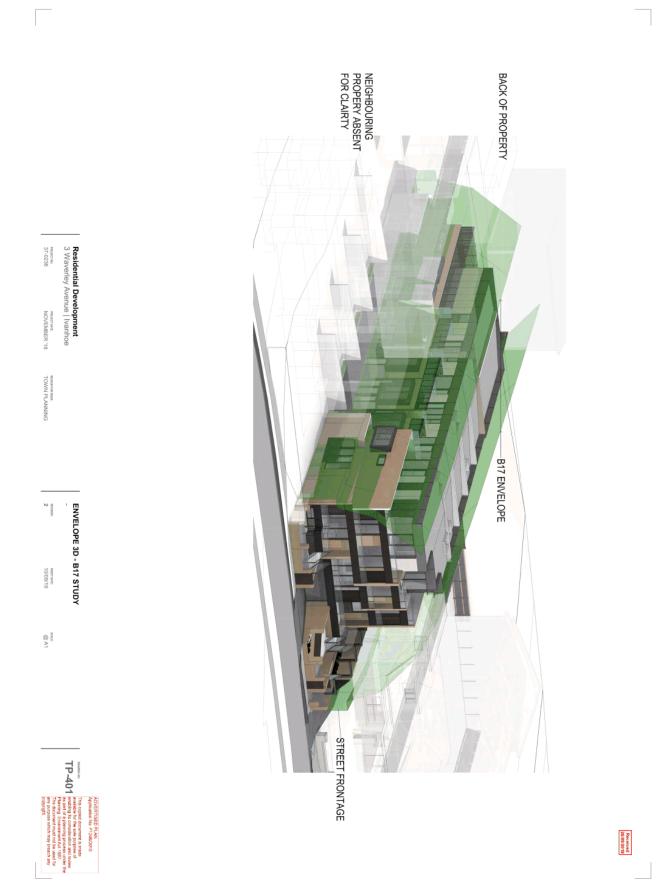
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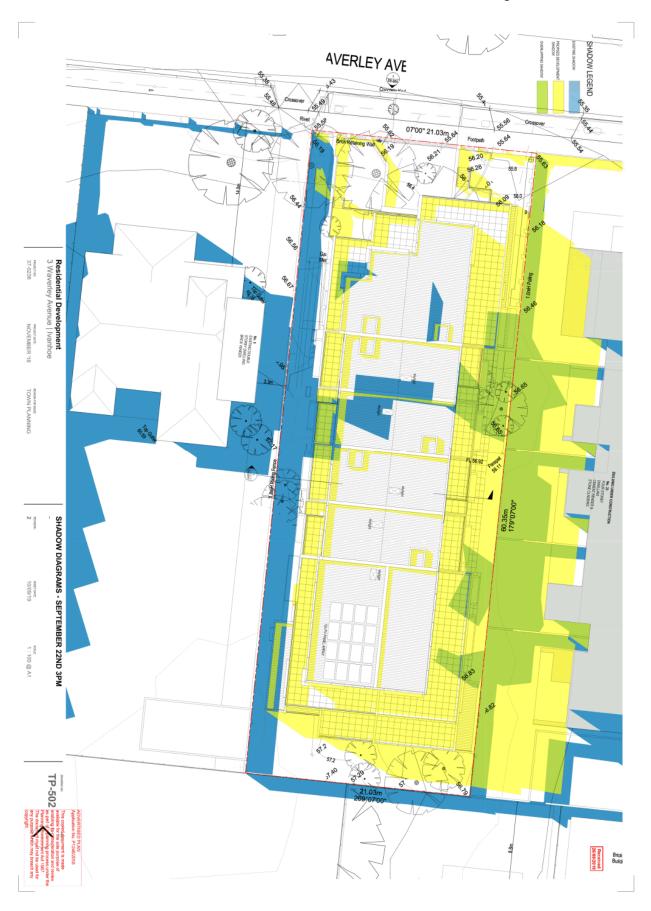
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Attachment 1: Amended Plans Lodged Post Notification



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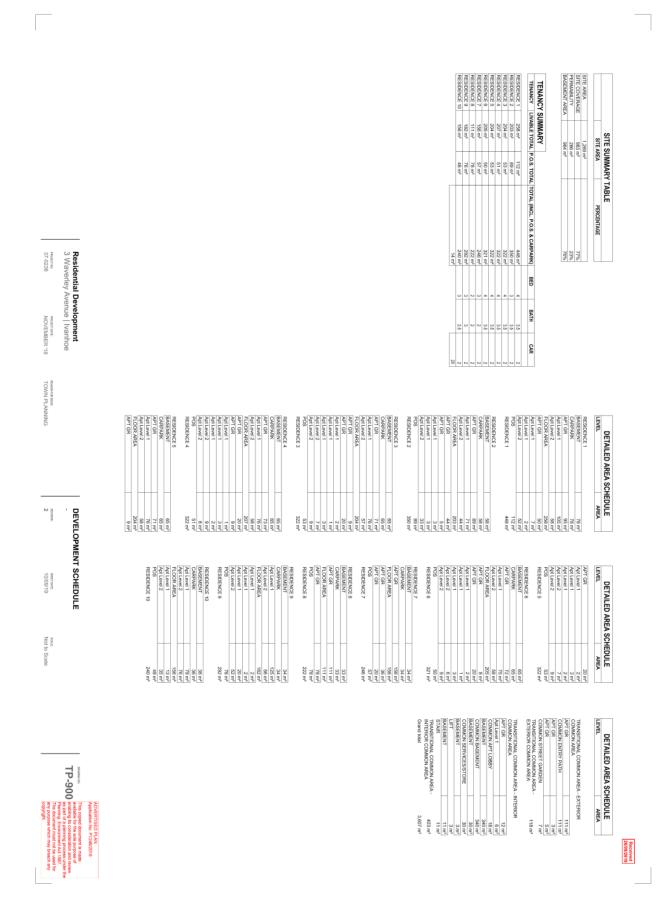
Item: 5.6

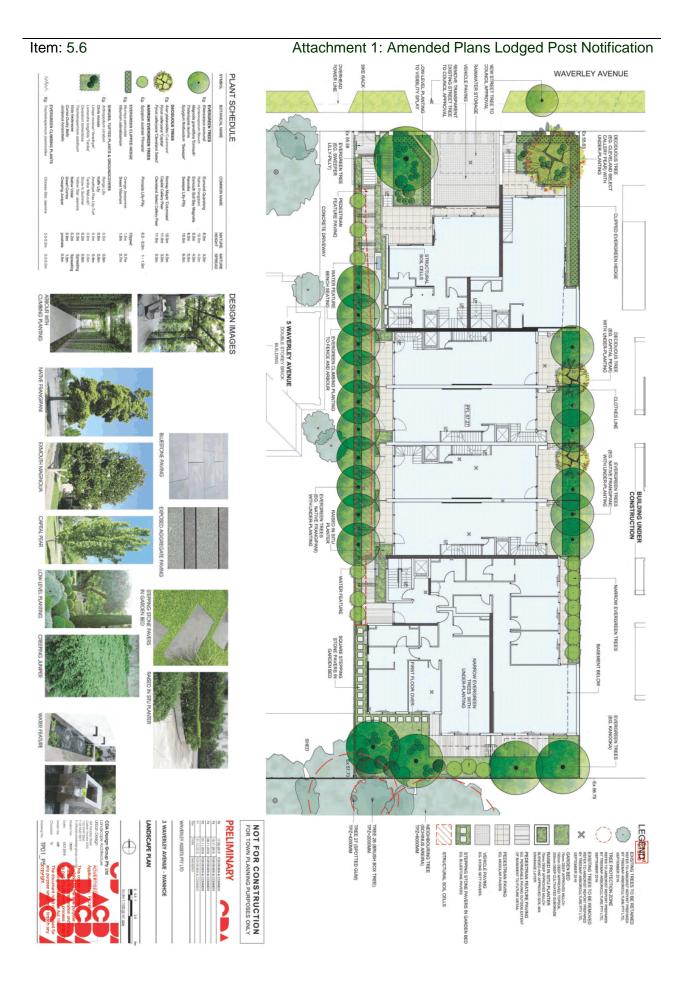
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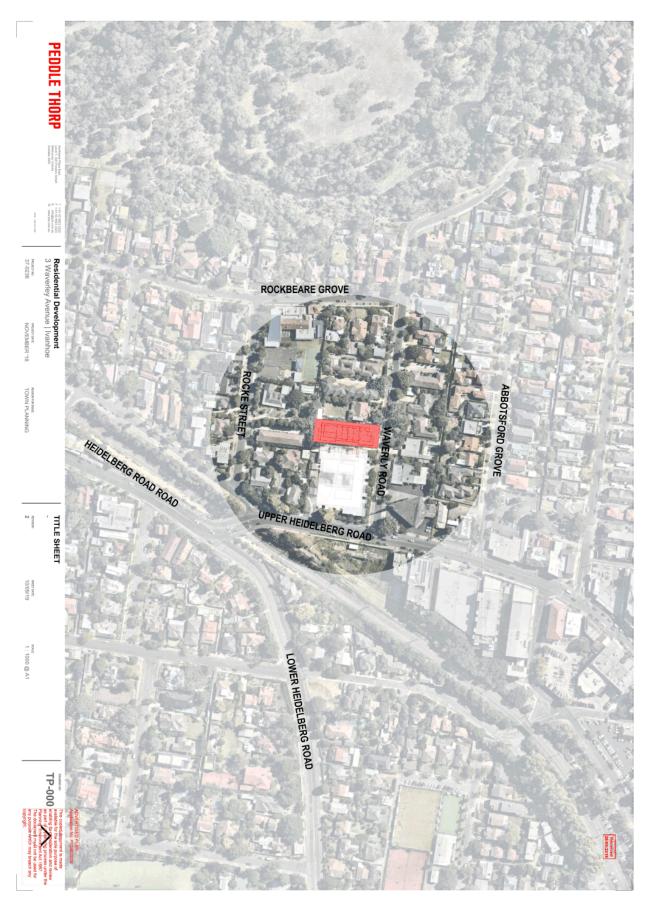


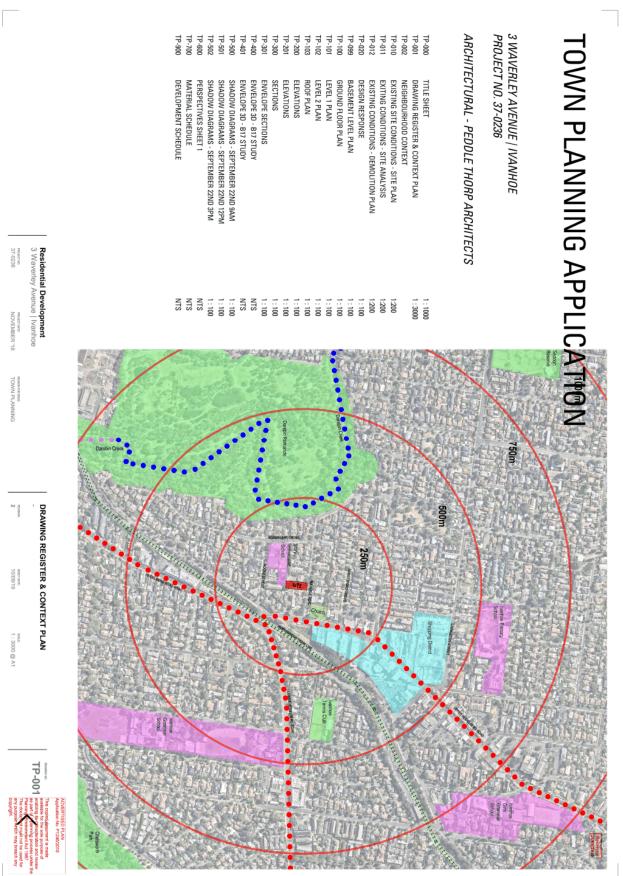
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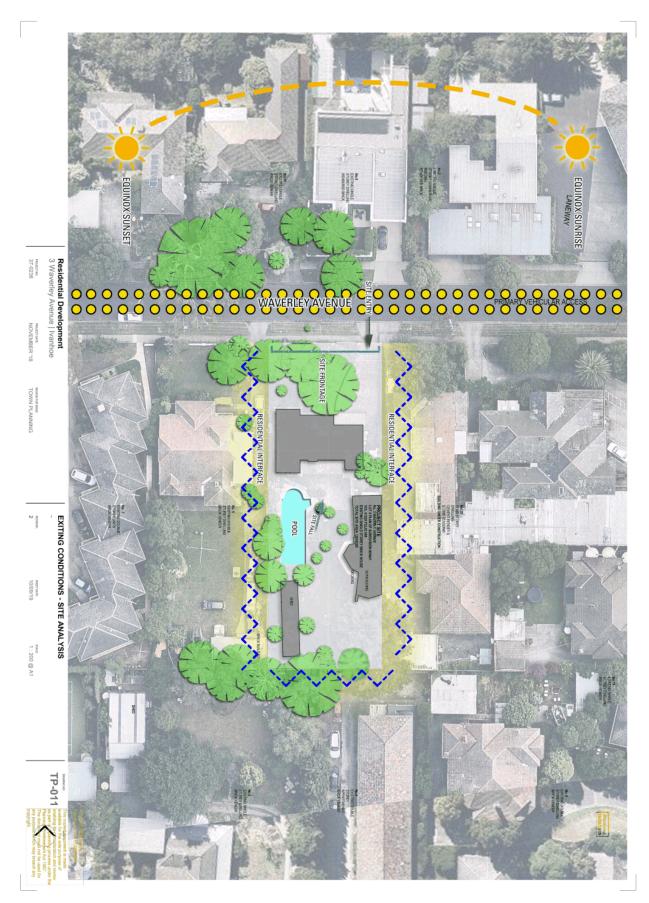












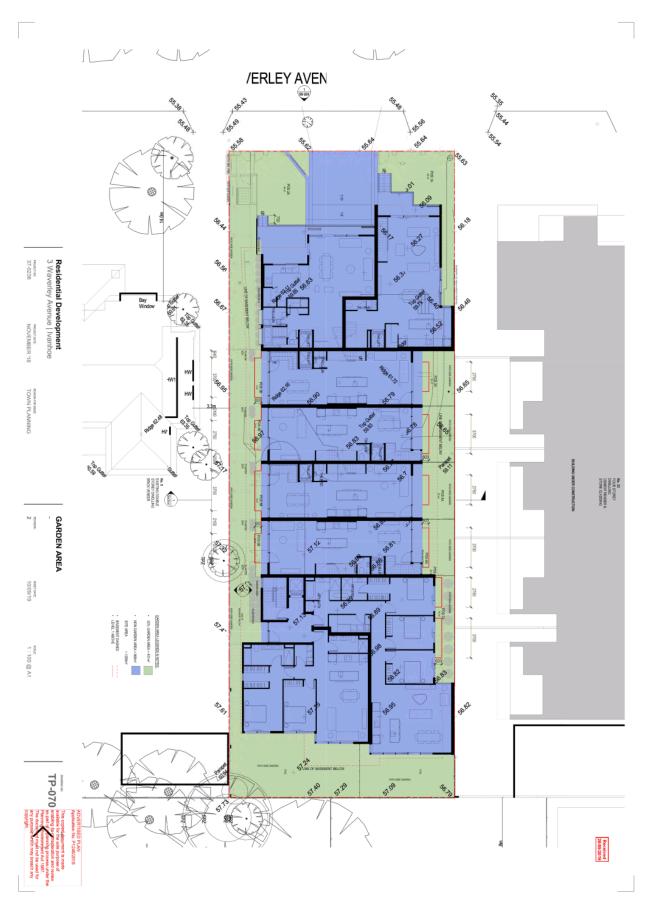
Item: 5.6

Attachment 2: Advertised Plans



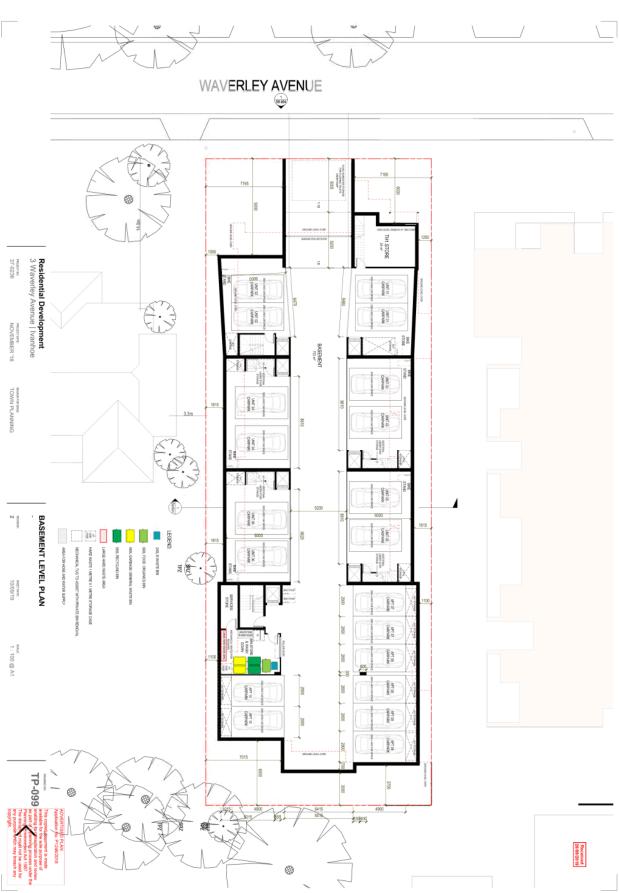


Item: 5.6





Attachment 2: Advertised Plans



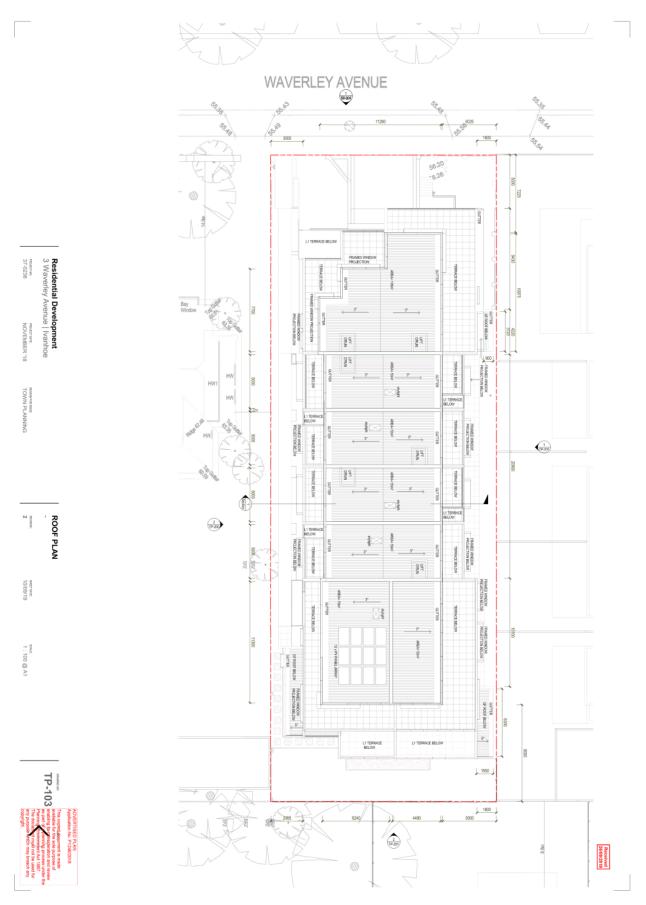






Attachment 2: Advertised Plans









Attachment 2: Advertised Plans

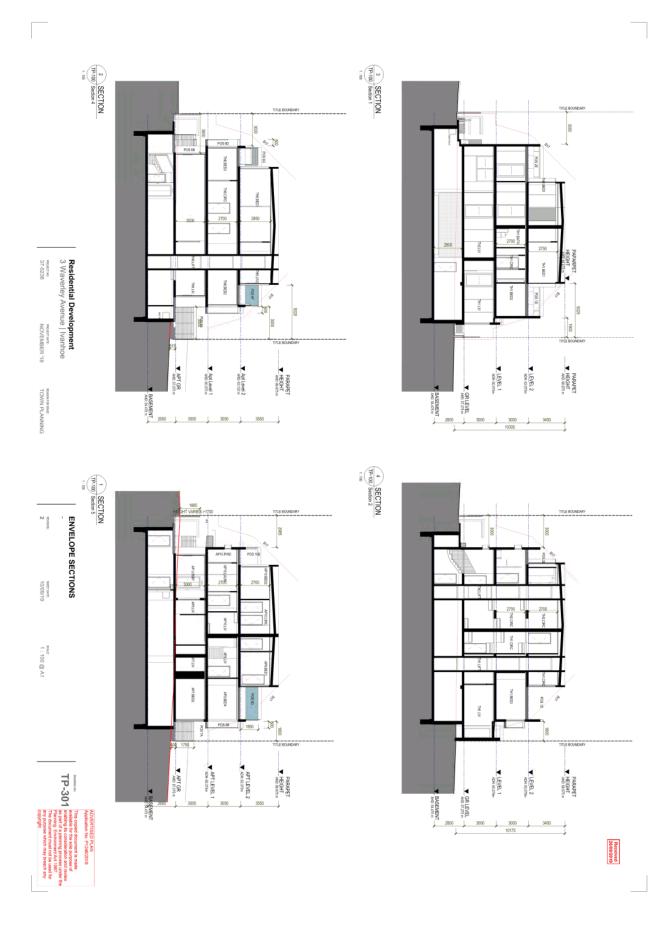
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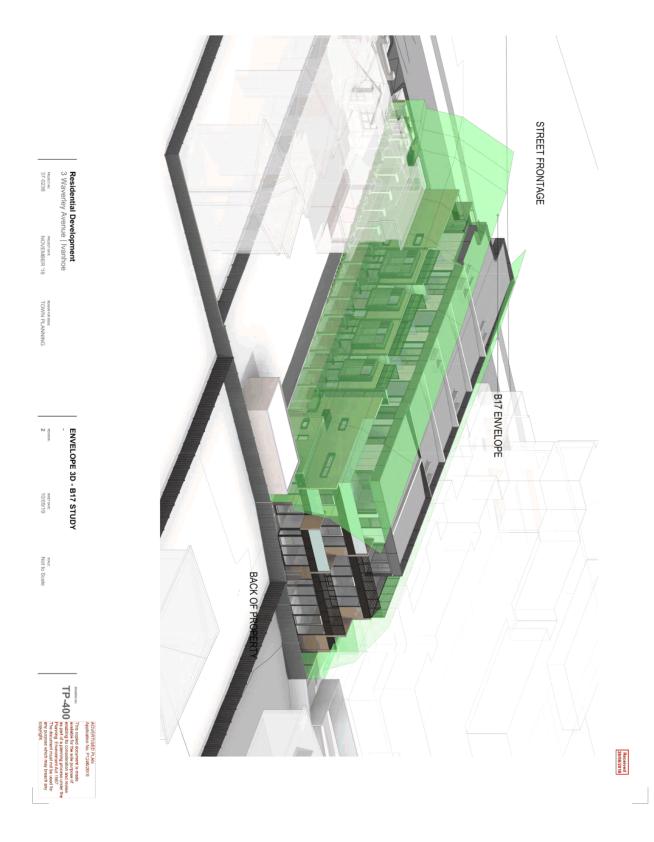


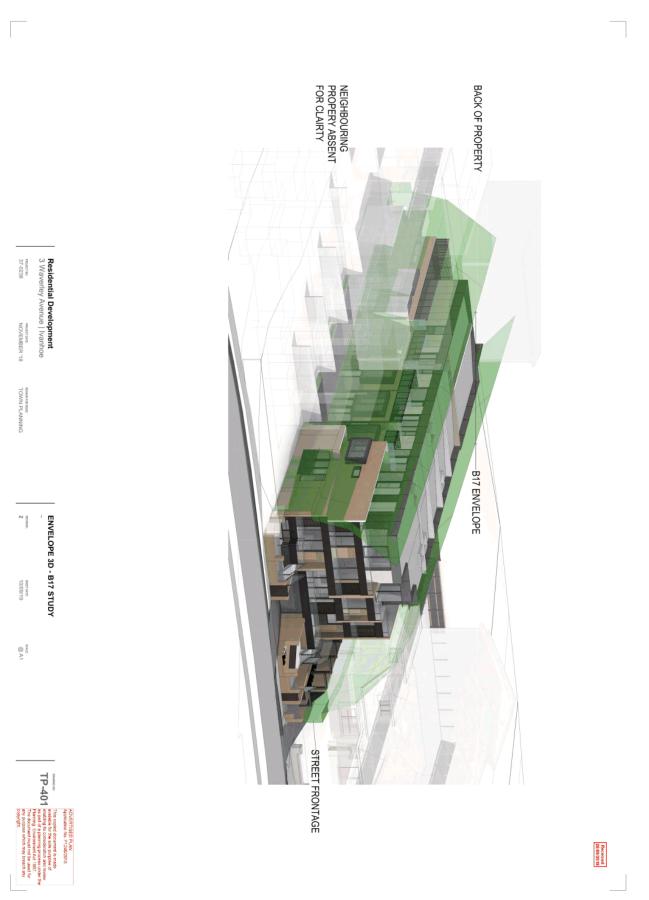
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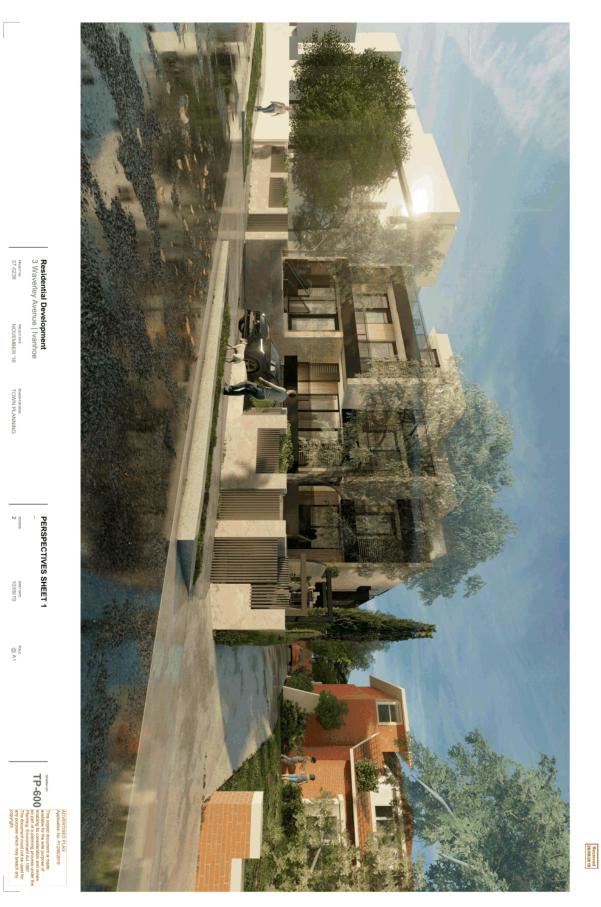








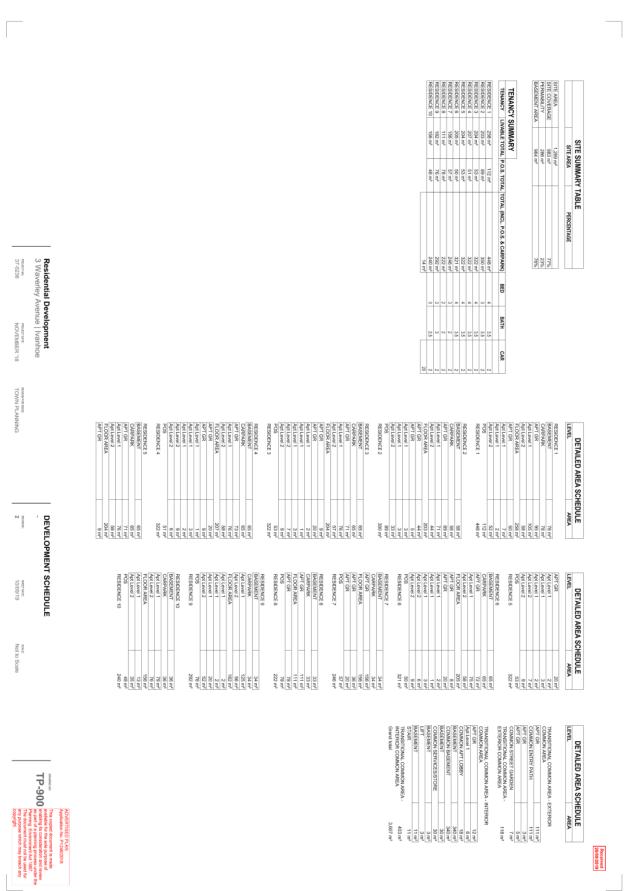


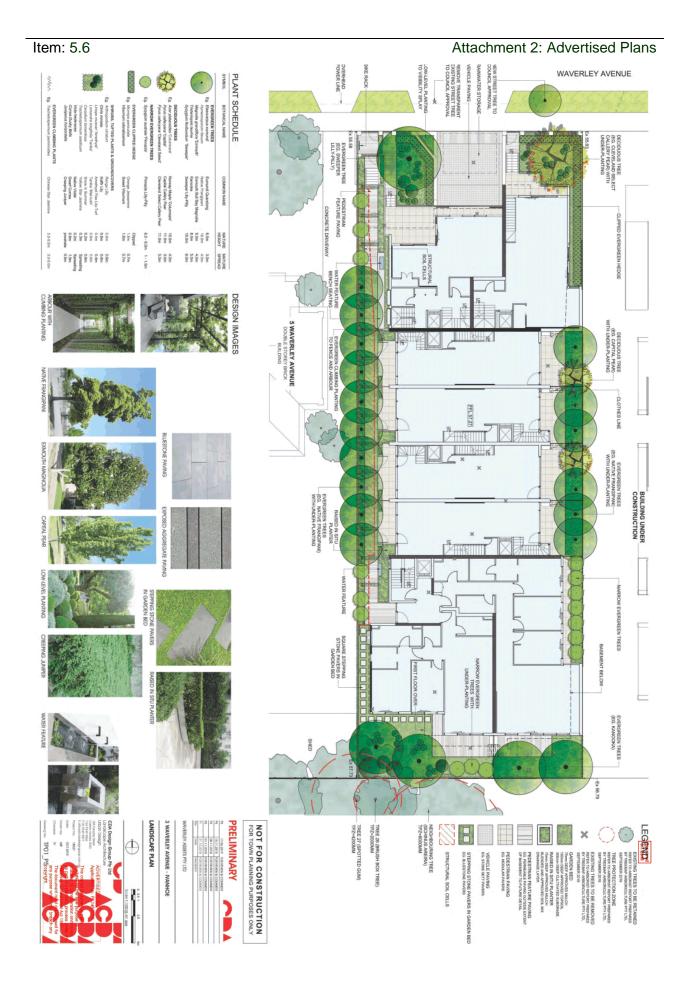


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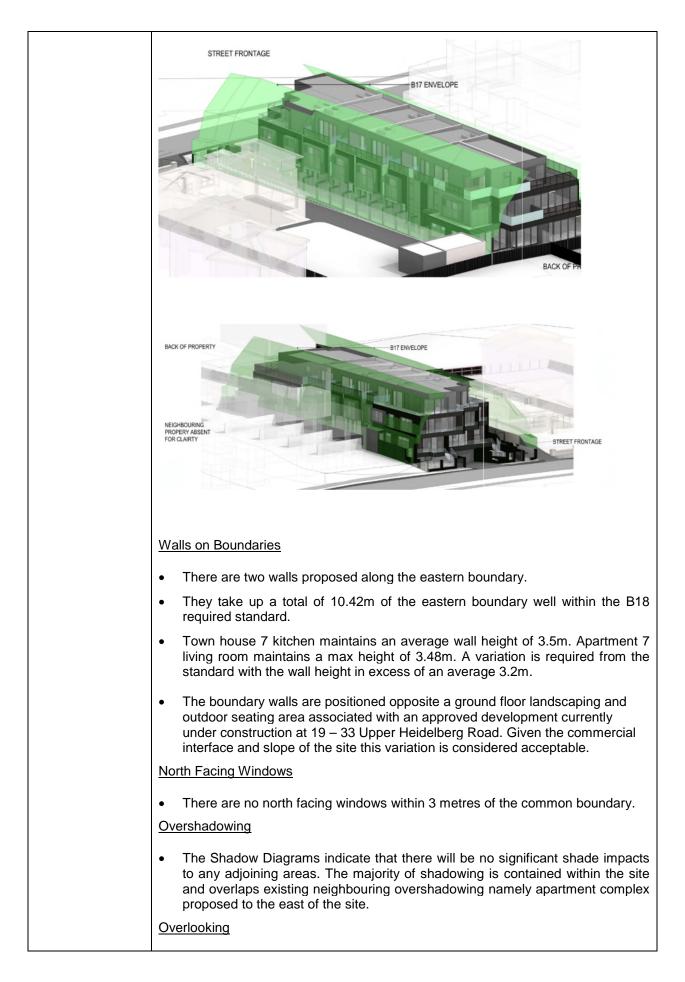
ATTACHMENT 3 – TECHNICAL CONSIDERATION

Design and Development Overlay (Clause 43.02)	The site is located within the Ivanhoe Structure Plan Area where future character is guided by DDO12:		
	<u>Height</u>		
	• For a sloping site such as this, DDO12 seeks 8.5m generally and 10m where Table 1 Design Outcomes are integrated.		
	• The development is 3 storeys, with a maximum height of 10.9m. This is slightly higher than the 10m envisaged for such a sloping site. The building is generally 9m-9.8m, with the maximum height is attributed to the parapet section of the building. Further, the height satisfies the 12m envisaged for sloping sites in the General Residential Zone.		
	• The building height is considered reasonable within the context of the approved 6-storey development to the east.		
	• The second storey built form is significantly reduced from lower levels with entire upper level perimeter dedicated to balcony SPOS.		
	Built form		
	• DDO12 suggests a maximum site coverage of up to 75% for larger sites more than 700msqm. The proposed 77% site coverage exceeds this considered reasonable in the context of the adjoining Ivanhoe Activity Centre and the large scale development to the immediate east.		
	• The development provides a high level of articulation along all elevations and the front setback. This is achieved through variations in setbacks and materials, inclusion of balconies at all levels and use of architectural framing. The use of red facebrick and grey colour tones assist to soften the form and is consistent with the streetscape.		
	 One vehicle access is provided, leading to basement car parking for all dwellings which is considered acceptable. 		
	Front setback		
	• The development provides a minimum front setback of 6m toward the eastern boundary and 10.5m toward the western boundary, extending further at upper levels. The terrace/entry maintain a minimum frontage of 4.9 to 6m.		
	Rear Setback		
	 Rear setbacks exceed ResCode requirements and provides 4 – 6m garden area at lower levels and increasing to 9m at the top level. This is a variation to DDO12 requirements which requires 6, 9 and 12m respectively. 		
	• Despite the variation the proposed rear setbacks will be able to accommodate reasonable opportunity for planting of canopy trees with a deep root planting zone of 80m2 in the southern rear setback.		
	Side setback		
	• Generally, complies with B17, except west side setbacks include only a minor parapet intrusion. The eastern setbacks include minor intrusions of a balcony wall and parapet. Refer to additional discussion below.		

Building elevations		
• The development provides a high level of articulation along all elevations and the front setback. This is achieved through variations in setbacks and materials, inclusion of balconies at all levels and use of architectural framing. The use of red face brick and grey colour tones assist to soften the form and is consistent with the streetscape.		
Vehicle access		
 Vehicle access is proposed via 6.1m wide concrete crossing to Waverley Avenue. The use of a shared, vehicle access point is consistent with Council's Residential Vehicle Crossing Policy. 		
 All parking spaces are provided in the basement garage with individual stairway and lift access to each dwelling. 		
Landscaping		
• The development proposes removal of all vegetation which is supported by Council.		
• The landscaping plan includes 22 medium sized evergreen trees. The frontage is defined by two Eucaluptus scoparia 'White Gum' trees with a mature height of 10m. The rear setback is planted with four Tristaniopsis laurina 'Kanooka' trees with mature height of 8m.		
 The proposal also includes a number of deciduous narrow evergreen trees in east and west setbacks and associated ground covers. 		
Heritage – abutting sites		
 DDO12 requires that a new building on a site abutting a HO should have similar front and side setbacks to the contributory building. The dwelling to the west of the subject site at 5 Waverley Avenue is of local architectural significance as a two-storey interwar bungalow (HO117). To the rear of the subject site at 8 Rocke Street is of historical significance and includes one of the oldest houses in the municipality (HO52). 		
• Given the proximity to Heritage building the application was by reviewed by Council's Heritage advisor. The recommendation is detailed in the 'Heritage Referral Response' section of this report. In response to these comments the applicant provided eth following changes;		
 Light stone façade changed to red face brickwork 		
o Dark horizontal metal louvres added to first and ground floor balconies		
 Stone look fence replaced with 1.68m high brick and pier fence in the front setback to transition from the commercial looking building on the corner and the heritage residential building to the other side 		

	<image/> <image/>
	Updated substituted plans
Tree planting	• The DDO12 requires one medium to large tree should be provided for every 400sqm of site area. The site area generates a requirement of four trees. The proposed layout appears to exceed the minimum tree planting requirements specified in DDO12.
	• The landscaping plan includes 22 small - medium sized evergreen trees. The frontage is defined by two Eucaluptus scoparia 'White Gum' trees with a mature height of 10m. The rear setback is planted with four Tristaniopsis laurina 'Kanooka' trees with mature height of 8m. The proposal also includes a number of deciduous narrow evergreen trees in east and west setbacks and associated ground covers.
	• The landscape plan was referred to landscaped architect who provided recommendation to ground cover species and suggested increase in side setback and reduction in side planting. The tree species will form part of permit conditions.
Impact on trees Tree removal	 No High Retention value trees are proposed for removal. All vegetation proposed for removal is considered appropriate and is supported with the majority being of low retention value (except Tree #4 in the front setback which
	 could be considered as having medium retention value) Council's arborist has also advised that the proposal would have no detriment to neighbouring vegetation subject to the implementation of standard tree protection conditions. Tree protection conditions for neighbouring Trees #26, #27 & #28 will be applied to the permit.

Urban Context	 The proposal comprises of 10 reasonably sized townhouses and apartments. Each containing 2 - 4 bedrooms. Dwellings 1 and 2 (ground floor) have a direct interface with the street, however all other access is from the western pedestrian pathway and via basement. All front dwellings are provided with large window openings, and the desired activation of the street is achieved in this instance. 	
Internal Amenity	Secluded Private Open Space	
	The SPOS of Units 3-6 at ground level has been increased to 20m ² . In combination with balconies at the upper levels, this is considered to provide a reasonable level of outdoor amenity to residents of these dwellings. <u>Access to Daylight</u>	
	 The kitchen/living area of Unit 8 has been reduced in depth so that it meets Standard B47. A window has also been introduced to the west elevation to give the room dual aspect. While no change has been made to the windows for Bedroom 4 in Units 3-6, it is acknowledged that they will meet minimum standards for access to daylight. <u>Parking Location</u> 	
	• Parking is situated in a manner convenient to each dwelling with individual access from basement parking to each dwelling.	
	There are no views of parking from any dwelling.	
	• The specific design of the basement car parking area and accessways has been assessed by Councils Traffic Engineering Section who do not raise any concerns.	
	Access	
	• Vehicle access is proposed via 6.1m wide concrete crossing to Waverley Avenue. The use of a shared, vehicle access point is consistent with Council's Residential Vehicle Crossing Policy.	
	• All parking spaces are provided in the basement garage with individual stairway and lift access to each dwelling.	
	• The driveway finish can be managed by condition.	
	 <u>Entry</u> Whilst the proposal is an apartment development, the pedestrian entry is visible and clearly identifiable from the street. It is also sheltered and provides a transition space around the entry from the pathway. 	
External Amenity	Side and Rear Setbacks	
Impacts	• There is a minor encroachment in the side setback from eaves and balcony walls to the east and west as shown below. It is also noted the rear setbacks do not satisfy the DDO12 requirements.	
	• The building envelope is considered to provide an appropriate transition in scale from the six storey mixed use development to the eats and heritage dwelling to the west. The site is also located in an area envisioned for medium density development.	



Detailed Design	 Upper level balconies and windows have been treated in accordance with the Standard where overlooking within 9 metres of neighbouring secluded private open space may occur. Proposed boundary fencing is appropriate. Internal views Windows have been placed to avoid internal overlooking within the development and screening, where required is also proposed to particular windows to prevent internal overlooking. Noise The proposal is unlikely to give rise to noise levels above that usual to a residential property. The provision of parking within a basement level also reduces vehicle noise to neighbouring properties. Site services Meter boxes and mail boxes have not been indicated on plans. Gm3 storage units are allocated to each dwelling and located near each car space. The location of air conditioners for most dwellings has been indicated on the plans.
	 Condition will require a/c units, meter and mail boxes to be shown on plans. <u>Waste</u>
	• The applicant has consulted with Council's waste management coordinator and it was advised that the most appropriate waste solution was to ensure that waste collection from the site was conducted via a private service that will occur on the subject site and within the basement. The applicant must demonstrate that a small waste vehicle will enter and exit the site in a forward gear and collect waste within the basement.
Car Parking	The proposal consists of 6 - three or more bedroom apartment dwellings and 4 - three or more bedroom townhouse dwellings. Accordingly, the townhouses generate a requirement for 20 car parking spaces which have been provided in the basement car park - 2 spaces for dwellings with 3-bedrooms and more, with Apartment 8 providing one extra car space than required.
	The specific design of the basement car parking area and accessways has been assessed by Councils Traffic Engineering Section who do not raise any concerns.
	As the site is located within the PPTN, no visitor parking space is required.
ESD & CI. 53.18 (WSUD)	The proposed development achieves a Best Practice BESS score of 66% with a pass mark in each of the four mandatory categories (Water, Stormwater, Energy and IEQ). Therefore, subject to a condition of permit for all sustainable design features indicated in the submitted Sustainable Design Assessment (SDA) to be shown/notated on the development plans, the proposal is considered to provide an appropriate outcome with regards to this Clause.

Livability	Apartment 7 and 8 are generally consistent with the Liveable Housing Design
	Guidelines.

Banyule Community Engagement Policy

June 2020



Message from the Mayor	3
1 Introduction	4
1.1 Understanding Community Engagement	4
1.2 Understanding the Community Engagement Spectrum	6
1.3 Our Commitment to Community Engagement	7
1.4 Purpose of Community Engagement Policy	7
2 Our Approach	9
2.1 Community Engagement Core Values	9
2.2 Community Engagement Principles	9
2.3 Community Engagement Stages	11
2.4 Inclusive Community Engagement	12
3 Our People	15
3.1 Role of Councillors and Council Officers	15
4 Our Strategic Context	16
4.1 Internal Strategic Context	16
4.2 External Strategic Context	18

Definitions

Collaboration	Two or more people or organisations work together to achieve a goal.	
Communication	Imparting or exchanging information or ideas, utilising a range of channels and mediums.	
Community	A group of people, the members of which reside in the same geographical area or have a shared background, interest, affiliation or membership.	
Community engagement	A genuine process of working with people to build understanding, strengthen relationships and inform decisions.	
Consultation	Seeking feedback or advice on a select topic or project.	
Council	Refers to Banyule officers who are responsible for the practical development and delivery of policies, procedures, programs, projects and services to ensure identified community needs are meet.	
Deliberation	A method of engagement process with a select group of community members. The process focuses on a defined issue, weighs up options and provides recommendations to decision-makers.	
Policy	A guiding document which sets out views with respect to a particular matter. Includes principles that sets direction for action.	
Hard-to-reach	Individuals and groups that have multiple barriers to engagement and may require support to enable active participation in Council processes.	
Process	A relationship between key steps, activities, tasks, policies and / or resources.	
Public	Individuals who may not belong to a specific community relevant to the project, but they still have an interest in the project.	
Stakeholders	Individuals or organisations, which affect, or can be affected by project decisions.	
Toolkit	A resource developed to provide guidance and templates for Banyule employees to plan and evaluate community engagement initiatives.	

Acronyms:

IAP2	International Association of Public Participation
VAGO	Victorian Auditor General's Office

Message from the Mayor

Local government plays a significant role in people's lives every day. We plan and deliver essential services in health, planning and building control, business and economic development, waste and environmental management, and human and community services. In doing this, we engage continually with people. It is important that every one of these interactions are meaningful, accessible and work towards positive outcomes for individuals and the wider municipality.

In addition to engaging with people daily, in the delivery of programs and services and sharing of up to date information regarding Council's work, it is critical that community and stakeholders also have input to Council's planning, decision-making and advocacy processes.

Transparent and well managed community engagement is essential to inform our policies, strategies, programs and projects. We recognise the value that the community and stakeholders bring to understanding problems and risks, and together crafting solutions that are unique to Banyule's needs.

We recognise the important role the provision of community engagement opportunities plays in enabling active citizenship. Quality community engagement opportunities enable people to have a say on matters important to them and help them shape their local community. This is key to empowering and strengthening our community.

We are committed to working with community and stakeholders to continually improve our municipality and believe that in doing so, together we can create a better Banyule.

Over the past twelve months we have been working with community and stakeholders to develop the Banyule Community Engagement Policy. The Policy will replace Council's existing Community Engagement Framework which we have used over the past number of years.

The Policy is designed to comply with community engagement requirements within the Local Government Act 2020. It will guide how Council plans, delivers and evaluates engagement opportunities that are highly valued by all, and provides the opportunities needed for all voices to be heard and to have a say on issues that are important to them. The Policy guides how the information provided by community and stakeholders is to be used to inform decisions and how this information is reported back so that participants know how their feedback was used.

Evidence-based decision-making results in improved service delivery because it is informed by knowledge of community and stakeholder needs and expectations. It is this commitment that underpins the development of this Policy and the supporting Banyule Community Engagement Toolkit – an internal resource we've developed to provide guidance and templates for Council officers to plan, implement and evaluate community engagement initiatives.

I look forward to working in partnership with you on many community engagement activities over the years to come, and together we will build a better Banyule.

1 Introduction

This section covers:

- What is community engagement?
- What is the community engagement spectrum?
- What is Banyule's commitment to community engagement?
- What is the Banyule Community Engagement Policy?

1.1 Understanding Community Engagement

Community engagement refers to the many ways in which we connect with our community in day-to-day interactions and in the development and implementation of policies, programs, projects and services. High-quality community engagement enables us to make well-informed decisions at an operational and strategic level, as well as achieving effective and transparent governance. Genuine community engagement promotes dialogue and understanding between Council and our community.

Engagement covers a wide variety of Council-community connections, ranging from information sharing through to active participation in policy development, decision-making and advocacy processes (see Figure 1. Community Engagement Triangle).

Our practice of community engagement aims to result in stronger relationships and shared understanding, commitment to and capacity for working together towards mutually beneficial outcomes. Our definition of community engagement is:

A genuine process of working with people to build understanding, strengthen relationships and inform decisions.

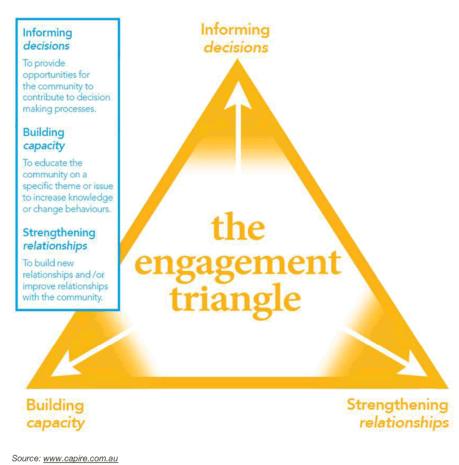


Figure 1: Community Engagement Triangle

1.2 Understanding the Community Engagement Spectrum

To help guide understanding around the different levels of community engagement the International Association for Public Participation (IAP2) created the IAP2 Public Participation Spectrum. IAP2 are the global body advancing the practice of community and stakeholder engagement through education, advocacy and partnerships.

The Spectrum is designed to assist with the selection of the level of participation that defines the public's role in any community engagement program. It shows that differing levels of participation are legitimate depending on the goals, time frames, resources and levels of concern in the decision to be made. However, and most importantly, the Spectrum sets out the promise being made to the public at each participation level.

The table below details the IAP2 Public Participation Spectrum as adapted by the Victorian Auditors-General's Office.

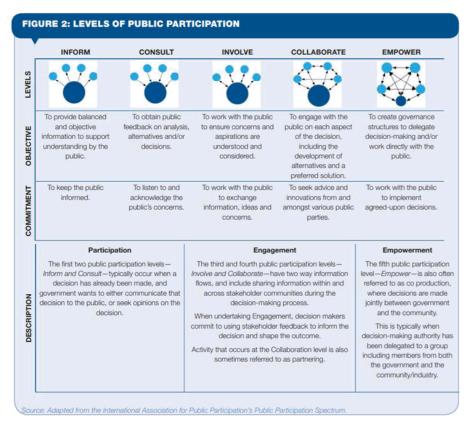


Figure 2: IAP2 Public Participation Spectrum

Source: www.audit.vic.gov.au/sites/default/files/20150130-Public-Participation-BPG.pdf

1.3 Our Commitment to Community Engagement

We are committed to engaging with our communities. Through community engagement, we inform, listen to and enable you to have a say on issues important to you. Evidence based decision-making, which draws upon research, statistical data and the voice of community and stakeholders, results in the design of improved service delivery and outcomes because it is informed by knowledge of community needs and expectations.

Not only does engagement empower and strengthen the community through active citizenship, we use the feedback gathered through engagement activities in planning for services, making decisions- and advocating on behalf of our municipality

The development of our Community Engagement Policy (the Policy) is based on our existing engagement framework, internal and external engagement, best practice research and Council's project management approach.

Our community engagement commitment is to:

- nurture mutual trust, goodwill and respect between Council, community and stakeholders
- inform, involve and engage our communities and stakeholders, and establish processes to facilitate community participation in shaping and influencing decisions affecting them
- promote and practice good governance through accountability, transparency and responsiveness.

1.4 Purpose of Community Engagement Policy

The purpose of the Policy is to document and communicate Banyule's commitment to, principles for and practice approach to the provision of high-quality community engagement that is valued by the community and stakeholders.

The Policy, together with the Community Engagement Toolkit provide guidelines, advice and resources for Council officers to navigate the design, provision and evaluation of engagement opportunities, and the utilisation and sharing of community engagement findings.

Within local government settings it is recognised that there are six different types of engagement practices:

- 1. Strategic to inform strategic decisions related to policy, plans or programs
- 2. Statutory to obtain feedback to inform statutory approvals related to policy, plans, programs
- 3. Research to obtain evidence to review or design services programs
- 4. Dialogue to enable an ongoing dialogue with the community
- 5. Transactional to respond to queries or concerns

6. Awareness – to create awareness through local media or other avenues.

This Policy is to primarily be used to underpin strategic and statutory engagement.

The table below provides examples of the types of engagement avenues that are utilised to deliver on engagement activity that does not relate to strategic or statutory engagement.

Engagement type	Example avenues include
Research	Desk top reviews, benchmarking and data analysis
Dialogue	Festivals/events, direct service provision e.g. maternal child health visit, youth group activity and direct contact with Councillors.
Transactional	Customer service enquiries, request for service, pet registration, hard rubbish bookings, kindergarten bookings and paying rates.
Awareness	Council website, Banyule Banner articles, mail outs, mailing lists, newsletters, social media posts and press releases.

For information on policies governing the other types of engagement please refer to Section 4.1. Internal Strategic Context.

2 Our Approach

This section covers:

- What are the core values underpinning Banyule's community engagement approach?
- What are Banyule's principles for community engagement?
- What are Banyule's stages of community engagement?
- What is inclusive community engagement?

2.1 Community Engagement Core Values

IAP2 specify a series of core values that should be used to underpin community engagement. Banyule's Community Engagement Policy builds on these core values.

- 1. Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.
- 2. Public participation includes the promise that the public's contribution will influence the decision.
- 3. Public participation promotes sustainable decisions by recognising and communicating the needs and interests of all participants, including decision makers.
- 4. Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.
- 5. Public participation seeks input from participants in designing how they participate.
- 6. Public participation provides participants with the information they need to participate in a meaningful way.
- 7. Public participation communicates to participants how their input affected the decision.

Source: www.iap2.org.au

2.2 Community Engagement Principles

Banyule's engagement principles have been developed through engagement, research and consideration of industry standards. Our engagement principles underpin how we design and deliver community engagement, across all stages of engagement and are as per the *Local Government Act 2020*.and Victorian Auditor General Office's (VAGO) *Better Practice Guide: Public Participation in Government Decision-making*.

Principle	Description		
Responsiveness	Potential impacts of a project on community and stakeholder are identified, discussed and addressed.		
	Challenges and opportunities related to participation in engagement opportunities are identified and addressed.		
	Input is responded to in a timely and constructive manner.		
	Decisions based on evidence occurs.		
Transparency and integrity	Ensuring that those affected understand the scope of the engagement, the decision-making process and any constraints on the process.		
	Addressing community and stakeholder concerns in an honest and forthright way and communicating results in an understandable manner.		
Openness	Embedding in all engagement processes an openness to appropriately understanding and incorporating the views of those affected by decisions.		
	Providing access to all relevant information about a project in a manner that participants can understand, so that their contributions may be fully informed.		
Accountability	Being clear about the scope and objectives of engagement opportunities.		
	Being clear about the contribution participants will be asked to make and the responsibilities associated with this.		
	Providing appropriate time and resources to ensure that those affected can participate in a meaningful way.		
	Demonstrating that results and outcomes are consistent with the commitment made at the outset of the engagement.		
Inclusiveness	Making every reasonable effort to include community and stakeholders affected by a project.		
	Making reasonable adjustments where necessary to remove barriers to participation and ensure an inclusive approach.		
	Providing appropriate time and resources to ensure that those affected can participate in a meaningful way.		
	Being aware and taking account of the needs of diverse communities to be able to participate in a meaningful way.		
Awareness	Being aware and taking account of legislation that should shape the engagement approach e.g. Human Rights.		

Figure 3: Banyule's Community Engagement Principles

Source: Adapted from The Victorian Auditor General Office's (VAGO) Better Practice Guide: Public Participation in Government Decision-making our engagement principles www.audit.vic.gov.au/sites/default/files/20150130-Public-Participation-BPG.pdf

2.3 Community Engagement Stages

We apply our community engagement principles as we move through all stages in an engagement process, from start to finish. The figure below details our principles, engagement stages and the key actions at each of those stages

Figure 4: Engagement Principles, Stages and Actions

Engagement principles	Engagement stage	Key actions
	Identify	Identify the purpose of the engagement.
Responsiveness	Understand	Understand the community and stakeholders, who they are, their interests, values and opportunities for engagement.
Transparency and	Design	Design an appropriate engagement approach.
integrity Openness	Deliver	Deliver genuine and respectful engagement.
Accountability	Review	Review and interpret the engagement information and data.
Awareness	Utilise	Use the outcomes of the engagement to inform the project.
		Provide feedback on the engagement process, findings, outcomes and decisions.
	Learn	Learn by measuring the effectiveness of the engagement.
		Share the learnings from the engagement.

Our stages align with 'engagement elements' specified by the Victorian Auditor General Office, by which councils may be audited on.





1. Define: Clearly define the decision required, and the scope of the public participation exercise

2. Identify: Understand who is affected and how they should be included

3. Understand: Identify the resources, skills and time required for effective public participation

4. Document: Document the public participation and management approach

5. Implement: Implement the public participation plan and monitor its progress

6. Evaluate: Evaluate the public participation exercise and apply continuous improvement

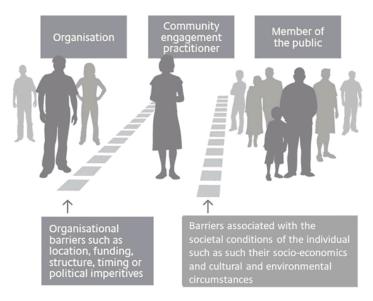
2.4 Inclusive Community Engagement

We recognise that good community engagement involves providing the right opportunities, at the right time and in the right way for people to have a say on issues that are important to and/or affect them.

We recognise that in every engagement program there are people who may find it more difficult to participate due to individual circumstances and experiences. Societal conditions, such as socio-economics and cultural and environmental circumstances can greatly shape and impact an individual's ability, willingness and sense of safety to participate in community engagement opportunities.

An inclusive community engagement approach is about recognising these circumstances and designing an approach to help address barriers to participation. An inclusive engagement approach focuses on addressing the barriers between Council and our community. There may also be barriers within Council such as location, funding and timing.

Figure 6: Barriers to engagement



Source: www.capire.com.au

Barriers to engagement

People may face barriers to participating in community engagement for a range of reasons. These barriers depend on the different circumstances of the individual and how these have been shaped by broader societal conditions and systemic factors.

These can have an impact on an individual's ability and feelings towards participation in engagement activities and can be considered across three different categories, these include:

Personal Resources	Motivation, Attitude and Perception	Cultural Considerations
Limited education and capacity	Limited knowledge of benefits of engagement	 Language and literacy Values and beliefs
Limited moneyPhysical and mental health	Limited knowledge of engagement activities	Cultural and gender-based divisions and structures
 Limited mobility 	Limited interest in the subject	
Geographic isolation	 Limited understanding of the subject 	
 Disability and sensory impairments 	Consultation 'fatigue'	
Limited confidenceLimited social networks	Unmet expectationsPerceived or real concerns	
Limited social networks Limited time	around ramification of participation	

Engaging the harder-to-reach

There are different groups in different communities who may find it more difficult to participate in engagement activities. Some of the groups often considered as harder to reach due to their respective barriers to engagement are:

Homeless people

Diverse (CALD)

communities

Established migrant

Aboriginal and Torres Strait
 Islander people

People with a disability

Culturally and Linguistically

- The bereaved or traumatised
- People with health issues
- People in prison
 - Residents in public housing
 - Parents and carers
- New residents
- New migrant communities
- Hearing, speech
 - Hearing, speech or vision impaired people

- People living in rural or regional areas
- International students
- Professionals and business owners
- Lesbian, gay, bi, trans, intersex and queer (LGBTIQ+) people
- Young people
 - Older people
 - Children

In presenting these groups, we recognise that not every individual in these groups may be harder to reach. The circumstances of each individual within these groups may vary depending on the topic, location, timing or past experiences and our engagement approaches therefore need to be adapted accordingly.

When designing and implementing engagement approaches, we are committed to addressing barriers and ensuring the voices of those who may be harder to reach are included.

3 Our People

This section covers:

 What is the role of Council Officers and Councillors in delivering the Community Engagement Policy?

3.1 Role of Councillors and Council Officers

Many people at Council have responsibility for ensuring the implementation of the Policy and also for potentially participating in project specific engagement activities developed in accordance with this Policy.

Councillors are responsible for adopting the Community Engagement Policy, endorsing projects, plans, strategies, policies, services and advocacy initiatives informed by community engagement findings, and for championing our community engagement commitment in their interactions with Banyule constituents. Councillors will often also be identified as stakeholders within engagement plans and therefore be involved in project specific engagement activities.

It is also a requirement of the Local Government Act 2020 that the role of the Mayor is to lead engagement with the municipal community on the development of the Council Plan (s18c)

Senior Managers and Executives are responsible for approving engagement plans that have been developed in accordance with the Policy. Depending on the level of complexity a project is assessed at, will determine what level of 'approval' is required. Senior Managers and Executives are also responsible for making and approving recommendations/decisions on a project which has been informed by engagement findings.

Council officers who are the **Project Managers** responsible for delivering community engagement are responsible for ensuring that quality engagement is planned, resourced, delivered and evaluated. The Project Manager works in collaboration with the Community Engagement Team and **Communications Team** to ensure their community engagement is designed and undertaken in accordance with the Policy.

Our **Community Engagement Team** are responsible for ensuring the Policy is up to date, implemented and reviewed. They are also responsible for ensuring Council officers undertaking strategic or statutory engagement have a good understanding of and are resourced to work in accordance with the Policy.

4 Our Strategic Context

This section covers:

- How do community engagement findings inform Council's strategic documents?
- When is Council required to undertake community engagement?

4.1 Internal Strategic Context

Community and stakeholder input into decision-making strengthens governance through stronger decision-making, however, it is not possible in every decision-making process.

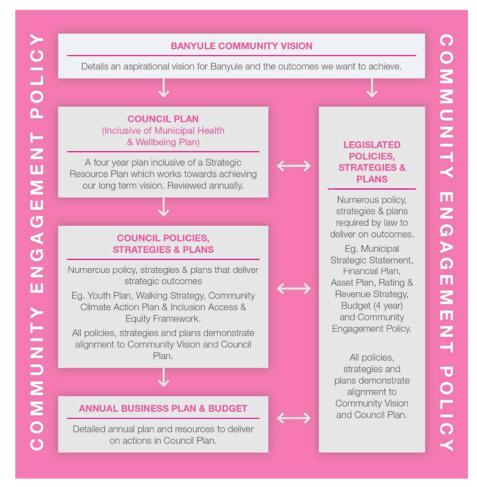
Council is responsible for determining when to engage and the level of influence the community and/or stakeholders should have in the process. This level of influence may be determined by technical requirements, timeframes and available resources. Instances where we may only be able to provide feedback on the outcome of a decision-making process include emergency management, public risk issues, internal policy development, response to legislative requirements or time sensitive matters.

As shown in Figure 7, there are key strategic planning documents within Council. These documents work together to achieve the aspirational vision for Banyule. Figure 7 demonstrates the work of Council and how we collaboratively work with community and stakeholders.

Importantly, the development of each of these documents is underpinned by community engagement. This means that engagement approaches can be designed and implemented for each project to ensure the whole of our municipality as well as cohort and stakeholder specific engagement opportunities and methodologies are delivered.

Figure 7: Banyule Integrated Planning and Engagement Framework

Banyule Intergrated Planning & Engagement Framework



Further specific plans, strategies and frameworks that impact the development of engagement approaches include:

- Banyule Service Promise: applies to transactional and day to day engagement.
- Communication Strategy: applies to 'informing' engagement not attached to strategic and/or statutory engagement plans.
- Project Management Framework: applies to the development of specific project plans that engagement plans sit within.

- Banyule Style Guide: applies to all publication material produced to support the promotion and implementation of activities within an engagement plan.
- Banyule Inclusion Access and Equity Framework: guides the way that Council works to promote and foster inclusion, access and equity and the need for this to be built into engagement plan.

4.2 External Strategic Context

There are several pieces of Victorian legislation, standards and charters that describe when a council must engage with their community and stakeholders. A selection of those relevant to Banyule are described below.

Local Government Act (2020)

Describes the objectives, roles and functions of local government in Victoria. It specifies that a Council must adopt and maintain a community engagement policy that gives effect to the following community engagement principles:

- · a community engagement process must have a clearly defined objective and scope
- participants in community engagement must have access to objective, relevant and timely information to inform their participation
- participants in community engagement must be representative of the persons and groups affected by the matter that is the subject of the community engagement
- participants in community engagement are entitled to reasonable support to enable meaningful and informed engagement
- participants in community engagement are informed of the ways in which the community engagement process will influence Council decision making.

The Act specifies that the community vision, council plan, financial plan and asset plan must be developed or reviewed in accordance with its deliberative engagement practices. It also states that councils must make a local law in accordance with its community engagement policy.

Planning and Environment Act (1987)

Describes the procedures for preparing and amending planning schemes, obtaining permits under planning schemes, enforcing compliance with planning schemes, and other administrative procedures. As part of this, the Act sets the overarching notification requirements, however, in some instances planning scheme amendments and planning permit applications may be exempt from the notification requirements.

The Local Government Amendment (Performance Reporting and Accountability) Act (2014)

Requires each local government authority to report on the existence and application of community engagement policies and guidelines.

Public Health and Wellbeing Act (2008)

Outlines ways in which councils are expected to plan for the health and wellbeing of their communities. A Municipal Public Health and Wellbeing Plan must provide for the involvement of people in the local community in the development, implementation and evaluation of the public health and wellbeing plan.

Victorian Charter of Human Rights and Responsibilities (2006)

The Charter of Human Rights and Responsibilities Act is a Victorian law that sets out the basic rights, freedoms and responsibilities of all people in Victoria. The Charter is founded on the following principles:

- human rights are essential in a democratic and inclusive society that respects the rule of law, human dignity, equality and freedom
- human rights belong to all people without discrimination, and the diversity of the people of Victoria enhances our community
- human rights come with responsibilities and must be exercised in a way that respects the human rights of others.

As a public authority, councils have an obligation to act in a way that is compatible with the human rights described in the Charter.

Child Safe Standards, Victorian Commission for Children and Young People

Standard Seven of the Child Safe Standards focuses on strategies to promote participation and empowerment of children. These strategies include:

- supporting children and young people to understand their rights, contribute to child safety planning and raise concerns
- promoting and encouraging children's participation in decision-making
- valuing and respecting children's opinions
- seeking children's views about what makes them feel safe and unsafe
- establishing an environment of trust and inclusion that enables children to ask questions and speak up if they are worried or feeling unsafe.