

**STATUTORY PLANNING COMMITTEE**  
**21 SEPTEMBER 2009**

<b>1.</b>	<b>45 AND 47 HOTHAM STREET, EAST ST. KILDA</b>
<b>ADDRESS:</b>	<b>45 and 47 Hotham Street, East St. Kilda</b>
<b>PROPOSAL:</b>	<b>Partial demolition, alterations and additions to existing buildings, construction of a three storey building at the rear with a total of 20 dwellings and provision of 18 car spaces</b>
<b>WARD:</b>	<b>Carlisle</b>
<b>NEIGHBOURHOOD:</b>	<b>East St. Kilda</b>
<b>TRIGGER FOR COUNCIL REPORT:</b>	<b>More than 15 objections</b>
<b>APPLICATION NO.:</b>	<b>439/2009</b>
<b>APPLICANT:</b>	<b>Hotham Street, P/L</b>
<b>EXISTING USE:</b>	<b>Residential</b>
<b>ABUTTING USES:</b>	<b>Residential and sub-station</b>
<b>ZONING:</b>	<b>Residential 1</b>
<b>OVERLAYS:</b>	<b>HO 292</b>
<b>STATUTORY TIME REMAINING FOR DECISION AS AT DAY OF COUNCIL</b>	<b>Expired</b>
<b>RESPONSIBLE MANAGER:</b>	<b>George Borg, Manager City Development</b>
<b>AUTHOR:</b>	<b>Phillip Beard, Senior Statutory Planner</b>

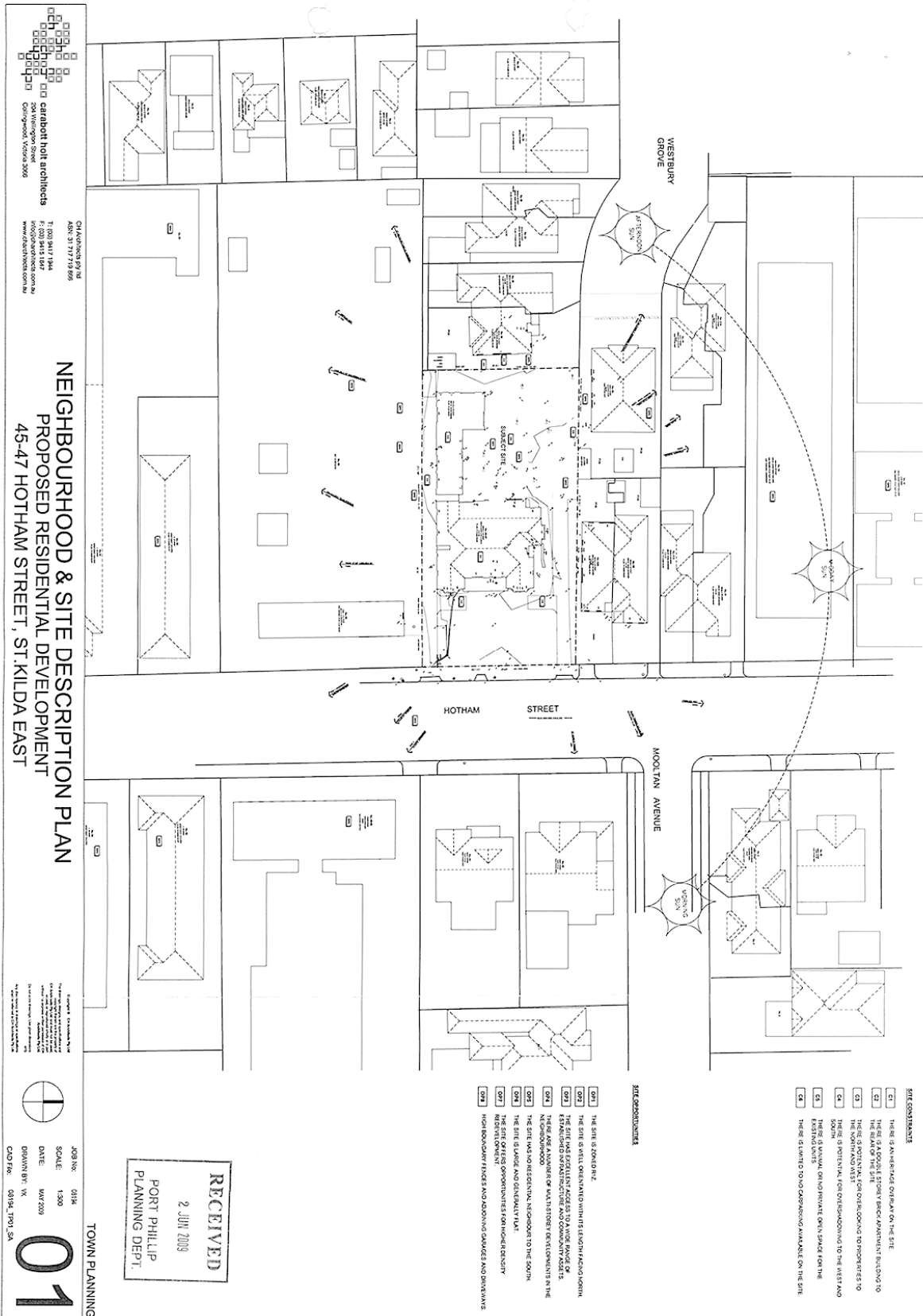
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KEY ISSUES

1. Building scale
2. Character impacts
3. Amenity impacts
4. Car parking provision



Subject Property  Objectors X Supporters



CHARTERED SURVEYOR  
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**NEIGHBOURHOOD & SITE DESCRIPTION PLAN**  
**PROPOSED RESIDENTIAL DEVELOPMENT**  
**45-47 HOTHAM STREET, ST. KILDA EAST**

TOWN & REGIONAL PLANNING  
 1000 RIVERVIEW ROAD  
 PORT PHILLIP PLANNING DEPT.  
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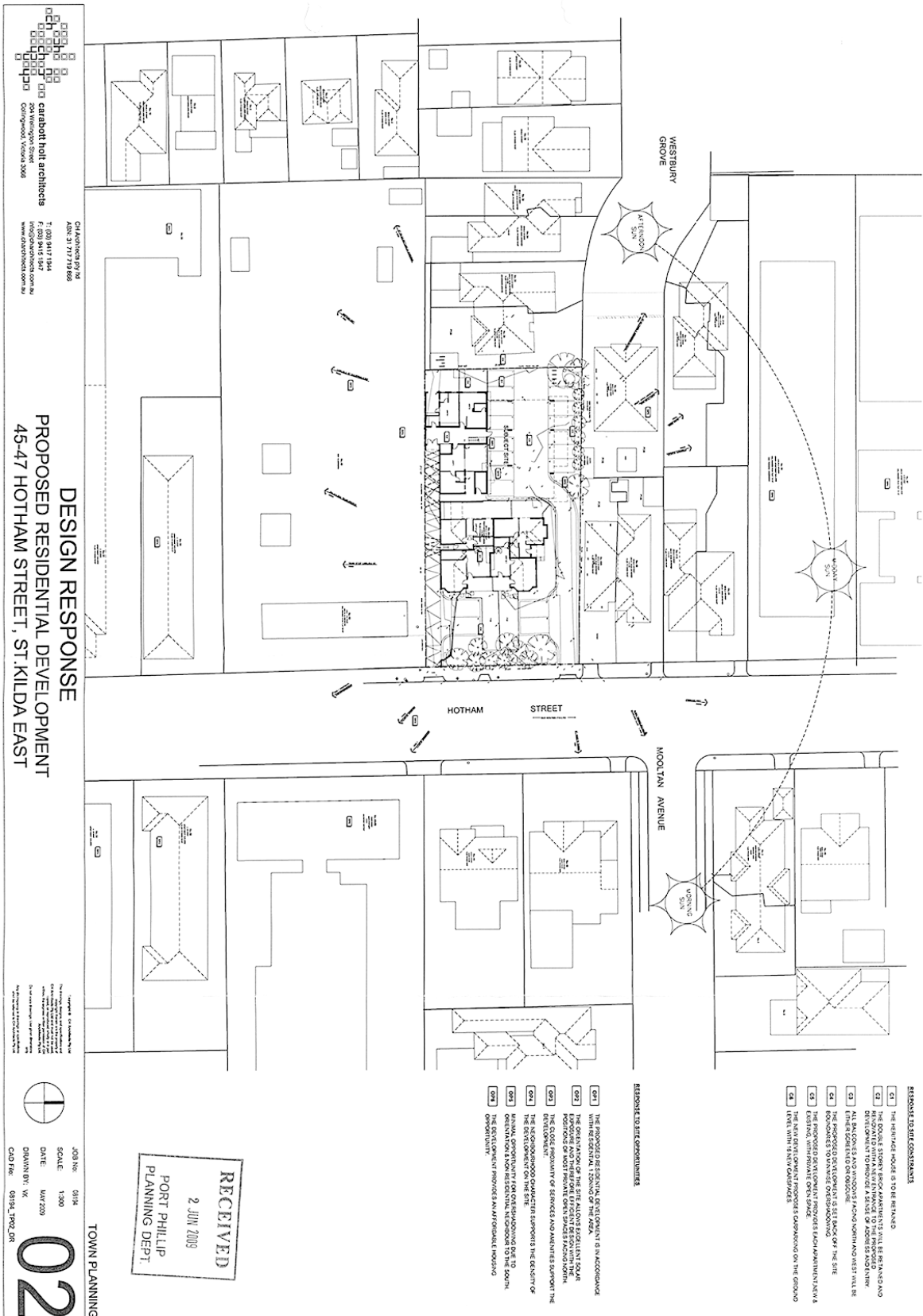
JOB No: 0194  
 SCALE: 1:500  
 DATE: MAY 2009  
 DRAWN BY: WK  
 CAD FILE: 0194\_1991\_SA

**RECEIVED**  
 2 JUN 2009  
 PORT PHILLIP  
 PLANNING DEPT.

**01**

- SITE CONSTRAINTS**
- 01 THE SITE IS A HERITAGE OVERLAY ON THE SITE
  - 02 THERE IS A HOUSE SETBACK REQUIREMENT RELATING TO THE REAR OF THE SITE
  - 03 THERE IS POTENTIAL FOR OVERLOOKING TO PROPERTIES TO THE SOUTH AND WEST
  - 04 THERE IS POTENTIAL FOR OVERLOOKING TO THE WEST AND SOUTH OF POTENTIAL FOR OVERLOOKING FROM THE EXISTING DWELLING
  - 05 THERE IS LIMITED ON-ROAD PARKING AVAILABLE ON THE SITE

- SITE OPPORTUNITIES**
- 01 THE SITE IS ZONED R1Z
  - 02 THE SITE IS WELL ORIENTED WITH RELATIVE HIGH AND NORTH
  - 03 THE SITE HAS EXISTING ACCESS TO A ROAD AND IS ESTABLISHED FOR MULTIFAMILY AND COMMUNITY USE IN THE NEIGHBOURHOOD
  - 04 THE SITE HAS NO RESIDENTIAL NEIGHBOURS TO THE SOUTH
  - 05 THE SITE IS LARGE AND GENERALLY FLAT
  - 06 THE SITE OFFERS OPPORTUNITIES FOR HIGH DENSITY RESIDENTIAL DEVELOPMENT
  - 07 HIGH QUALITY FINISHES AND ADDING GARAGES AND DRIVEWAYS



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**DESIGN RESPONSE**  
**PROPOSED RESIDENTIAL DEVELOPMENT**  
**45-47 HOTHAM STREET, ST. KILDA EAST**

Notes:  
 1. All dimensions are in meters unless otherwise stated.  
 2. All levels are in meters above sea level unless otherwise stated.  
 3. The site is shown as a single lot.  
 4. The site is shown as a single lot.  
 5. The site is shown as a single lot.



JOB No: 0134  
 SCALE: 1:300  
 DATE: MAY 2009  
 DRAWN BY: WJ  
 CAD FILE: 0134\_TPR2.DWG

**TOWN PLANNING**  
**02**


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- RESPONSE TO SITE CONDITIONS**
- 001 THE PROPOSED DEVELOPMENT OF THE QUANTITY IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE LOCAL GOVERNMENT'S DEVELOPMENT PLAN.
  - 002 THE DENSITY OF THE SITE ALLOWS SUFFICIENT PARKING AND SERVICE AREAS TO SUPPORT THE DEVELOPMENT.
  - 003 THE CLOSE PROXIMITY OF SERVICES AND AMENITIES SUPPORT THE DEVELOPMENT.
  - 004 THE DEVELOPMENT PROVIDES A RANGE OF HOUSING TYPES TO SUPPORT THE DIVERSITY OF THE LOCAL COMMUNITY.
  - 005 VISUAL SCREENING FOR ONE END OF THE SITE TO PREVENT OVERLOOKING OF ADJACENT PROPERTIES IS PROVIDED BY THE DEVELOPMENT.
  - 006 VISUAL SCREENING FOR ONE END OF THE SITE TO PREVENT OVERLOOKING OF ADJACENT PROPERTIES IS PROVIDED BY THE DEVELOPMENT.
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  - 009 VISUAL SCREENING FOR ONE END OF THE SITE TO PREVENT OVERLOOKING OF ADJACENT PROPERTIES IS PROVIDED BY THE DEVELOPMENT.
  - 010 VISUAL SCREENING FOR ONE END OF THE SITE TO PREVENT OVERLOOKING OF ADJACENT PROPERTIES IS PROVIDED BY THE DEVELOPMENT.

- RESPONSE TO SITE CONSTRAINTS**
- 011 THE HEIGHT OF THE DEVELOPMENT IS IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S DEVELOPMENT PLAN.
  - 012 THE DEVELOPMENT IS IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S DEVELOPMENT PLAN.
  - 013 THE DEVELOPMENT IS IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S DEVELOPMENT PLAN.
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  - 019 THE DEVELOPMENT IS IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S DEVELOPMENT PLAN.
  - 020 THE DEVELOPMENT IS IN ACCORDANCE WITH THE LOCAL GOVERNMENT'S DEVELOPMENT PLAN.

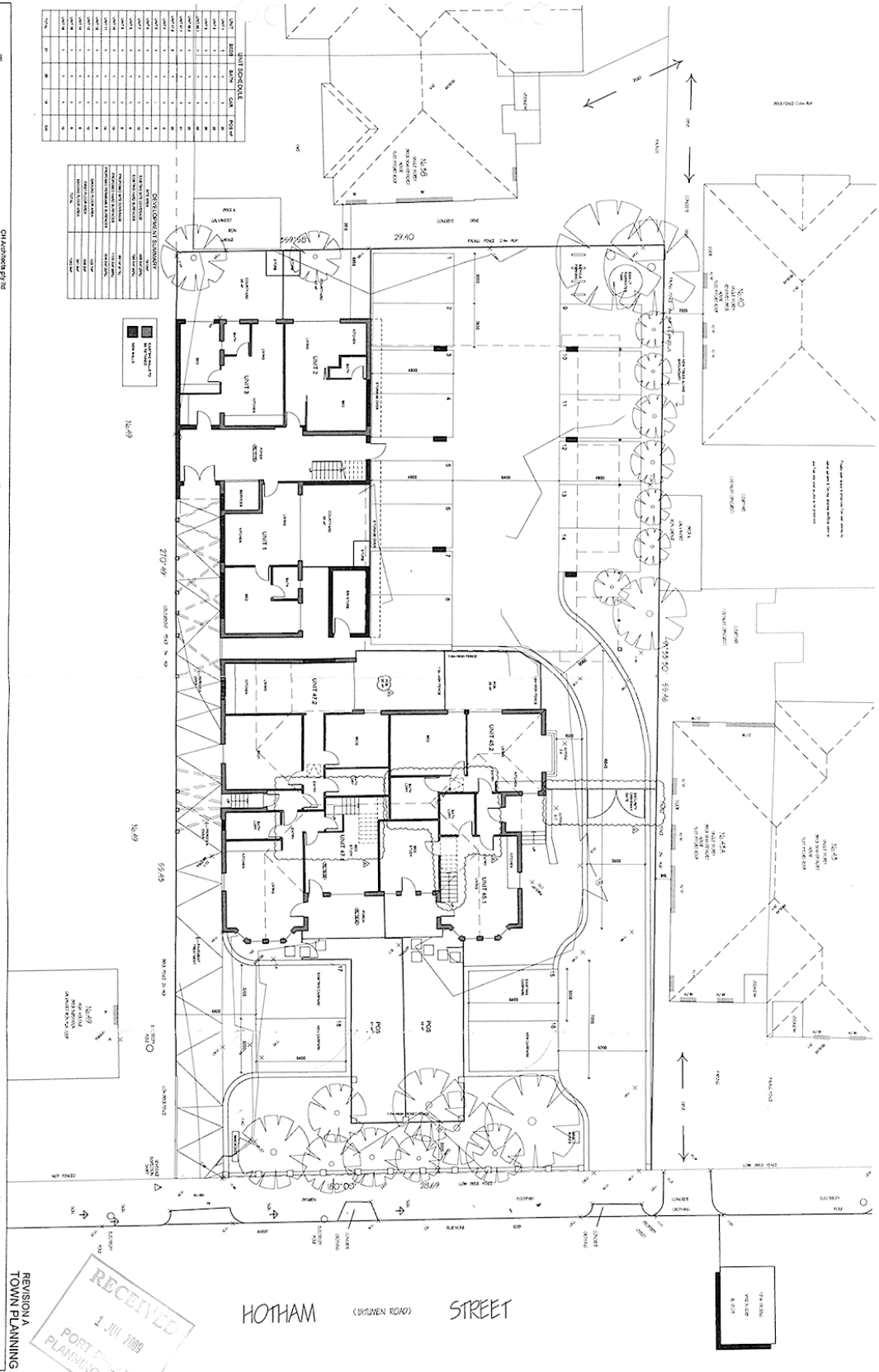

  
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**GROUND FLOOR PLAN**
  
**PROPOSED RESIDENTIAL DEVELOPMENT**
  
**45-47 HOTHAM STREET, ST. KILDA EAST**

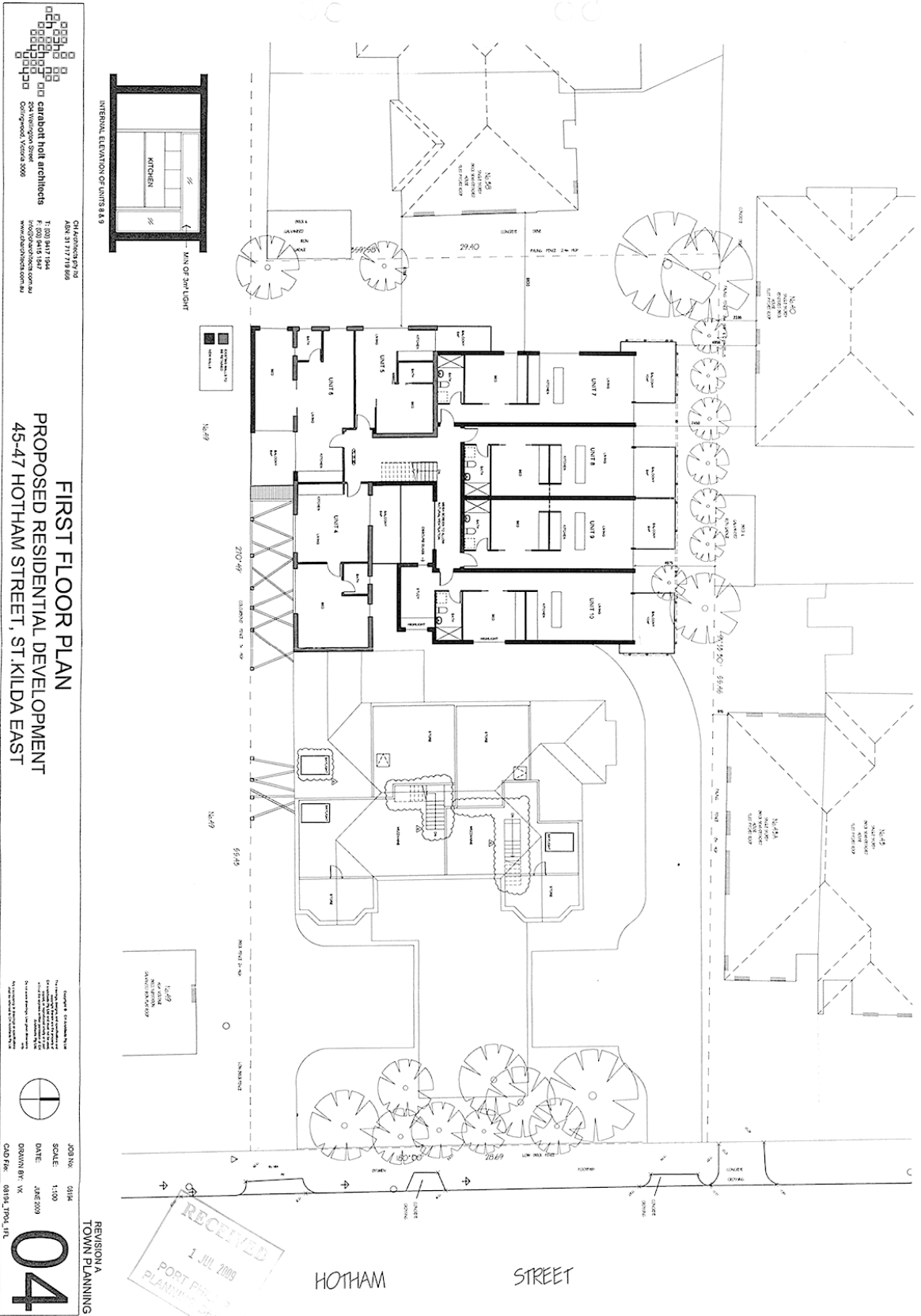
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 DATE: JAN 2009
   
 DRAWN BY: WK
   
 CADD FILE: 08154\_1.P.01E
   

  
**03**
  
 REGIONAL TOWN PLANNING

UNIT	ROOM	AREA	COV	POUR
UNIT 1	101	10.0	100%	100%
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RECEIVED
   
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 PORT PHILL
   
 PLANNING

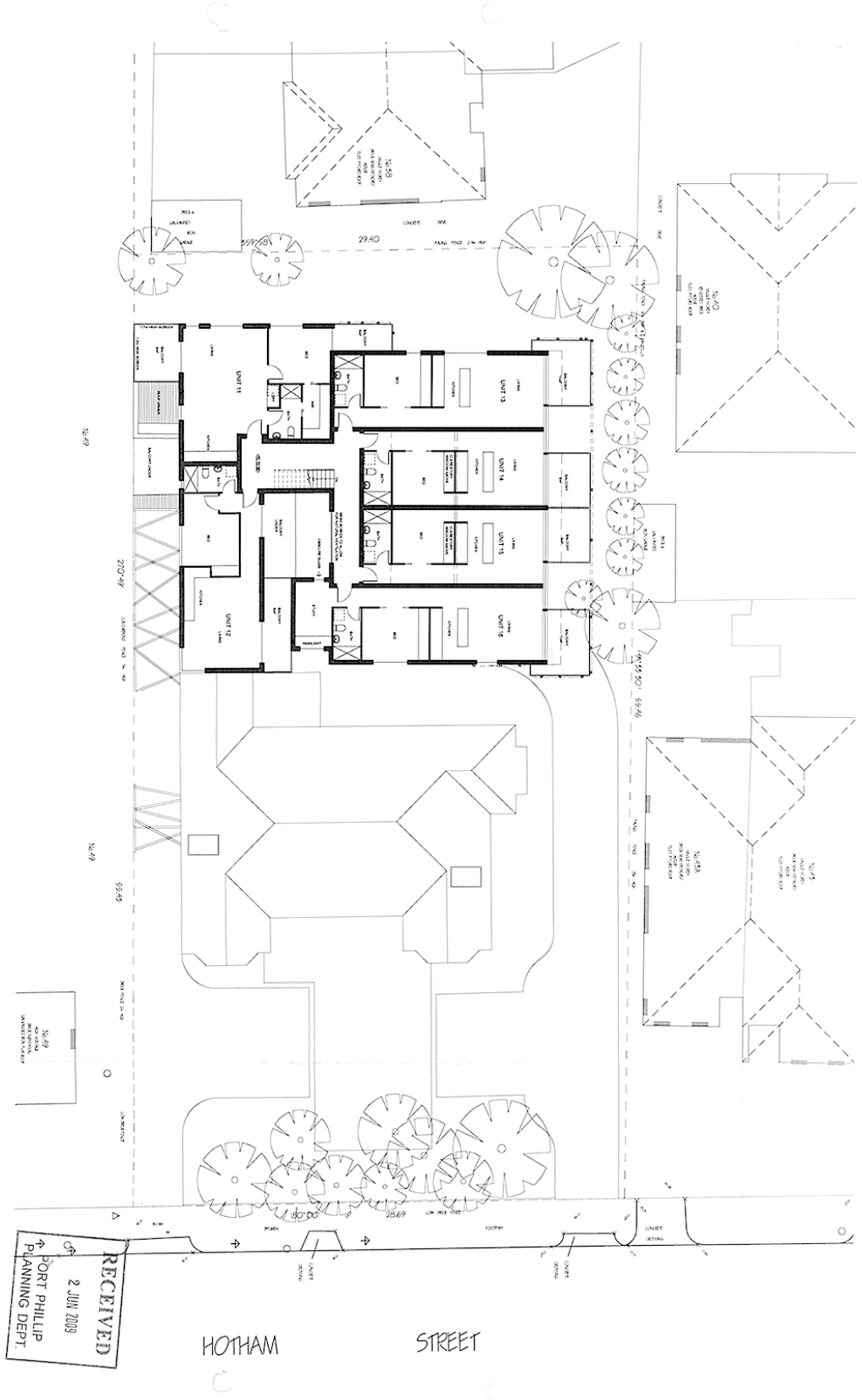



  
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**SECOND FLOOR PLAN**
  
**PROPOSED RESIDENTIAL DEVELOPMENT**
  
**45-47 HOTHAM STREET, ST. KILDA EAST**

TOWN PLANNING
   
 JOB NO. 03194
   
 SCALE 1:100
   
 DATE MAY 2009
   
 DRAWN BY: VK
   
 CAD FILE: 03194\_1709\_2FC


  
**05**



**ELEVATIONS**  
**PROPOSED RESIDENTIAL DEVELOPMENT**  
**45-47 HOTTHAM STREET, ST. KILDA EAST**

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**DATE** 11/05/09  
**SCALE** 1:100  
**JOB No.** 0194  
**DRAWN BY** WK  
**CAD FILE** 03194\_TPM3\_ELEV

**REVISION A**  
**TOWN PLANNING**

**REVISIONS**  
 REVISION A  
 TOWN PLANNING

**DETAIL BALCONY SCREENS**  
 SCALE 1:100

**DETAIL FACE CLADDING**  
 SCALE 1:100

**DETAIL SECURITY GATE**  
 SCALE 1:100

**WEST ELEVATION**  
 SCALE 1:100

**NORTH ELEVATION**  
 SCALE 1:100

**SOUTH ELEVATION**  
 SCALE 1:100

**EAST HOTTHAM STREET ELEVATION**  
 SCALE 1:100

**RECEIVED FOR TOWN PLANNING**

**1. EXECUTIVE SUMMARY**

- 1.1. The proposal includes the partial demolition of an existing building and construction of a three storey building above a ground level car parking at the rear of the site. The site currently contains 8 dwellings.
- 1.2. A total of 20 dwellings are proposed. A shortfall of car parking is also proposed.
- 1.3. Issues assessed relate to likely amenity impacts (overlooking, overshadowing, noise and loss of light), car parking provision and overall appropriateness of the proposal's character, mass and scale in relation to the residential properties behind.
- 1.4. It is recommended that a Notice of Decision to Grant a Permit be issued.

**2. PROPOSAL**

- 2.1. It is proposed to demolish a small lean to structure at the rear of the existing main building at the front of the site along with particular walls and windows of the more recent two storey building at the rear of the site.
- 2.2. It is further proposed to construct an addition above the retained portion of the rear building taking it to three storeys and to construct a new three storey building extending immediately to the north of the rear building. This element of the proposal would comprise two levels of accommodation above ground level car parking.
- 2.3. A total of 20 residential dwellings are proposed together with 18 car spaces. A variation to the relevant Rescode standard is required in relation to car parking provision.
- 2.4. More specifically, the plans show the following.

Ground Floor:

- 2.5. The proposal at ground level would comprise two shared pedestrian and vehicle entrances from Hotham Street. These would utilise the existing crossovers. Both of these would lead to car parking areas within the front setback, each area consisting of two car spaces at 90° to the driveways. The southern driveway would be shared for a distance of approximately 13m beyond which it would be for exclusive pedestrian use. This accessway would serve the main foyer of the rear building and two of the front dwellings. It would include a 7m x 5.2m passing bay within the front setback. Beyond this point, the driveway would be 3.5m wide.
- 2.6. The northern driveway would be shared for a distance of approximately 17m. The shared section would give access to the remaining two front dwellings and the rear car park area. This area would contain 14 car spaces arranged either side of a 6.4m wide central aisle.
- 2.7. The dwellings in the front building would have two bedrooms and would sit within the envelope of the retained portion of the building. Four open space areas are proposed, one per dwelling. Two parcels at the rear of the

building are proposed each being 20m<sup>2</sup> in area. The two front open space parcels would be 48m<sup>2</sup> and 51m<sup>2</sup> in area and would be defined by 1.7m high fencing. This fencing would be 3m from the front boundary at its closest point. Planting is proposed within that setback.

- 2.8. Two new skylights are proposed in the roof of the front building.
- 2.9. The rear portion of the proposal would consist of the retained section of the current 1950s building and would contain six one-bedroom dwellings. A new wall would abut the south boundary whilst the remainder of this building would follow a similar footprint to its current arrangement. Three courtyards of between 20m<sup>2</sup> and 28m<sup>2</sup> area proposed in this area, along with a new bin store area.
- 2.10. To the north of the retained 1950s rear building would be the 14 car spaces noted earlier.
- 2.11. Planting is proposed most notably in the north-west and south-west corners of the site in addition to that within the front setback.

First Floor:

- 2.12. This level would contain seven dwellings, all with a single bedroom. Three of those dwellings would be in the retained portion of the 1950s building whilst the remaining four would be constructed in a new addition to the north of the retained rear building. The dwellings in the retained rear building at this level would be orientated around a central foyer. Side setbacks to the rear (west) would remain unchanged from the current arrangement at 4m.
- 2.13. The new dwellings at this level would be orientated north-south with balconies facing north. These would be setback 2.6m to the north boundary and would be between 8m<sup>2</sup> and 10m<sup>2</sup> in area. The main wall behind would be setback 5m to the north boundary. North and west faces of the balconies would be screened with timber louvres to a height of 1.7m. West facing windows would also be screened with 1.7 m high timber louvres, high silled windows (1.7m), obscure glass to that height or full height patterned obscure glass.
- 2.14. The wall of the new building would be setback 5.8m to the west boundary.
- 2.15. All dwellings at this level would have a single bedroom.

Second Floor:

- 2.16. This level would follow a virtually identical external footprint and treatment to that below, except that no walls would abut the south boundary. This level would, however, contain only six dwellings as opposed to seven in the level below. All building at this level would be new. The southern portion of this level would be an extension above the existing 1950s building.

General description:

- 2.17. The overall height of the proposed new building would vary very slightly due to the slope of the land, but is depicted between 9m and 9.05m.
- 2.18. The proposal would be a flat roofed structure of modest contemporary design. It would have vertical side walls clad in two shades of render. The most notable external treatment would be the various angled steel posts on the north and west elevations. Where facing north, these are depicted as supporting a covering of vines.
- 2.19. The posts would not project above the roof of the building and would be 9m high maximum.

**3. SUBJECT SITE AND SURROUNDS**

- 3.1. The subject site is located on the west side of Hotham Street, approximately 175m south of its intersection with Alma Road. It is a rectangular shaped lot with a frontage of approximately 28m to Hotham Street and a depth of approximately 55m. The site area is approximately 1560m<sup>2</sup>. There is a fall of approximately 400mm from front to back. Hotham Street is a main road and carries consequently moderate to high traffic levels. It has four lanes with two of these used for parallel parking outside restricted parking times. It has a narrow median.
- 3.2. There are a mix of building styles and sizes in Hotham Street from single storey detached and semi detached dwellings to more substantial residential developments of two and three storeys. Most buildings date from the 1920s to 1960s.
- 3.3. The site currently contains a single storey Victorian building with a tiled and varied hipped roof fronting Hotham Street. There is a small outbuilding abutting the rear of the building which post dates the main structure. The site contains a total of eight dwellings, two in the front building and two in a 1950's addition to the rear.
- 3.4. This 1950's building is a more notable addition at the rear of the main building. It consists of a 1950's structure with a gently angled flat roof. This building is 'L' shaped and located towards the south of the site. The remainder of the site to the north of the building, and behind the original front building, is grassed open space. Some smaller outbuildings, a garage and vegetation exist in this area.
- 3.5. The front building is setback approximately 14m to Hotham Street. Within that setback are two driveways, one of which leads to the garage the other which leads only to the south-east corner of the front building.
- 3.6. The front open space area contains some modest trees and is also used for very informal car parking. This open space area is separated from Hotham Street by a low brick fence.

- 3.7. The surrounding development comprises residential buildings and uses except for the electricity sub-station to the south. Much of that site is vacant, but a single storey brick building is located in the site's front portion at a setback of approximately 6m to the Hotham Street boundary.
- 3.8. The west interface consists of single storey semi detached dwellings. The closest building, Nos. 36 and 38 Westbury Grove, is a modest 1920s structure with hipped tiled roof. The two dwellings at Nos. 32 and 34 Westbury Grove are contained in a very similar building.
- 3.9. No. 38 Westbury Grove interfaces the subject site with a small driveway leading to a garage in the south-east corner of that site. Two windows in the east wall of No. 38 Westbury Grove face the subject site.
- 3.10. All the nearby lots in Westbury grove are developed at reasonably high site coverage but have a secluded and uniform sense of address. A similar sense exists for the property to the north of the subject site's rear yard, being No. 40 Westbury Grove. This site contains a single storey dwelling with tiled roof. It interfaces the subject site with a relatively narrow open space area of approximately 2.3m width. Three windows face the subject site across this setback area.
- 3.11. Westbury Grove is a quiet and secluded dead-end street and consequently has the character or 'feel' of a court.
- 3.12. The north interface to the front portion of the subject site is to a single storey brick building with pitched roof. This building contains Nos. 43 and 43a Hotham Street in a semi detached arrangement. The direct interface is to No. 43a and consists of a narrow side setback of less than 1m in width. Three windows face the subject site across this setback.
- 3.13. The front of No. 43a Hotham Street consists of an open paved parking area. Nos. 43, 41 and 41a display a similar character although their front yards are more vegetated. No. 43a is setback approximately 10m to Hotham Street whilst No. 43 is setback approximately 8m.
- 3.14. Development further afield is varied. It mainly consists of single storey houses and three storey blocks of flats on the east side of Hotham Street, whilst there is a greater number of three storey flats on the west (subject) side of the street.

#### 4. ADVERTISING/OBJECTIONS

4.1. The proposal was advertised to abutting and nearby properties along with one sign being placed on site. A total of 21 objections were received. The objections raised the following key grounds, (*with officer response and assessment following in italics*):

- Loss of light to and overshadowing of adjoining properties.
- Overlooking and associated balcony noise.
- Insufficient car parking.

*These matters are discussed in section 6 of this report.*

- Inappropriately located.

*In terms of general principle, the site's zoning, its main road location and the presence of three storey flats nearby would suggest higher density development is appropriate whilst the site's heritage building and the sensitive and modest built form and neighbourhood character behind would suggest a lesser scale of development.*

*Hotham Street is included in a Road Zone 1. Increasing dwelling densities on such roads is encouraged subject to consideration of nearby amenity impacts.*

*The building at the front of the site is covered by an individual Heritage Overlay. No other abutting site is within a Heritage Overlay and only two sites opposite are covered by heritage controls.*

*Local Policy seeks retention of heritage buildings with any new development recessively sited behind significant heritage elements. This outcome seeks to minimise any impact on intact streetscapes so that any heritage building remains the key streetscape element on the site.*

*In principle, the presence of the heritage building would suggest that development should be contained to the rear portion of the site. When combined with the site's main road location, the principle in this instance is that greater density should be encouraged at the rear of the site, with minimal impact on neighbouring properties.*

- Inappropriate character, inconsistent with predominant nearby pattern of development, especially Westbury Grove, consequent impacts from building mass and bulk.

*This is considered the key issue and an objection with merit. It is the issue which requires the most detailed assessment and balancing of competing interests in the light of relevant planning controls and policies and is addressed in detail later in the report.*

- 4.2. A consultation meeting was held on 18 August, 2009 which was attended by the Ward Councillor, some objectors, the applicant and their consultants. At the consultation meeting it became clear that the majority of the objections centered on the issue of the built form, scale and character relationship with Westbury Grove. Car parking and amenity impacts, including overlooking, overshadowing, noise and loss of privacy, were also outlined. The impact on infrastructure and suitable landscape planting was also discussed at length.
- 4.3. A matter of internal amenity to particular dwellings, especially units eight and nine. Whilst this would technically be covered by the Building Regulations, it is also reinforced by the recommendation in condition 1 (i) and (j). No formal resolution was reached at the meeting, however, in terms of specific measures to address key objector concerns.
- 4.4. In response, three dimensional perspective of the proposal from Westbury Grove were produced to aid assessment.

## **5. URBAN PLANNERS ANALYSIS OF KEY ISSUES**

- 5.1. Port Phillip Planning Scheme Provisions:

### Residential 1 Zone

The site is located in a Residential 1 Zone and pursuant to the provisions of the Residential 1 Zone, at Clause 32.01 a permit is not required for the use of the site as a dwelling(s).

Pursuant to Clause 32.01-4 a planning permit is required to construct two or more dwellings on a lot. The development must also have regard to Clause 55 ResCode.

Before deciding on an application, the responsible authority must consider, as appropriate:

The decision guidelines at Clause 65.

The SPPF and LPPF, including the MSS and local planning policies.

### Heritage Overlay HO292

The site is included within Heritage Overlay 292 (HO292). This is a site specific Heritage Overlay. A permit is required to construct a building or to construct or carry out works, and a permit is required to demolish a building pursuant to the provisions of Clause 43.01-1.

**6. STRATEGIC ISSUES**

- 6.1. An assessment of the proposal has been made against relevant Council policies and strategies. The following is an extract from that table, which is retained on file as a hard copy. The summary assesses the key issues and where the proposal is considered to be non-compliant.

Protect heritage and streetscape character:

Officer comment:

The key aspects of heritage and streetscape character would be retained. The proposal would sit behind the existing building and would be respectful of the existing building and its heritage significance by way of location, setbacks and an appropriate scale in relation to the roof of the retained building. The existing front parking areas would be formalised. The open space parcels would project forward of the retained front building, but their fencing would be sufficiently low and modest.

It is considered however that the visual impact on the end of Westbury Grove to the west would be inappropriate and therefore it is recommended that the bulk of the building be reduced at the rear at recommended condition 1(a).

High amenity and design excellence.

Officer comment:

The proposal would appropriately address issues of potential amenity impact, particularly overlooking and is considered a relatively simple and modest design

Greater contemporary references are used in the design compared to the current rear buildings. The design is not considered 'excellent', rather it is restrained. Appropriate materials and finishes would be required by recommended condition 1(h).

Medium density housing on main roads or public transport routes or in identified growth area on Framework Plan.

Officer comment:

Hotham Street is a Road Zone category 1. The proposal would be consistent with this.

Restore/retain older dwellings.

Officer comment:

The original component of the existing house will be retained.

Respect prevailing scale, form and setbacks and minimise impact on neighbourhood character and amenity of adjoining properties.

Officer comment:

Whilst larger than the current rear building, the proposal would nonetheless 'respect' the scale of the retained building. At three storeys, it would be consistent with the wider character of East St. Kilda. The issue of proposed bulk and scale of the development in relation to the immediate neighbours are assessed further in this report.

Gradual stepping up of built form between low and higher rise development.

Officer comment:

The graduation sought by this policy relates to creating a consistent streetscape. The proposal would be three storeys and approximately 3.5m higher than the roofs of the closest dwellings but would be at the rear of the site. The front of the site would remain unaltered with regards to the scale within the streetscape.

Sympathetic and respectful of heritage place?

Officer comment:

The proposed development would be sited behind the existing building and by being only a 1.5m higher backdrop to that building, would be respectful of the existing building and its heritage significance. The proposed building's form, scale and overall presentation, whilst contrasting, would remain respectful of the existing building and the varied character of the surrounding area.

Respect and conserve identified elements.

Officer comment:

The original component of the existing building will be retained. Council's Heritage Advisor raises no concerns with the extent of demolition. However, the proposed enclosure of the front open space areas are not supported and would detract from the significance of the front façade. Refer conditions 1 (b) and 1 (g).

Avoid new windows and doors in principal façade. If visible, clearly relates to heritage place.

Officer comment:

The proposed skylights should be reduced in size. This is recommended at Condition 1(c).

Upper storey additions should be sited and massed so as not to be visible, particularly in intact/consistent streetscapes. If the road is more than 5m in width, they are to sit within a 10° sightline or in exceptional circumstances up to 18°.

Officer comment:

The proposed building envelope would not meet the ten degree policy guideline (it would be approximately 15°), however, the majority of the building would be concealed from view due to the transverse roof ridge of the existing heritage building. Council's Heritage Advisor has raised no concerns with regard to the overall building envelope and it is noted that the property is not within a line of heritage sites nor in a consistent streetscape and therefore a variation of the sightline guideline is supportable.

6.2. Rescode and Residential Amenity:

The following is an extract of the Rescode summary table, the complete version of which is retained as a hard copy on Council's file. The following summary relates to key matters of assessment and areas of non-compliance.

Standard B1, response must be appropriate to the neighbourhood and the site, the design must respect the existing/preferred neighbourhood character and respond to the features of the site and

Standard B2, Dwellings should be orientated to front streets, high fencing in front of dwellings should be avoided and dwellings should promote observation of streets and public open spaces.

Officer comment:

A neighbourhood and site description was provided by permit applicant. Sufficient information has been submitted. The proposal would respond to the features of the site and surrounding and wider area, particularly the commonly found three storey scale and the wide variety of styles and eras of buildings in the immediate vicinity.

The proposed development would appropriately respond to the site's relationship with surrounding properties in Hotham Street in terms of built scale, setbacks and materials and would be consistent with the varied scale of development in the area. Hotham Street is a main road and displays varied forms, scales and heights of buildings. Heights generally range from one to three storeys.

The location of car parking in the front setback of a heritage building is not normally supported. In this instance, the condition currently exists in an informal way with cars parked either side of the dwelling's front façade. These parking areas are accessed by two crossovers which would be utilised by the proposal. Subject to appropriately low fencing and driveway paving, formalising the front parking arrangement is considered acceptable. Refer conditions 1 (b) and 1 (h).

The proposal would, however, create an unacceptable degree of change in terms of its response to the end of Westbury Grove to the rear and would create a highly rectangular and clearly visible form imposing upon that street. Whilst only impacting upon a small pocket of Westbury Grove, it is considered that the proposal would not adequately respond to this issue and a reduction of the building's size is recommended at condition 1(a).

Standard B16. Car parking for residents should be provided at one space for each 1 or 2 bedroom dwelling, two spaces for each 3 or 3+ bedroom dwelling, with one space under cover. Separate studies/studios must be counted as bedrooms. Developments of 5+ dwellings should provide one space clearly marked as visitor parking per 5 dwellings.

Officer comment:

All dwellings would be one or two bedroom. The resident requirement would therefore be 20 car spaces. The visitor requirement would be four car spaces, bringing to a total a requirement for 24 car spaces. A total of 18 car parking spaces are proposed. A shortfall of six car spaces is therefore being sought, four visitor and two resident.

The current development consists of eight dwellings, two being three bedroom and six being one bedroom. Under Rescode requirements, this would generate the need for 12 car spaces, being 10 resident and two visitor car spaces. The current development provides four car spaces, or a shortfall of eight under Rescode requirements (six resident and two visitor).

Compared to the current situation, the proposal would create a reduced car parking shortfall. That is, the quantum of parking shortfall would be lower as proposed compared to the existing situation. Noting the deletion of two dwellings as recommended by proposed condition 1(a), there would be no residential parking shortfall with 18 dwellings with 18 car parking spaces. The shortfall would relate entirely to the visitor parking requirement. With the deletion of two dwellings as recommended, the visitor parking shortfall would be three spaces.

Kerbside parking on the subject side of Hotham Street is largely unrestricted on the west side. A bus stop exists immediately to the south of the site and a small 'no standing' zone exists outside the site itself related to a pram/pedestrian crossing. Another such crossing exists approximately 80m to the north.

The remainder of kerbside parking on the subject side of Hotham Street is unrestricted on the west side. With the deletion of two dwellings as recommended, parking shortfall would only relate to three visitor parking spaces. Sufficient capacity exists in Hotham Street in the vicinity of the site to cater for this impact.

Standard B17: Side and rear setbacks. New buildings not on, or within 150mm of boundary should be setback from side or rear boundaries at 1m, + 0.3m per metre height over 3.6m up to 6.9m, plus 1m per metre height over 6.9m.

Officer comment:

The closest west boundary setback would be 4m at the upper level to a wall 9m high. The minimum required setback would be 1.84m and thus the setback requirement is exceeded.

The east boundary setback would face Hotham Street with the unchanged setbacks of the retained house in the foreground.

The north boundary setback would be 2.6m to the 7.7m high balconies. This would exceed the 1.46m requirement. The north boundary setback to the 9m high main wall would be 5m, exceeding the 1.84m requirement.

The south boundary setback at the upper level would be 2.6m to a 9m high wall, exceeding the 1.84m standard.

Therefore, proposed boundary setbacks in relation to neighbouring impacts of visual bulk and changes in outlook would be such that these impacts would be minimised.

Standard B19. Daylight to existing windows. Buildings opposite an existing habitable room window should provide for a light court to the existing window, of at least 3m<sup>2</sup> and 1m clear to the sky. The area may include land on the abutting lot.

Officer comment:

The nearest habitable room windows to the west would be setback approximately 6.8m from the proposed 9m high second level wall. The standard would require a 4.5m setback. The nearest windows to the north would be setback approximately 4.9m from the proposed 7.7m high second floor level balconies. The standard would require a setback of 3.85m. The windows to the north would be setback 7.4m to the proposed 9m high wall. The standard would require a 4.5m setback.

The windows of No. 41a Hotham Street would be sufficiently removed from the proposal at approximately 20m and would not suffer any detrimental loss of light.

Standard B21. Overshadowing open space. Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75%, or 40m<sup>2</sup> with a minimum dimension of 3m, whichever is lesser, or the secluded open space should receive a minimum of 5 hours of sunlight between 9am and 3pm at 22 Sept.

Officer comment:

The submitted shadow diagrams demonstrate that the proposed development would not unreasonably shadow adjoining properties. The majority of shadows would fall across the sub-station to the south.

Some increase in shadowing to No. 38 Westbury Grove would occur at 9am. At this time, approximately 50% of that property's rear yard would be shaded. This would reduce to zero additional shading by 10am, leaving five hours free of shade. No other residential property would be shaded.

Standard B22. Overlooking. Habitable room windows, balconies, terraces etc should avoid direct view to secluded private open space and habitable room windows of an existing dwelling within 9m, and a 45° arc from the window, balcony etc.

Officer comment:

West and north windows and balconies have been depicted with 1.7m high louvre screens, obscure glass or sills to that height and full height obscure patterned glass. It is recommended that details of the balcony screens and the patterned glass be submitted such that they would achieve zero transparency and that their outward projections be depicted on the elevations. Refer conditions 1(d) and 1(e). This would protect the privacy of nearby properties.

### 6.3. Parking and Traffic

Driveway widths and car space dimensions all meet appropriate standards.

A car parking dispensation assessment involves comparing the 'before' and 'after' situation in relation to parking supply. This occurs due to the fact that the site is currently developed for eight dwellings but has only four car parking spaces.

The following table summarises that situation.

Existing dwellings	Rescode standard	Existing parking provision
<b>Two x three bedroom</b>	<b>4</b>	<b>3</b>
<b>Six x one bedroom</b>	<b>6</b>	<b>1</b>
<b>Visitor</b>	<b>2</b>	<b>0</b>
<b>Total</b>	<b>12</b>	<b>4</b>

Shortfall = 8.

Proposed dwellings	Rescode standard	Proposed parking provision
<b>20 x one and two bedroom</b>	<b>20</b>	<b>18</b>
<b>Visitor</b>	<b>4</b>	<b>0</b>
<b>Total</b>	<b>24</b>	<b>18</b>

Shortfall = 6.

The above tables indicate that the overall parking provision, when comparing 'before' and 'after' would improve. The proposed parking

shortfall of six car spaces would be less than the current shortfall of eight car spaces.

Recommended condition 1(a) would result in the deletion of two dwellings taking the total number of dwellings on the site from 20 to 18. With 18 on site car spaces proposed, there would be no resident parking shortfall assessed under the Rescode standard.

As a result of a reduction of two dwellings, the required visitor parking would reduce to three. The total shortfall would therefore be three visitor spaces. This is considered moderate and acceptable given that it is a reduced shortfall over the existing situation. The matters assessed previously in this report in relation to parking supply on the subject side of Hotham Street remain relevant. Kerbside parking could cater for three visitor cars without undue detriment.

#### 6.4. Urban Design/Heritage

The proposal was referred to Council's Urban Design and Heritage Advisor. The following comments were received:

*"The citation notes that this is: A substantial pair of residences with a distinguished symmetrical front elevation and shared garden giving the impression of a single house. The hanging of the fish scale terra-cotta shingles, shingled roofs to the chunky bay windows and the boldly projecting gables and bay windows are notable features. The front fence with its profiled brickwork is of a style more typical of the Federation period, and may predate the houses as it continues north to the two adjacent properties.*

*(i) The scheme generally reflects pre-application discussions. My only suggestion was that parking could be basement as opposed to on grade and avoid what would be a low grade impact to the front setback.*

*(ii) The applicant was encouraged to develop a contemporary response to the rear of the site that would clearly articulate between the existing heritage dwelling and contemporary additions. The new does not relate to the old nor does it need to.*

*(iii) The main concern in regards to the front setback relates to the fencing for the private open space. The heritage integrity would be compromised as a result of the fencing which is intrusive, proposed at 1.7m. Note that the fencing was not shown on the East elevation submitted. It was only annotated as a detail.*

***Further recommendations:-***

- *Reduce the size of the skylights. Excessive in area and one in particular will be subject to high heat loads given the northern aspect.*
- *Request a landscape plan – the suitability of the overall aesthetic will be very much determined by the success of the vines that will be able to grow along the northern façade as will the treatment of the front setback to Hotham St.*
- *The south elevation needs only to marginally reduce the extent of visual bulk; potential for more of a glass link between old fabric and new that would extend overall floors not just the ground floor;*
- *The height of the front gates to the northern boundary (adjacent 43a) is excessive and should reflect the front fence height.”*

Recommendations relating to the fencing of the front open space parcels, skylights, proposed gates and landscaping plans form part of the recommendation at conditions 1(c), 1(b), 1(g) and 5. It is not considered that the south elevation needs any modifications due in this instance to its interface with the sub station.

The matter of internal amenity, specifically access to daylight within proposed dwellings one, eight and nine is addressed by condition 1 (i). Any acoustic impact of the proximity of the car park on the bedroom for dwelling two is addressed by condition 1 (j).

Compatibility with Westbury Grove:

This neighbourhood is quite varied in character as outlined in section 3 of this report. Local policy and planning controls, including Rescode, state that new development should respond to nearby constraints and opportunities. New development should take account of the existing and preferred character of an area by way of responding to predominant built form. However, such form and scale should not be mimicked.

In this instance, any design response would have varied opportunities and constraints to respond to. There are numerous three storey flats in Hotham Street and the main road location would suggest that this site is well placed to maintain that scale. However, the heritage building on the site would suggest that development should be placed towards the rear of the site in a recessive way.

The site abuts an electricity sub station to the south. This is a design opportunity for greater density as there would be no adverse impact on this site. In principle, this would suggest that development should be massed towards that southern boundary.

The predominant character behind the site is of modest single storey development in the relatively secluded setting of Westbury Grove. This is considered a design constraint and would, in principle, suggest the development should either be relatively low or located towards the front of the site consistent with the main road location.

It is considered that the response to the built form and character to the west (Westbury Grove) requires refinement.

As proposed, the new rear building in the northern portion of the site would be clearly visible from the end of Westbury Grove and more so from nearby open space parcels. The vista from the end of Westbury Street is currently relatively consistent with small front yards, low fencing and single storey buildings with pitched tiled roofs. The undeveloped portion of the subject site presents as a gap in the view from the end of Westbury Grove.

It is considered reasonable to recognise that some development potential exists for the rear portion of the land noting the site's zoning and main road location. It is recognised that the gap in the view from the end of Westbury Grove will be filled in to some extent.

Whilst the proposal would only have discernable impact on the character at the very end of Westbury Grove, it is considered that the degree of visual change to that character would be excessive. The issue of visual character from the end of Westbury Grove is considered a site constraint and it is not considered that the proposal would adequately respond to it.

The least sensitive interface at the rear of the site is to the sub-station to the south. The subject 1950s building is located in close proximity to this site and consequently, is not as visible from the end of Westbury Grove. The proposed additional level to that building would have an acceptable impact on the urban character of Westbury Grove.

The proposal would be highly visible from the rear yard of No. 38 Westbury Grove, but balanced against that is the fact that the rear yard of No. 38 Westbury Grove has a wide and open view to its south across the sub station site. The proposed new level to the 1950's building would comply with the relevant standards of Rescode. Based on this compliance and the open view across the sub station to the south, the additional level to the 1950s building is therefore considered supportable from this perspective.

However, the new building in the north section of the site would result in an inappropriate character which would be inconsistent with the predominant streetscape of the adjacent section of Westbury Grove. This interface needs to be more recessive. It is therefore recommended that the rear (west) setback of the upper level of the new building be increased to 15m by way of deletion of units 13 and 14 as recommended at condition 1(a).

Heritage Overlay Decision Guidelines

The heritage building at the front of the site is graded significant. The proposal would be well recessed behind the retained building so as not to adversely affect its significance and would be clearly distinguishable from the original heritage dwelling. The form and features of the existing dwelling would be retained.

All demolition would be confined to the rear of the dwelling where none of the elements are of any significance.

**7. ENVIRONMENTAL ASSESSMENT**

- 7.1. The permit applicant has not submitted a STEPS report or ESD statement. It is recommended that a Sustainable Design Statement be submitted to the ESD Officer's satisfaction at Condition No. 9.

**8. COVENANT**

- 8.1. There is no restrictive covenant on title.

**9. CONCLUSION**

- 9.1. The proposed additions at the rear of the site would involve very modest demolition of non significant elements. The extent of demolition has not raised concerns and would retain the heritage building at the front of the site. The proposal, by way of its overall height, articulation and materials, is considered respectful of the existing heritage building on site in a streetscape sense. Council's Heritage Advisor supports the proposal by way of it being recessive to Hotham Street and distinguishable from the heritage building on the site.
- 9.2. The addition to the existing rear building would integrate appropriately with the existing neighbourhood character both in a streetscape sense and in terms of immediate side and rear interfaces which would comfortably exceed Rescode standards. However, the new rear building in the largely vacant section of the site would have unacceptable streetscape and neighbourhood character impacts on the east end of Westbury Grove. This is addressed by way of the recommended deletion of two upper level dwellings which would create a far more recessive appearance to Westbury Grove.
- 9.3. It is considered that the proposal would not cause unreasonable overshadowing and/or overlooking impacts on the closest residential properties. There would be some very modest increase in shading to one neighbour, but the Rescode standard would be complied with.
- 9.4. In terms of Hotham Street, the proposed scale is considered appropriate noting that it would be located in a densely populated and established residential area with other relatively large buildings of similar or greater scale located nearby. It is, however, recommended that the front open space areas and associated fencing be reduced in size and height respectively.

- 9.5. The non-provision of visitor car parking requirements under the Rescode standard is considered supportable in this case as the recommended deletion of two dwellings would lead to a shortfall of only three visitor car spaces. There would be no resident parking shortfall. The unrestricted parking on the subject side of Hotham Street would lead to sufficient availability of kerbside parking to cater for three visitor cars.
- 9.6. Subject to the conditions as noted, it is recommended that a Notice of Decision be issued.

**10. OPTIONS**

Approve as recommended.

Approve with changed conditions.

Refuse - on key issues.

**11. RECOMMENDATION: NOTICE OF DECISION**

- 11.1. That the Responsible Authority, having caused the application to be advertised and having received 21 objections is of the opinion that the development of the land for the purposes of the part demolition of the existing building, and construction of an additional level to the existing rear building and construction of a new three level building along with reduced visitor car parking provision will not cause material detriment to any person.
- 11.2. That a Notice of Decision to Grant a Permit be issued for the development of the land for part demolition of the existing building, and construction of an additional level to the existing rear building and construction of a new three level building along with reduced visitor car parking provision generally in accordance with the endorsed plans and subject to the following conditions:
1. Before the development starts, amended plans and elevations 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 generally in accordance with the submitted and advertised plans but modified to show the following:
    - (a) Deletion of units 13 and 14 and appropriate visual treatment consistent with the new building of any newly exposed walls.
    - (b) The front open space parcels reduced in size by increasing their front setback to a minimum of 9m along with all associated fencing shown as being no more than 1.4m high above natural ground level,
    - (c) The skylights to the front dwelling reduced in size to no more than 780mm x 780mm,
    - (d) Details, including cross sections, of all west and north facing balcony screening such that they would have zero transparency and that any outward projecting screen features be depicted on the relevant elevations,
    - (e) Details of the patterned glass features used as screening devices being of zero transparency,

- (f) Details of landscape planting including all retained and proposed planting. The plan is to show details of proposed species and both height at time of planting and at maturity with all proposed trees along the west boundary and in the north-west and south-east corners as being at least 4m high at time of planting.
- (g) Reduction in proposed front gate height where adjacent to No. 43a Hotham Street to a maximum of 1.3m above natural ground level,
- (h) A schedule of external materials and colours of the proposed buildings and paving details of the driveways and front parking areas, including samples where appropriate (glass and otherwise), all in a form capable of being endorsed and placed on Council's.
- (i) Improved access to natural light for the bedrooms of units one, eight and nine including by the provision of sky lights and/or clerestory windows were this has become possible by virtue of Condition 1(a) above.
- (j) Notations indicating appropriate acoustic treatment to the north bedroom wall of unit two.
- (k) A roof plan indicating that the north portion of the courtyard to unit one is open to the sky.

Once approved, these plans become the endorsed plans under this permit.

- 2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 3. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
- 4. All external materials finishes and paint colours are to be to the satisfaction of the responsible authority and must not be altered without the written consent of the Responsible Authority and are to align with the details shown under condition 1 (h)
- 5. No buildings or works shall commence until a landscape plan prepared by a suitably qualified and experienced person or firm has been submitted to and approved by the Responsible Authority. Landscaping in accordance with this approved plan and schedule shall be completed before the building is occupied. Landscaping in accordance with this approved plan and schedule and the details of condition 1 (f) shall be completed before the building is occupied.
- 6. No equipment, services and architectural features other than those shown on the endorsed plans shall be permitted above the roof level of the building unless otherwise agreed to in writing by the Responsible Authority.
- 7. Any plant and equipment proposed on the roof of the building must be screened in a manner to complement the appearance of the building to the satisfaction of the Responsible Authority.
- 8. Any outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
- 9. Prior to the commencement of the development hereby permitted the applicant must demonstrate how environmentally-positive features will be incorporated into the development where possible, to the satisfaction of the responsible authority following consultation with Council's ESD officer via completion of either an appropriate STEPS assessment or a written Sustainability Statement of the various approaches to sustainability matters included in the development.
- 10. The car parking areas and accessways as shown on the endorsed plans shall be formed to such levels so that they may be used in accordance with the plan, and

shall be properly constructed, surfaced, drained and line-marked. The car park and driveways shall be maintained to the satisfaction of the Responsible Authority.

11. Before commencement of the works, a construction management plan must be prepared, including a works program, with the objective of minimising the impact of construction works on the nearby residential properties to the satisfaction of the responsible authority. The plan must specify the means of reducing the construction impact (at the cost of the applicant) of dust and noise on the nearby properties, and must provide that hours of work be in accordance with any relevant Local Law. If appropriate, the plan will be endorsed to form part of this permit and all construction works are to be carried out in accordance with the plan.
12. During the construction of the buildings and works allowed by this permit, the roads and streets adjacent to the subject land must be kept free of parked or standing vehicles or any other obstruction, including building materials, equipment etc. so as to maintain free vehicular passage to abutting benefiting properties at all times, unless with the written consent of the Responsible Authority.
13. The car parking allocation for this development must be at the rate of one car space per dwelling.
14. No plant, equipment or domestic services (including any associated screening devices) or architectural features, other than those shown on the endorsed plan are permitted, except where they would not be visible from a street (other than a lane) or public park without the written consent of the responsible authority.
15. This permit will expire if one of the following circumstances applies:
  - (a) The development is not started within 2 years of the date of this permit.
  - (b) The development is not completed within 2 years of the date of commencement.

The Responsible Authority may extend the period referred to if a request is made in writing before the permit expires or within three months afterwards.

### **Permit Notes**

*This permit does not authorise the commencement of any building construction works. Before any such development may commence, the applicant must apply for and obtain appropriate building approval.*

*The applicant/owner would provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with this planning permit.*

*The developer shall show due care in the development of the proposed works so as to ensure that no damage is incurred to any adjoining properties.*

*Except in the case of an emergency, a builder must not carry out building works outside the following times, without first obtaining a permit from Council's Local Laws Section:*

- Monday to Friday: 7.00am to 6.00pm; or
- Saturdays: 9.00am to 3.00pm.

*An after hours building works permit cannot be granted for an appointed public holiday under the Public Holidays Act, 1993.*