



STATUTORY PLANNING OFFICERS REPORT

Urban Planning Delegated Committee

Application No.	PP21/0271
Date Application Received	9 April 2021 (application amended pursuant to Section 50(3) on 8 June 2021, before public notice)
Planning Officer	Seuna Byrne - Principal Planner
Applicant	VMCH C/- Human Habitats
Owner	VMCH
Property Address	6 and 14 Studley Park Road, Kew
Proposal	Use of the land for not more than 108 retirement village apartments and a food and drink premises (café); construction of four x 5-storey buildings above basement car parking, including a fence as the fence is visible from a street and externally painting a building (Whitty House); partial demolition of buildings; reduction of the car parking requirement associated with a café; and alteration of access to a road in a Road Zone, Category 1 (Studley Park Road)
Ward	Studley
Zoning	<ul style="list-style-type: none"> • 6 Studley Park Rd - NRZ3 • 14 Studley Park Rd - GRZ4 • Adjacent to a road in a Road Zone, Category 1
Overlays	<ul style="list-style-type: none"> • 6 Studley Park Road - the Heritage Overlay applies to the entire property (HO223 - <i>Villa Maria</i>) • 14 Studley Park Road - the Heritage Overlay applies to part of the property (HO143 - <i>Barry Street Precinct, Kew</i>)
Particular Provisions	<ul style="list-style-type: none"> • Clause 52.06 (Car Parking) • Clause 52.29 (Land adjacent to a road in a Road Zone, Category 1) • Clause 52.34 (Bicycle Facilities) • Clause 53.18 (Stormwater Management in Urban Development)
Planning Permit Triggers	<ul style="list-style-type: none"> • Clause 32.08-2 - Use of land for accommodation (retirement village) and a café (food and drink premises) in the General Residential Zone; • Clause 32.08-9 - Construct a building or construct or carry out works for a use in Section 2 of Clause 32.08-2 in the General Residential Zone;

	<ul style="list-style-type: none"> • Clause 32.09-2 - Use of land for accommodation (retirement village) and a café (food and drink premises) in the Neighbourhood Residential Zone; • Clause 32.09-9 - Construct a building or construct or carry out works for a use in Section 2 of Clause 32.09-2 in the Neighbourhood Residential Zone; • Clause 43.01-1 - Construct a building or construct or carry out works, including a fence if the fence is visible from a street and externally painting a building if the schedule to this overlay specifies the heritage place as one where external paint controls apply¹, on land affected by the Heritage Overlay; • Clause 43.01-1 - Partial demolition of a building on land affected by the Heritage Overlay; • Clause 52.06-3 - Reduction of the car parking requirement associated with a café (food and drink premises); • Clause 52.29-2 - Alteration of access to a road in a Road Zone, Category 1 (Studley Park Road).
Neighbourhood Character Precinct?	The eastern portion of the site, including all of No. 6 Studley Park Road, is located within Precinct No. 8. The balance of the site is located within Precinct No. 15.
PPTN Area?	The site is located within the Principal Public Transport Network Area.
Aboriginal Cultural Heritage?	No
Covenant?	There are no restrictive covenants registered on the certificates of title for the lots comprising the subject land.
Potential Overland Flow?	No
Melbourne Water 100 year Flood Extent	No
Advertised?	Public notice of the application was directed on 10 June 2021 and commenced on 17 June 2021 by Council posting notices to abutting and nearby property owners and by the display of four (4) signs on the land for a period of not less than four (4) weeks.
No. of Objections	82
Plans Assessed in this Report	The plans advertised on 17 June 2021
Recommendation	Notice of Decision to Grant a Planning Permit

¹ Whitty House, HO223, *Villa Maria*, 6 Studley Park Road, Kew, Schedule to the Heritage Overlay.

PROPOSAL**Appendix A - Advertised Plans June 2021**

An application has been made to Council for the construction of four 5-storey buildings above basement car parking and partial demolition and restoration of three “significant” graded heritage places. The land is to be used for a retirement village (not more than 108 retirement apartments²) and a café.

Details of the proposal are summarised as follows:

- Demolition of all school buildings (some are not in the HO, those in the HO are graded “non-contributory”);
- Partial demolition and restoration of Whitty House, Esmonde House and Plumstead House (all graded “significant”);
- Partial demolition of the boundary fence along Fernhurst Grove and Studley Park Road;
- Construction of four new 5-storey buildings (Buildings A, B, C and D) consisting of 108 retirement village apartments (8 x 1-bed, 65 x 2-bed and 35 x 3-bed);
- Whitty House is to be used for offices (existing use rights) and a café within the former stables and adjacent forecourt area;
- Esmonde House and Plumstead House are to be used for communal facilities for the retirement village, including a reception area, library, gym, chapel, meeting rooms, administration areas, nurses’ room and indoor swimming pool;
- Basement car parking comprising 178 resident car spaces plus eight staff car spaces (for a total of 186 car spaces), two car wash car spaces, two loading bays, laundry collection room, mail room, cellar, virtual golf room, cinema, bike storage room (22 bicycles), tool store/workshop, storage cubicles, waste storage rooms for each of Buildings A, B, C and D, two x 150,000 litre stormwater harvesting tanks and direct stair and lift access into Buildings A, B, C and D. The basement is accessible from Studley Park Road and Fernhurst Grove;
- At-grade car parking for six visitors (including a disabled car space) and a porte cochere located to the south of Esmonde House, accessed via Fernhurst Grove;
- Loading facilities include:
 - Basement loading bays for two trucks, up to 6.4m long Small Rigid Vehicles (SRV);
 - Deliveries to the porte cochere area, which can accommodate a SRV in the turnaround area;

² Retirement village ‘apartments’ are not ‘apartments’ for the purposes of Clause 58 (Better Apartments Design Standards) of the Boroondara Planning Scheme, as the nesting diagrams at Clause 73.04-1 determine a ‘retirement village’ is not a ‘dwelling’ or a ‘residential building’.

- The six at-grade spaces in front of Esmonde House can be used for deliveries by smaller trucks or vans;
- Deliveries to the café can utilise the at-grade parking adjacent to Whitty House;
- A total of 37 bicycle parking spaces are provided, consisting of 12 visitor spaces located within the porte cochere area, a further 22 spaces for residents located within a secure storage room within the basement and one bicycle space for café employees adjacent to the Whitty House car park;
- Maximum overall building heights³:
 - Building A: 21.25m (4-5 storeys);
 - Building B: 19.72m (5 storeys);
 - Building C: 17.86m (5 storeys);
 - Building D: 18.52m (4-5 storeys);
 - Whitty House: Unchanged from existing;
 - Esmonde House: Unchanged from existing;
 - Plumstead House: Unchanged from existing;
- Site coverage: 38.4% (6,220sqm/16,187sqm);
- Deep soil area (with a minimum width of 6.0m): 10.4% (1,691sqm/16,187sqm);
- Site permeability of 27% and minimum "Garden Area" of 38%⁴;
- A total of 1,637sqm of outdoor communal open spaces, comprising a 632sqm community garden (providing outlooks to Buildings A and B) and the 1,005sqm Village Green (providing outlooks to Buildings B, C and D);
- Ground level apartments are provided with courtyards varying in area between 28sqm - 139sqm in Building A, between 34sqm - 175sqm in Building B, between 81sqm - 134sqm in Building C and between 58sqm - 104sqm in Building D;
- Upper floor apartments are provided with balconies and terraces ranging in area between 11sqm - 89sqm in Building A, between 12sqm - 49sqm in Building B, between 15sqm - 44sqm in Building C and between 15sqm - 40sqm in Building D;
- Tree retention: Tree Nos. 1, 2, 3, 4, 5, 6, 7, 9, 11, 12, 13, 14, 17, 34, 42, 44, 45, 46, 47, 48, 59, 68, 140, 142, 143 and 145, located on the site are proposed to be retained;
- Local Law tree removal: Tree Nos. 8, 10, 15, 16, 18, 19, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 33, 36, 37, 38, 40, 41, 49⁵, 50, 51, 52, 63, 65, 66, 67, 78, 79, 80, 102, 103, 104, 108, 109, 113, 121, 122, 123, 124, 125, 130, 131, 136 and 138 are proposed to be removed following obtaining a Local Law permit⁶;
- Street tree removal: Tree No. 53 in Studley Park Road (Brush Box), adjacent to the proposed vehicle crossing at Building A;

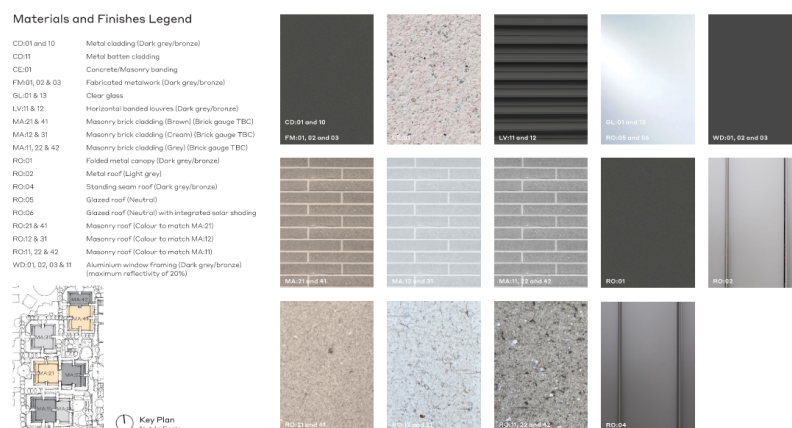
³ Measured from Natural Ground Level to the top of the roof ridge.

⁴ Notwithstanding that the minimum "Garden Area" requirement of 35% set out at Clauses 32.09-4 (NRZ) and 32.08-4 (GRZ) do not apply as the development is not to construct or extend a dwelling or residential building.

⁵ The Applicant has advised they would accept a permit condition requiring modifications to facilitate retention of tree No. 49.

⁶ A number of other trees do not require Local Law approval for their proposed removal due to their small size.

- The existing substation would be decommissioned and removed from its location at the rear of Esmonde House and a new substation would be located within the Fernhurst Grove frontage, abutting the boundary shared with No. 1 Fernhurst Grove for a length of 9.2m⁷;
- The various proposed uses are estimated to generate in the order of 342 vehicle movements per day, inclusive of 36 vehicle movements during the AM and PM peak hours;
- The new buildings are pavilion-style, adopting a mansard roof to incorporate apartments within the roof form. Constructed using a mix of masonry brick finishes for the external walls and roof, fabricated metalwork and dark grey/bronze aluminium window framing, the buildings are described by Council's Urban Designer as having small footprints.



Above: Extract of the proposed schedule of external materials and finishes

⁷ The Applicant has advised they would accept permit conditions requiring the substation to be made smaller and set back from the common boundary with No. 1 Fernhurst Grove.



Above: Annotated architects' sketch of the proposed site masterplan

Table 1 - Proposed boundary setbacks - Building A

Location of setbacks	Proposed boundary setbacks			
	North	South (Studley Park Rd)	East	West (2 & 4 Banool)
Ground	Internal to site	3.02m - 5.15m	Internal to site	9.4m
Level 1	Internal to site	3.02m - 5.15m	Internal to site	9.4m
Level 2	Internal to site	3.02m - 5.15m	Internal to site	9.4m
Level 3	Internal to site	3.02m - 5.15m	Internal to site	9.4m
Level 4	Internal to site	5.15m - 5.57m	Internal to site	14.12m

Table 2 - Proposed boundary setbacks - Building B

Location of setbacks	Proposed boundary setbacks			
	North	South	East (1 Fernhurst Gve)	West (6 & 8 Banool)

Ground	Internal to site	Internal to site	12.59m - 12.8m	11.99m
Level 1	Internal to site	Internal to site	12.59m - 12.8m	11.99m
Level 2	Internal to site	Internal to site	12.59m - 12.8m	11.99m
Level 3	Internal to site	Internal to site	12.59m - 12.8m	11.99m
Level 4	Internal to site	Internal to site	17.29m - 17.48m	16.70m

Table 3 - Proposed boundary setbacks - Building C

Location of setbacks	Proposed boundary setbacks			
	North (2 & 3 Elphinstone Ct)	South	East	West (10 & 12 Banool)
Ground	7.41m - 7.63m	Internal to site	Internal to site	8.76m
Level 1	7.41m - 7.63m	Internal to site	Internal to site	8.79m
Level 2	7.41m - 7.63m	Internal to site	Internal to site	8.77m
Level 3	7.41m - 7.63m	Internal to site	Internal to site	8.77m
Level 4	7.98m - 8.16m	Internal to site	Internal to site	13.48m

Table 4 - Proposed boundary setbacks - Building D

Location of setbacks	Proposed boundary setbacks			
	North (1 Elphinstone Ct & 5 Stawell St)	South	East	West (2 Elphinstone Ct)
Ground	7.6m	Internal to site	Internal to site	7.84m
Level 1	7.6m	Internal to site	Internal to site	7.84m
Level 2	7.6m	Internal to site	Internal to site	7.84m
Level 3	7.6m	Internal to site	Internal to site	7.84m
Level 4	21.98m	Internal to site	Internal to site	8.41m

Table 5: Summary of allocation of car parking

Description	Size	Statutory Car Parking Requirement	Car parking provision	Dispensation sought
Retirement Village	8 x 1-bed	$8 \times 1 = 8$	8	0
	65 x 2-bed	$65 \times 1 = 65$	100	0 (surplus of 35)
	35 x 3-bed	$35 \times 2 = 70$	70	0
Retirement Village Visitors	-	0	6	0 (surplus of 6)
Retirement Village Staff	-	0	8	0 (surplus of 8)
Café (Whitty House)	152sqm	$3.5/100 \times 152 = 5$	1	4
Office (Whitty House)	291sqm	N/A (existing use rights)	9	0
TOTAL	-	-	202	4

**Above: 3D architects' render depicting Building A, viewed from Studley Park Rd**



Above: 3D architects' render depicting Esmonde House and the Fernhurst Grove entrance to the porte cochere



Above: Architects' sketch of the porte cochere and parking area adjacent to Esmonde House (right)



Above: (A & C) Photos of Esmonde House as it currently exists (B & D) 3D architects' renders of Esmonde House following proposed restoration works

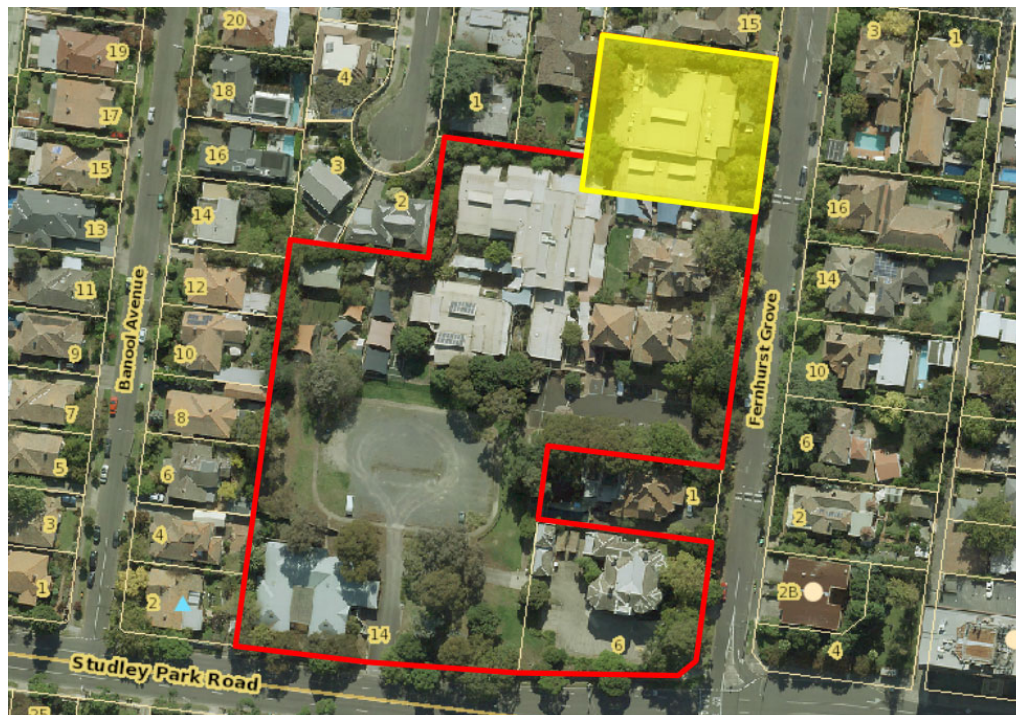


Above: 3D architects' render of the Village Green, looking south-west from the interior of the site. The interior facades of Building B (left) and Building C (right) are visible in the background





Above: 3D architects' render of the pedestrian entrance from Studley Park Rd. The community garden is located on the left. Building B (left) and Whitty House (right) are visible in the background

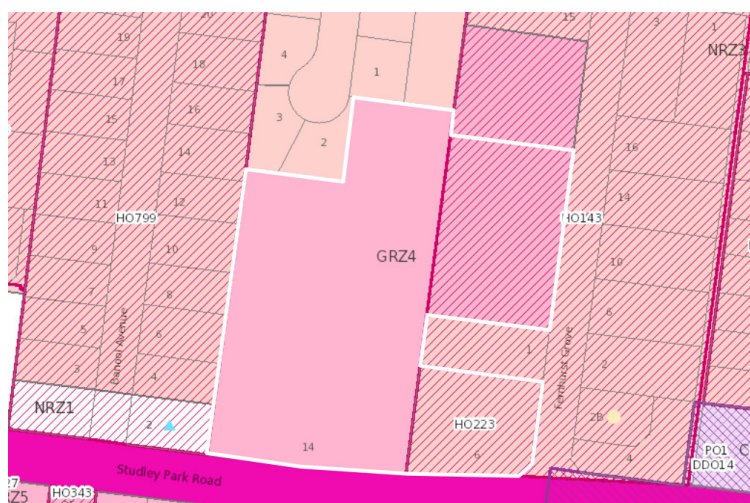
THE SITE



Above: April 2021 aerial photo of the subject site. The area highlighted yellow forms part of 14 Studley Park Rd and is identified by the applicant as surplus to the needs of the proposed development. It is the subject of a separate application to subdivide the land (see PP20/1167, which is the subject of an objector appeal - see PA21/0050 & P11194/2021) and does not form part of the planning unit

Site Location	The subject site is comprised of multiple lots generally located on the northern side of Studley Park Road, at the corner with Fernhurst Grove. The site extends around the perimeter of No. 1 Fernhurst Grove.
Width of Frontage	The site has a frontage to Studley Park Road of approximately 131m, including the splay at the south-east corner.
Maximum Depth of Site	The site is irregularly shaped and has a maximum depth of approximately 148m (north-south).
Total Site Area	The planning unit has a site area of 16,187sqm (i.e. excluding that part of 14 Studley Park Road proposed to be annexed by subdivision), making it the largest contiguous privately owned land holding in Kew (excluding schools).
Easements	The planning unit is encumbered by an easement marked as "C" on the Certificate of Title for No. 14 Studley Park Road. The easement has dimensions of 1.22m x 1.22m and abuts the northern boundary.

Fall of the Land	The site has a moderate fall from the north-west (65.89m to AHD) to the south-east (54.82m to AHD) of approximately 11.07m (i.e. the equivalent of more than three storeys).
Front Fencing Details	<p>A brick fence, approximately 2.5m high, defines the Studley Park Road frontage, east of the existing vehicle crossing. West of the crossing, the frontage is defined by 2.1m high corrugated metal panels infilled between timber posts. Along Fernhurst Grove, between the intersection and the boundary with No. 1 Fernhurst Grove, the frontage is defined by a remnant heritage fence consisting of painted brick, approximately 2.4m high. North of No. 1 Fernhurst Grove the eastern boundary is unfenced.</p>  <p>Above: Fencing along Studley Park Rd</p>  <p>Above: Fencing along Fernhurst Gve</p>



Above: Zones and overlays, as they apply to the subject land and adjacent properties

The land has been occupied by Villa Maria (now known as Villa Maria Catholic Homes - VMCH) for over 60 years and most recently housed a number of inter-related uses:

- St Paul's College, a Catholic specialist school for approximately 60 students with a range of intellectual, sensory and physical disabilities. The school operated from three buildings spread across the interior and northern end of the site, none of which have any heritage significance;
- Villa Maria Respite Services, operating from the dwelling located in the south-west corner of the site. The facility typically provided respite care for seven patrons, and included two staff plus administration staff. This use operated between 9am-5pm, Monday to Friday;
- VMCH offices, operating from Whitty House.

The centre of the site was set aside for informal staff parking for the school. In addition, the area to the north of No. 1 Fernhurst Grove is paved with bitumen and is also used for parking.

The land contains three "significant" graded heritage mansions with abuttals to Fernhurst Grove, known as (from south to north) Whitty House (which includes original stables at its rear), Esmonde House and Plumstead House. It is proposed to retain and repurpose these important heritage buildings, with some minor demolition works proposed and substantial restoration works proposed to the front façade of Esmonde House.



Above: Whitty House, viewed from Fernhurst Gve



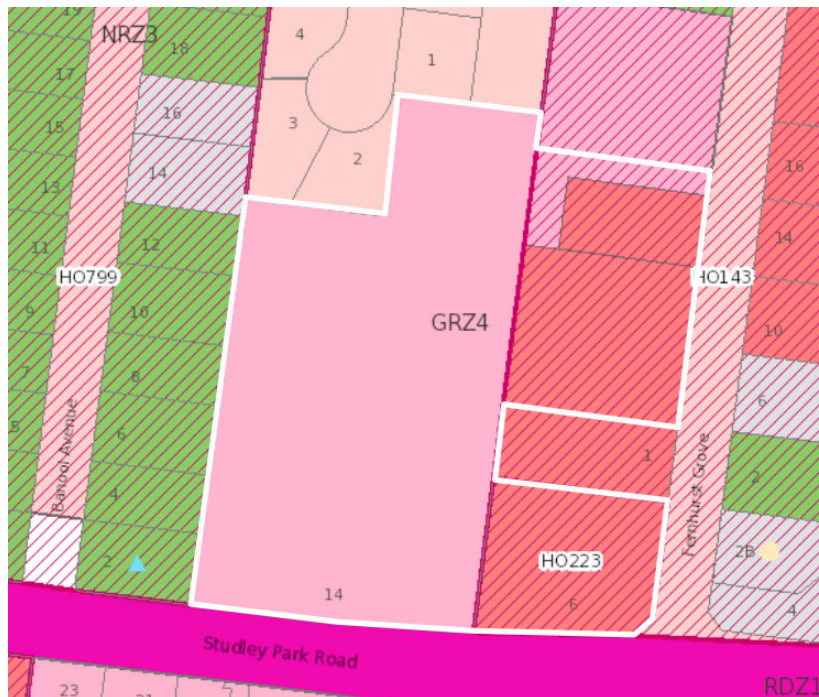
Above: The former stables at the rear of Whitty House



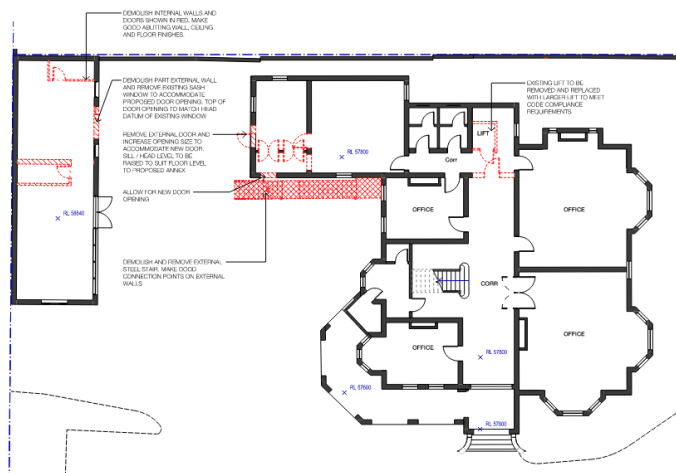
Above: Esmonde House, viewed from Fernhurst Gve



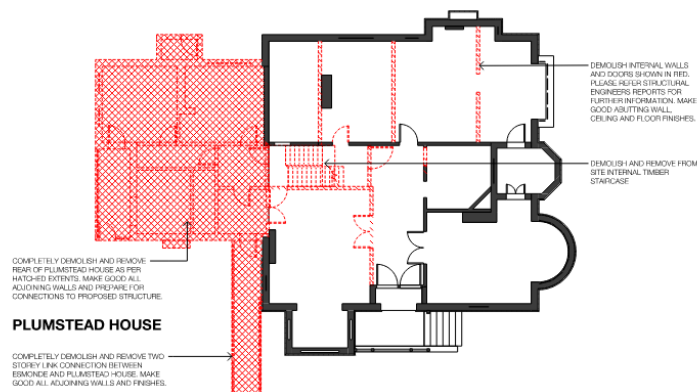
Above: Plumstead House



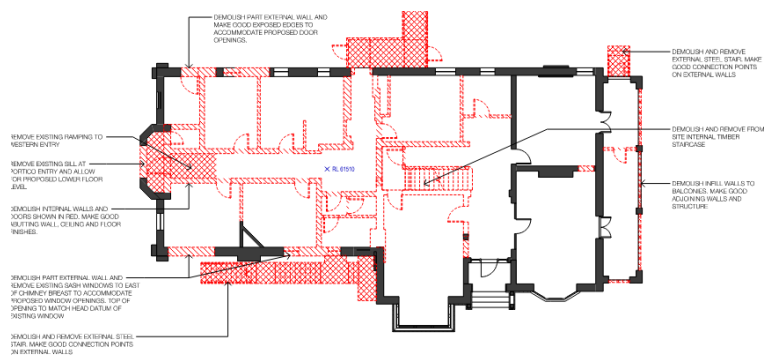
Above: Heritage grading on the subject site. Red denotes “significant”, green denotes “contributory”, and grey denotes “non-contributory”. No hatching means the Heritage Overlay does not apply



Above: The extent of proposed demolition works to Whitty House

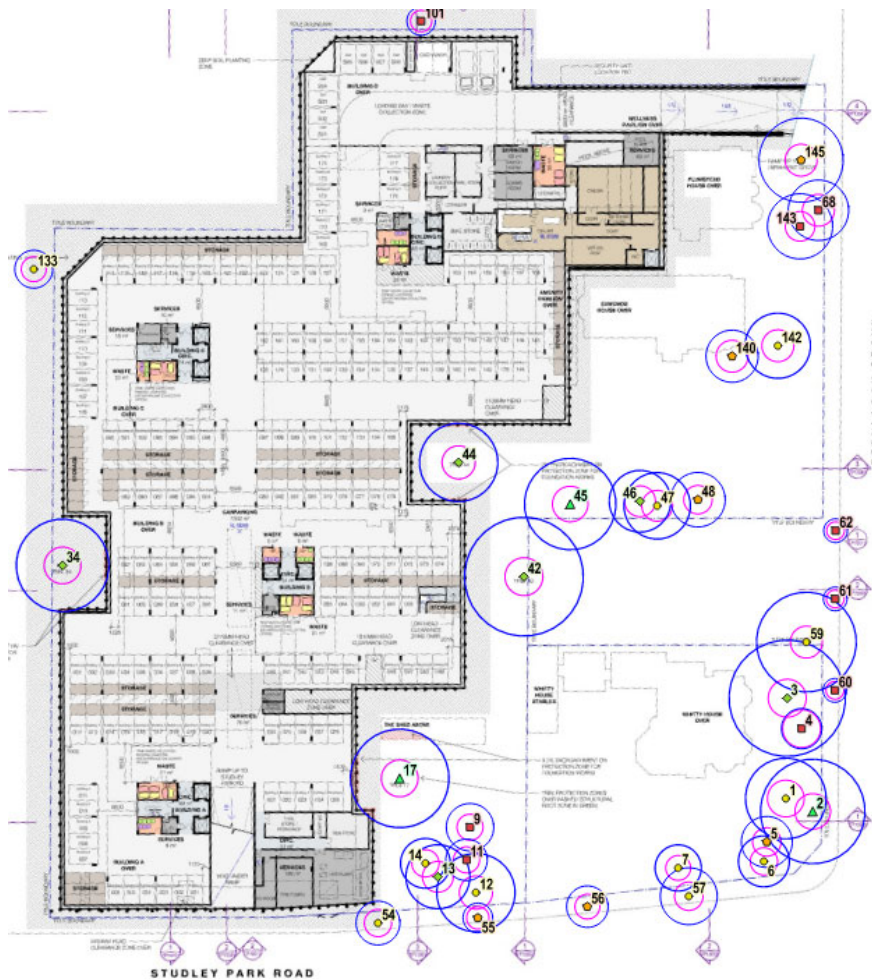


Above: The extent of proposed demolition works to Plumstead House



Above: The extent of proposed demolition works to Esmonde House

The site contains a number of trees, some of which are considered to have a 'high' and 'medium' landscape value. The extent of proposed tree retention and removal is described earlier in this report.

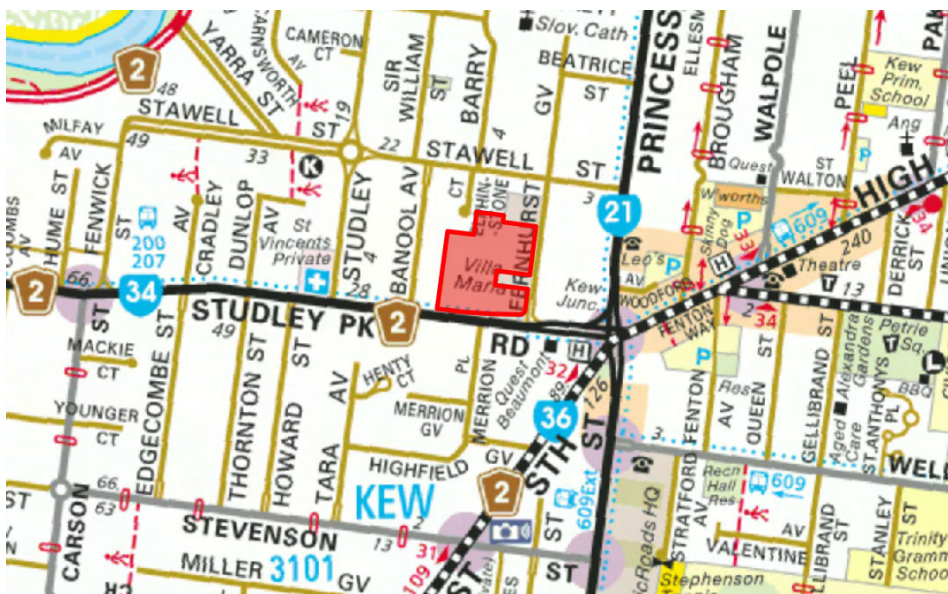


Above: Extract from the advertised Arboricultural Report depicting the tree protection zones of trees proposed to be retained/protected (including neighbours' trees)

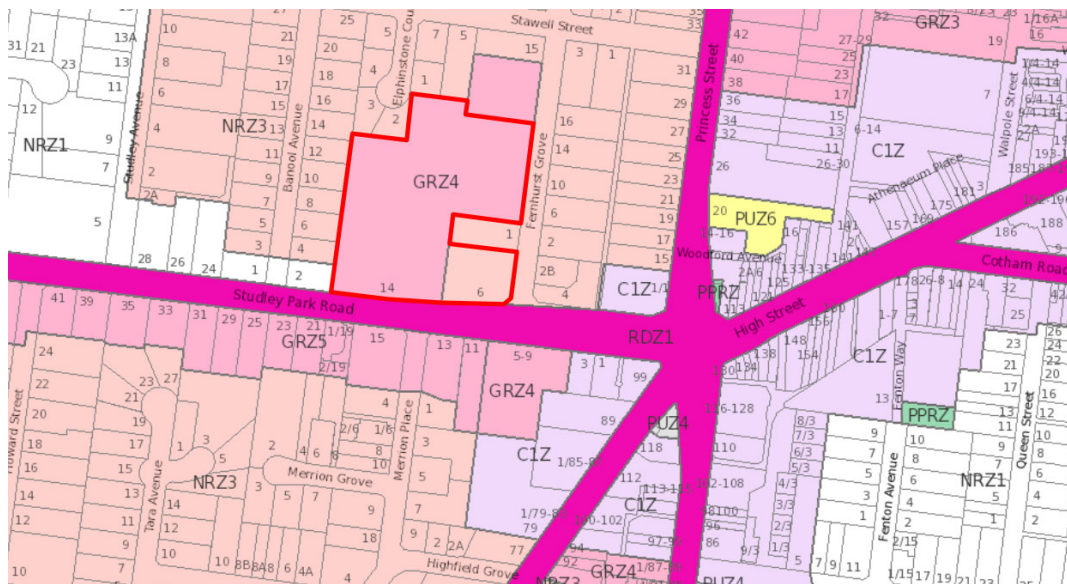


Above: Part of the western boundary of the site, including Tree No. 34 to be retained, looking towards Banool Ave

THE SURROUNDING AREA



Above: Extract from the Melways highlighting the location of the site



Above: Extract from the zoning maps showing the subject site is a substantial land holding zoned GRZ1 and NRZ3, located within a residential area on the immediate periphery of the Kew Junction Major Activity Centre

Strategic context

Council has established a clear vision to facilitate a diverse range of housing outcomes while ensuring the preferred character of established residential areas is achieved and residential amenity is maintained. The proposal for a multi-storey retirement village development at this location is supported by State, regional and local policy and is also appropriate having regard to the physical characteristics of the site and surrounding area.

The large area of the subject site increases the potential for an acceptable development outcome of a larger scale than might otherwise be possible. In 2013/14, when Council sought approval from the Minister for Planning for its proposed implementation of the new-format residential zones⁸, approximately 80% of land in the municipality was to be zoned NRZ3, which at the time included mandatory maximum restrictions on the height of dwellings (max. 2-storeys) and density (max. two dwellings). The subject site and a number of other very large land holdings like it⁹ were identified by Council as anomalous to their surroundings and capable of sustaining “*development... at greater*

⁸ Amendment C190, gazetted 19 June 2014

⁹ Such as 1-12 Bills Street, Hawthorn and 10 Markham Avenue, Ashburton

height and density than the surrounding area without detrimentally impacting on the preferred character of the precinct.”¹⁰

Council’s Neighbourhood Character Policy describes land within the GRZ4 as consisting of “super-sized lots”, generally larger than 4,000sqm in area. As noted, the subject site is in the order of 16,000sqm in area.

North

To the north-east, the land is abutted by that part of No. 14 Studley Park Road proposed to be subdivided from the balance of the subject land.

To the north-west, the land abuts Nos. 1, 2 and 3 Elphinstone Court and No. 5 Stawell Street, none of which are affected by the Heritage Overlay. All four of the north-western adjacent dwellings contain habitable room windows with an outlook towards the site.



Above: April 2021 aerial photo showing the layout of the northern abutting properties

¹⁰ Clause 22.05-7, Preferred character objective, GRZ4.



Above: (L-R) Nos. 1, 2 and 3 Elphinstone Ct, looking south (the subject site is located beyond, to the rear)

No. 1 Elphinstone Court is occupied by a two-storey dwelling (attic-style first floor). The dwelling is setback approximately 3.0m from the common boundary. The south elevation contains habitable room windows with an outlook towards the subject site.



Above: No. 1 Elphinstone Ct, including the south elevation of the dwelling which contains south-facing windows with an outlook towards the site

No. 2 Elphinstone Court is occupied by a single storey brick dwelling containing a number of habitable rooms with an outlook towards the subject site, including bedrooms and living areas. The property abuts the subject land along the length of its eastern and southern boundaries. The dwelling is setback approximately 2.0m from its southern boundary and approximately 1.3m from its eastern boundary. The southern service yard contains a centrally located, decked courtyard. A more expansive area of secluded

private open space (SPOS), which also has an interface with the site on its eastern side, is located on the northern side of the dwelling.



Above: Outlook from the northern SPOS of No. 2 Elphinstone Ct, looking east towards the subject site



Above: Outlook from a south-facing bedroom in No. 2 Elphinstone Ct, looking across a central courtyard with the subject site beyond



Above: The southern setback of No. 2 Elphinstone Ct, looking west

No. 3 Elphinstone Court is occupied by a double storey brick dwelling, with a garage constructed adjacent to the common boundary with the subject site. Both the front and backyard are used for recreational pursuits, with the backyard extensively paved and the front yard containing a swimming pool. The dwelling siting is skewed on the land, causing the outlook from the dwelling to generally be towards the rear of properties in Banool Avenue.



Above: No. 3 Elphinstone Ct, abutting to the north-west of the site



Above: The rear courtyard of No. 3 Elphinstone Ct (Source: <https://www.realestate.com.au/sold/property-house-vic-kew-123192926>)

No. 5 Stawell Street is occupied by a single storey painted brick dwelling, setback approximately 19m from its southern boundary. The rear yard contains a large swimming pool along its eastern length. The pool area is separated from the subject site by what appears to be a shed or pool-plant/equipment area. It is noted No. 5 Stawell Street shares an abuttal with No. 14 Studley Park Road along part of its eastern boundary, however this part of the former St Joseph's school does not form part of the subject land.



Above: The rear yard of No. 5 Stawell St, looking north (away from the subject site) (Source: <https://www.realestate.com.au/sold/property-house-vic-kew-129486546>)



Above: The rear yard of No. 5 Stawell St, looking south, towards the subject site (Source: <https://www.realestate.com.au/sold/property-house-vic-kew-129486546>)

South

Studley Park Road extends along the length of the southern boundary of the site. The road reserve width is 20.0m at the western end of the site, increasing to 27.2m at the eastern end on the approach to the six-ways junction intersection. The road generally features two traffic lanes in each direction and marked bicycle lanes. Two-hour parking is permitted on the southern side of the road between 9:30am - 5:00pm, Monday to Friday. Clearway restrictions apply between 6:30am - 9:30am, Monday to Friday. Outside of these times, no parking restrictions apply along the southern side of the road. On the northern side of the road, adjacent to the site, clearway restrictions apply between 4:00pm - 7:00pm, Monday to Friday and two-hour parking restrictions apply between 8:00am - 4:00pm, Monday to Friday.

Built form along the opposite side of Studley Park Road is eclectic, including the former Quest Apartments (now known as Comfy Kew Apartments) at No. 5-7 Studley Park Road and single and two-storey dwellings of various eras.

No. 5-7 Studley Park Road has a site area of 3,425sqm and is zoned GRZ4 (same as the subject site). The remaining properties opposite the subject site are zoned GRZ5.



Above: The southern side of Studley Park Rd, opposite the site, viewed from the intersection with Fernhurst Gve

East

No. 1 Fernhurst Grove is abutted by the site on its northern, southern and western sides. The property is occupied by a “significant” heritage graded dwelling set back approximately 11.5m from its rear boundary and contains living room windows with an outlook towards the subject site. The rear SPOS contains a swimming pool and alfresco areas with an outlook towards the site, including a clear view of a 17m tall Dutch Elm¹¹ tree and two large Lemon Scented Gums¹² on the subject site which are proposed to be retained. Along the northern boundary of the property, a number of trees other trees on the subject site are proposed to be retained¹³ which are located along the shared fence line.



Above: No. 1 Fernhurst Gve

¹¹ Tree No. 42

¹² Tree Nos. 44 and 45, 24m and 20m high, respectively

¹³ Tree Nos. 46, 47 and 48, located adjacent to the western edge of the SPOS of No. 1 Fernhurst Gve are proposed to be retained. Tree No. 49 is shown to be removed, however the Applicant has indicated it will accept permit conditions requiring its retention.



Above: The rear yard and west elevation of No. 1 Fernhurst Gve, showing a living and alfresco area with an outlook towards the site



Above: The rear yard of No. 1 Fernhurst Gve, with the subject site beyond, including Whitty House (left) and Tree Nos. 42, 44 and 45 (17m high Dutch Elm, 24m and 20m high Lemon Scented Gums, respectively) which are to be retained. Tree No. 17 (Spotted Gum, 28m high) behind Whitty House, which is also to be retained is visible to the left



Above: The view towards the subject site from No. 1 Fernhurst Gve when the Dutch Elm (Tree 42) is in full-leaf

The remainder of the eastern boundary of the site abuts Fernhurst Grove. This local street has a road reserve width of 15.3m, with a road carriageway of approximately 8.8m containing road humps spaced along its length. Short-term parking restrictions apply along both sides of the street¹⁴. Road humps were installed in late 2019 along its length. A right-turn ban applies out of Fernhurst Grove into Studley Park Road.

The eastern side of Fernhurst Grove, opposite the site, is zoned NRZ3 and is affected by the Heritage Overlay. Dwellings are variously graded “significant”, “contributory” and “non-contributory”. The residential properties generally consist of large allotments containing large detached dwellings with generous, well-vegetated front setbacks.



Above: The eastern side of Fernhurst Gve, opposite the site

¹⁴ 2P restrictions apply along the west side of the street, between 8:00am - 5:30pm Monday to Friday and between 8:00am - 12:00pm Saturdays. 1P restrictions apply along the east side of the street, between 8:00am - 6:00pm Monday to Friday and between 8:00am - 12:00pm on Saturdays.

West

The western boundary of the site abuts the rear yards of dwellings at Nos. 2 - 14 Banool Avenue. These properties are occupied by a mix of modest single and double storey detached dwellings, each with habitable room windows with an outlook towards the subject site. The street is affected by the Heritage Overlay (HO799 - Banool Estate Precinct). With the exception of No. 14 Banool Avenue (which is “non-contributory”) the dwellings abutting the sites’ western boundary are graded “contributory”.



Above: Elevated view of the dwellings on the eastern side of Banool Ave, with the site and Kew Junction visible in the background (Source: <https://www.realestate.com.au/property/2-banool-ave-kew-vic-3101>)

The dwellings are set back an average of 8m from the common boundary with the site. The smallest setback is 3.5m to the living area of No. 12 Banool Avenue. Many of the dwellings incorporate elevated terraces or decks at their rear, providing an outlook towards the subject site (e.g. 4, 8 and 12 Banool Ave). Nos. 2, 6, 8, 10 and 12 Banool Avenue have outbuildings constructed on part of their respective common boundaries with the site.



Above: The rear yard of No. 4 Banool Ave, looking north. The site is located to the right. Tree No. 34 (a 21m high Manna Gum, to be retained) is visible in the background (Source: <https://www.realestate.com.au/property/4-banool-ave-kew-vic-3101>)



Above: An elevated terrace in the rear yard of No. 8 Banool Ave with an outlook towards the site (left). The brick wall forms the boundary fence with the subject site (Source: <https://www.realestate.com.au/property/8-banool-ave-kew-vic-3101>)



Above: The rear yard of No. 12 Banool Ave, looking east towards the subject site
(Source: <https://www.realestate.com.au/property/12-banool-ave-kew-vic-3101>)

STATEMENT OF SIGNIFICANCE

Heritage Precinct	HO223 ("Whitty House")
Statement of Significance	
<p><i>"The former 'Glencara' (now Whitty House), at 6 Studley Park Road, Kew, which is a two-storey Italianate mansion of 1908-09 with an arcaded verandah and an Art-Nouveau parapet to the tower above the main entrance. The architect is believed to be Leonard J Flannagan, who designed it for owner Charles Bonyng Kelly, then a draper of Smith Street, Collingwood. Kelly named the house 'Glencara' and let it upon its completion to Auguste de Bavay, a Belgian-born brewer, chemist, bacteriologist and metallurgist who formed Amalgamated Zinc (de Bavay's) Ltd. that same year. Bavay then owned the house from 1911 until his death in 1944. It has been owned by Villa Maria since 1961. The outbuildings (stables, garage and men's room) at the north-west corner of the site are also significant.</i></p>	
<p><i>How is it significant?</i> <i>The former 'Glencara' is of local historical and aesthetic significance to the City of Boroondara.</i></p>	
<p><i>Why is it significant?</i></p>	

Heritage Precinct	HO223 ("Whitty House")
Statement of Significance	
<i>Historically, the former 'Glencara' is of significance as one of the key mansions to have been built in Kew, and aesthetically for the landmark value it holds in this high part of Studley Park Road."</i>	

Heritage Precinct	HO143 ("Barry Street Precinct, Kew")
Statement of Significance	
<i>"Barry Street Precinct, Kew, is an area of heritage significance for the following reasons:</i>	
<ul style="list-style-type: none"> <i>The place has an unusual concentration of highly graded buildings, many of which were designed by prominent Melbourne architects.</i> <i>The area is one of Melbourne's best concentrations of large late Victorian and Federation house designs, in varied materials and often ably utilising the topography of the area. The precinct also has a number of distinctive designs of the interwar period.</i> <i>The eastern area of the precinct has some more modest dwellings on smaller blocks, including substantially intact development from the late nineteenth end early twentieth centuries.</i> <i>Many of the streets are marked by original basalt kerbing and grading, and the area features mature gardens and street trees."</i> 	

PERMIT/SITE HISTORY

Details of previous applications are as follows:

Application No.	Date of Decision	Decision	Description of Proposal
PP13/00550	8 August 2019	Notice of Refusal, issued under delegation	Demolition and partial demolition of existing buildings; use of the land for a retirement village (81 retirement apartments); buildings and works to construct a 5-storey building; a reduction of the car parking requirements associated with retirement village visitors; external painting of a building and fences on land partially affected by the Heritage Overlay and alteration of access to a road in a Road Zone, Category 1 (Studley Park Road)

There are a number of significant differences in the circumstances of the current proposal, compared with the 2013 application (PP13/00550):

- The 2013 application was lodged prior to the introduction of the new-format residential zones on 19 June 2014. At the time the application was lodged, all of the subject land was in the Residential 1 Zone (R1Z).
- The R1Z did not include any mandatory maximum height restrictions and as a consequence, there was no concurrent planning policy identifying appropriate development outcomes on large, anomalous sites.
- The 'planning unit' for the 2013 application was substantially smaller than for the current proposal (approx. 8,000sqm, compared with approx. 16,000sqm, see below).
- The 2013 proposal was for a single, 5-storey building with monolithic massing.
- The 2013 proposal sought minimum setbacks of 1.4m at Ground Floor, 5.0m at Levels 1 and 2, 11m at Level 3 and 16.9m at Level 4, from No. 1 Fernhurst Grove, compared with the proposed minimum setbacks of 12.59m at Ground, Levels 1, 2 and 3, and 17.29m at Level 4 for the current proposal (Building B).

Council's Urban Designer has formed the view, *"the current scheme is a complete departure from the original application lodged with Council in 2013 for an aged care facility on a large portion of the site, but not its entirety. That application failed to win Council's support because it did not deliver a responsive design outcome that was respectful and sensitive to its neighbours. The massive building footprint, institutional format and bulky appearance were the primary reasons behind its failure."*



Above: Nos. 6 & 14 Studley Park Rd. That part of the site proposed to be redeveloped by PP13/00550 was confined to the southern portion, circled in red



Above: The South Elevation of the 2013 proposal, as it would present to Studley Park Rd



Above: The East Elevation of the 2013 proposal, as it would present to No. 1 Fernhurst Gve



Above: The West Elevation of the 2013 proposal, as it would present to the rear yards of properties in Banool Ave



Above: Extract from the proposed 2013 Design Response plan, showing the monolithic footprint of the proposed building when viewed from the rear yards of properties in Banool Ave and No. 1 Fernhurst Gve

INTERNAL REFERRALS

The application was referred to the following internal departments of Council for advice:

Heritage Advisor

The following advice was received from Council's Heritage Advisor, based on the advertised plans:

Application Address:	6 & 14 Studley Park Road, Kew
Application Number:	PP21/0271
Description of Proposal:	Use of the land for not more than 108 retirement village apartments (Clause 32.08-2) and a food and drink premises (café) (Clause 32.09-2); construction of four x 5-storey buildings (Clauses 32.08-9 and 43.01-1); partial demolition of buildings (Clause 43.01-1); reduction of the car parking requirement associated with a café (Clause 52.06-3); and alteration of access to a road in a Road Zone, Category 1 (Studley Park Road) (Clause 52.29-2)
VicSmart:	No
Section 57A Amendment:	No
Heritage Overlay No.	HO223 Villa Maria HO143 Barry Street Precinct
Grading:	Significant
Pre-Application meeting:	Yes - on site meeting 22.04.2021
Pre-Application advice:	Yes
Has a heritage impact statement (or similar) been lodged with the application?	Yes - prepared by Bryce Raworth Pty Ltd
Relevant Planning History:	Yes
Specific Planner's Instructions:	Please refer to Heritage Impact Statement for review and on-site site inspection undertaken.
Era of Building:	Whitty House - Italianate mansion and stables Esmonde House - Federation Queen Anne Revival

<p>Statement of Significance or Grading (Clause 22.03-3.1)</p>	<p><i>Plumstead House - Federation villa</i></p> <p>Discussion: All of the dwellings are significant in their own right. As recorded in the HIS, each building is significant for the following reasons:</p> <p><u>Whitty House (includes stables)</u> Historically, the former 'Glencara' is of significance as one of the key mansions to have been built in Kew, and aesthetically for the landmark value it holds in this high part of Studley Park Road. (Criteria A and E)</p> <p><u>Esmonde House</u> Esmonde House, now part of St Paul's School, is significant as a distinctive and mainly intact example of the Federation Domestic Queen Anne Revival. A relatively large example of the style, it retains significant elements such as leadlight, turned timber, door and window joinery, tuckpointed red brick walls and friezes of roughcast. Its roof incorporates Marseilles tiles, terracotta ridge tiles, finials, and gryphons and boldly modelled chimneys.</p> <p><u>Plumstead House</u> Plumstead House, now part of St Paul's School, is a relatively intact attic storeyed Federation villa. Integral to its significance are an unusual balconette on the ground floor, the entry porch on the south side, leadlights, window and door joinery, red brick walls, roughcast, half timbering in the gables and the Marseilles tiles, ridge tiles and finials and chimneys of the roof.</p> <p>There are no internal, paint or tree controls related to HO143.</p> <p>There are no internal or tree controls related to HO223, however there are paint controls.</p>
<p>Demolition</p> <p>Significant Buildings (Clause 22.03-3.2)</p>	<p>Discussion:</p> <p><u>Whitty House</u> Demolition of the modern external stair and associated fire-stair door will see the removal of non-significant fabric and will have a positive heritage impact on building.</p> <p>The door and window proposed for removal on the rear wing are not significant, relating to a later rear addition on the</p>

	<p><i>dwelling. Removal of these elements is supported. There will also be a requirement to slightly enlarge the opening where the window was for the new café use. Again, there are no heritage concerns with respect to this work.</i></p> <p><u><i>Between Esmonde House and Plumstead House</i></u> <i>Demolition of the linking structure between the Esmonde House and Plumstead House will have a positive heritage impact on both buildings by removing a highly dominant and intrusive element. The work will reinstate the former setting of both buildings and allow them to be used and appreciated in their own right.</i></p> <p><u><i>Esmonde House</i></u> <i>Demolition of the following elements will have a positive heritage impact on the house:</i></p> <ul style="list-style-type: none"> <i>• Modern external steel stair and two non-original fire doors to southern elevation. Brickwork will be infilled to match the surrounding fabric.</i> <i>• Non-original timber stair to the northern elevation.</i> <i>• Intrusive infill walls to the balconies.</i> <i>• Intrusive air-conditioning unit to the balcony.</i> <i>• Intrusive infill between the eastern and western wings of Esmonde house on level 1.</i> <p><i>The following elements which form part of the original building fabric are proposed for demolition:</i></p> <ul style="list-style-type: none"> <i>• A section of brick and two windows along the southern elevation, for the provision of new fixed timber framed windows with shrouds.</i> <i>• An existing door, window and some wall fabric to the north elevation of the ballroom at ground floor level for the creation of new double door openings.</i> <i>• Modifications to the portico on the west elevation including removal of the sill, doors and part of the wall to facilitate connection to the new building to the west.</i> <p><i>In relation to demolition of significant fabric, the heritage policy states:</i></p>
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	<p><i>Permit partial demolition of significant built fabric for the purpose of additions and alterations only if the partial demolition, additions and alterations will not adversely affect the cultural heritage significance of the place and will assist the long term conservation of the building.</i></p> <p><i>There is a requirement to assess whether the removal of these elements will result in an 'adverse' heritage impact. Given that the proposal does not include the removal of significant casement windows or key entry points, the HIS states that sympathetic new openings will be provided, there are a range of different opening styles on these elevations, and they are located towards the rear of the building, this work can likely be supported. However, please refer to the section below under 'Esmonde House' for further discussion around the proposed new openings and the request for further information regarding their finer detailing.</i></p> <p><u><i>Plumstead House</i></u> <i>The proposal seeks to completely demolish and remove the rear portion of Plumstead House, inclusive of a roof dormer. As demonstrated in the HIS and via the site inspection, this portion of the dwelling is highly altered and of low integrity overall. The dormer is also not original. Owing to the high degree of change it does not contribute greatly to the heritage character or understanding of the place, and is considered to have low heritage value when compared to the more intact and visually prominent portions of the dwelling. Demolition of this portion of the building is supported.</i></p> <p><u><i>Stables</i></u> <i>Demolition of a window opening on the stables is supported in light of it enabling a new, active use where the building can be appropriately utilised and appreciated. This elevation is also noted to be previously modified with new fenestration, so the work will not warrant a new or unwarranted impact.</i></p> <p><u><i>C1980s Institutional Buildings</i></u> <i>These structures are non-contributory buildings within the Barry Street Precinct. Demolition is supported.</i></p>
Restoration Works	Discussion:

<p><i>Significant Buildings (Clause 22.03-3.2)</i></p>	<p><i>As noted in the HIS, general conservation works to the heritage buildings on the site should include (as appropriate):</i></p> <ul style="list-style-type: none"> <i>• Repair of brickwork, pointing and render.</i> <i>• Restoration of tuck pointing.</i> <i>• Repair of roofing and stormwater goods.</i> <i>• Make good timber windows and joinery.</i> <i>• Removal of redundant services.</i> <p><i>This work is supported, provided the following is factored in:</i></p> <ul style="list-style-type: none"> <i>• Repairs should be undertaken by a qualified heritage tradesperson.</i> <i>• Ensure that mortar and render mixtures are sensitive to the long term conservation of the place - i.e. historically correct materials (not cementitious) and hue.</i> <i>• Prioritise repair of fabric over replacement.</i> <i>• Should any elements require replacement, ensure the new element matches the existing fabric in terms of materiality, profile, colour etc.</i> <p><i>It is recommended that a schedule of conservation works is prepared by a suitably qualified architect or heritage specialist.</i></p> <p><u><i>Whitty House</i></u> <i>There are no restoration works proposed for Whitty House, other than repainting the structure like-for-like. This is supported and aligns with the paint controls for the building.</i></p> <p><u><i>Esmonde House</i></u> <i>The proposal includes the restoration and reconstruction of the facade of Esmonde House after the removal of the verandah infill. This will have a very positive heritage impact on the building.</i></p> <p><u><i>Plumstead House</i></u> <i>General conservation works will occur as outlined above. This is supported.</i></p> <p><u><i>Stables</i></u> <i>The exterior appearance of the stables will be repaired and repainted in alignment with the conservation works outlined above. This is supported.</i></p>
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<p>Additions and new buildings to Significant and Contributory Buildings (excluding outbuildings)</p> <p>Significant Buildings (Clause 22.03-3.2)</p>	<p>Discussion:</p> <p><u>Whitty House and Stables - Cafe</u> <i>The proposed flat roofed annex (metal sheet with glazing) and terrace covered by a steel pergola are supported with respect to the height, roof form and location. The appearance is generally supported, except for the steel pergola and floor surface. It is recommended that the pergola be provided in timber to better relate to the heritage materials in the immediate vicinity. Further, no information has been provided on the drawings about the materiality and colour of the terrace floor surface - this should be provided.</i></p> <p><i>Provided the above issues are resolved, the proposed café will not visually dominate or compete with Whitty House or undermine the values of the stables. It is only lightly connected to Whitty House via the later rear addition which is a good outcome. Further, the work will allow for an activation of the place for both public and private use which is considered to be positive for both Whitty House and the Stables, ensuring the structures are subject to ongoing conservation and retain a relevant use in the community.</i></p> <p><i>Heritage interpretation of the stables and Whitty House is recommended in the area surrounding the stables.</i></p> <p><u>Esmonde House and Plumstead House</u> <i>A new entry lounge, reception and pool will be constructed to the rear of Esmond House and Plumstead House. These new facilities will take the form of single storey pavilions constructed of predominantly steel and glass materials. In addition, a steel framed atrium with a glazed roof will be constructed between the two dwellings. The placement of these new built forms to the rear of Esmonde House and Plumstead House is a good heritage outcome for the site. 3D renders and drawings show these additions as lightweight, light touch structures that will not visually compete with the heritage buildings while also creating a clear, low-scale link between the structures and the residential buildings at the rear. As a wider concept, these additions are supported. However, see the request for more information below under Esmonde House concerning the creation of new openings.</i></p> <p><u>Esmonde House</u></p>
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	<p><i>At this stage, I am unable to confirm support for the following items as no detailed design drawings have been provided in the application:</i></p> <ul style="list-style-type: none"> <i>• The two new windows in the southern elevation. It is noted that the HIS states, 'The new windows to the south of the building are designed to complement the casement windows at first floor level in terms of their timber frames yet will be able to be perceived as simplified modern insertions', which is encouraging however no detail has been provided on the plans.</i> <i>• Double-door opening on the northern elevation of Esmonde House.</i> <i>• New opening within the portico on the western elevation of Esmonde House.</i> <p><i>A new lift will be constructed to the north of the Esmonde ballroom and will link directly to an opening on the first floor. The lift shaft is a two storey structure clad in aluminium battens. Although this will be a highly modern element, it will stand separate to the heritage building, is reversible and located in an area where other contemporary design will be present. The materiality will not look completely out of place in context of the atrium and built forms at the area. The lift will not adversely impact the heritage character of the dwelling.</i></p> <p><u><i>Plumstead House</i></u> <i>After the removal of the rear portion of the dwelling, the building will be made good and it will form a direct connection to the proposed new built form at the rear. 3D renders and drawings show this is a lightweight structure that will not visually compete with Plumstead House, and will allow for a clear connection to the historic building by the residents which is a positive outcome.</i></p> <p><u><i>Residential Buildings</i></u> <i>The proposed multi-level residential buildings fall within a non-HO area. However, it is noted that effort has been made to clearly separate these structures from the three heritage buildings and to provide low-scale connections between the old and new. Based on the 3D renders provided, the views and settings of the three heritage buildings will not be adversely impacted by the higher density development.</i></p>
Fences	Discussion:

(Clause 22.03-3.5)	<i>As demonstrated in the HIS, the existing boundary fence along Studley Park Road does not have any heritage value - being a later addition when the road was widened. The removal of three sections of the fence to create new access points is supported. The fence will be made good and repainted as needed.</i>
Landscape Setting (Clause 22.03-3.6)	Discussion: <i>The front (east) setback areas to the three buildings will be landscaped with a variety of plantings, a low masonry wall on the boundary, and new pedestrian pathways alongside the southern elevations of Whitty House and Esmonde House. In addition, an entry portal will be located on the boundary of Esmonde House. The proposal will open up views of all three buildings along Fernhurst Grove which is a positive outcome. The extent of hard and soft landscaping is supported, as is the portal design.</i> <i>Heritage interpretation of the three historic buildings on site is recommended to be included in the landscape design.</i>
Vehicle accommodation, outbuildings and services (Clause 22.03-3.7)	Discussion: <i>To the north of Plumstead House a vehicular ramp providing access to the basement level car parking will be constructed. This area sits within HO143 and to the side of Plumstead House, meaning the element will have a direct impact on views and settings for Plumstead House. The drawings provided show the ramp slope beginning at the edge of the property on Fernhurst Grove. No at-grade driveway is provided. While a vegetated arbour will be constructed over part of the ramp to mitigate some views, the ramp will still be discernible from the street as a significant change in ground level forward of the Plumstead House, followed by a large opening. It will contrast heavily with the streetscape pattern of parking arrangements. It is recommended that several metres of at-grade driveway is provided, ideally to align with the front of Plumpton House, before the ramp slope begins.</i> <i>The areas to the south of Whitty House and Esmonde House that currently provide car parking facilities will continue to be use for this purpose, albeit renewed and somewhat reconfigured. This is supported.</i>

Recommendations

On a broad, project based level this proposal can be supported from a heritage perspective. The proposal will result in a positive heritage conservation work to three highly significant buildings, while also providing an active new use to ensure that the

public can engage with the buildings and that they are conserved in the longer term. There are, however, some information gaps in the documentation provided for this referral. These should be resolved and provided to Council for further comment:

- *Detailed designs of the new windows along the southern elevation of Esmonde House;*
- *Detailed designs of the double-door opening on the northern elevation of Esmonde House;*
- *Detailed designs of the new opening within the portico on the western elevation of Esmonde House;*
- *Clarify the materiality of the café terrace floor.*

Based on the current documentation, the following design modifications are recommended:

- *Revise the materiality of the café pergola from steel to timber.*
- *Revise the ramp north of Plumstead House to include an at-grade driveway which aligns with the front of Plumstead House.*

The following permit conditions are recommended:

- *A schedule of conservation works must be prepared by a suitably qualified architect or heritage specialist.*
- *A Heritage Interpretation Plan detailing heritage interpretation elements to be implemented on site must be prepared by a suitably qualified heritage consultant or interpretation specialist. The proposed interpretation devices should address the history and significance of the three significant graded buildings on site, as well as any other key historical themes relevant to the place. The HIP must be implemented prior to the completion of the project.*

Finally, I would encourage the preparation of a separate Conservation Management Plan for each building, to assist in their ongoing maintenance and conservation once the retirement village is in use.

Planner's comments:

The advice of Council's Heritage Advisor is noted. The modifications and further detail sought by the Heritage Advisor are reflected in the recommended permit conditions.

Urban Designer

The following advice was received from Council's Urban Designer, based on the advertised plans:

“The proposed redevelopment of the VMCH (Villa Maria Catholic Homes) site has transpired following an extensive process of design procurement and development involving a design competition to ensure the best design partnership was selected for the project.

The applicant’s consultants have been in continuous dialogue with the Council throughout this protracted process, which enabled Council officers to provide meaningful input and feedback at the very early stages of the design conception, visioning and master planning exercise.

Once the design vision and concept were developed to an easily digestible form, the applicants engaged in conversations with the community inviting it to be an active participant in the further advancement of the scheme. To this end the applicant is commended on the efforts and resources invested in the preliminary design phase, which evidently established a solid foundation and fertile ground for the project, allowing it to grow, evolve, and unfold organically.

From the onset, the master planning exercise employed a place-based approach, identifying the most special attributes of the site to inform the design vision and create a unique sense of place and community. The outcome of this enquiry was a series of design principles that would guide any future redevelopment proposals for the site. These principles are grouped under two categories. The broader precinct wide principles focus on the interfaces, spaces between buildings, and their relationship of buildings with each other and with the broader precinct.

As may be appreciated from the extracted figures below, these principles are communicated via a series of diagrams under each group. The Precinct Design Principles set out the organising elements of the master plan like building siting, circulation/movement corridors, vehicular and pedestrian access and landscape. The Building Design Principles, on the other hand, address the architectural design of buildings dealing with aspects like composition, massing, scale, height, proportions, fenestration, façade detailing and internal amenity.

The design principles were refined further in response to our feedback, and the revised set of principles formed the basis for the design competition process. Engaging in a dialogue with Council at such an early stage of the master planning preparation and visioning for the site enabled Council officers to contribute meaningfully to the master plan development and evolution.

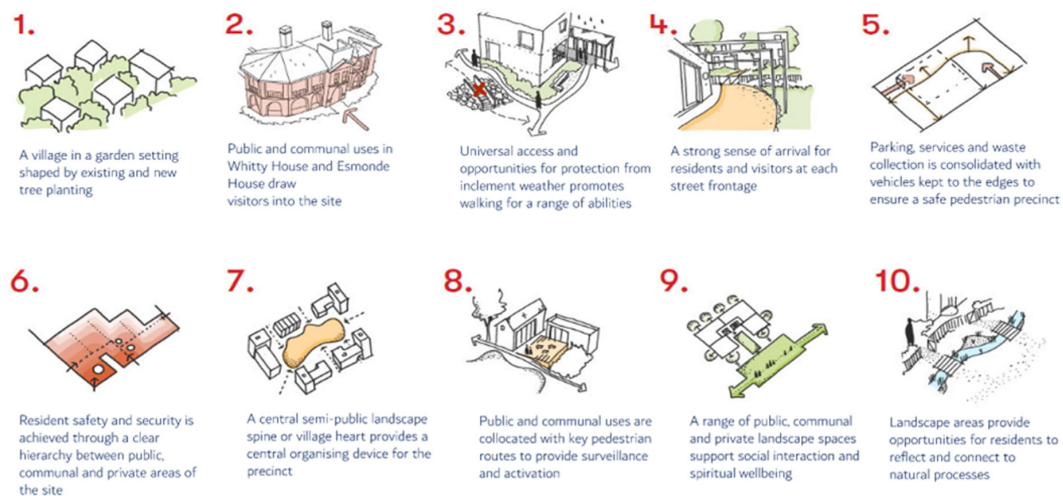


Figure 1: Precinct Design Principles



Figure 2: Building Design Principles

Above: Figures 1 & 2 are extracts from the master plan showing the design principles under the two categories.

The master plan evolved throughout the process, and the design concept progressed and eventually materialised in the architectural scheme currently lodged with Council. Evidently, the extensive and competitive design process has delivered a high quality

architectural response that is rich in its layering and complexity, one that will make a valuable contribution to the streetscape of Studley Park Road and the broader precinct.

Not only that, the current scheme is a complete departure from the original application lodged with Council in 2013 for an aged care facility on a large portion of the site, but not its entirety. That application failed to win Council's support because it did not deliver a responsive design outcome that was respectful and sensitive to its neighbours. The massive building footprint, institutional format and bulky appearance were the primary reasons behind its failure.

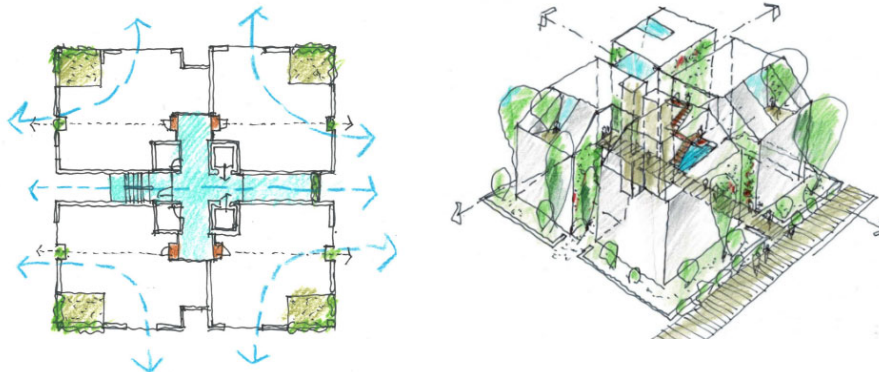
Key, note-worthy features of the proposed development include:

- *The small footprint of buildings and their conception as an ensemble of masses in a village like environment, finely knitted with generous green corridors/spaces, helps break down the development scale, provides visual relief and sense of openness. It also alludes to the fine-grain pattern and green, leafy character of surrounding precincts. The design concept deviates from the typically consolidated, extremely functional layout of aged care facilities, and by doing so, it avoids the monolithic institutional appearance, which was the defining feature and principal shortfall of the 2013 application. The current scheme demonstrates that the rigid building typology long associated with aged care facilities and retirement villages need not be like that, dominating and overwhelming our established streets. With some imagination on the designers' side and commitment to excellence on the institutions' part, it can be sufficiently flexible to create high-quality environments that enrich their occupants' lives and contribute positively to their host communities and streetscapes.*
- *The restoration and adaptive reuse of the significant heritage buildings on the site bring these invaluable assets back to life, extend their life cycle well into the future and give the development a distinct character and unique sense of place. Opening the three buildings (Whitty House, Esmonde House and Plumstead House) to the site and broader precinct and using them for public/communal purposes such as a café and wellness facilities helps with their integration and absorption into the bigger development and the activation of the public/semi-public spaces and interfaces.*
- *Retaining a large number of existing trees and complementing these with generously proportioned, open areas and a high-quality network of pedestrian routes and connections preserves and builds on the existing leafy character of the site, creates a sense of spaciousness and a safe, accessible and walkable pedestrian environment.*
- *Composing high-quality, well-crafted, contemporary buildings inspired by the vernacular architecture of the area facilitates their harmonious assimilation with*

neighbouring forms, lifts the design standards of aged care facilities / retirement villages and demonstrably shows these buildings need not be colossal in proportions or institutional in character to the degree where they feel out of place. The creative use of local materiality and familiar roof forms creates a dialogue between the new and old buildings allowing them to coalesce into a unified, cohesive whole.

- *Adopting a hierarchical urban structure for the master plan in which the private and semi-private areas are set deeper into the site to mirror the sensitive interfaces to the north and west while positioning the communal, semi-public and public zones along the eastern and southern borders, helps ease the tension with neighbours and better manage the public street interfaces.*

The 'quadrant plan' concept breaks each building into smaller components and finer grain, making it more compatible with the existing scale in the area. Limiting the floor plan to four apartments organised around a cross-shaped corridor expresses each unit as an individual entity in the massing and ensures a high level of internal amenity given the dual aspect. Likewise, the cross-shaped floor layout ensures all shared corridors have a good outlook and access to natural light and cross ventilation. With a central circulation core dedicated for each quadrant and a small number of apartments serviced by it, more opportunities for casual interaction and neighbourly chatter occur in the shared zones fostering a sense of community and enhancing social interaction.



Above: Figures 3: extracts from the architectural plans showing the quadrant floor plan concept where each unit has a dual aspect and common corridors have access to outlook, natural light and cross ventilation.

Matters for further consideration and refinement

Holistically, the proposed development is thoughtful and expertly executed to suit the site and its locale. The composition of buildings and their assembling into reasonably

sized clusters responds to the existing scale and reduces any visual bulk concerns typically associated with a development of this nature.

The architectural expression reinvents familiar features of the Arts and Crafts movement in an imaginative manner to provide local relevance and allow the new buildings to talk to their historic neighbours and nestle comfortably within their surroundings. Spaces between buildings are meticulously crafted to weave through the development, stitching it together while the uses and activities within buildings are carefully curated to suit their location, exposure and character.

By opening its frontages and inviting the community in, the site cements its position in the area and broader Junction context as a valuable neighbour and an active participant in the everyday life of the community. Notwithstanding this, the proposal can benefit from some design adjustments, as detailed in the following sections.

Public Access & North-South Spine

One of the key organising elements of the master plan was the active north-south spine that needled through the site and connected the northern top end of Fernhurst Grove to Studley Park Road south. Over time, this spine changed alignment and role to become an L-shaped, semi-public/communal corridor that snaked through the heritage buildings providing access to various building clusters within the development and acting as a buffer between the public and semi-public/communal areas.

While delightfully choreographed, the north-south spine is only accessible to residents. Public access is restricted to Whitty House, the attached stables and forecourt. Confining public access to the corner of Studley Park Road and Fernhurst Grove in such a contrived manner discourages people from entering the site and enjoying these so-called public spaces. It somewhat creates the perception of a gated community within the precinct, hemmed in by fences and barriers.

The fence around the corner maybe permeable but inadvertently creates a visual and psychological barrier impeding the natural flow of pedestrians from the public domain to the semi-public indoor and outdoor spaces of the café. A publicly accessible spine, at least partly if not entirely, draws foot traffic inside and generates spontaneity of movement and activation of spaces. It is the sense of openness and transparency at the public interfaces and the casual interactions that happen along the spine that entice people, make them feel welcome and invite them to stay and linger, as opposed to the feeling of trespassing and imposing on residents.

We understand the applicant's apprehension/uneasiness about this issue and appreciate the common security misconceptions potentially preventing this spine from materialising, but continue to hold the view that a well-crafted, active, and publicly

accessible spine could in fact enhance safety for residents, i.e., have the opposite effect.

The diagrams below show a possible realignment of the public spine with minimal intrusion on the development and its occupants' privacy. In this alternative alignment, the public corridor lines the northern border of No. 1 Fernhurst Grove turning south at the end to connect to Studley Park Road. The extracted ground plane sketch in the right diagram below illustrates the architects' vision for activating the spaces within and around Whitty House. It also reveals the great synergies between the public café/office uses, the public spine and the community garden to the west that could, if exploited, create a rare community space and experience for residents and visitors alike.

A publicly accessible corridor, as marked below, opens up the development and improves its contribution to the broader community. It also maximises the utilisation of the café and surrounding spaces. Moreover, opportunities exist to open the community garden and invite children to participate in various events run by the development's occupants. Such initiatives create real and meaningful interactions between the new and existing communities. Research has shown that older people thrive and flourish where they can participate and contribute to their neighbourhoods. Many educational programs involving children and older groups have been trialled internationally and proved beneficial and enriching to the health and well-being of both groups, especially the older people by affording them much needed socialisation, interaction and engagement with the community.



Above: Figures 4 & 5: show the potential realignment of the public spine to wrap around No. 1 Fernhurst Grove and Whitty House spaces. Refer also to Figure 6 below, which shows the entire ground floor plan with some ideas and suggestions for improvement.

The following design alterations will be needed for the success of the publicly accessible spine:

- 1. A more porous edge treatment and definition around the southeast corner with permeable fencing extending to the community garden on Studley Park Road, interrupted by multiple access points to maximise pedestrians' in and out movement;*
- 2. Open, highly visible and welcoming entry points to the public spine on Fernhurst Grove and Studley Park Road, i.e., no gates, arbours, portals, etc. The surface finish and character of the spine is vital for its successful functioning as a public space;*
- 3. Relocation of the substation and reorientating it to face the public spine, not the footpath, which will enhance the Fernhurst Grove streetscape;*
- 4. Shifting the retirement village gates and fencing from the streets' edges deeper into the site where the public spine ends to mark the transition to the communal/semi-private zones; and*
- 5. Significantly reducing any potential visual and physical barriers between the public spine, Whitty House forecourt and the stables/café to facilitate greater pedestrian flow and enhance the activation of all these spaces.*

Scale transition and street interfaces

The second aspect of the design proposal that needs fine-tuning is the scale transition from the development to the western and northern interfaces. The successful management of the sensitive northern and western interfaces was one of the reservations expressed at the pre-application stage.

We recognise the architects' efforts to address this matter but argue this area is yet to be resolved successfully. In the following sections we offer some ideas for improvement, supplemented by explanatory graphics and diagrammatic representations of the likely design modifications required to resolve these interfaces satisfactorily.

- 1. Studley Park Road interface and scale transition to west:*

While the Studley Park Road interface can absorb a robust built form given its width, arterial role and proximity to the five-way Kew Junction, the new buildings will replace a relatively low-scaled and densely vegetated street frontage and witnessed against the contributory dwelling at No. 2 Banool Avenue. The 9.6m setback from the western boundary may be generous, but the five-storey height, proximity of Building A to the street edge and reduced tree canopy around the southwestern

corner will all exacerbate the perception of visual bulk at this end and overpower the humble single-storey neighbour.

To address this, the southwestern end of Building A needs to step down and gradually erode to ease the scale transition to the adjacent western neighbour. Staggering the building form, increasing setbacks on the upper two floors, and opening sections of the mansard roof form can all help achieve a gentler scale transition to the west.

A dedicated 4m x 4m deep-soil planting zone at the southwestern corner, extending down to the basement level, may also be needed to further soften this interface. Refer to the annotations on the ground floor plan in Figure 6 below and the elevational diagrams on the following pages.

2. Northern and western interfaces and development visibility from Elphinstone Court and Banool Avenue:

As denoted on the extracted ground floor plan diagram in Figure 6, a few relatively minor modifications in the northern and western elevations should help temper the visual mass in the views from adjacent properties and address any adverse impacts. These could potentially include, but not limited to, deeper and more profound rebates in specific locations such as the northern and western walls of Building D, the northern wall of Building C, and the western elevation of Building B.

In some locations, deeper recesses may not suffice and would need to be complemented by upper floor setbacks and/or opening sections of the mansard roof, as is the case for the northern wall of Building C and the southern elevation of Building A. A series of elevational diagrams are offered for Building (A) in Figures 6-15 to aid a better understanding and appreciation of the effect of these changes on the façade.

These design measures should also assist in further softening the development appearance in the streetscapes of Banool Avenue and Elphinstone Court, although the street photomontages demonstrate the limited visibility of the development in these streets. Even where visible, the new buildings will present as a graceful, complimentary backdrop to the lower dwellings in both roads, not an intrusive or unpleasant built form.

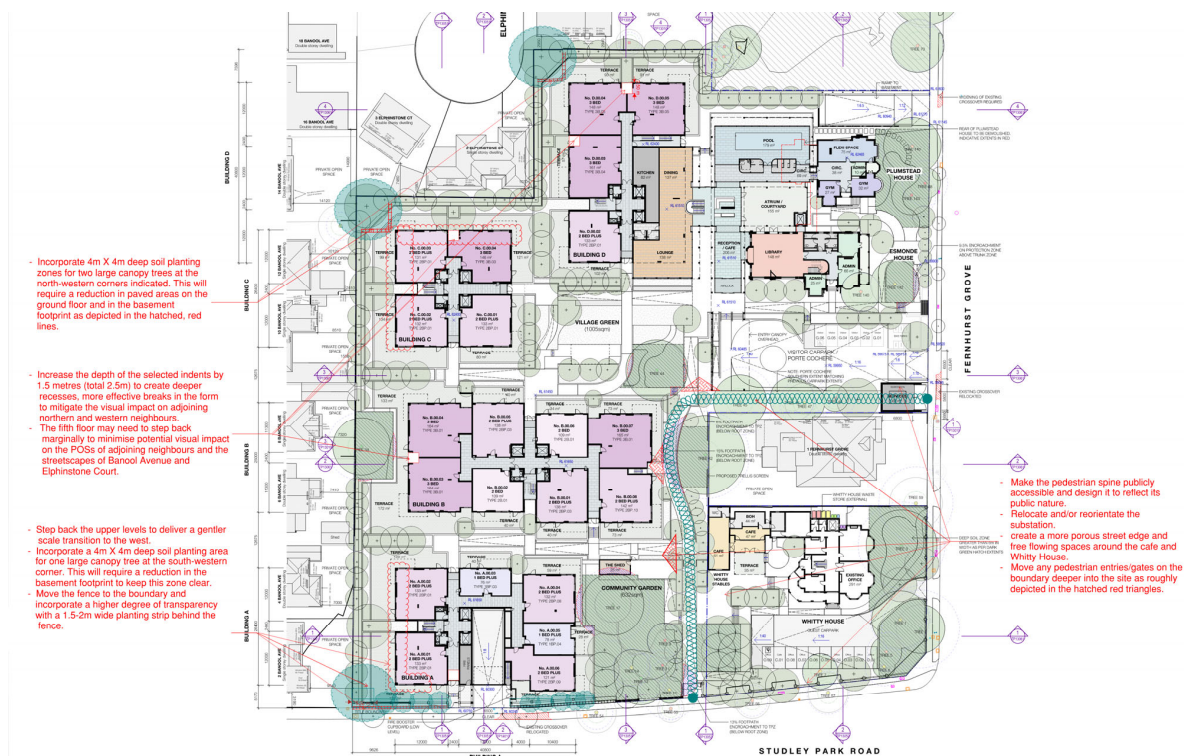
3. Fernhurst Grove interface:

The Fernhurst interface will witness significant improvements resulting from the repair works proposed to the heritage buildings. Opening the veranda of Esmonde House and reinstating it to its original condition will take the building back to its past glory, enhancing its contribution to and engagement with the public realm. The only

invasive element in this façade is the substation, which will be relocated in light of the changes to the public spine outlined above.

As for the accuracy of the 3D renders submitted, our testing of the perspectives indicates they are reasonably accurate.

As you rightly noted, the angle of the perspective and the substantial setbacks of Buildings C & D to the rear, set at about 94 and 54 metres from the boundary respectively, contribute to this visual effect. In addition, heritage buildings are typically taller than modern buildings because their floor to ceiling heights are more substantial. The building seen in the foreground is Esmonde House, which is equivalent to three high storeys spatially, the third floor effectively contained within the steep roof. Its height measured to the ridge exceeds 13 metres, which is only 6 metres lower than the 19m height of Buildings C and D to the rear. Note also the raked wall of the upper levels of both buildings C and D, which further amplify the illusion of them being lower than their actual height.



Above: Figure 6: The ground floor plan annotated with suggestions for improvement



Above: Figures 7, 8 & 9 show the southern elevation of Building A (2 & 3 dimensionally) as seen within Studley Park Road above and against the abutting western neighbour - 2 Banool Avenue in the two lower figures



Above: Figures 10, 11, 12 & 13 explore a few alternative corner treatments for Building A, i.e., the corner potentially trimmed, stepped, cut or peeled back to ease the scale transition to the west on Studley Park Road. Each of the alternatives produces a different visual effect depending on the extent of setbacks and variation of roof forms on the upper two levels

The last option at the right bottom (Figure 13) is preferable because it delivers a gentler scale transition but could result in a bigger loss of floor space due to larger setbacks on the fourth and fifth floors.

Note that the recess associated with the pedestrian entrance in the façade centre would have a better visual effect if it were accentuated, i.e., deeper and more pronounced in the building form.



Above: Figures 14 & 15 show a cross-section through Building C extracted from the architectural plans showing a minor encroachment on Res Code setbacks. A small setback on the fifth floor should help address this and remove any non-compliance. The diagram to the right shows where additional setbacks might be needed on the fifth floor within Buildings A and C

Finally, physical samples of all finishes should be submitted for Council's consideration and assessment."

Planner's comments:

On 2 September 2021, the applicant provided officers with a response to the matters raised by Council's Urban Designer (See Appendix B). The response sets out a number of modifications the applicant has indicated they can implement, if acceptable to Council, via permit conditions. A summary of the modifications, and Council's Urban Designer's response to them, are set out later in this report.

Subject to the implementation of the modifications set out in the applicant's 2 September 2021 submission, including a reduction in the height of Building A at its south-west corner, together with the recommended setback modifications to Buildings C and D, Council's Urban Designer has advised all outstanding urban design issues are satisfactorily resolved.

Traffic & Transport - Traffic Engineers

The following advice was received from Council's Traffic Engineers, based on the plans lodged with the application:

ON-SITE PARKING PROVISION				
DESCRIPTION (USE)	SIZE	CAR PARKING RATE	CAR PARKING REQUIREMENT	ON-SITE PARKING PROVISION
Retirement Village	8 x 1-bedroom dwellings	1 space to each one or two bedroom dwelling	8 spaces	8 spaces
	65 x 2-bedroom dwellings		65 spaces	100 spaces
	35 x 3-bedroom dwellings	2 spaces to each three or more bedroom dwelling	70 spaces	70 spaces
Visitor	108 dwellings	None Required	0 spaces	6 spaces
Retirement Village Staff	108 dwellings	None Required	0 spaces	8 spaces
Food & Drink (café)	152 sq.m	3.5 spaces per 100 sq.m LFA	5 spaces	1 space
Office	291 sq.m	3.0 spaces per 100 sq.m NFA	8 spaces	9 spaces
TOTAL			156 spaces	202 spaces

DESCRIPTION (USE) (SIZE/No.)	TYPE	BICYCLE PARKING RATE	BICYCLE PARKING REQUIREMENT	ON-SITE PARKING PROVISION
Retirement Village 108 dwellings	Resident	1 per 10 dwellings	11 spaces	22 spaces
	Visitor	1 per 10 dwellings	11 spaces	
Cafe 152 sq.m	Employee	1 per 300 sq.m LFA	1 space	14 spaces
	Customer	1 per 300 sq.m LFA	0	
Office 291 sq.m	Employee	1 per 300 sq.m if NFA > 1000 sq.m	0	
	Customer	1 per 1000 sq.m if NFA > 1000 sq.m	0	
TOTAL			23 spaces	36 spaces
PARKING ASSESSMENT ELEMENT				
SATISFIED				
YES	NO			
	X	In accordance with Statutory Requirements		
	X	Waiver of long-term (e.g. staff, resident) parking		
	X	Waiver of short-term (e.g. visitor, customer) parking		

	X	Submission of empirical data - including Parking Demand and Occupancy surveys
COMMENTS		
<p>The proposed on-site parking provision is generally in accordance with the statutory requirements of Clause 52.06. The parking provision associated with the Retirement Village residents exceeds the statutory parking requirement by 35 spaces. An on-site provision of six spaces and eight spaces, respectively, has also been provided for Residential Visitors and Staff of the retirement village, which do not have a statutory parking requirement associated.</p> <p>Nine spaces has been provided for the Office Use, exceeding the statutory requirement. However, only one space has been provided for the proposed Café use, a shortfall of four spaces from the statutory parking requirement.</p> <p>Under Council's Parking Permit Policy (2017), residents of the development will not be eligible for resident or visitor parking permits.</p> <p>It is understood that the Café use space is to be utilised by staff, with the proposed shortfall to be associated with customer parking demands. It is reasonable to assume that a majority of customers to the café may be visitors to the retirement village or residents, of which these parking demands may already be accounted for as part of the Retirement Village use's on-site provision. On this basis, the provision of one space is acceptable.</p> <p>The provision of 36 on-site bicycle spaces, including 22 resident spaces in the basement car park and 14 visitor spaces located on the Ground Floor exceeds the statutory parking requirement as per Clause 52.34 and is considered suitable.</p>		
CAR PARK LAYOUT/DESIGN		
SATISFIED		PARKING ASSESSMENT ELEMENT
YES	NO	
Parking Spaces/Garages		
X		Dimensions in accordance with Clause 52.06 or AS/NZS2890.1-2004
X		Electronic swept path assessment provided to demonstrate satisfactory access
COMMENTS		
<p>Vehicles will access the basement car park via two separate accesses, a crossover to/from Studley Park Road and a further access to/from Fernhurst Grove.</p> <p>Dimensions for all on-site parking spaces within the basement car park are in accordance with Clause 52.06 and/or AS/NZS2890.1-2004.</p> <p>The dimensions for the on-site disabled parking space within the basement car park are in accordance with AS/NZS2890.6-2009.</p>		
Access Aisles		
X		Dimensions in accordance with Clause 52.06 or AS/NZS2890.1-2004
X		Electronic swept path assessment provided to demonstrate satisfactory access
X		Provision of 1m aisle extension for blind aisle in at-grade car park

COMMENTS		
A 6.5m aisle width has been provided for all car parking spaces which exceeds the requirements of Clause 52.06.		
The Whitty House car park access aisle is a minimum of 3m in width which satisfies the requirements of Clause 52.06.		
Swept path assessments have been provided for a 6.4m short rigid vehicle and a 6.4m waste collection vehicle, which are to access and circulate within the basement car park and depart the site via the ramped accessways to Studley Park Road or Fernhurst Grove.		
Access Ramps		
X		Ramp width and design in accordance with Clause 52.06 or AS/NZS2890.1-2004
X		Ramp grades in accordance with Clause 52.06 or AS/NZS2890.1-2004
X		Electronic swept path assessment demonstrating satisfactory simultaneous access
COMMENTS		
The ramps to the basement car park are measured at greater than 6.1m wide between walls, which satisfies the requirement for two-way traffic in accordance with AS/NZS2890.1-2004.		
The Studley Park Road ramp grade of 1:10 for the first 5m, followed by a grade of 1:8 for the main section of the ramp (16.8m) to a flat grade within the basement car park, then a further section of 1:12 for 4m. This complies with the requirements of Clause 52.06.		
The Fernhurst Grove ramp grade of 1:10 for the first 5m, followed by a transition of 1:12 for 4m, then a grade of 1:6.5 for the main section of the ramp (15.6m), then a further section of 1:12 for 4m. This complies with the requirements of Clause 52.06.		
Headroom		
X		Dimensions in accordance with Clause 52.06 or AS/NZS2890.1-2004
COMMENTS		
A minimum height clearance of 2.2m is provided at the entrance to the basement car park and within the basement car park.		
Pedestrian Sight Triangles		
X		Dimensions in accordance with Clause 52.06 or AS/NZS2890.1-2004
X		Fences or obstructions restricted to a height of 900mm or made to be 50% permeable to maintain visibility to pedestrians
COMMENTS		
Pedestrian sight triangles have been provided on both sides of both of the ramped basement car park accesses in accordance with Clause 52.06 or AS/NZS2890.1-2004.		
WASTE COLLECTION		
SATISFIED	WASTE COLLECTION ASSESSMENT ELEMENT	
YES	NO	
X		Identification of waste collection method (Council/Private Contractor)
X		Demonstration of suitable on-site access and manoeuvrability (if required)
COMMENTS		

Waste collection is to be undertaken via a private contractor, with collection to be undertaken on-site within the dedicated loading bay in the basement car park. Contractors are to transport all bins from the bin store for collection and return the bins.

Waste collection is to be undertaken by a 6.4m rear-lift vehicle. Swept path analysis has been submitted demonstrating that the proposed waste collection vehicle can access the on-site loading bay and egress the site via the basement car park ramps.

It is proposed that waste collection occurs twice a week. It is recommended that this collection is scheduled outside of peak periods.

TRAFFIC ASSESSMENT

DESCRIPTI ON (USE)	SIZE	DESIGN GENERATION RATES		TRAFFIC GENERATION ESTIMATES	
		PEAK HOUR	DAILY	PEAK HOUR	DAILY
Retirement Village	108 dwellings	0.25/dwelling	2.5/dwelling	27 movements	270 movements
Village Staff	8 spaces	0.5/space	4/space	4 movements	32 movements
Commercial	10 spaces	0.5/space	4/space	5 movements	40 movements
TOTAL				36 movements	342 movements

COUNCIL OBTAINED TRAFFIC DATA

STREET	DATE	ROAD TYPE(CAPACITY)	DAILY TRAFFIC VOLUME
Studley Park Road	2017	Arterial Road	17,200 vehicle movements
Fernhurst Grove	-	Local Road	-

PROVIDED

TRAFFIC ASSESSMENT ELEMENT

YES	NO	
X		Existing traffic volume data for adjacent street
X		Anticipated traffic generation of the proposed development to be accommodated within the surrounding road network
X		Submission of traffic modelling data to justify anticipated traffic generation

COMMENTS

Overall, 342 trips per day have been estimated by Traffic Engineering for the proposed development including 36 trips in each network peak period.

Existing traffic data for the immediate road network was obtained by Traffix Group during a typical AM and PM peak period and utilising existing distributions from the site, the proposed site-generated traffic was added to this existing traffic, adopting the same traffic distributions. Based on the anticipated additional traffic generated by the proposed use, it is indicated that there is likely to be 1 vehicle movement every 6-7 minutes to/from the site during a peak hour period. The proposed modelling and traffic distributions utilised are considered reasonable.

It is considered that this level of traffic generation can be accommodated within the surrounding road network without significant impact.

Planner's comments:

The advice of Council's Traffic Engineers is noted. The required modifications and notes are incorporated into the officers' recommendation.

Arborist

The following advice was received from Council's Arborist, based on the advertised plans:

APPLICATION ADDRESS:	6 & 14 Studley Park Road, Kew
APPLICATION No.:	PP21/0271
DESCRIPTION OF PROPOSAL:	Use of the land for not more than 108 retirement village apartments (Clause 32.08-2) and a food and drink premises (café) (Clause 32.09-2); construction of four x 5-storey buildings (Clauses 32.08-9 and 43.01-1); partial demolition of buildings (Clause 43.01-1); reduction of the car parking requirement associated with a café (Clause 52.06-3); and alteration of access to a road in a Road Zone, Category 1 (Studley Park Road) (Clause 52.29-2)
SITE VISITED	<input checked="" type="checkbox"/> Yes
LOCAL LAWS PERMIT REQUIRED?	<input checked="" type="checkbox"/> Yes - the proposal requires the removal of 79 trees. 49 trees trigger a Local Law permit to remove. A permit is required to be obtained prior to their removal
ARBORIST REPORT PREPARED BY:	Documents reviewed: Arborist Report - Impact Assessment & NDRI dated 04/06/2021 authored by Manori Senanayake Arborist Report - Impact Assessment dated 31/03/2021 authored by Manori Senanayake
SUMMARY COMMENTS: The proposal is not supported from an arboricultural perspective and would require major design. Changes are prescribed below A - E. Arboriculture comments regarding Neighbourhood Character precinct 6-14 Studley Park Road is located within 2 separate neighbourhood precincts (Precinct 8 and 15). Both design guidelines show preferred character statements which provide for: <ul style="list-style-type: none"> • Encouraging the retention of large trees and landscaped gardens; 	

- Ensuring sufficient space is retained in front and rear gardens to accommodate large trees;
- Ensure front gardens incorporate soft landscaping that complements the streetscape.
- Maximising soft landscaping and minimising areas of hard surfaces

These Design Guidelines also identify the following threats:

- Removal / loss of large trees
- Lack of soft landscaping / vegetation;
- Lack of garden space for planting.
- Boundary to boundary development

It is viewed that the preferred design outcomes prescribed above have not been sufficiently incorporated into the current proposal.

The most prominent arboricultural concerns relate to the following:

1. Removal of high retention value trees: 18, 19, 21 and 49
2. The extent of basement level restricting viable open space for canopy tree planting particularly at the Studley Park Road interface.
3. Confirmation of encroachments (specifically proposed soil level changes) within TPZ of site trees 42 and 44

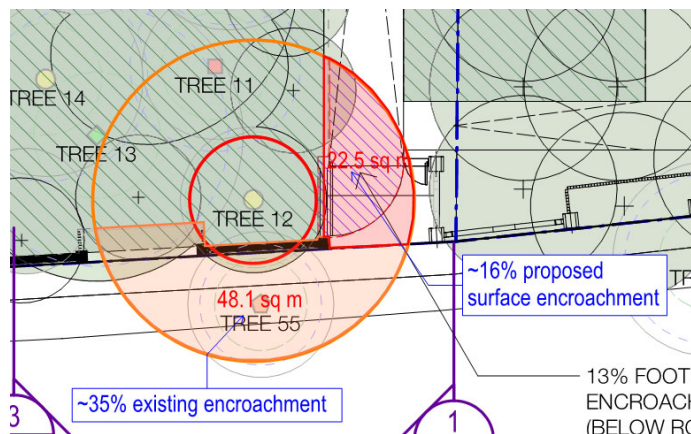
Changes to the plans are required to satisfy the preferred design outcomes which should include the following:

- A. Increase the amount of sufficient permeable deep soil to accommodate medium canopy (8-12m in height) trees across the Studley Park Road frontage that will contribute to neighbourhood character**
- B. The landscaping outcome (specifically inclusion of large canopy trees) across the western property boundary is considered insufficient and should provide for sufficient permeable deep soil to accommodate canopy trees**
- C. Given Tree 49 is a prominent landscape feature that can be viewed from multiple vantage points (including the street) is removal is not supported**
- D. Amendments made to the proposed surface levels and materials for the pedestrian entrance and footpath where it occurs with the tree's TPZ. The severing of the tree roots at this location is considered an unacceptable risk to the tree long-term viability and is not supported. Surfaces should be at or above the existing grade to allow these tree roots to remain intact with surface material to be permeable.**
- E. Illustrate existing and proposed levels within the TPZ of Tree 42 with a note on the plans stating no further excavation other than that east of the proposed footpath alignment.**

DETAILED COMMENTS:

Detailed Internal Arborist Comments:

Tree 12 is a lemon-scented gum in good overall condition. Existing surfaces and surface within the tree's TPZ and SRZ are; an existing brick fence, public pedestrian footpath, and road surface. The Treelogic Report claims a 13% encroachment claimed to be required for scrapping and resurfacing below the existing soil grade.

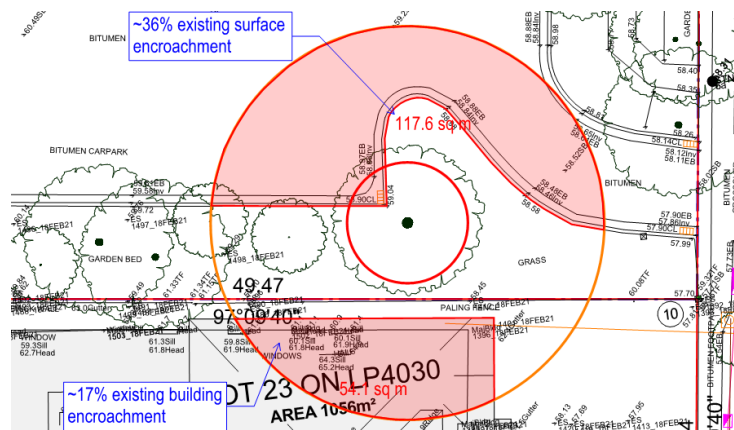


It is viewed that the Treelogic Report incorrectly calculates the proposed construction encroachment and has also excluded analysis of the existing conditions within the tree's TPZ. The entire proposed footpath surface is estimated to be 22.5 square metres of the tree's TPZ (~16%). This is a major encroachment in accordance with AS4970-2009 and its impacts are further exacerbated given the existing encroachment directly south of the tree. The NDRI illustrates tree roots encountered along the proposed footpath alignment closest the tree. It should be noted that this alignment is located on the edge of the tree's Structural Root Zone (SRZ). These tree roots should not be severed to enable excavation or grading for the footpath surface. Changes should be made to enable the roots to remain intact and for the surface to be permeable and positioned at or above the existing soil grade where within the tree's Tree Protection Zone.

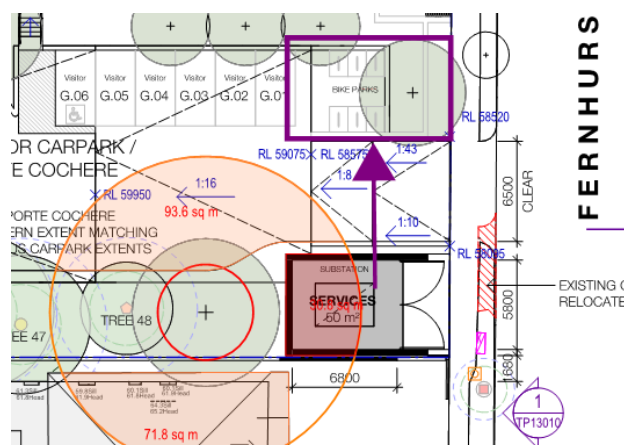
Tree 18 and 19 are red ironbark trees in good overall condition and a prominent landscape feature of the property and considered high retention value. The proposal requires their removal to make-way for a section of the basement level, as well as resurfacing for footpath and 25 sq. m. shed. Support for the removal of these tree should only be considered under provision for recommended changes point A and B.

Tree 42 is a mature English elm in good condition and one of the largest landscape features in the surrounding area. The proposal seek a 15% encroachment which has been adequately evidence to be acceptable. However any approved plans will need to clearly demonstrate that no further soil changes or works, other than those at the far western extremity of the tree's TPZ, be located within the tree TPZ (include allocated areas contiguous with the tree's TPZ).

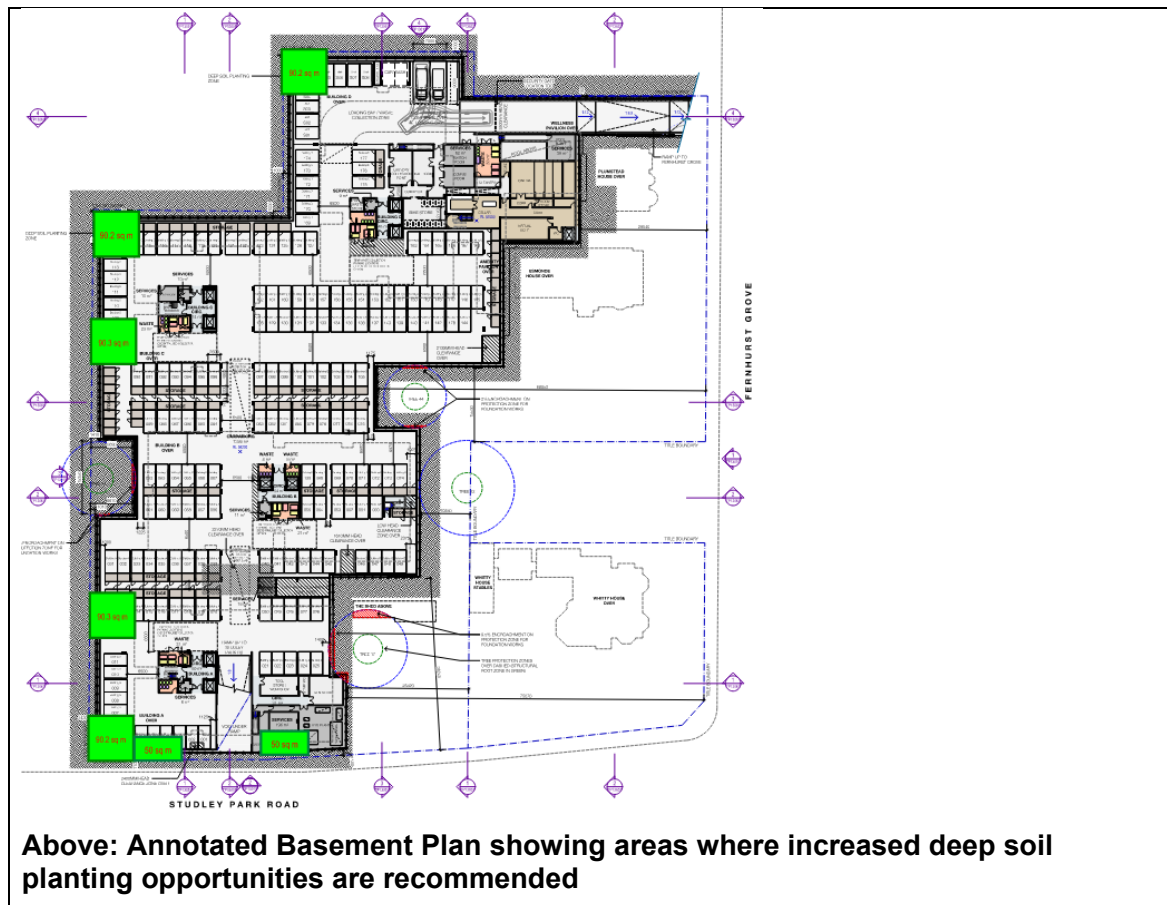
Tree 49 is a weeping lilly pilly in good overall condition and deemed a prominent landscape feature that can be seen from the street and would become more visible if and when retained within current design. The exiting conditions (building and surfaces) provide for an approximate 50% encroachment. These existing condition have significant influenced the amount and distribution of roots extending east.



The recent NDRI confirms substantive woody tree roots within the proposed substation location. I concur that the severing of these root will impact the viability of the tree. The proposed removal of the tree to facilitate construction of a substation is not supported. It would appear that the proposed location of 'bike parks' (northern side of Fernhurst Grove vehicle entrance) may be a more suitable location. The re-location of these services would also enable the retention of the street tree not numbered on the plans.



I have annotated the basement plan with suggested locations of deep soil areas to satisfy recommendation A and B, below.



Planner's comments:

On 2 September 2021, the applicant provided officers with a response to the matters raised by Council's Arborists (See Appendix B). The response sets out a number of modifications the applicant has indicated they can implement, if acceptable to Council, via permit conditions. In response to the matters raised by Council's Arborist, the modifications include:

- Retaining Tree No. 49;
- Providing 4m x 4m deep soil planting zones in the south-west and both north-west corners of the site;
- Increasing the width of the deep soil planting zone in front of Building A, from 1.1m to between 1.5m - 2.0m;

Officers note the amendments are not to the full extent sought by Council's Arborists, however are considered to be acceptable. The 90sqm deep soil zones sought by the Arborists is derived from Rescode Standard D10 (Landscaping, Clause 58.03-5), which does not apply to this application for a retirement village. If it did apply, officers note it is already fully complied with (through the provision of 10.4% of the site area as a deep soil planting zones with minimum width of 6.0m). Furthermore, the proposal retains 27 mature trees throughout the site and will plant over 100 new trees.

Subject to the implementation of the modifications set out in the applicant's 2 September 2021 submission, together with other recommended tree protection measures, it is considered the outstanding arboricultural issues are satisfactorily resolved.

Environmental Sustainability & Open Space (Parks)

The following advice has been received from Council's Environmental Sustainability & Open Space Department in relation to the proposed removal of a street tree (Tree No. 53) from the Studley Park Road nature strip:

"I can confirm the removal of this tree (Asset ID: 885465) will be allowed. This tree is in good health and structural condition and therefore does not meet the requirements for Council to bear the costs of removal. However, the removal is acceptable due to the; policy backing for the proposed development, considering the size and zoning of the site; the housing policies around activity centres; and the associated amenity value and removal costs borne by the applicant.

The exact amenity value and removal costs needs to be determined, because of the amount of traffic management that might be required.

In regards to the 7 proposed new street trees on Studley Park Road and Fernhurst Grove. The applicant must provide Council with payment of 7 trees (7x 787.75) and we will carry out the planting, including the required resident consultation regarding new species being planted on the street. This planting will be scheduled after construction to ensure the young trees are not damaged.

Therefore please include the following on any permit issued:

Street tree planting condition:

Prior to the commencement of all works approved under this permit payment of \$5,514.25 for 7 new street trees must be made to Council.

Permit notes:

Council's Environmental Sustainability and Open Spaces Department gives in principle support to the removal of Tree 53 on the endorsed plans. This support is conditional on the Council's street tree removal application process, which may require community consultation; and payment of the tree's amenity value and removal costs.

Council's street tree planting season extends from May to September."

Planner's comments:

The advice of Council's Open Space Department is noted and the required notes and condition have been included in the officer's recommendation.

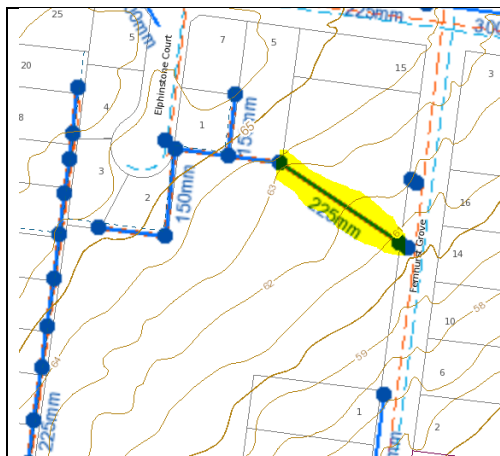
Drainage Engineers

The following advice was received from Council's Drainage Engineers:

FLOODING		
	YES	NO
Is the property designated as subject to flooding by an SBO, LSIO or Urban Floodway zone?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is the property considered as subject to flooding according to the City of Boroondara's overland flow layer in WEAVE	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Are modifications to the proposed development/sub-division required to mitigate flooding or overland flow risks?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:		

DRAINAGE		
	YES	NO
Legal Point of Discharge:		
Description: South east corner of the property		
Approved Connection Point:		
Description: To the existing Council stormwater drain in the road reserve		
Is the FFL of habitable areas 300 mm above the overflow level of the point of discharge?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is the FFL of non-habitable areas 150 mm above the overflow level of the point of discharge	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Is onsite detention required? (provide details below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are outfall drainage works required? (provide details below)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:		
BASEMENT OF SUB-SURFACE DRAINAGE		
	YES	NO
Do the proposed works include a basement or any other structure that will result in the collection and discharge of ground water?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If YES , Is (or will) the property connects to a sealed drainage system (i.e.: discharge from the site will not exit to kerb and channel.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are outfall drainage works required to address sub-surface drainage issues	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:		
EASEMENTS		
	YES	NO
Are any drainage easements on the property title?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are there any implied easements associated with Council Assets on the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Description of easements (designated, shared, private or implied): <div style="display: flex; align-items: flex-start;"> <div style="flex: 1;"> <p><small>Description of Land / Easement Information</small></p> <p>ENCUMBRANCES REFERRED TO As to any land shown marked A - - <u>THE DRAINAGE EASEMENT</u> created in- Instrument 2594241 - - - - - As to any land shown marked B - - <u>THE DRAINAGE EASEMENT</u> created in- Instrument 2594241 - - - - - As to any land shown marked C - - <u>ANY EASEMENTS</u> affecting the same-</p> </div> <div style="flex: 1; border: 1px solid black; padding: 5px;"> <p><small>THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT</small></p> <p>COMPILED 24-10-2020 VERIFIED A.D.</p> </div> <div style="flex: 2;"> </div></div>		



Left: location of Council drain, not in an easement

BUILD OVER EASEMENTS		
	YES	NO
Are any works proposed on any easement on the site (designated and implied)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Will the proposed works impact on any Council Assets	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Do the proposed works provide at least 1 m clearance from existing or proposed Council Assets?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Description of works proposed over easement(s): basement and building		
Are the proposed works over the easement likely to be approved by Council:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If NO, describe possible modifications to the proposed works in order to obtain approval: No		
COMMENTS		
OVERALL COMMENTS: Basement would go through a Council drain		
STANDARD CONDITIONS REQUIRED FOR PLANNING PERMIT		
<input checked="" type="checkbox"/> The site must be drained to the satisfaction of the relevant building surveyor.		
<input checked="" type="checkbox"/> The owner must make an arrangement with Council for the provision of drainage and the acceptance of surface and stormwater from the subject land directly or indirectly into Council's drainage system and a final inspection shall be carried out		

to determine the completion of drainage in accordance with the approved plans, to the satisfaction of the Responsible Authority.
<input checked="" type="checkbox"/> No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development, to the satisfaction of the Responsible Authority.
<input checked="" type="checkbox"/> Planting of trees within drainage easements/adjacent to Council drains being limited to species with shallow root system (shrubs) which will not prejudice or damage the stormwater drain.
<input checked="" type="checkbox"/> The location of third party or utility assets within the development site must be verified by field survey and clearly shown on all development plans.
<u>Comment:</u>
STANDARD NOTES REQUIRED FOR PLANNING PERMIT
<input checked="" type="checkbox"/> Prior to the commencement of any works on the site, the owner/developer must submit drainage plans for assessment and approval by the Responsible Authority (Asset Management).
<input checked="" type="checkbox"/> Stormwater drainage plans must include the location of any existing or proposed trees within the vicinity of drainage works and document how any potential conflicts between trees and drains will be addressed during and after construction.
<input checked="" type="checkbox"/> Stormwater drainage runoff shall be collected in a complete and effective system of drains and connected to the Approved Point of Stormwater Discharge.
<input checked="" type="checkbox"/> Prior consent from Council and any and all public authorities is required to be obtained for alteration or reinstatement of assets or services affected as a result of the development.
<input checked="" type="checkbox"/> No groundwater or anything other than Stormwater is to be discharged into an open discharge system. (Kerb & channel, made surface of a right of way or similar surface drainage system)
<input checked="" type="checkbox"/> A Control pit is to be located in an appropriate location and a suitable path is to be designed for stormwater which surcharges from the pit once the design storm has been exceeded.
<input checked="" type="checkbox"/> The proposed development is to provide adequate clearance for overland flow through the property.
<input checked="" type="checkbox"/> Stormwater drains are to be connected to a legal point of discharge approved by Council. Drainage Connections within a road reserve, right-of-way, and parkland, within an easement or to a Health Act drain must be to Council's standards.
<input checked="" type="checkbox"/> Discharge to the approved point of discharge will be allowed subject to the flow being limited to a rate equivalent to 0.35 coefficient of runoff for 1 in 5 year rainfall event. Any additional discharge is to be temporary detained on site with a minimum storage volume for 1 in 10 year rainfall event, via an approved stormwater detention system designed to Council specifications.
Works over easement

<p><input checked="" type="checkbox"/> Prior to the issue of a building permit, the owner must obtain the consents of all relevant authorities for any buildings or works, including any paving, fences, land filling/excavation and landscaping, over any easement or underground services under the control of a public authority including sewers, drains, pipes, wires or cables.</p>
<p><input checked="" type="checkbox"/> The owner must accept all reinstatement costs in carrying out repairs to any buildings, works or landscaping over the easements should such buildings, works or landscaping be disturbed by any works undertaken by Council in the future.</p>
<p>SUMMARY</p>
<p><u>Comment:</u> Basement would go through a Council drain</p>

Planner's comments:

The easements on title are located within that part of No. 14 Studley Park Road which does not form part of the planning unit, as it is proposed to be excised by the application to subdivide the land (PP20/1167). The subdivision application also provides for the realignment of the Council drain (which is not contained within an easement). The recommended permit conditions require the Council drain to be removed and/or relocated to Council's satisfaction before the commencement of the development.

The standard permit conditions and notes required by Council's Drainage Engineers are incorporated in the officers' recommendation.

Waste Services

The following advice was received from Council's Waste Services officer in response to the proposed Waste Management Plan (WMP):

"The WMP for this proposed retirement village is satisfactory for private waste collections subject to the following change being made:

In section 2.3.1 - Waste Streams (page 11) for the residential component I would like to see them provide compostable liners for the FOGO caddy. This makes it easy and less messy to transport the food waste and keeps their caddies clean.

I'm happy to approve this WMP once this change has been made."

Planner's comments:

The advice of Council's Waste Services officer is noted and the required modification to the content of the WMP is achieved by the recommended permit conditions.

EXTERNAL REFERRALS

The Head, Transport for Victoria (Department of Transport, formerly known as VicRoads)

The application was referred to the Head, Transport for Victoria in accordance with Clause 52.29-4 (creation or alteration of access to a road in a Road Zone, Category 1) and Clause 66.02-11 (Integrated Public Transport Planning¹⁵). The following advice was received in their capacity as a determining referral authority, based on the advertised plans:

"It is noted that the application is for the development of a retirement village with ancillary office use.

The Head, Transport for Victoria has considered this application and does not object if the permit is subject to the following conditions:

1. *Unless otherwise agreed in writing by the Head, Transport for Victoria, before the development starts, amended plans must be submitted to and approved by the Head, Transport for Victoria. Once approved, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be generally in accordance with the plans submitted with the application and annotated but modified to show:*
 - a) *The Studley Park Road access is to be left-in, left-out only with an appropriate triangular traffic island in the middle of the crossover to prevent right-in and right-out movements.*
 - b) *Any necessary signage to be in the traffic island to prevent right-in and right-turn movements.*
2. *The demolition and construction of the development must not disrupt bus operations on Studley Park Roads without the prior written consent of the Head, Transport for Victoria.*

¹⁵ Pursuant to Clause 66.02-11, an application "to construct a building or to construct or carry out works for... a retirement village comprising 60 or more dwellings or lots" must be referred to the Head, Transport for Victoria, in their capacity as a determining referral authority.

3. *Any request for written consent to disrupt bus operations on Studley Park Roads during the demolition and construction of the development must be submitted to the Head, Transport for Victoria not later than 8 weeks prior to the planned disruption and must detail measures that will occur to mitigate the impact of the planned disruption.*
4. *Prior to commencement of the use, the crossover to Studley Park Road must be constructed at no cost to the Head, Transport for Victoria and to the satisfaction of the Responsible Authority.*

Notes on permit:

- *The proposed development requires the modification of a crossover. Separate approval under the Road Management Act 2004 for this activity may be required from the Head, Transport for Victoria. Please contact the Department of Transport prior to commencing any works.*

Please forward a copy of any decision to this office as required under the Planning and Environment Act 1987."

Planner's comments:

The advice of the Head, Transport for Victoria is noted and the required conditions and note have been incorporated into the officers' recommendation.

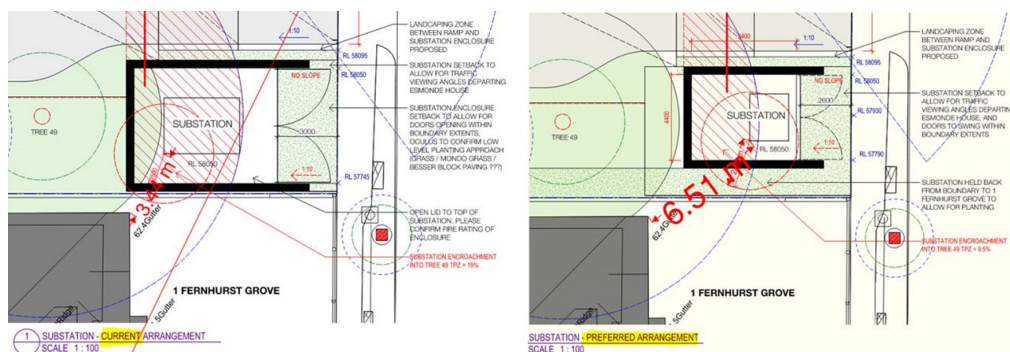
AMENDMENTS TO THE PROPOSAL IN RESPONSE TO REFERRAL ADVICE AND OBJECTIONS

Appendix B - Response to Urban Design Comments and Without Prejudice Offer, Human Habitats, 2 September 2021

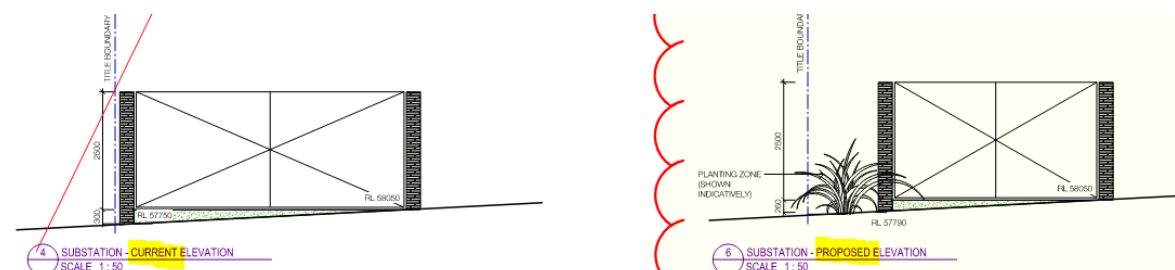
No formal amendments have been made to the application following the completion of public notice. However, on 2 September 2021, the applicant advised officers of the following modifications it would accept as conditions (in the event of the grant of a permit) in response to issues raised in referral advice and by objectors:

- The addition of three 4m x 4m deep soil planting cut-outs in the basement along the western and north-western boundary;
- Reduction in the size of the substation and adjustment to its location to enable the retention of Tree 49 (Weeping Lilly Pilly) and to provide a landscape buffer between the facility and the common boundary with No. 1 Fernhurst Grove;

- Modifications to Levels 3 and 4 of Building A, to provide an improved transition in scale to the western adjacent dwelling at No. 2 Banool Avenue, in accordance with the recommendations of Council's Urban Designer;
- Activation of the Whitty House forecourt area through programming that supports community engagement and participation, via the preparation of a Community Development Plan (CDP). The CDP would provide for activation of the space, which may include:
 - Partnerships with community groups and schools to participate in management of the community garden;
 - Workshops held in collaboration with Council to provide education on topics such as gardening, growing vegetables and composting; and
 - Farmer's markets and events.



Above: (L) The advertised substation arrangement and (R) the modified substation arrangement the applicant would accept via permit conditions



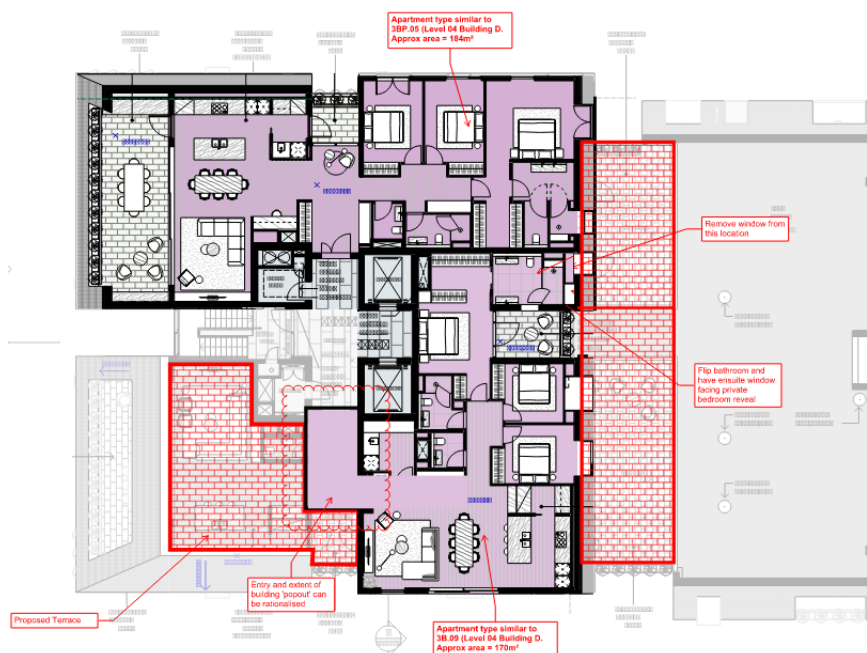
Above: (L) The advertised substation elevation and (R) the modified substation elevation the applicant would accept via permit conditions



Above: Architects' 3D render of a modified Building A if Levels 3 and 4 are amended in accordance with the recommendations of Council's Urban Designer. The applicant has indicated they will accept permit conditions to this effect



Above: Architects' 3D of Building A, viewed from Studley Park Rd, based on the advertised plans



Above: Indicative layout of an amended Level 4 of Building A, showing a decrease in the building envelope in the south-west corner and internal reconfiguration of the apartments, to provide an improved transition in scale to the western adjacent dwelling. Level 3 is amended in the south-west corner by adopting the mansard-style roof treatment at this corner



Above: Architects' 3D render of a modified Building A if Levels 3 and 4 are amended in accordance with the recommendations of Council's Urban Designer. The applicant has indicated they will accept permit conditions to this effect

**URBAN DESIGNER'S RESPONSE TO 2 SEPTEMBER 2021 INFORMAL
AMENDED PLANS**

The following advice was received from Council's Urban Designer in response to the sketch plans provided in response to referral comments and objections:

"Further to a review of the sketch plans submitted in response to our previous referral comments and the follow-up meeting with the applicants' team, we offer the following observations.

The design alterations suggested in the sketch plans are encouraging and positive. In particular, we note the considerable erosion of mass and the stepped profile at the south western corner. The applicant is commended for adopting the most conservative option suggested in our advice, as may be appreciated from the 3D views submitted below. This will dramatically alter Building A, improve its presence within Studley Park Road and deliver a gentler and more considerate scale transition to the adjoining western neighbour No. 2 Banool Avenue.



The design modifications also include additional cut outs in the basement floor plan to facilitate deep-soil planting in specific corner locations and soften the interface with adjacent northern and western properties.

Reducing the size of the substation (electrical kiosk) and sliding it further inwards should help reduce its visual prominence and minimise the visual impact on Fernhurst Grove. That said further information is required on the materiality and detailing of the substation enclosure, including doors/frames, to demonstrate it seamlessly integrates with the fence and landscape design. This matter can be addressed in a permit condition.

Upon further examination of the recesses in the northern and western walls of Buildings B, C and D, we consider the level of articulation and relief offered for these interfaces acceptable, especially with the added emphasis on the mansard roof levels.

As for public access through the site, we appreciate the difficulties associated with the implementation of the north-south spine and the reservations expressed by No. 1 Fernhurst Grove. For these reasons, we accept the negotiated outcome put forward by the applicants, which involves opening the community garden to the public, which expands the active street frontage from the Whitty House forecourt/café further west.

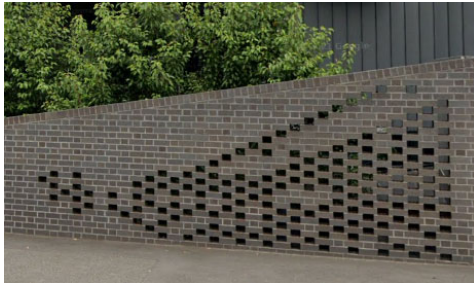
The revisions propose a more porous edge treatment for the southeast corner, visually and physically, to allow direct views from the street and multiple access points to maximise pedestrian movement and flow between the public realm and this active part of the estate. The following permit conditions can be imposed to ensure the material below is provided to Council's satisfaction:

- 1. Further details on the design and materiality of the fence and edge treatment to demonstrate it achieves the aforementioned objectives; and,*
- 2. A development community plan investigating options available for the activation of this space, such as farmers markets and other events, and exploring prospective partnerships between community groups, schools and the council to deliver educational programs on gardening and sustainability.*

Lastly, the front fence along Studley Park Road does not seem to have changed in the 3D renders submitted. The proposed high, solid fence is unfavourable, and alternative edge treatments should be explored, potentially including permeable and solid sections layered with hedge planting as seen in the right image below.

If a solid fence is unavoidable, a higher quality and more refined outcome that delivers a degree of visual connectivity and engagement should be achieved. For example, the architects may wish to investigate hit-and-miss brickwork for the western half of the frontage or even its entirety, see the example in the left image below. This would give them greater control over the open sections of the perimeter wall targeting building

interiors where privacy is least required. The perimeter wall can gradually change along the street frontage to have increased permeability and may be lower or disappear altogether around the publicly accessible areas of the Whitty House and community garden. Again, this matter can be addressed in a permit condition.



Planner's comments:

Subject to implementation of the modifications set out in the applicant's 2 September 2021 submission and other recommended permit conditions, officers have formed the view the proposal responds in a positive manner to all applicable policy objectives and achieves an exemplary design outcome warranting support.

GOVERNANCE ISSUES

The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights contained in the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

The officers responsible for this report have no general or material conflicts of interest requiring disclosure.

The report to Council and any decision arising of Council will be made available on Council's website and by inspection at the Council Offices in accordance with the requirements in the *Local Government Act 2020*, Council's Governance Rules and Public Transparency Policy.

CONSIDERATIONS

In assessing this application, consideration has been given to the following:

- The objectives of planning in Victoria as detailed in Section 4 of the *Planning & Environment Act 1987*;
- Section 60 of the *Planning & Environment Act 1987*;

- The relevant provisions and decision guidelines of the Boroondara Planning Scheme including the decision guidelines of Clause 65;
- The comments of the Head, Transport for Victoria, in their capacity as a determining referral authority;
- The objections received.

This proposal does not raise any significant adverse social or economic impacts. General social and economic impacts are addressed by the planning policy assessment below.

PLANNER'S ASSESSMENT

STRATEGIC CONTEXT

The subject site is strategically placed to provide additional and diverse housing, as sought by the Boroondara Planning Scheme. The site is an anomalously large land holding, substantially zoned General Residential Zone Schedule 4 (GRZ4)¹⁶. In addition to implementing the Municipal Planning Strategy and Planning Policy Framework, the purpose of the zone relevantly includes:

- *To encourage development that respects the neighbourhood character of the area.*
- *To encourage diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The GRZ4 is used sparingly in Boroondara, applied to 'super-sized' lots and to residentially-zoned land located within the perimeter of activity centres. These 'super-sized' lots are typically occupied by institutional uses or aged care facilities, and as a consequence, display built form which differs from that of surrounding residential areas. This is the case with the subject site, which was most recently occupied by a school and contains large-format institutional buildings that are discordant with local residential form and architectural styles.

Policies within both the State and Local planning policy frameworks seek to increase residential densities within the established urban area, particularly in well-serviced locations, to accommodate population growth and make greater and more efficient use of existing infrastructure and services. Other policies promote the provision of diverse and affordable housing to cater for varying households, in response to issues such as

¹⁶ No. 6 Studley Park Rd is zoned NRZ3, however none of the new multi-level buildings or the basement car park would be located within its boundaries. It is the view of officers that the modest, single storey connection proposed between the rear of Whitty House and the former stables is consistent with the objectives of the NRZ and other relevant policies and decision guidelines.

an aging population and a desire to 'age in place'. The current proposal is consistent with these policies. The proximity of the site to the periphery of the Kew Junction Major Activity Centre is also a relevant consideration in support of the proposal, given there is policy support for increased densities both within and around activity centres¹⁷.

Clause 15 details State and Regional policy for the built environment. An objective is to *"create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity"*. Strategies related to this objective refer to promoting good urban design and requiring development to respond to its context in terms of urban character. A further objective is to achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.

The Planning Policy Framework (PPF) provides support for increased housing in established areas, but also requires that new development respects both heritage and the character of the neighbourhood. Clause 21.05 (Housing) sets out a framework of housing change expectations in Boroondara according to zones and zone schedules. Expected outcomes for the GRZ4 in Table 1 of this clause include to *"Support development at greater density and height than the surrounding area and precinct, while maintaining amenity and character."* Objective 1 of Clause 21.05-1 (Residential development) seeks to facilitate development in accordance with Boroondara's Housing Framework.

One of the key issues identified in Clause 21.05-2 (Housing diversity) is Boroondara's aging population, declining household sizes and increased demand for smaller dwelling and lot sizes. Objective 2 seeks a diverse range of housing types, whilst protecting preferred character and residential amenity. A retirement village containing a variety of apartment sizes and configurations is consistent with the outcomes sought by policy.

The GRZ also seeks to encourage development which respects the neighbourhood character of the area. Clauses 15.03 (Heritage) and 21.04-5 (Heritage conservation) seek to preserve and enhance identified heritage places and to ensure new development respects places with identified heritage significance. The objective of Clause 21.04-5 is to identify and protect all individual places, objects and precincts of cultural, aboriginal, urban and landscape significance. This will be achieved through:

- *Conserve and enhance individual heritage places and precincts, and aboriginal and cultural features.*
- *Require development to respect and enhance heritage buildings and precincts.*

¹⁷ E.g. the concept of "20 minute neighbourhoods", at Clause 16.01-1R (Housing supply - Metropolitan Melbourne)

Those parts of the planning unit containing Whitty House, Esmonde House and Plumstead House are identified as being of “significant” heritage value in the Boroondara Schedule of Gradings Map, which is a reference document at Clause 22.03 (Heritage Policy) and are located within HO143 (Barry Street Precinct, Kew). The Statement of Significance for HO143 is:

Barry Street Precinct, Kew, is an area of heritage significance for the following reasons:

- *The place has an unusual concentration of highly graded buildings, many of which were designed by prominent Melbourne architects.*
- *The area is one of Melbourne’s best concentrations of large late Victorian and Federation house designs, in varied materials and often ably utilising the topography of the area. The precinct also has a number of distinctive designs of the interwar period.*
- *The eastern area of the precinct has some more modest dwellings on smaller blocks, including substantially intact development from the late nineteenth and early twentieth centuries.*
- *Many of the streets are marked by original basalt kerbing and grading, and the area features mature gardens and street trees.*

The three “significant” heritage places are proposed to be retained and will undergo some minor demolition works, which Council’s Heritage Advisor notes will have “a positive heritage impact”. The remaining buildings to be demolished are either “non-contributory” or not located within the Heritage Overlay.

Council’s Neighbourhood Character Policy, at Clause 22.05-2, seeks to “ensure new development retains and enhances the key character attributes that contribute to a precinct’s preferred character.” However, within the GRZ4 specifically, the policy seeks to “allow for development to occur at greater height and density than the surrounding area without detrimentally impacting on the preferred character of the precinct.” Policy to achieve this outcome is set out at Clause 22.05-7 (for land within the GRZ4):

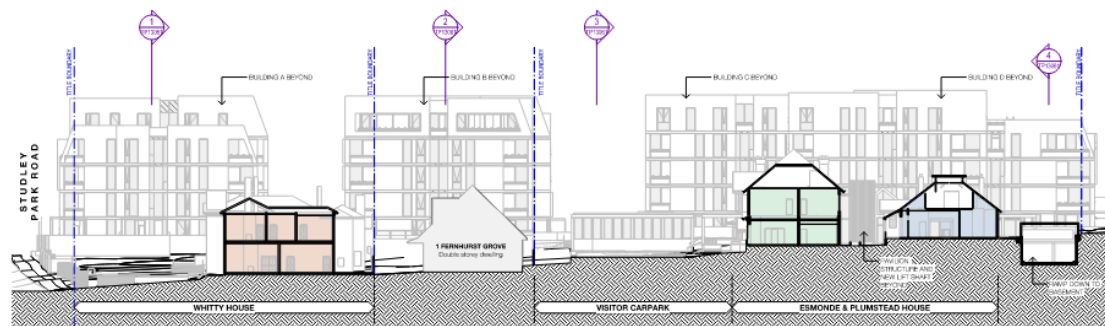
- *Ensure development around the perimeter of ‘super-sized lots’ is consistent with and reinforces the precinct’s preferred character.*
- *Support increased building heights within a site where it can be demonstrated that the increased height will not adversely impact the precinct’s preferred character.*
- *Ensure the provision of landscaped setbacks around the perimeter.*

- *Ensure the retention of any existing significant or established trees on site.*

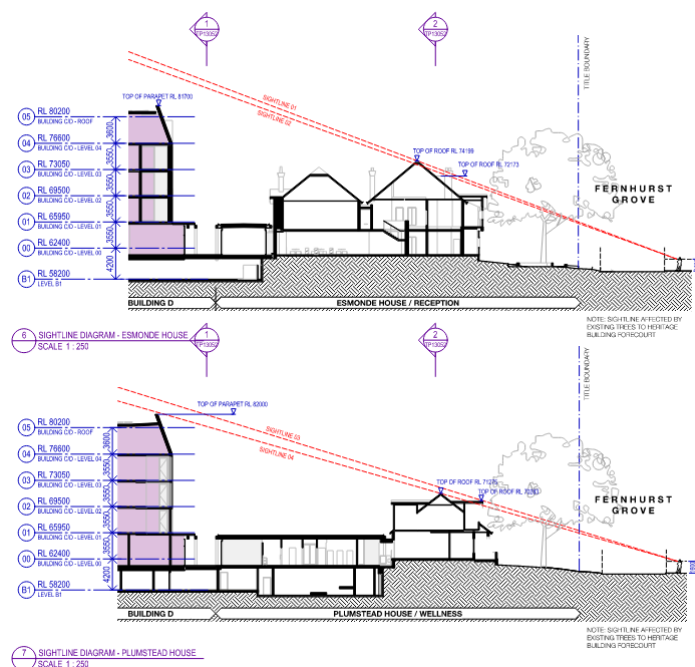
One of the key issues raised by objectors is the impact of the new buildings on the significance of the Barry Street precinct, and in-particular, on the “significant” graded buildings located on the site and in the surrounding area. Subject to the recommended permit conditions, Council’s Heritage Advisor concludes *“the proposal will result in a positive heritage conservation work to three highly significant buildings, while also providing an active new use to ensure that the public can engage with the buildings and that they are conserved in the longer term”* and that *“effort has been made to clearly separate these structures [the four new buildings] from the three heritage buildings and to provide low-scale connections between the old and new. Based on the 3D renders provided, the views and settings of the three heritage buildings will not be adversely impacted by the higher density development.”* Some objectors have also alleged the 3D renders inaccurately depict the height of the new buildings relative to the height of the retained heritage buildings. It is the professional view of officers, including Council’s Heritage Advisor and Urban Designer, that the submitted renders provide an accurate and reasonable depiction of the proposal in the context of existing buildings to be retained.

Officers do not find there is any inherent conflict between the objectives of the HO and the GRZ4 in this instance, as the new buildings are substantially located on land not affected by the Heritage Overlay and are well separated from the Fernhurst Grove streetscape.

In elevation-form, the scale relationship between the heritage buildings and the new appears stark, however sightline diagrams demonstrate the new buildings are sufficiently set back so they will not be visible above the roof ridge of the retained buildings when viewed from Fernhurst Grove. The new buildings will be visible from Fernhurst Grove in the spaces between the retained buildings, however it is noted that Buildings B and D are set back from the Fernhurst Grove title boundary a minimum of 62m and 55m, respectively, and all of the new buildings are well-spaced apart, providing view-lines between the new buildings, so will not be dominating. Furthermore, any views will be filtered by the retained mature canopy trees and proposed new landscaping.



Above: Extract of cross-section through the heritage buildings, with the new buildings behind



Above: Sightline diagrams for Building D, behind Esmond House (top) and Plumstead House (bottom)

Concerns have been raised by objectors that the development does not comply with the mandatory maximum building height requirements set out in the GRZ, at Clause 32.08-10, which requires that dwellings and residential buildings must not exceed 11.0m in height and must contain no more than 3-storeys at any point. These requirements do not apply to the current proposal, because a retirement village is not a dwelling or a residential building (as defined at Clause 73.03 of the Boroondara Planning Scheme). Furthermore, it is relevant to reiterate the point, Council created the GRZ4 and the

related policy guidance at Clause 22.05 (Neighbourhood Character Policy) specifically to circumvent a mandatory maximum height and density control that applied to the NRZ at the time the new-format zones were implemented¹⁸ as it was identified that such an outcome on selected anomalously large sites would be an absurdity and would deliver outcomes contrary to broader State and Regional planning policies.

Clause 21.05-3 describes discretionary uses as providing a useful supporting role for residential areas. However, they have the potential to create amenity impacts on surrounding residential areas if the built form and use is not appropriately managed.

Clause 21.05-3 sets out the following objective:

- *To ensure proper integration of appropriate discretionary uses into residential areas.*

The above objective will be achieved through the following strategies:

- *Support discretionary uses being established on main roads in residential areas.*
- *Minimise the impact of non-residential uses on their surrounding areas.*

An assessment against Clause 22.02 (Discretionary uses and development in residential areas policy) is undertaken later in this report.

Use of the land for a retirement village and a cafe

Permission is required under both the GRZ and NRZ to use the land for a retirement village and cafe. It is considered a retirement village is clearly compatible with the broadly residential area in which the site is located.

The café is proposed to occupy the former stable at Whitty House, together with a new terrace and single storey structure described by the architect as an annex, which is to be constructed connecting the house with the stable. The café is adjacent to the southern boundary of No. 1 Fernhurst Grove, but is oriented internally into the site and contains no publicly accessible areas adjacent to the neighbouring property. The applicant states, *“the café has been strategically placed in a prominent location in the corner of the site so that it is visible, and will draw the local community into the site to allow them to benefit from the celebration of the heritage significance.”*¹⁹ The applicant further states the proposed hours of operation of the café were not known at the time of making the planning application, but advised they were expected to not exceed the recommended hours of operation recommended for cafes in Council’s Discretionary

¹⁸ Amendment C190 widely applied the NRZ3 to residential areas within Boroondara. At the time of gazettal, on 19 June 2014, the NRZ3 included a mandatory maximum height of 8.0m for dwellings and residential buildings (Clause 32.09-8) and a mandatory maximum of two dwellings on a lot, irrespective of the lot size (Clause 32.09-3).

¹⁹ Page 28, Town Planning Report, dated 24 May 2021, prepared by Human Habitats.

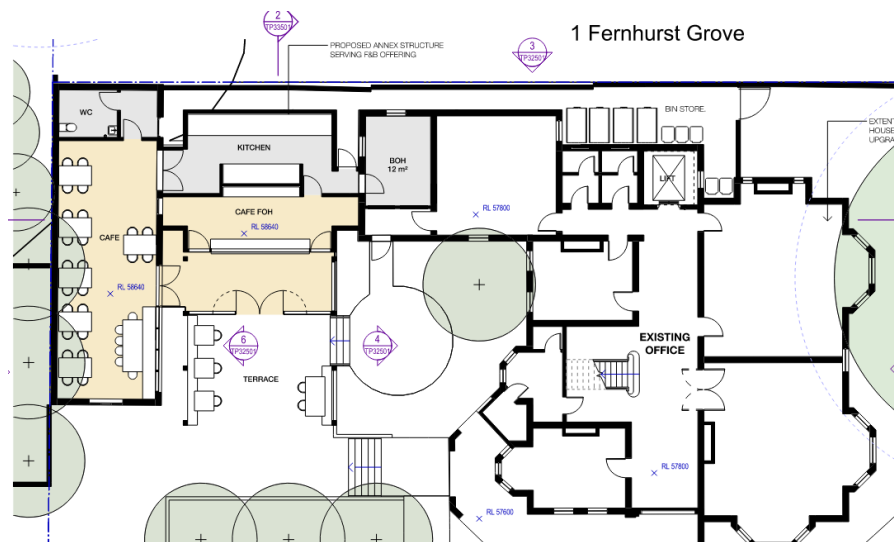
Uses and Development in Residential Areas Policy and can be regulated by permit conditions. An assessment against the requirements of that policy follows.

The Schedule to the Heritage Overlay prescribes No. 6 Studley Park Road (Whitty House) as a property where prohibited uses may be considered. Although the proposed café use does not seek to rely on this provision (as it is a 'permit-required' use, rather than a prohibited use), it is relevant to note the planning scheme prioritises conservation of this particular heritage place over external amenity impacts in certain circumstances.

The café will be substantially sited within the former stable and the new annex. The proposed terrace is located on the southern side, away from No. 1 Fernhurst Grove and is shown on the plans to be roofed. The roof will provide an appropriate acoustic buffer to protect the neighbour's amenity.



Above: (L-R) The stable and Whitty House, looking north towards No. 1 Fernhurst Gve. The café will occupy the stable and a new single storey annex which will connect the house with the stable



Above: The proposed layout of the café at Whitty House

Internal Amenity

The proposed retirement apartments are considered to be provided with very high levels of internal amenity. Officers have formed this view based on a number of considerations, including:

- The inclusion of two large, high-quality, communal landscaped spaces which will each receive excellent solar access;
- The communal spaces provide an outlook for apartments in all four buildings;
- The inclusion of a range of recreational and faith facilities, including a library, swimming pool, café, community garden, gym, chapel, cinema, virtual golf and cellar;
- The retention of a number of significant and mature trees, providing outlook, shade and a location for quiet enjoyment of the outdoors
- All apartments are provided with functional layouts, including appropriately sized bedrooms, living areas and terraces/balconies;
- A range of apartment sizes, providing housing diversity;
- 74 of 108 apartments (68.5%) are designed to provide cross-ventilation;
- 100% of the apartments are designed to meet the needs of people with limited mobility, including through the provision of an adaptable bathroom and sufficient circulation space through the apartments.

Clause 22.02 - Discretionary Uses and Development in Residential Areas Policy

The Municipal Strategic Statement (Clause 21.05-3) recognises that within residential zones there is a range of non-residential uses for which a permit can be sought (known as 'discretionary uses'). The MSS acknowledges that these uses have a place in residential areas, but if not managed appropriately, can negatively affect the amenity and character of residential areas.

Clause 22.02-2 sets out the following objectives:

- *To minimise adverse amenity impacts from non-residential uses on surrounding residential properties.*
- *To ensure that development associated with discretionary uses respect the established neighbourhood character and contribute to achieving the area's preferred character as outlined in the Neighbourhood Character Precinct Statements 2013.*

Clause 22.02-3 states that it is policy to:

Location

- *Avoid the creation of clusters of non-residential activity in residential areas, other than as described in this policy.*
- *Consider clustering of medical and associated uses along main roads (Road Zone) if adjoining other medical facilities.*
- *Encourage new non-residential uses to locate on sites previously used or developed for non-residential purposes as opposed to sites most recently used for residential purposes.*
- *Encourage non-residential uses to locate on main roads (Road Zone).*
- *Encourage non-residential uses to locate on the periphery of existing commercial or shopping centres.*
- *Discourage non-residential uses that generate high levels of noise from locating in attached or semi-detached buildings.*

Planner's Comments:

The land is currently used for a school, a respite care facility and offices. Rather than 'boundary creeping', the proposal seeks to return the land to a predominantly residential use. There is no change proposed to the existing office use. The introduction of a modest café is considered to be complementary to the retirement village. The use of Whitty House and the re-purposing of the stable for the café is consistent with the intention of the Schedule to the Heritage Overlay, which enables consideration of otherwise prohibited land uses (which would seemingly otherwise be incompatible with residential amenity) to facilitate conservation and restoration of the building and

prolonging its meaningful contribution to the fabric of the area. The café is oriented towards Studley Park Road, a main road.

The existing and proposed buildings on the land are free-standing. The café will be primarily located within an enclosed building. Where outdoor seating is proposed, it too is enclosed on three sides, and roofed, which will protect the amenity of No. 1 Fernhurst Grove.

Layout and design

- *Encourage non-residential uses to re-use existing dwellings where possible to maintain the preferred neighbourhood character.*
- *Ensure new buildings and alterations to existing buildings respect and contribute positively to the preferred character statement listed in the relevant Neighbourhood Character Precinct Statement and integrate with the streetscape and surrounding area in terms of height, setbacks and design detail.*
- *Discourage non-residential development with an overall height above 9 metres in the Neighbourhood Residential Zone 3, above 9 metres in the General Residential Zone 1, above 10.5 metres in the General Residential Zone 2 and 3 and above 13.5 metres in the Residential Growth Zone.*
- *Ensure that the scale of built form around the perimeter of 'super-sized lots' located in the General Residential Zone 4 is consistent with the prevailing streetscape scale and the scale of adjacent development.*
- *Ensure waste storage areas are screened from view from the public realm.*
- *Ensure waste storage areas are located away from adjoining private open space and habitable room windows of dwellings.*
- *Ensure waste storage areas are located away from adjoining public open space.*
- *Ensure car parking areas are sited to minimise their impact on the amenity of adjoining residential properties.*

Planner's Comments:

The proposed retirement village retains and repurposes four "significant" heritage buildings on the land, including substantial restoration works to the front façade of Esmonde House. This means the residential streetscape in Fernhurst Grove will remain wholly intact. The new building insertions in this streetscape are generally confined to new fencing, the substation, a basement access ramp and porte cochere. The new multi-storey buildings are sited behind the retained dwellings, with sightline diagrams demonstrating they will not be visible above the roof ridge of the retained buildings.

Council's Urban Designer and Heritage Advisor have made various recommendations in relation to the basement ramp, fence design and the materiality of the substation. Their advice is reflected in the recommended permit conditions. The porte cochere is setback 40.4m from the Fernhurst Grove boundary, is single storey and is sited on part of the land already used for at-grade car parking. The southern edge of the structure is setback approximately 4.9m from the northern boundary of No. 1 Fernhurst Grove, enabling the retention of tree Nos. 45 and 46 (20m and 15m high Lemon Scented Gums).

Car parking and waste facilities will be relocated from being at-grade and visible from the public realm, to contained within a basement, minimising their impact on the amenity of adjoining and nearby residential properties. The exception to this is at Whitty House, where waste facilities for the café are located at-grade, adjacent to the common boundary with No. 1 Fernhurst Grove. The recommended permit conditions require the café waste storage area to be relocated away from the neighbouring residential property, or otherwise enclosed, to protect its amenity. Where at-grade parking is provided, it is in locations on the land where it currently exists (i.e. the Whitty House forecourt and south of Esmonde House), however these areas will be improved by proposed landscaping works.

Building A is the only new building to have a significant interface with the public realm, sited adjacent to the approx. 130m long Studley Park Road frontage. Council's Urban Designer has expressed concern with the poor transition in scale between Building A and No. 2 Banool Road, to its west. In response, the architect has prepared sketch plans demonstrating how Levels 3 and 4 of the building can be modified, by decreasing the floor area in the south-west corner, to provide an improved transition. Council's Urban Designer has reviewed the sketches and advises the suggested modifications achieve a *"considerable erosion of the mass and the stepped profile at the south western corner"*, stating, *"the applicant is commended for adopting the most conservative option... this will dramatically alter Building A, improve its presence within Studley Park Road and deliver a gentler and more considerate scale transition to the adjoining western neighbor No. 2 Banool Avenue."* The recommended permit conditions implement the modifications to Building A, supported by Council's Urban Designer.

Given its huge size and close proximity to Kew Junction, one property removed to its east, the site is a transitional space between the multi-storey commercial buildings in the junction and the lower-scale residential hinterland to the north and west. This is reflected in its recent history as being used for non-residential purposes. These factors enable officers to support the proposed 5-storey building scale adjacent to the main road frontage.



Above: The Studley Park Road streetscape, which includes an 8-storey commercial building two properties to the east of the site

Subject to the recommended revisions to create an improved scale transition to No. 2 Banool Avenue, the scale of the buildings along this southern site perimeter is considered to be *“consistent with the prevailing streetscape scale.”*

Landscaping

- *Ensure sites are landscaped to integrate with the landscape character of the streetscape and to minimise the effect of the development on adjoining and nearby residential properties.*
- *Ensure landscaping is provided along boundaries abutting residential properties.*

Planner's Comments:

Council's Arborists have advised Local Law permits can be granted for the tree removal sought, with the exception of Tree No. 49 (Weeping Lilly Pilly, adjacent to the Fernhurst Grove frontage) which is required to be retained. The applicant has indicated it can modify the proposed substation, by making it smaller, to allow for the retention of the tree. This modification is supported by the Arborists and Council's Urban Designer. As a consequence, 27 trees throughout the site are proposed to be retained, including a number of large and very large trees (eight trees between 11m-15m in height²⁰, 10 trees between 16m-20m²¹ and four trees in excess of 21m in height²²).

The site has abutments shared with residential properties along the length of its western boundary and part of its northern boundary, in addition to the abuttal on three sides to No. 1 Fernhurst Grove.

²⁰ Tree No. 1 - 11m, Tree No. 5 - 14m, Tree No. 9 - 11m, Tree No. 11 - 13m, Tree No. 14 - 14m, Tree No. 46 - 15m, Tree No. 140 - 14m and Tree No. 143 - 11m.

²¹ Tree No. 3 - 18m, Tree No. 12 - 17m, Tree No. 13 - 19m, Tree No. 42 - 17m, Tree No. 45 - 20m, Tree No. 47 - 16m, Tree No. 48 - 16m, Tree No. 49 - 16m, Tree No. 142 - 17m and Tree No. 145 - 16m.

²² Tree No. 2 - 23m, Tree No. 17 - 28m, Tree No. 34 - 21m and Tree No. 44 - 24m.

The basement car park is proposed to extend close to the title boundaries, preserving a deep soil planting zone in the order of 1.0m - 1.4m along its western edge and 1.0m - 1.2m along its northern edges, with larger setbacks provided at key locations (such as an area of 8.6m x 15.3m adjacent to No. 8 Banool Avenue, to enable retention of Tree No. 34 and at the north-west corners of the site). This is proposed to be supported by on-deck planting (i.e. in planter boxes) between the buildings.

Retain all existing high value trees, and moderate and low value trees where possible, and supplement the existing canopy with new tree plantings for future generations.



Above: Extract from the advertised Landscape Report

The Landscape Report states 113 medium-large trees are proposed to be planted throughout the site, in natural ground, together with a further 38 small-medium trees proposed to be planted throughout the site on structure, for a total of 151 new trees. This ensures the 47 trees proposed for removal are to be replaced at a ratio of 3:1. Notwithstanding this, both Council's Arborist and Urban Designer have indicated the project would benefit from select key locations being provided with wider areas of deep soil, to support new canopy tree planting. The architect has prepared sketch plans demonstrating the Basement and Ground Floor plans can be modified to accommodate 4m x 4m cutouts in the south-west and north-west corners of the site. This is consistent with the recommendation of Council's Urban Designer and is implemented via the recommended permit conditions.

Adjacent to No. 1 Fernhurst Grove, the physical context will arguably remain substantially consistent with the existing conditions adjacent to that dwellings' northern and southern boundaries. As is observed in photos of the rear yard of No. 1 Fernhurst Grove, the dwelling borrows from the landscape amenity of the subject site and the landscape character of tree Nos. 42 (Dutch Elm), 44, 45 and 46 (Lemon Scented Gums). From a landscape perspective, subject to the recommended permit conditions, all of the existing trees adjacent to the boundaries shared with No. 1 Fernhurst Grove are to be retained. These consist of tree Nos. 3, 42, 44, 45, 46, 47, 48 and 49, which range in height between 15m - 24m and create a dense, continuous canopy that wraps around the north-west corner of the rear yard. Retention of these trees ensures the landscape setting around the residential property will be preserved.



Above: The rear yard of No. 1 Fernhurst Gve, with Tree Nos. 17, 42, 44 and 45 which are all to be retained



Above: The view towards the subject site from No. 1 Fernhurst Gve when the Dutch Elm (Tree 42) is in full-leaf

Concerns have been raised by some residents in Elphinstone Court that existing vegetation along the common boundary with their properties is not proposed to be retained. However the trees on this part of the site are far smaller and scrappier than those found elsewhere in the site - there are no specimen or high-value canopy trees warranting retention.



Above: Existing vegetation in the north-west corner of the site, adjacent to the boundaries of Nos. 1 and 2 Elphinstone Ct, including Tree No. 103 which requires Local Law approval for its removal (supported by Council's Arborist)



Above: Existing trees along the northern and north-western boundary of the site, adjacent to the abuttal with No. 2 Elphinstone Ct. None of these trees require Local Law approval for their removal

The submitted Landscape Report proposes Weeping Lilly Pilly and Dwarf Lemon Scented Gums as specimen canopy trees in key locations along the northern and western boundaries. These trees are capable of growing to 15m and 10m, respectively, and will be supplemented by Golden Rain trees and Persian Silk trees, which grow to 8m and 5m, respectively, to provide a densely planted, deep soil, vegetated perimeter. The Landscape Report suggests the proposed planting, together with proposed tree retention, will achieve 44%+ canopy cover over outdoor spaces within the site within 10 years. It is considered the proposed holistic approach to landscaping throughout the site will ultimately deliver a superior outcome, consistent with the architects' stated vision for the development of creating "*a village in a garden setting shaped by existing and new tree planting*"²³ more so than if the existing vegetation along the northern interface were to be retained for the sake of preserving the current outlook. This is particularly so as the retirement village owners will engage a landscape contractor to maintain the landscape setting, ensuring it thrives.

Traffic and Car Parking

- *Limit the number of vehicle crossovers to one, unless more than one access point is required for the safe, convenient and efficient movements of vehicles.*
- *Minimise traffic movements and congestion in residential streets.*
- *Encourage car parking to be located to the side or rear of buildings instead of within front setbacks.*
- *Ensure car parking and access ways are designed to allow entry and exit from the site in a forwards direction where access ways are more than 10 metres long.*
- *Ensure that deliveries and unloading occurs between 7am and 8pm on weekdays, and 8am and 5pm on Saturdays and Sundays.*

Planner's Comments:

There are currently four vehicle access points to the land comprising the planning unit, one accessway to Studley Park Road and three to Fernhurst Grove (one servicing Whitty House a second servicing Esmonde House and a third servicing Plumstead House). The proposal does not seek to increase the number of access points. Instead, it seeks modest alterations to their location or width (with the exception of the Fernhurst Grove crossing into Whitty House, which is not proposed to be altered). Subject to the recommended conditions required by the Head, Transport for Victoria (formerly known as VicRoads) the proposed access points will enable the safe, convenient and efficient movement of vehicles.

²³ Precinct Design Principle No. 1, page 28, Planning Application Report, dated 6 April 2021, prepared by Woods Bagot Architect.

The various proposed uses are estimated to generate in the order of 342 vehicle movements per day, inclusive of 36 vehicle movements during the AM and PM peak hours. The applicant's Traffic Engineer estimates the existing uses (school, respite care and offices²⁴) would have generated *"significantly more peak hour trips"*²⁵ than the proposed uses, but would have generated *"a similar level of total trips over the course of the day"*. This means the nature of vehicle movements to and from the site will change significantly as a consequence of the proposal, leading them to be more spread out over the course of the day, as opposed to the large number of staff/student trips which were concentrated during the commuter peak. Therefore the proposal is considered to have lower amenity impacts and a lesser impact on the local and nearby road network. Council's Traffic Engineers have formed the view *"this level of traffic generation can be accommodated within the surrounding road network without significant impact."*

Car parking facilities are primarily to be located within a new basement. Where at-grade parking is proposed, it reproduces an existing condition.

All car spaces and accessways are designed to allow vehicles to enter and exit the site in a forwards direction.

The recommended permit conditions restrict deliveries and unloading to occur between 7am and 8pm on weekdays, and 8am and 5pm on Saturdays and Sundays, consistent with the requirements of the policy.

Residential Amenity

- *Minimise adverse impacts on residential amenity, including noise, emissions, odours, dust and light spillage.*
- *Ensure private waste collection occurs between 7am and 8pm Monday to Friday only.*
- *Discourage external amplified music that would cause a nuisance to surrounding residential properties.*
- *Ensure new buildings or extensions to existing buildings comply with the following siting and amenity standards of ResCode as specified at Clause 54 or in the schedule to the relevant residential zone:*
 - *Standard A12 (Daylight to existing windows)*
 - *Standard A13 (North facing windows)*
 - *Standard A14 (Overshadowing open space)*

²⁴ Which are understood to have consisted of 60 school students, 15 clients, 7 residents and 134 staff of all descriptions.

²⁵ Supplementary traffic advice, by email, 21 September 2021, via Human Habitats.

- *Encourage the provision of noise attenuation barriers along side or rear boundaries where abutting residential properties.*

Planner's Comments:

Private waste collection for the retirement village is proposed to be undertaken within the basement car park, using a mini rear-loader vehicle. Waste collection for the offices and café in Whitty House are proposed to occur on-street, on Fernhurst Grove. The recommended permit conditions regulate waste collection hours, including incorporating the advice of Council's Traffic Engineers that waste collection should be scheduled to occur outside the commuter peak hours. The proposed Waste Management Plan is supported by Council's Waste Services Officer, subject to a modification relating to the FOGO waste stream.

It is conceivable the café at Whitty House may wish to play amplified music in its interior and outdoor terrace. In some circumstances, the broadcast of music does not directly cause a nuisance, it is the resultant need to speak at higher volumes to be heard over the broadcast which can lead to adverse amenity impacts. The recommended permit conditions require any music played or broadcast in the outdoor terrace to be played as background music, at a volume that will allow for patrons to comfortably hold a conversation without significant effort to raise their voice.

As a residential use, it would not be appropriate to impose conditions restricting the hours of operation of the retirement village. However, the recommended permit conditions regulate the hours of operation of the café, in satisfaction of the performance criteria set out in Table 1 of the policy.

The site has direct abutments with four residential properties along its northern boundary, seven along its western boundary and one along its eastern boundary. To follow is an assessment against Standard A12 and A14 (Standard A13 is not applicable in this instance). Although not required by the policy, an assessment against the requirements of Standard B17 (Side and rear setbacks) is also provided, as a guide to gauge the appropriateness of the proposed setbacks.

Standard A12 - Daylight to Existing Windows

All of the proposed buildings are sufficiently set back from the common boundaries to maintain adequate daylight to existing neighbouring windows.

Building A has an interface with Nos. 2 and 4 Banool Avenue. Of these, the dwelling at No. 4 Banool Avenue is sited closest to the common boundary with the site, with a setback of 7m. With a maximum external wall height of 14.12m on its west elevation, Building A is required to provide a minimum separation distance, clear to the sky, of

7.06m between the west elevation of the building and the east-facing windows of No. 4 Banool Road (i.e. inclusive of the setback on the adjacent property). A minimum separation distance of 16.4m is provided. The separation distance is even larger to No. 2 Banool Avenue.

Building B has an interface with Nos. 6 and 8 Banool Avenue to its west, and No. 1 Fernhurst Grove to its east. The Banool Avenue dwellings are set back in the order of 7.4m and 7.3m, respectively, from the common boundary with the site. Building B has a maximum external wall height of 13.09m, which requires a minimum separation distance clear to the sky of 6.55m. Separation distances of 19.29m and 19.39m are achieved.

The dwelling at No. 1 Fernhurst Grove is set back approximately 10.7m from the common boundary. With an external wall height of 14.32m on its east elevation, Building B is required to achieve a minimum separation clear to the sky of 7.16m. A separation distance of 23.29m is achieved.

Building C has an interface with Nos. 10 and 12 Banool Avenue to its west, and Nos. 2 and 3 Elphinstone Court to its north. The Banool Avenue dwellings are set back 8.5m and 2.4m from the common boundary, respectively. With a maximum external wall height of 11.84m on its west elevation, Building C is required to achieve a minimum separation clear to the sky of 5.92m. Minimum separation distances of 17.26m and 11.16m are achieved, respectively.

The dwellings at Nos. 2 and 3 Elphinstone Court are set back a minimum of 1.58m and 7.46m from the common boundary with the site, respectively. With a maximum external wall height of 12.81m where it is adjacent to No. 2 Elphinstone Court and a height of 11.73m where it is adjacent to No. 3 Elphinstone Court, Building C is required to achieve a minimum separation clear to the sky of 6.4m / 5.87m. Minimum separation distances of 8.99m and 14.87m are achieved, respectively.

Building D has an interface with No. 1 Elphinstone Court and No. 5 Stawell Street on its north, and with No. 2 Elphinstone Court on its west. The southern facades of No. 1 Elphinstone Court and No. 5 Stawell Street are set back a minimum of 2.94m and 18.84m from the common boundary with the subject site, respectively. With a maximum external wall height of 8.8m, a minimum separation distance of 4.4m clear to the sky is required. A minimum separation distance of 10.54m and 26.44m are achieved, respectively.

The eastern façade of the dwelling at No. 2 Elphinstone Court has a minimum setback of 1.04m clear to the sky from the common boundary with the subject site. With a maximum external wall height of 13.17m on its west elevation, Building D is required to achieve a minimum separation distance clear to the sky of 6.59m. A minimum separation distance of 8.88m is achieved.

Therefore, the development is fully compliant with Standard A12 and officers are satisfied the development will not unreasonably decrease daylight to existing neighbouring windows.

Standard A14 - Overshadowing open space

Shadow diagrams prepared for the application indicate the development would increase the extent and duration of shadows cast over the rear secluded private open space (SPOS) of the dwellings at Nos. 2, 4, 6, 8 and 10 Banool Avenue and No. 2 Elphinstone Court, at 9am at the September Equinox. By 10am at the Equinox, the development would no longer cast shadow over these properties. The proposed extent and duration of overshadowing of these dwellings complies with Standard A14, because each dwelling will retain a minimum of 40sqm of SPOS with solar access for a minimum of five hours, between 9am - 3pm at the Equinox. It is noted that as a consequence of the recommended modifications to the height of Building A in its south-west corner, the extent of overshadowing over No. 2 Banool Avenue at 9am will decrease from that shown on the advertised plans.

The submitted shadow diagrams indicate the development will cast shadow over the SPOS of No. 1 Fernhurst Grove, at 3pm at the September Equinox. The extent and duration of shadows cast by the development complies with Standard A14, because the dwelling retains solar access to a minimum of 40sqm at each hour between 9am and 3pm, at the Equinox.

Therefore, with regard to all interfaces, the proposed extent and duration of shadows cast by the proposal fully complies with Standard A14.

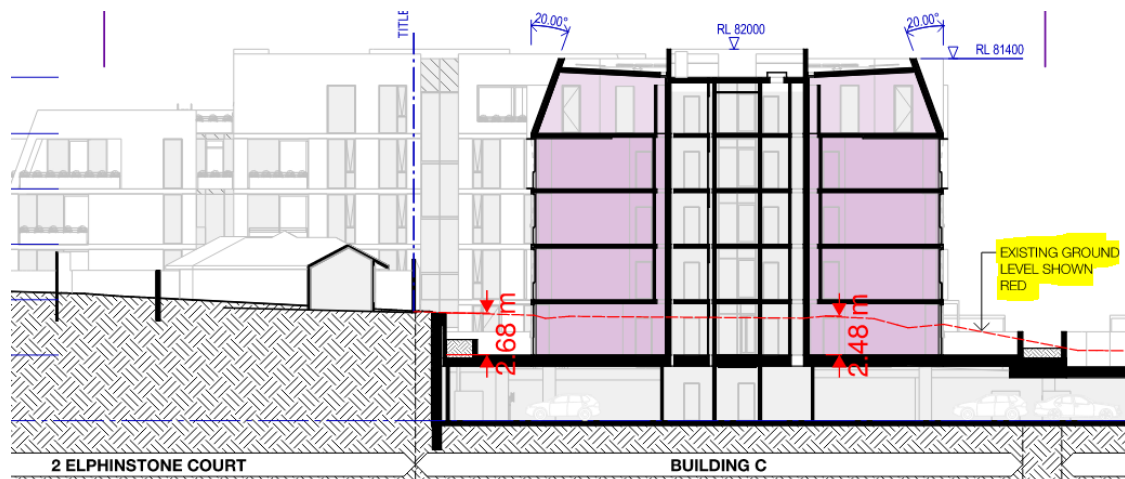
Standard B17 - Side and rear setbacks

In terms of visual bulk, some objectors have indicated that the existing institutional buildings on the land are only single storey and are themselves currently quite visible from their properties - particularly from those properties that are somewhat elevated compared with the subject site. Standard B17 of Clause 55.04-1 addresses side and rear setbacks. The standard does not apply to the assessment of this application, because a 'retirement village' is not a 'dwelling' or 'residential building', however the standard and its associated objective and decision guidelines provide a useful guide for determining whether the buildings will be unreasonably dominant in views from the neighbouring properties.

It is noted that at the rear of the site, Buildings C and D will be cut into the site by between 2.15m - 2.68m below natural ground level²⁶ (NGL). This effectively reduces the

²⁶ Ground level is defined by Clause 73.01 as meaning "the natural level of a site at any point".

height of the proposed building, relative to a vantage point on the northern neighbouring properties.



Above: An annotated extract of the North-South cross-section through Building C, showing the building will be cut into the natural ground level by up to 2.68m

This is relevant because for the purposes of a Standard B17 assessment, external wall height is measured from natural ground level (i.e. from existing ground level).

It is accepted the proposal will be visible from the rear of adjacent properties. However, officers have formed the view that the proposed built form is an acceptable response to these interfaces. The buildings are well setback and generously spaced apart from one another, include a high degree of articulation and mass-modulation and are to be constructed using attractive, durable external materials. The landscape plan proposes 151 new tree plantings, including 113 medium-large trees to be planted in natural ground, as part of a thoughtful and well-considered landscape response.

Buildings A, B, C and D will be variously be visible from properties along Banool Avenue, Elphinstone Court and Stawell Street. In most instances, the proposed setbacks, articulation and landscaping proposed will combine to provide an acceptable outcome. However, the following setbacks do not satisfy Standard B17, will be clearly visible from adjacent valued areas of SPOS and are considered to be inadequate:

- Building A: Level 4 setback from the western boundary (occupied by Apartments A.04.01 and A.04.02);
- Building C: Level 3 setback from the northern boundary (that part adjacent to the central courtyard of No. 2 Elphinstone Ct, occupied by Apartment C.03.04);
- Building C: Level 4 setback from the northern boundary (that part adjacent to the central courtyard of No. 2 Elphinstone Ct, occupied by Apartment C.04.02);

- Building D: Level 3 setback from the western boundary (that part adjacent to the northern SPOS of No. 2 Elphinstone Ct, occupied by Apartment D.03.04);
- Building D: Level 3 setback from the northern boundary (occupied by Apartments D.03.04 and D.03.05).

The recommended planning permit conditions address these areas of the buildings. Standard B17 is a variable setback to wall height ratio. The setback requirement increases as the building height increases. The recommended permit conditions require the architect to address officers' concerns by increasing the building setbacks in the nominated locations, or decreasing the buildings' heights, or a combination of the two to the extent necessary to achieve compliance with the Standard.

It is noted the applicant has already provided their consent to a permit condition which decreases the height of Building A in its south-west corner, which decreases the size of Apartment A.04.01 and effectively increases the setback from Level 4 to the western boundary.

Table 6: Building A Rescode B17 setback requirements from the western boundary (Nos. 2 & 4 Banool Ave)

Floor	Proposed max. wall height above NGL	Min. setback required by Standard B17	Proposed setback from western boundary	Assessment
Ground	3.45m	0m or 1.0m	9.4m	Complies
Level 1	6.96m	2.05m	9.4m	Complies
Level 2	10.52m	5.61m	9.4m	Complies
Level 3	14.12m	9.21m	9.4m	Complies
Level 4	19.21m	14.3m	14.12m	Complies subject to conditions

Table 7: Building B Rescode B17 setback requirements from the western boundary (Nos. 6 & 8 Banool Ave)

Floor	Proposed max. wall height above NGL	Min. setback required by Standard B17	Proposed setback from western boundary	Assessment
Ground	2.57m	0m or 1.0m	11.99m	Complies
Level 1	6.10m	1.75m	11.99m	Complies
Level 2	9.67m	4.76m	11.99m	Complies
Level 3	13.09m	8.18m	11.99m	Complies
Level 4	18.18m	13.27m	16.70m	Complies

Table 8: Building B Rescode B17 setback requirements from the eastern boundary (No. 1 Fernhurst Gve)

Floor	Proposed max. wall height above NGL	Min. setback required by Standard B17	Proposed setback from eastern boundary	Assessment
Ground	3.68m	1.02m	12.59m - 12.8m	Complies
Level 1	7.24m	2.33m	12.59m - 12.8m	Complies
Level 2	10.77m	5.86m	12.59m - 12.8m	Complies
Level 3	14.32m	9.41m	12.59m - 12.8m	Complies
Level 4	19.72m	14.81m	17.29m - 17.48m	Complies

Table 9: Building C Rescode B17 setback requirements from the western boundary (Nos. 10, 12 & 14 Banool Ave)

Floor	Proposed max. wall height above NGL	Min. setback required by Standard B17	Proposed setback from western boundary	Assessment
Ground	1.17m	0m or 1.0m	8.76m	Complies
Level 1	4.74m	1.34m	8.79m	Complies
Level 2	8.29m	3.38m	8.77m	Complies
Level 3	11.84m	6.93m	8.77m	Complies
Level 4	16.61m	11.7m	13.48m	Complies

Table 10: Building C Rescode B17 setback requirements from the northern boundary Nos. 2 & 3 Elphinstone Ct)

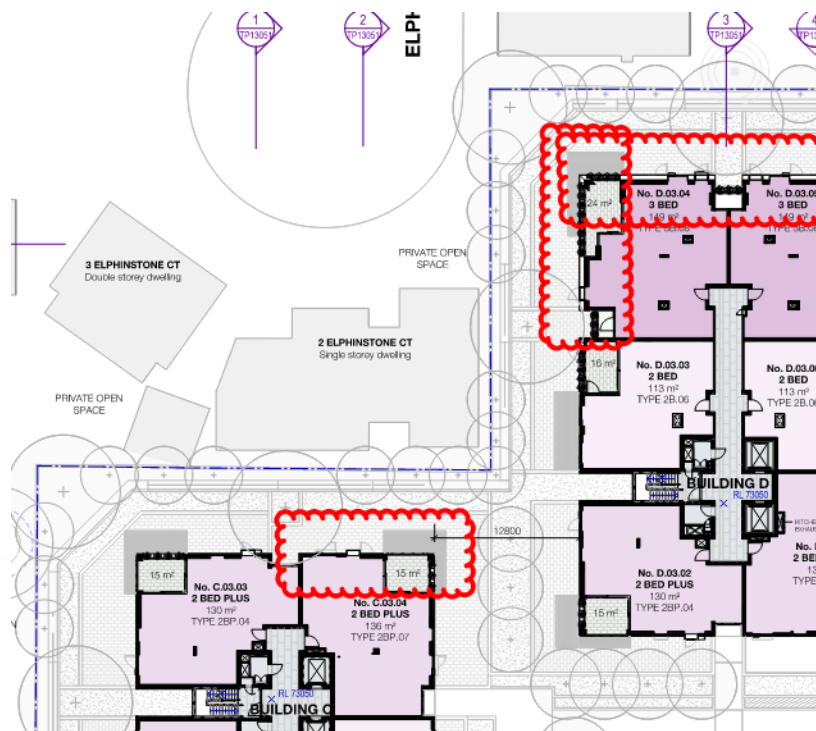
Floor	Proposed max. wall height above NGL	Min. setback required by Standard B17	Proposed setback from northern boundary	Assessment
Ground	1.11m - 2.1m	0m or 1.0m	7.41m - 7.63m	Complies
Level 1	4.64m - 5.7m	1.31m - 1.63m	7.41m - 7.63m	Complies
Level 2	8.2m - 9.18m	3.29m - 4.27m	7.41m - 7.63m	Complies
Level 3	11.73m - 12.81m	6.82m - 7.9m	7.41m - 7.63m	Complies subject to conditions
Level 4	16.5m - 17.57m	11.59m - 12.66m	7.98m - 8.16m	Partially complies subject to conditions

Table 11: Building D Rescode B17 setback requirements from the western boundary (that part of Building D adjacent to the northern SPOS of No. 2 Elphinstone Ct)

Floor	Proposed max. wall height above NGL	Min. setback required by Standard B17	Proposed setback from western boundary	Assessment
Ground	1.69m	0m or 1.0m	7.84m	Complies
Level 1	5.22m	1.48m	7.84m	Complies
Level 2	8.77m	3.86m	7.84m	Complies

Level 3	13.84m	8.93m	7.84m	Complies subject to conditions
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The recommended permit conditions achieve compliance with Standard B17 for those parts of Building C sited adjacent to the SPOS of No. 2 Elphinstone Court (i.e. generally opposite its centrally located southern courtyard and adjacent to its northern yard). This targets the highlighted areas of Buildings C and D, as marked, below.

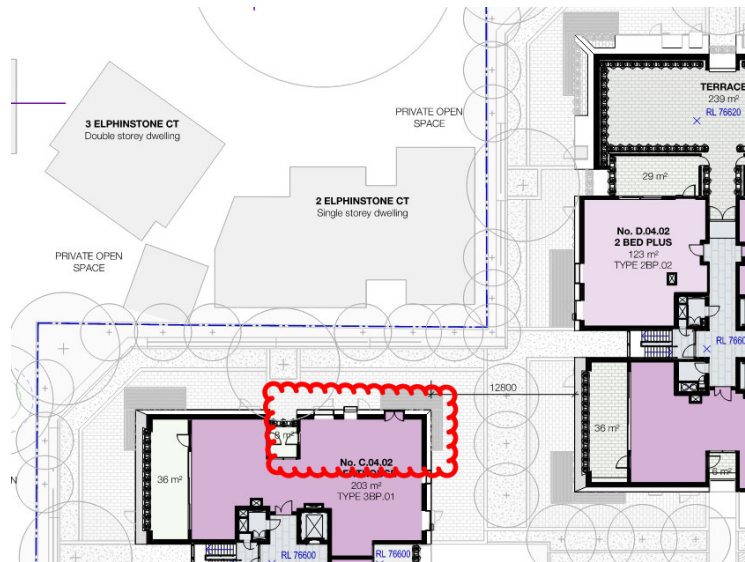


Above: The areas of Building C and D, Level 3, required to be modified to achieve Standard B17 compliance, due to its siting adjacent to the SPOS of No. 2 Elphinstone Ct (the northern boundary setback to Apartment C.03.03 already complies with B17)

Officers do not recommend modifications to the height or setback of Apartment D.03.03, as it is not directly proximate to any neighbouring SPOS.

Officers do not require modifications to the height or setback of Apartment C.03.03, Level 3 in Building C as the setback to this part of the building already complies with Standard B17 (this part of the building is lower in height above NGL, compared with Apartment C.03.04).

For Level 4 of Building C, officers recommend the north-east quadrant be amended to achieve compliance with Standard B17 (as depicted, below). Modifications to the north-west quadrant are not recommended, as that part of the building is not sited opposite the southern courtyard of No. 2 Elphinstone Court.



Above: Annotated extract of the Level 4 floor plan of Building C, highlighting that part of the building required to be modified to achieve compliance with Standard B17

No. 2 Elphinstone Court contains habitable room windows in the western end of its southern façade, however officers are satisfied that they do not afford sweeping or expansive views of the subject site due to their close proximity to the common boundary and a high boundary fence (topped with trellis).



Above: South-facing windows in No. 2 Elphinstone Ct which demonstrate there are no expansive views of the site from the western end of the interior of the dwelling

Table 12: Building D Rescode B17 setback requirements from the northern boundary (No. 1 Elphinstone Ct and No. 5 Stawell St)

Floor	Proposed max. wall height above NGL	Min. setback required by Standard B17	Proposed setback from northern boundary	Assessment
Ground	1.63m	0m or 1.0m	7.6m	Complies
Level 1	5.21m	1.48m	7.6m	Complies
Level 2	8.8m	3.89m	7.6m	Complies
Level 3	13.84m	8.93m	7.6m	Complies subject to conditions
Level 4	17.74m	12.83m	21.98m	Complies

In relation to the issue of visual bulk, Council's Urban Designer concludes, *"holistically, the proposed development is thoughtful and expertly executed to suit the site and its locale. The composition of buildings and their assembling into reasonably sized clusters responds to the existing scale and reduces any visual bulk concerns typically associated with a development of this nature."*

Subject to the recommended permit conditions, officers have formed the view the development will incorporate appropriate setbacks, mass-modulation and building articulation to ensure the buildings are not visually bulky or dominating in vantage points from adjacent SPOS.

Clause 22.02-4 (Performance Criteria)

A discretionary use should meet the performance criteria listed in Table 1 unless an alternative design and management response is provided which will result in a better outcome.

No performance criteria are set out for a retirement village, which is a reflection of its residential function. The following performance criteria are provided for cafes.

Table 1: Performance criteria for discretionary uses		
Land use	Performance criteria	Assessment
Food and drink premises (café)	<ul style="list-style-type: none"> • Preferably located on a corner site. • Hours of operation where adjoining a residential property: 7am to 10pm Sunday to Thursday, 7am to 11pm Friday and Saturday. 	<ul style="list-style-type: none"> • No. 6 Studley Park Road, which will contain the café, is located on the corner of Studley Park Road (a declared main road) and Fernhurst Grove. • Having regard to the layout of the café and its proximity to the shared boundary with No. 1 Fernhurst Grove, it is recommended its hours of operation be restricted to 7am-6pm Sunday to Thursday and 7am-9pm Friday and Saturday. This is consistent with the performance criteria for food and drink premises.

Clause 22.03 - Heritage Policy and Clause 43.01 - Heritage Overlay

The subject site is comprised of the “significant” heritage fabric of Whitty House and its stable, Esmonde House and Plumstead House, all of which are proposed to be retained (with minor demolition works, primarily confined to unsympathetic later additions, located at the rear). It is proposed to demolish all “non-contributory” buildings in their entirety. Buildings A, B, C and D are located entirely outside that part of the land affected by the Heritage Overlay. Nonetheless, there are new buildings and works proposed within the Heritage Overlay, including a basement access ramp adjacent to Plumstead House, new single storey buildings to the rear of Plumstead and Esmonde House and a single storey structure linking Whitty House with its stable, together with landscaping works (pathways, etc.) and new/altered fencing.

The purpose and decision guidelines of Clause 43.01 and Council’s Heritage Policy at Clause 22.05 seek to conserve and enhance heritage places and ensure development does not adversely affect the significance of these places. Council’s Heritage Advisor has reviewed the application material and concludes that subject to the recommended permit conditions, *“the proposal will result in a positive heritage conservation work to*

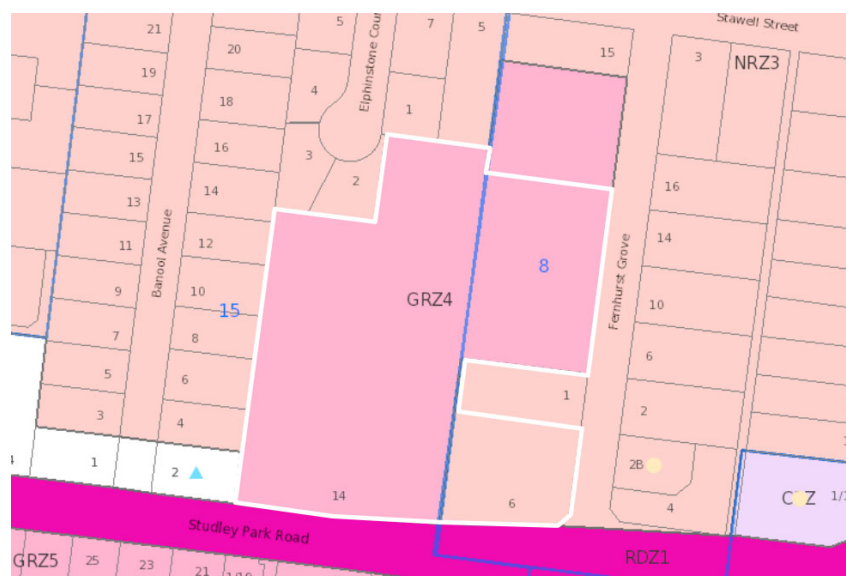
three highly significant buildings, while also providing an active new use to ensure that the public can engage with the buildings and that they are conserved in the longer term.”

Officers concur with the advice provided by Council’s Heritage Advisor. The proposal has thoughtfully examined the existing fabric of the heritage places, identifying those parts which are unsympathetic, later additions, or are of low heritage value due to a high degree of change. The proposed construction works adopt a light touch and are sympathetic with the significance of the place. The proposed demolition, restoration and reconstruction works to the front façade of Esmonde House will have a profoundly positive impact on the integrity and significance of the heritage place.

The recommended permit conditions adopt the advice of Council’s Heritage Advisor, including requiring the length of at-grade driveway to the basement car park from Fernhurst Grove to be increased insofar as is possible, within the constraints of the maximum ramp grade allowed under the design standards of Clause 52.06-9 (Car parking).

Clause 22.05 - Neighbourhood Character Policy

The site is divided into two neighbourhood character precincts; 8 and 14. The division of the precinct boundaries does not follow the zone boundaries, but does follow the alignment of the Heritage Overlay. That part of the site affected by the HO is located within Precinct No. 8 and the balance of the land is located within Precinct No. 15.



Above: The division of the site between Neighbourhood Character Precinct No. 8 (east) and No. 15 (west)

Clause 22.05 sets out differing preferred character objectives for land in the NRZ3, compared with the GRZ4. For land within the NRZ3, Clause 22.05-4 sets out the following preferred character objectives:

- *To enhance the consistency and character of streetscapes.*
- *To maintain a spacious backyard character and leafy garden setting of dwellings, where this is an identified preferred character of the precinct.*

Retention and enhancement of the existing heritage places abutting Fernhurst Grove is considered to be entirely consistent with the preferred character outcomes sought by the policy. The design guidelines for Precinct No. 8 seek the following outcome with respect to rear boundary interfaces of new development:

“Ensure buildings are sufficiently setback from rear boundaries to maintain the open, backyard character of the immediate area where this exists.”

The portion of the land located within Precinct No. 8 has no direct abutments with the rear boundaries of any adjacent dwellings. The precinct is adjacent to the side boundaries of the rear yard of No. 1 Fernhurst Grove. Officers are of the view that due to the siting of the stable at the rear of Whitty House, there is no consistent, open, backyard character in the immediate area. Therefore, the proposed porte cochere structure to the north of No. 1 Fernhurst Grove is considered to be acceptable. The structure is set back 4.85m from the common boundary, allowing for the retention of a number of large Lemon Scented Gums, is single storey and has a flat roof (with a maximum overall height of 4.2m), so will not be visually intrusive or dominating in views from the southern-adjacent rear yard.

The preferred character statement for Precinct No. 15, which applies to the balance of the site not affected by the Heritage Overlay, follows:

“To facilitate contemporary design that integrates with and enhances the precinct’s detached, historic buildings, 1 and 2 storey scale and well vegetated, garden setting.

This will be achieved by:

- *Encouraging the retention of large trees and landscaped gardens;*

- *Ensuring sufficient space is retained in front and rear gardens to accommodate large trees;*
- *Ensuring buildings are sufficiently setback from the front and side boundaries [to] retain the existing detached streetscape rhythm.*
- *Ensuring new developments and additions respect the predominant building scale and forms of the streetscape;*
- *Encouraging design that integrates with the heritage styles of the precinct;*
- *Ensuring garages and carports do not dominate the streetscape;*
- *Maximising soft landscaping and minimising areas of hard surfaces; and*
- *Encouraging low or open style front fences.”*

This statement of preferred character for the precinct is to be read in the context of the preferred character statement for land in the GRZ4:

“To allow for development to occur at greater height and density than the surrounding area without detrimentally impacting on the preferred character of the precinct.”

The proposal successfully responds to the preferred character outcomes sought within Precinct No. 15 by:

- Retaining all high-value trees on the land, and the majority of medium and some low-value trees, together with proposing planting of 151 new trees;
- Providing generous ground level setbacks to all boundaries, inclusive of incorporating a minimum of 10.4% of the site area for deep soil (with a minimum width of 6.0m);
- Incorporating expansive areas of communal open space, inclusive of the 632sqm community garden and the 1,005sqm Village Green (i.e. 10.1% of the 16,187sqm site area);
- Subject to the recommended conditions which modify the height and setbacks of Building A, the development will incorporate an appropriate transition in scale between the only new building which has a direct interface with the streetscape and the adjacent dwelling to its west;
- Proposing pavilion-style buildings in a garden-setting, with generous spacing between them, which is reminiscent of the large, detached dwellings in both Precinct No. 8 and No. 15;
- Notwithstanding that the ‘garden area’ requirements in the GRZ and NRZ do not apply, or that the standards of Rescode do not apply, the development exceeds the minimum ‘garden area’ provision of 35% (38% proposed), is substantially less than the maximum site coverage recommended of 60% (38.4% proposed) and exceeds

the minimum 20% recommended permeable surfaces (27% proposed), thereby maximising soft landscaping and minimising areas of hard surfaces;

- Subject to the recommended permit conditions, the development will incorporate open-style fencing;
- The new building insertions adopt materials and design detailing familiar to, and respectful of, the local area. Council's Urban Designer notes, *"the architectural expression reinvents familiar features of the Arts and Crafts movement in an imaginative manner to provide local relevance and allow the new buildings to talk to their historic neighbours and nestle comfortably within their surroundings. Spaces between buildings are meticulously crafted to weave through the development, stitching it together while the uses and activities within buildings are carefully curated to suit their location, exposure and character."*

PARTICULAR PROVISIONS

Car Parking: Parking Overlay - Schedule 1 and Clause 52.06

The subject site is identified as being located within the Principal Public Transport Network Area, therefore the Column B rates of Table 1 at Clause 52.06-5 apply for the retirement village and food and drink premises (café). The proposal does not seek any car parking dispensation in relation to the retirement village component, but seeks dispensation for four car spaces associated with the Whitty House café (see Table 5 in this report).

The purpose of the Parking Overlay is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To facilitate an appropriate provision of car parking spaces in an area.*
- *To identify areas and uses where local car parking rates apply.*
- *To identify areas where financial contributions are to be made for the provision of shared car parking.*

The purpose of Clause 52.06 is:

- *To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*

- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

One car space is proposed to be allocated to the café, for staff parking. Council's Traffic Engineers are of the view the dispensation sought is for car parking demand associated with café patrons. Officers consider it is appropriate to grant the dispensation on the basis that the majority of the café's customers will originate from the retirement village itself, or people visiting residents of the retirement village (for which visitor parking is provided on-site). Of the customers likely to be drawn from outside the retirement village, it is likely they will substantially be drawn from the local area, where it will be possible to walk to the premises, or utilise public transport options which pass through Kew Junction, 110m to the east. If it were to eventuate that there was actual demand for four customer parking spaces, there is sufficient on-street parking availability to accommodate the demand without having a perceivable impact on on-street parking conditions. Therefore it is considered the proposed dispensation is modest and warranted, having regard to the purpose of Clause 52.06.

The traffic volumes expected to be generated by the development (approx. 342) will be generally the same as those generated by the former school and respite facility. However the distribution of traffic throughout the day will be less concentrated in the peak hours, thereby improving the function and amenity of the road network.

The Head, Transport for Victoria has recommended the proposed Studley Park Road vehicle accessway be restricted to left-in / left-out operation only. The conditions sought by the authority require the construction of a splitter island to emphasise left-in / left-out movement restrictions by physically preventing right-in and right-out movements.

Clause 52.34 - Bicycle Facilities

Applying the rates set out in Table 1 of Clause 52.34, there is no statutory requirement to provide on-site bicycle parking facilities for the retirement village residents or their visitors²⁷. The application proposes 36 bicycle parking spaces, 22 of which are to be provided within the basement for residents and 14 are to be provided at ground level, for use by visitors.

There is a statutory requirement to provide one bicycle parking space for the Whitty House café employees. A bicycle parking space for café staff is provided adjacent to the Whitty House car park.

²⁷ The advertised Transport Assessment Report, dated April 2021, applies the rate for a 'residential building', noting that a retirement village is not a residential building. Therefore, the report correctly uses the rate as a guide, only.

The officers' recommendation incorporates conditions requiring the display of directional signage in accordance with Clause 52.34-7.

Clause 53.18 - Stormwater Management in Urban Development

Clause 53.18 seeks to ensure stormwater is managed to mitigate its impacts on the environment, property and public safety.

The ESD report submitted with the application states two rainwater tanks with a combined capacity of 300,000L will be used to collect rainwater from non-trafficable roof areas (a catchment of approximately 4,700sqm). The tanks will be connected to all toilets and will provide landscape irrigation. These measures will save an estimated 4,000,000L of potable water use, each year, and ensure the development meets the objectives of Clauses 53.18-5 and 53.18-6.

The recommended permit condition require the implementation of the ESD report generally in accordance with the report submitted with the application, to Council's satisfaction.

GENERAL PROVISIONS


Clause 63 - Existing Uses

The existing offices in Whitty House rely on planning permission granted for its use as an office in January 1997. The offices have been in continuous use since that time and will continue to operate post-development in accordance with the conditions in the permit, which include a requirement to provide nine on-site car spaces, which are shown on the Ground Floor Plan in the Whitty House car park. Officers are satisfied no further permissions are required for the offices' continued operation.

OBJECTION RESPONSE

Those matters not already addressed in the foregoing report are discussed below:

Total No. of Objections:	82
Summary of Objection	Officer Comment
Visual bulk	Subject to the recommended permit conditions, the buildings' siting will comply with Rescode Standard B17 (Side and rear setbacks) where adjacent to neighbouring secluded private open space. Council's Urban Designer advises, <i>"the proposed development is thoughtful and expertly executed to suit the site and its locale. The</i>

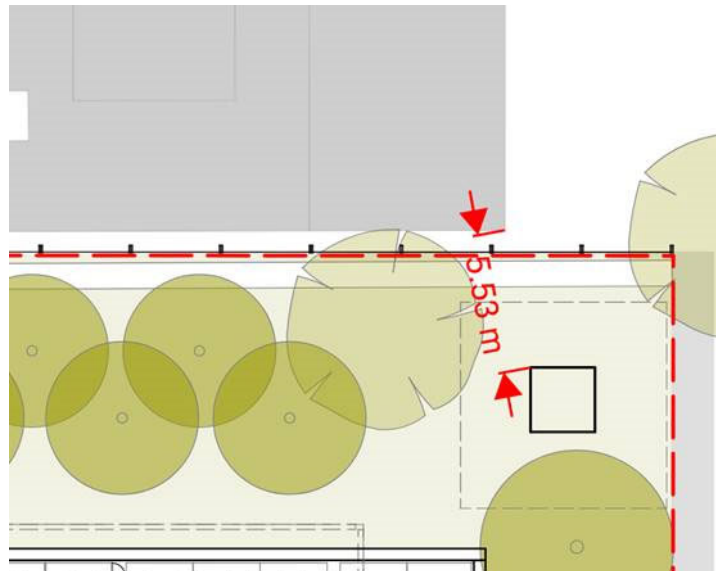
	<i>composition of buildings and their assembling into reasonably sized clusters responds to the existing scale and reduces any visual bulk concerns typically associated with a development of this nature.</i> Subject to the recommended permit conditions, officers have formed the view the development will incorporate appropriate setbacks, mass-modulation, building articulation and high levels of visual interest to ensure the buildings are not visually bulky or dominating in vantage points from adjacent SPOS.
Excessive building height	The building heights proposed are responsive to the site context and are consistent with the outcomes sought for land within the GRZ4.
The new buildings will dominate the Elphinstone Ct and Banool Ave streetscapes	<p>In response to submissions from residents, the applicant produced 3D renders which demonstrate the new buildings will not be dominating elements within the Banool or Elphinstone streetscapes.</p>  <p>Above: Architects' 3D render of the extent of visibility of the development from Banool Ave</p>
The new buildings will dominate the Fernhurst Gve streetscape	Buildings D and B are to setback in the order of 55m and 62m, respectively, from the site's eastern title boundary. Building C is to be set back approximately 94m. Views of the new buildings from Fernhurst Grove will be substantially blocked by views in the foreground of the three large retained heritage buildings and the many canopy trees which are to be retained. Where view-lines to the new buildings are available, the buildings are so far set back from the street frontage as to not be visually dominant due to the impact of perspective on sightlines.
Tree removal	Subject to the recommended permit conditions, the extent of tree removal is supported by Council's Arborists.

Detrimental impact to the significance of existing heritage buildings	The proposed partial demolition and buildings and works will have a positive impact the retained heritage places, as the extent of demolition is confined to later rear additions or substantially altered fabric, new insertions have been designed sympathetically and the development emphasises restoration over replacement. The proposal is overwhelmingly supported by Council's Heritage Advisor, subject to the resolution of a number of minor matters which are addressed in the recommended permit conditions.
Overlooking	The development complies with the overlooking objectives of the planning scheme through a combination of setting building facades back more than 9.0m from shared residential boundaries or by incorporating fixed planter structures in balcony/terrace edges which ensure occupants are sited more than 9.0m from shared residential boundaries.
Overshadowing	The development fully complies with the Rescode standard for overshadowing. Therefore, officers are satisfied the extent and duration of shadows cast by the development is not unreasonable. Concerns have been raised by the owners of No. 1 Fernhurst Grove over the extent of shadow cast across their swimming pool between 2pm-3pm at the September Equinox. It is noted that the extent of shadow cast at that time would be progressively less over the summer period when the pool is likely to be mostly used. Nonetheless, it is reiterated the development is entirely compliant with Standard A14.
Loss of natural light	The development is entirely compliant with Rescode Standard A12 - Daylight to Existing Windows. A detailed assessment is provided in this report.
Increased traffic congestion	The retirement village and café are estimated to generate an equivalent daily volume of traffic compared with the former school and respite facility, however traffic will now be distributed more evenly throughout the day, rather than focused over the peak hours. This leads officers to conclude the development will not adversely impact the safety or operation of the local road network and may lead to improved local road function in the peak hours.
Insufficient resident/staff car parking for the retirement village	The development does not seek any car parking dispensation for the retirement village and in fact incorporates a surplus of six visitor spaces, eight employee spaces and 35 resident spaces, for a combined surplus of 49 car spaces allocated to the retirement village.
Café is an inappropriate non-residential use in	The land is currently and has most recently been occupied by non-residential uses (offices and a school). The amenity impacts associated with the school (congestion during pick-up/drop-off times, noise of students playing, etc.) are considered to be

this residential area	considerably more than of that associated with a modestly sized café confined to a corner of the site with an interface to a main road. The recommended permit conditions regulate the hours of operation of the proposed Whitty House café and will ensure there are no unreasonable off-site amenity impacts.
The café will compete with premises in the Junction and contribute to them closing	There is no evidence to support this assertion. The Whitty House café is of a modest size and is expected to substantially receive its patronage from residents, their visitors and employees of the retirement village. It is acknowledged that the café is not for the exclusive use of the retirement village, however it is appropriate for planning outcomes to facilitate competition within the market. The inclusion of a small café within this location will not result in a loss of trade or market share for the Kew Junction Major Activity Centre as a whole.
Increased residential noise	The land is currently and has most recently been occupied by non-residential uses (offices and a school). The amenity impacts associated with the school (congestion during pick-up/drop-off times, noise of students playing, etc.) are considered to be considerably more than of what is substantially a residential use in a residential area. Any future issues of amenity, if they arise, should be pursued as a civil matter.
The elevations and 3D renders are an inaccurate representation of the proposal	It is the professional view of officers, including Council's Heritage Advisor and Urban Designer, that the submitted renders provide an accurate and reasonable depiction of the proposal in the context of existing buildings to be retained.
The development exceeds the mandatory maximum height limit of 11m/3-storeys in the GRZ	The mandatory height control in the GRZ applies only to dwellings and residential buildings, it does not apply to retirement villages. The neighbourhood character policy for land within the GRZ4 expressly states its preferred character outcome for properties such as the subject site is <i>"to allow for development to occur at greater height and density than the surrounding area..."</i>
The site should be used for Specialist Disability Accommodation, not another retirement village in Kew	Council is obliged to assess and determine the proposal before it. A review of the application against all of the relevant policy and decision guidelines leads officers to form the view the proposal is an acceptable outcome and will deliver a high quality development which meets a known need for aging in place and housing diversity.
Health hazard from the proposed substation, 1.5m from a bedroom in	Subject to the recommended permit conditions, the substation will be sited approximately 6.5m from the dwelling at No. 1 Fernhurst Grove, which exceeds the separation distance referred to at Kew Recreation Centre.

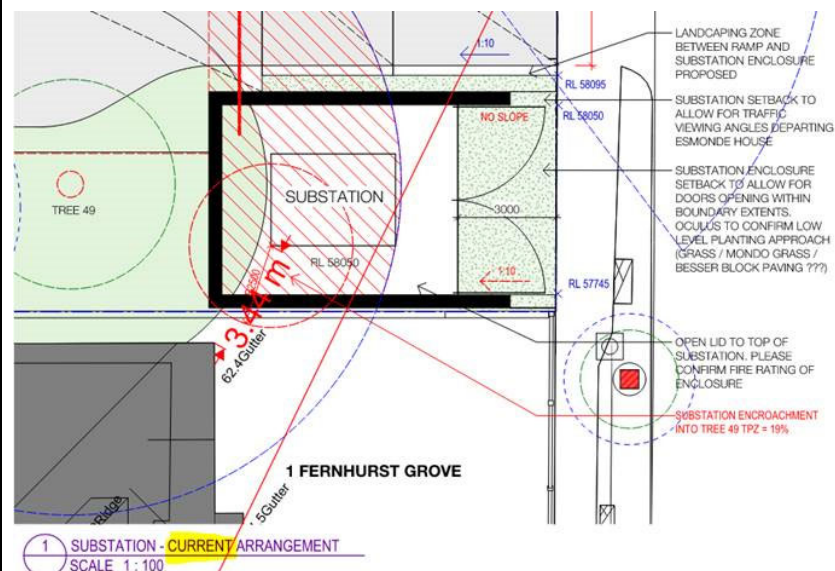
1 Fernhurst Gve.
Why was the
substation at Kew
Recreation Facility
required to be 5m
from the
neighbouring
dwelling?

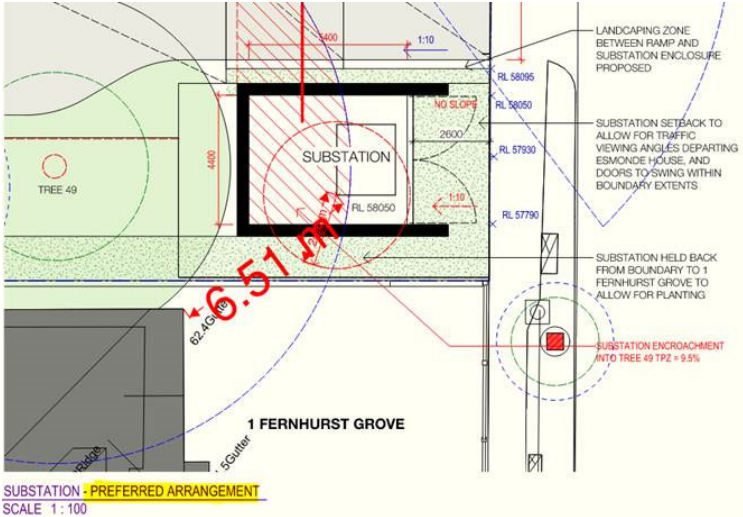
The siting of the substation is required to be in accordance with the service authority's own requirements in respect of OH&S.



Above: The siting of the proposed KRC substation kiosk

Sketches of the advertised and revised arrangements (as a result of the recommended permit conditions) are provided below.



	 <p>Above: The layout and siting of the substation as a consequence of the recommended permit conditions</p>
Right-turn vehicle movements in/out of the site via Studley Park Rd will be dangerous	The permit conditions required by the Head, Transport for Victoria require vehicle access from Studley Park Road to be restricted to left-in / left-out, only.
The development should make a public open space contribution by gifting land to Council.	<p>The <i>Subdivision Act</i> says Council <i>may</i> require land to be set aside for public open space (as part of an application to subdivide land, which is not proposed). Notwithstanding, in this instance, to do so would be inconsistent with the outcomes sought by the Boroondara Open Space Strategy (BOSS). The BOSS does not seek new parcels of public open space in this location, as there is no identified shortfall in the area immediately north of Studley Park Road.</p> <p>It is noted the recommended permit conditions require the preparation and implementation of a Community Development Plan, to support activation of the publicly accessible forecourt to the south of Whitty House. So, although it will be owned, managed and maintained by the permit holder, the space will make a positive addition to the public realm.</p>
Loss of outlook from No. 1 Fernhurst Gve	On its northern and southern side boundaries, the outlook from No. 1 Fernhurst Grove will remain substantially unchanged. The objection raises concerns of visual bulk over the port cochere structure, which is diagonally adjacent to the dwellings' rear SPOS, but presents a narrow edge to the site, is set back 5m from the

	<p>common boundary, has a maximum height of 4.2m and is separated from the neighbour's rear yard by a number of large Lemon Scented Gum trees. For those reasons it is considered there is no basis to assert the porte cochere structure will cause unreasonable visual bulk.</p> <p>The foregoing report includes an assessment of the westerly outlook from No. 1 Fernhurst Grove and finds it to be acceptable.</p>
The retirement apartments are large and luxurious, appears to be an apartment development by stealth	<p>The planning permit is sought for a retirement village. The planning permit preamble will describe the permitted use as a retirement village and the recommended permit conditions include a requirement for the retirement village to be operated and managed in accordance with the Retirement Villages Act 1986.</p> <p>Officers agree the development provides a high level of amenity for future residents.</p>
Impact of construction phase on residential amenity	<p>The impact of construction on residential amenity is sought to be managed via a requirement to prepare and implement a Construction Management Plan to Council's satisfaction.</p>
Loss of property value	<p>The Victorian Civil and Administrative Tribunal and its predecessors have generally found subjective claims that a proposal will reduce property values are difficult, if not impossible to gauge and of no assistance to the determination of a planning permit application. It is considered the impacts of a proposal are best determined through an assessment of the amenity implications rather than any impacts upon property values. This report provides a detailed assessment of the amenity impact of this proposal.</p>
Loss of views	<p>Whilst it is recognised that views may form part of residential amenity, there are no specific controls within the Boroondara Planning Scheme that protects residents' rights to a view. It is not considered that the extent of views lost or the significance of the view would warrant refusal or modification of the application.</p>