

8 Sale of land - Kew Residential Development

Abstract

A request has been received by Council from Kew Development Corporation Pty Ltd (KDC), to purchase a section of Council titled land shown hatched in **Attachment 1**. The area involved is 17 square metres. In appearance and function the land forms part of the footpath and road reserve and is maintained by Council.

The basis of the request is to enable vehicular access from Main Drive, Kew, to the three heritage buildings that formed part of the former Kew Cottages complex. The buildings are known as B1, B3 and B6 at the Kew Residential Services site. Although the buildings could possibly be accessed from Park Avenue, this option would require the removal of an established mature tree and would not comply with the planning permit issued by the Minister of Planning as detailed below. The removal of the tree is not supported by officers as it would be contrary to Council's Tree Management Guidelines. Council is not the planning authority for the Kew Residential Development.

A planning permit was granted on 11 April 2017, under delegation from the Minister for Planning. The following is an extract from the planning permit describing the proposed works to be undertaken:

"Development of the land and works associated with two or more dwellings on a lot (buildings and works in the form of construction of attached garages, site vehicle access and associated landscaping to existing buildings known as B1, B3 and B6)."

KDC proposes to renovate the buildings for sale as single residential properties, with off street car parking. **Attachments 4 and 5** show the proposed subdivision of the land upon which the heritage buildings are located. The proposal will result in three separate lots with a common driveway accessed from Main Drive.

If Council resolves to dispose of the property, then, under the relevant provisions of *Local Government Act 1989* ("the Act"), Council will be required to undertake public consultation.

Officers' recommendation

That Council resolve to:

1. Commence the statutory procedures under section 189 of the *Local Government Act 1989* ("the Act"), for the sale of Council titled land located in Main Drive, Kew, and described as part Lot A on Plan of Subdivision PS705514N, Volume 11514, Folio 850 in the Certificate of Title, shown as hatched in Attachment 1 to Kew Development Corporation Pty Ltd (ACN 119766264).
2. If no submissions are received following the publication of the Public Notice, authorise the Chief Executive Officer, or such other person as the Chief Executive Officer approves, to undertake the necessary procedural steps to complete the formal procedures for the sale of the land, including the execution of all relevant documentation, in accordance with the purchase price and associated costs and conditions of transfer shown in section 6 of this report.
3. In the event submissions are received, note a further report will be presented to Council to enable consideration of the submissions.

Responsible director: Bruce Dobson
Environment and Infrastructure

1. Purpose

The purpose of this report is to obtain Council approval to commence the statutory process to sell the Council titled land shown as Lot A on the proposed plan of subdivision in **Attachment 2**.

2. Policy implications and relevance to council plan

This report is consistent with the Council Plan 2017-21, in particular strategies 1, 12 and 13 regarding communication and engagement, improvement of amenity and proactive asset management. It also supports Strategic Objective 2 of the Boroondara Public Health and Wellbeing Plan 2013-17, to enhance and develop our neighbourhoods to support health and wellbeing.

3. Background

A request has been received by Council from Kew Development Corporation Pty Ltd, to purchase a section of Council titled land shown as Lot A in **Attachment 2**. The holding company of Kew Development Corporation Pty Ltd is Walker Group Holdings Kew Development Corporation Pty Ltd (Walker Corporation). The Walker Corporation is the developer of the area known as the Kew Residential Services site (KRS) in which the subject land is located. Walker Corporation has carried out the development of the site on behalf of the Department of Economic Development, Jobs, Transport and Resources (Major Projects Victoria).

The area of land involved is 17 square metres. In appearance and function the land forms part of the footpath and road reserve and is maintained by Council.

The basis of the request is to enable vehicular access from Main Drive, Kew, to the three heritage buildings that formed part of the former Kew Cottages complex. The buildings are known as B1, B3 and B6 at the Kew Residential Services site. Although the buildings could possibly be accessed from Park Avenue, this option would require the removal of an established mature tree and would not comply with the planning permit issued by the Minister of Planning as detailed below. The removal of the tree is not supported by officers and would be contrary to Council's Tree Management Guidelines.

Council is not the planning authority for the Kew Residential Development.

A planning permit was granted on 11 April 2017, under delegation from the Minister for Planning. The following is an extract from the planning permit describing the proposed works to be undertaken:

“Development of the land and works associated with two or more dwellings on a lot (buildings and works in the form of construction of attached garages, site vehicle access and associated landscaping to existing buildings known as B1, B3 and B6).”

KDC proposes to renovate the buildings for sale as single residential properties, with off street car parking. **Attachments 4 and 5** show the proposed subdivision of the land upon which the heritage buildings are located. The proposal will result in three separate lots with a common driveway accessed from Main Drive.

4. Outline of key issues/options

The land known as Lot A on Plan of Subdivision 705514N (**see Attachment 3**) was transferred to Council in 2014, as part of the open space requirement under the Walker Development Plan - Kew (WDP-K), approved by the Minister for Planning on 9 October 2015. However, an unintended consequence of the transfer is road access from Main Drive to the heritage buildings has been expunged.

See **Attachment 6** for an aerial view of the land proposed to be sold.

The proposed sale of the 17 square metres will not adversely impact the percentage of open space to be provided by the developer as part of the open space agreement. The WDP-K requires at least 29% of the site be set aside as public open space. The present public open space allocation is 29.1%.

5. Consultation/communication

Relevant Council departments were consulted in relation to the proposal. There are relatively minor engineering issues identified, which would be addressed by way of conditions of the contract of sale. Issues include the completion of all civil works, including but not limited to the construction of a 3.0m wide concrete crossover, the modification or relocation of the existing stormwater drainage gatic pit and the modification or relocation of the existing sewer manhole. The relocation of two pedestrian pram crossings would also be required, as well as any necessary landscaping associated with street trees.

If Council resolves to dispose of the property then, under the relevant provisions of *Local Government Act 1989* ("the Act"), Council will be required to conduct the following public consultation:

"189. Restriction on power to sell land

1. *Except where section 181 or 191 applies, if a Council sells or exchanges any land it must comply with this section.*
2. *Before selling or exchanging the land the Council must—*
 - (a) *ensure that public notice of intention to do so is given at least 4 weeks prior to selling or exchanging the land; and*
 - (b) *obtain from a person who holds the qualifications or experience specified under section 13DA(2) of the Valuation of Land Act 1960 a valuation of the land which is made not more than 6 months prior to the sale or exchange.*
3. *A person has a right to make a submission under section 223 on the proposed sale or exchange.*
4. *Sub-section (3) does not apply to the sale of land that formed part of a road that has been discontinued and which the Council has resolved to sell as the result of a Council exercising its powers under clause 3 of Schedule 10."*

It is therefore proposed public notice be given of Council's intention to sell the property known as Lot A on proposed Plan of Subdivision 743612X by private treaty at the current market value of the property. The public notice will advise any person can make a submission under section 223 of the Act in relation to the proposal to sell the property. Under section 223 a person has 28 days to make a submission.

Submitters may request to be heard by Council prior to a decision being made to proceed with the sale of the land.

If any submissions are received, a further report will be presented to a future meeting of Council to enable the consideration of any submissions and for a decision on whether to proceed with the sale of the land.

If no submissions are received, the Chief Executive Officer, or any such other person as the Chief Executive Officer approves, will undertake the necessary procedural steps to complete the formal procedures for the sale of the land, including the execution of all relevant documentation.

6. Financial and resource implications

The market value of the land has been assessed at \$42,500 (exclusive of GST) on an unencumbered freehold land basis. It is proposed the land is sold for this value, considering the nature of the transaction and the added value the land provides to the developer.

It is also proposed that the developer pay all costs associated with the transfer of the land, the completion of all civil works, including but not limited to the construction of a 3.0m wide concrete crossover, the modification or relocation of the existing stormwater drainage gatic pit and the modification or relocation of the existing sewer manhole. The relocation of two pedestrian pram crossings would also be required, as well as any necessary landscaping associated with street trees.

7. Governance issues

Officers involved in the preparation of this report have no conflict of interest. The list of prescribed human rights contained in the Victorian Charter of Human Rights and Responsibilities has been reviewed in accordance with Council's Human Rights Compatibility Assessment Tool and it is considered that the proposed actions contained in this report represent no breaches of, or infringements upon, those prescribed rights.

8. Social and environmental issues

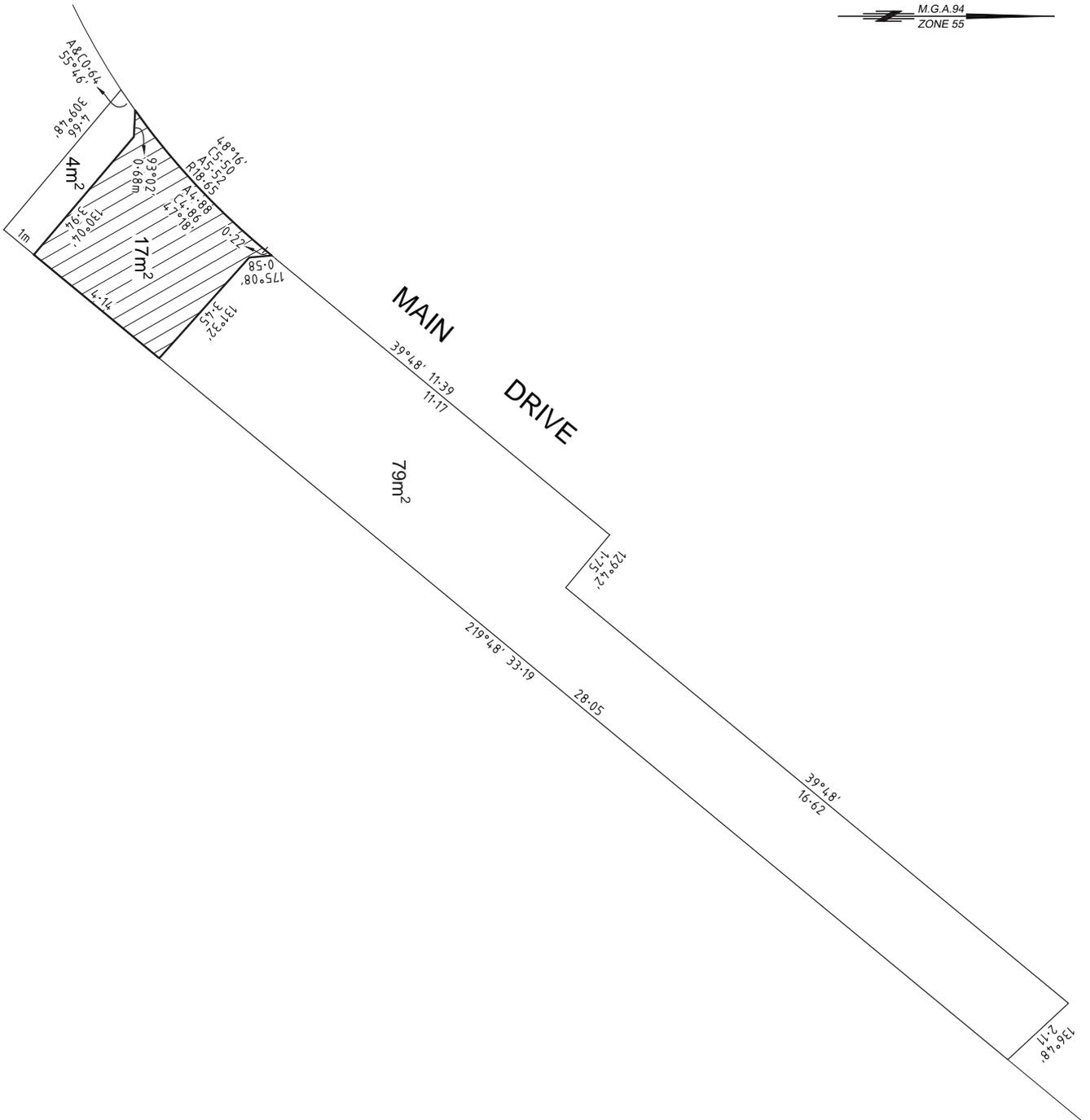
The proposal will enable road access from Main Drive to the three heritage buildings that remain as part Kew Residential Development.

The buildings are to be renovated and sold as single residential properties, with off street car parking.

Manager: Chris Hurley, Commercial and Property Services

Report officer: John Lorkin, Coordinator Revenue and Property Services

Attachment 1



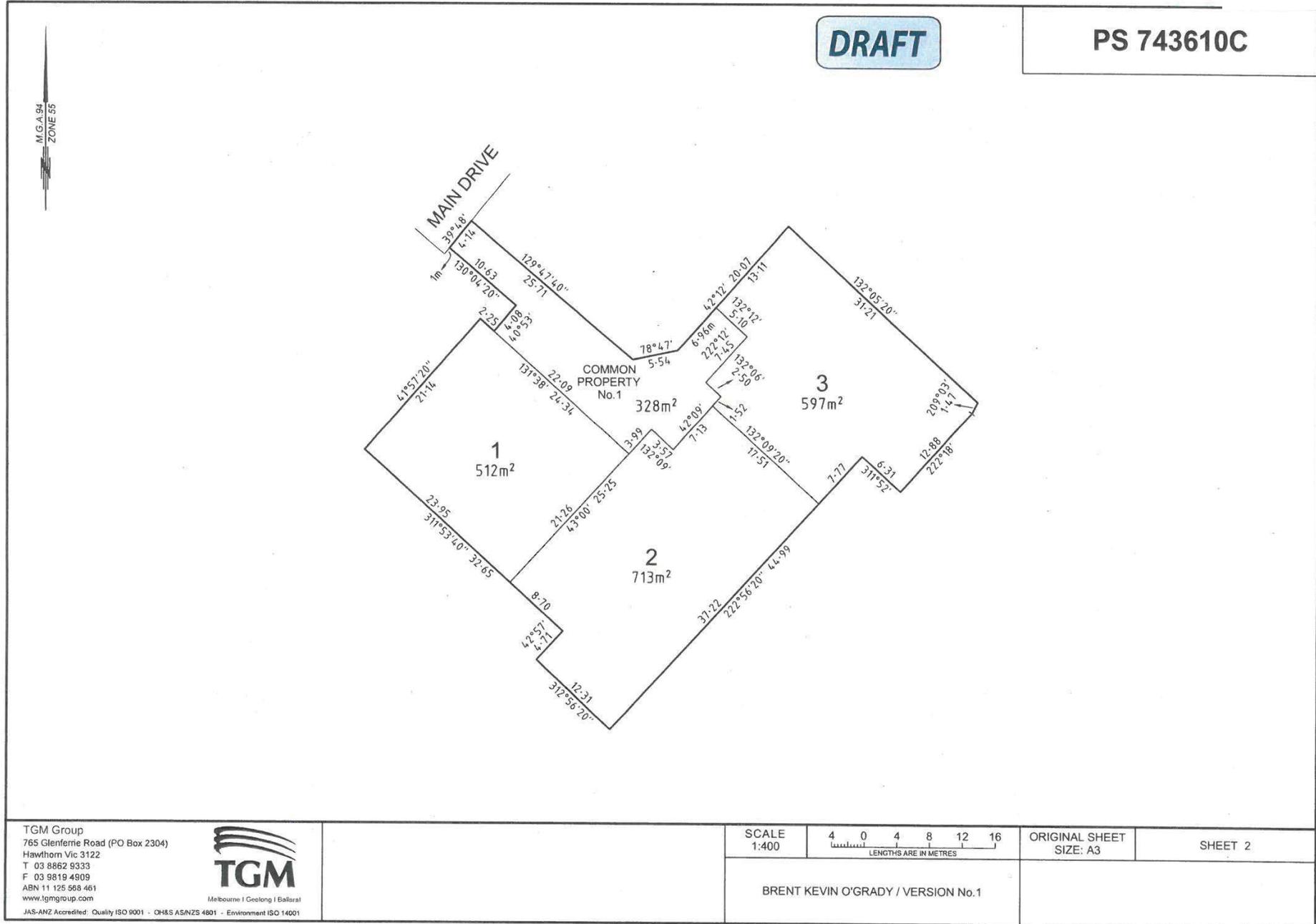
PLAN OF SUBDIVISION				PS743612X
UNDER SECTION 35(8) OF THE SUBDIVISION ACT 1988				
LOCATION OF LAND PARISH : BOROONDARA TOWNSHIP : ---- SECTION : ---- CROWN ALLOTMENT : ---- CROWN PORTION : ---- TITLE REFERENCE : VOL.11514 FOL.850 LAST PLAN REFERENCE : PS 705514N (LOT A) POSTAL ADDRESS : MAIN DRIVE (At time of subdivision) KEW, 3101 MGA94 Co-ordinates (of approx centre of land in plan)			COUNCIL NAME: BOROONDARA CITY COUNCIL	
E 326 165 ZONE: 55 N 5814 915 GDA 94				
VESTING OF ROADS AND/OR RESERVES			NOTATIONS	
IDENTIFIER	COUNCIL/BODY/PERSON		DEPTH LIMITATION	
			SURVEY: This plan is based on survey. STAGING: This is not a staged subdivision. Planning Permit No. This survey has been connected to permanent marks No(s). In Proclaimed Survey Area No.	
NOTATIONS				
EASEMENT INFORMATION				
LEGEND	A - Appurtenant Easement		E - Encumbering Easement	R - Encumbering Easement (Road)
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-10	DRAINAGE	SEE PLAN	PS 630770J	BOROONDARA CITY COUNCIL
E-10	WATER SUPPLY	SEE PLAN	PS630770J	YARRA VALLEY WATER LIMITED
E-10	SEWERAGE	SEE PLAN	PS630770J	YARRA VALLEY WATER LIMITED
E-10	GAS SUPPLY & DISTRIBUTION	SEE PLAN	PS630770J	MULTINET GAS PTY LTD
E-10	POWERLINE	SEE PLAN	PS630770J - SEC88 ELECTRICITY INDUSTRY ACT 2000	CITIPower PTY ABN 76 064 651 056
TGM Group 765 Glenferrie Road (PO Box 2304) Hawthorn Vic 3122 T 03 8862 9333 F 03 9819 4909 ABN 11 125 568 461 www.tgmgroup.com		SURVEYORS FILE REF: 3330-55 DATE: 02/11/2017		ORIGINAL SHEET SIZE: A3 Sheet 1 of 2 Sheets
		BRENT KEVIN O'GRADY / VERSION No.2		

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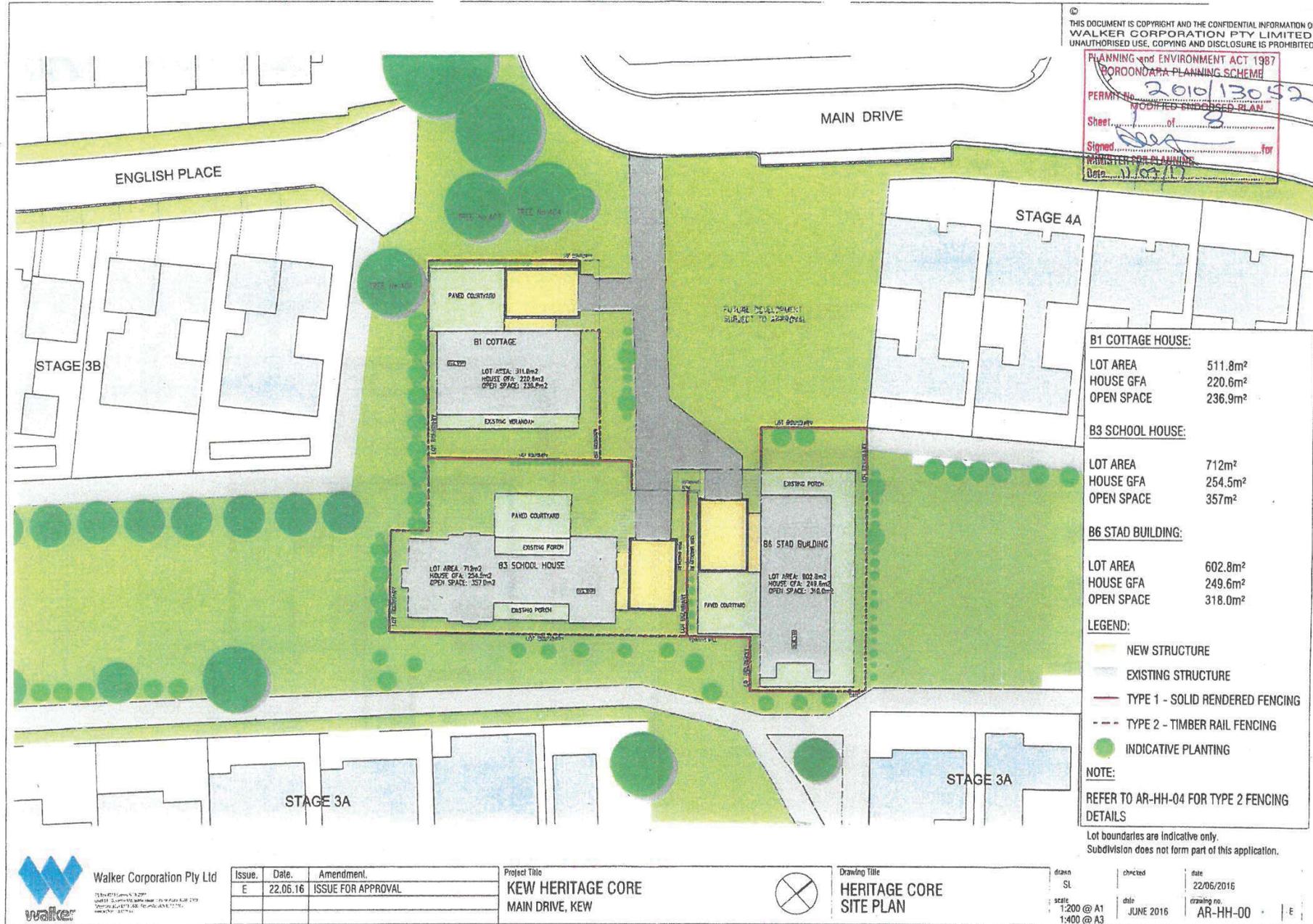
Signed by Council: Boroondara City Council, Council Ref: subcer12/00179, Original Certification: 20/08/2013, S.O.C.: 20/08/2013

PLAN UNDER SECTION 24A OF THE SUBDIVISION ACT 1988		STAGE No. /	LRS USE ONLY EDITION 1	PLAN NUMBER PS 705514 N
LOCATION OF LAND PARISH: BOROONDARA TOWNSHIP: --- SECTION: --- CROWN ALLOTMENT: --- CROWN PORTION: --- TITLE REFERENCE: VOL. 11363 FOL. 298 LAST PLAN REFERENCE/S: PS 630770 J (RESERVE No.2) POSTAL ADDRESS: MAIN DRIVE (At time of subdivision) KEW 3101 MGA Co-ordinates (of approx centre of land in plan) E 326 151 N 5 814 900 ZONE: 55		COUNCIL CERTIFICATION AND ENDORSEMENT COUNCIL: BOROONDARA CITY COUNCIL REF: SUBCER12/00179 1. This plan is certified under Section 6 of the Subdivision Act 1988. 2. This plan is certified under Section 11(7) of the Subdivision Act 1988. Date of original certification under Section 6. / / 3. This is a statement of compliance issued under Section 21 of the Subdivision Act 1988. PUBLIC OPEN SPACE (i) A requirement for public open space under Section 18 of the Subdivision Act 1988 has / has not been made. (ii) The requirement has / has not been satisfied. (iii) The requirement is to be satisfied in Stage (iv) The requirement has been satisfied for Council Delegate Council Seal Date / / Re-certified under Section 11(7) of the Subdivision Act 1988. Council Delegate Council Seal Date / /		LRS USE ONLY STATEMENT OF COMPLIANCE / EXEMPTION STATEMENT RECEIVED <input checked="" type="checkbox"/> DATE: 7 / 05 / 2014 PLAN REGISTERED TIME 7:52 AM DATE 16 / 08 / 2014 Mark Cagdas Assistant Registrar of Titles
VESTING OF ROADS AND/OR RESERVES IDENTIFIER COUNCIL/BODY/PERSON RESERVE No.1 BOROONDARA CITY COUNCIL		NOTATIONS This is not a staged subdivision. Planning permit No. 2012009035 A depth limitation of 15 metres applies. OTHER PURPOSE OF PLAN • To remove the reserve status from all of the land formally known as Reserve No.2 on PS630770J, pursuant to Section 24A of the Subdivision Act 1988. GROUNDS FOR REMOVAL • Boroondara Planning Scheme Planning Permit No. 2012009035		
EASEMENT INFORMATION				
LEGEND A - Appurtenant Easement E - Encumbering Easement R-Encumbering Easment (Road)				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favor Of
E-10	DRAINAGE	SEE PLAN	PS630770J	BOROONDARA CITY COUNCIL
E-10	WATER SUPPLY	SEE PLAN	PS630770J	YARRA VALLEY WATER LIMITED
E-10	SEWERAGE	SEE PLAN	PS630770J	YARRA VALLEY WATER LIMITED
E-10	GAS SUPPLY & DISTRIBUTION	SEE PLAN	PS630770J	MULTINET GAS PTY LTD
E-10	POWERLINE	SEE PLAN	PS630770J - SEC88 ELECTRICITY INDUSTRY ACT 2000	CITIPOWER PTY ABN 76 064 651 056
THIS IS A SPEAR PLAN (REF: S029779S)				
THIS PLAN IS BASED ON SURVEY				
SCALE 4 0 4 8 12 16 20 LENGTHS ARE IN METRES		ORIGINAL SCALE SHEET SIZE 1:400 A3		TGM Group Melbourne 765 Glenferrie Road (PO Box 2304) Hawthorn Vic. 3122 T 03 8852 9333 F 03 9810 4900 ABN 11 125 568 461 www.tgmgroup.com Gearing Bickel Belling AAS-ANZ Accredited: Quality ISO 9001 • DHS AS/NZS 4801 • Environment ISO 14001
LICENSED SURVEYOR (PRINT) ... RODNEY LEIGH OLSEN ... SIGNATURE (DIGITALLY SIGNED) DATE / / REF 3330-46 VERSION 2 DWG: KEWSTAGE 3SECTION 24A\3330-48 12/08/13 PS-02F			SHEET 1 OF 1 DATE / / COUNCIL DELEGATE SIGNATURE	

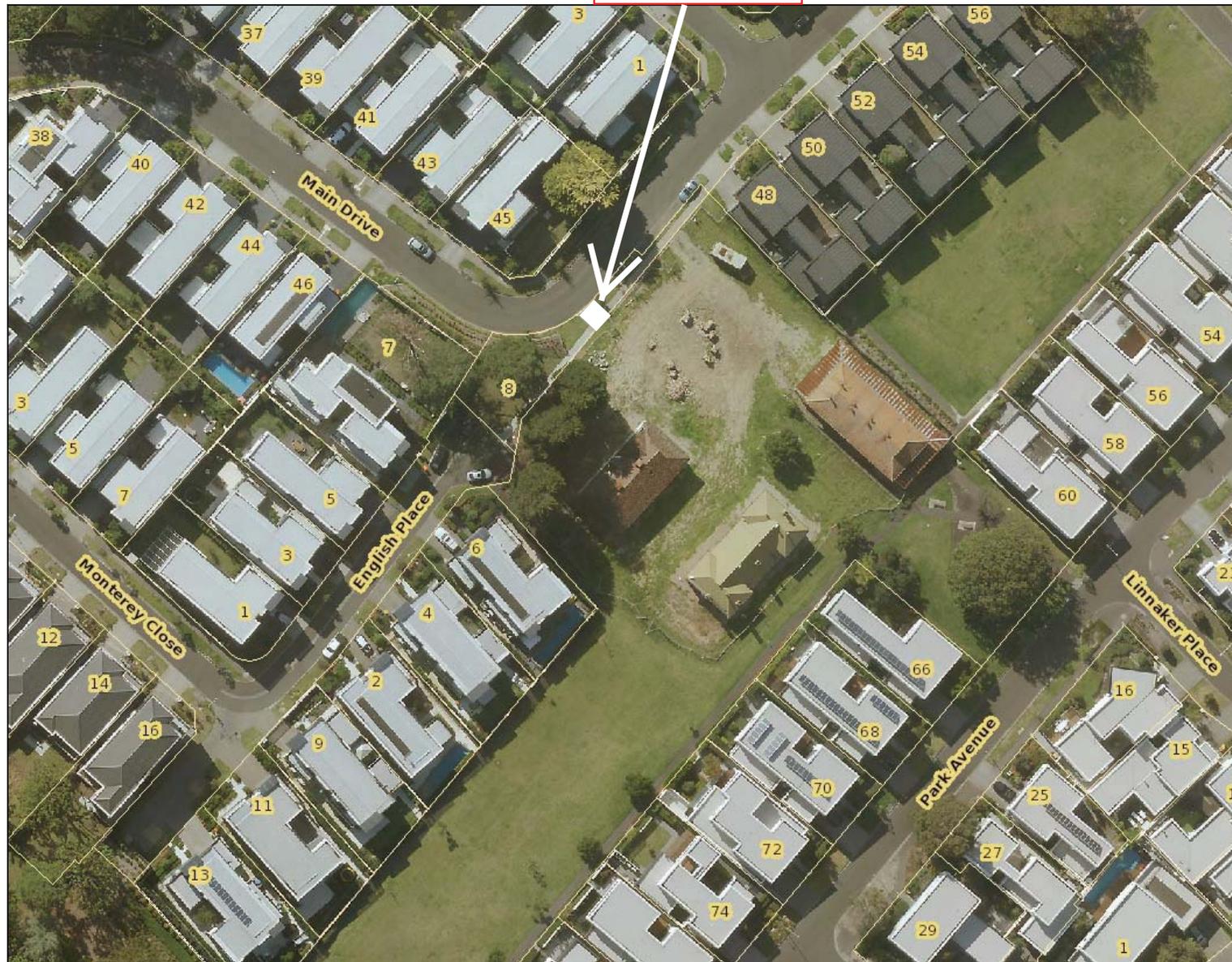
Signed by: Brent Kevin O'Grady (TGM Group Pty Ltd - Hawthorn) Surveyor's Plan Version (2) SPEAR Ref: S029779S 12/08/2013, Amended: 15/08/2014.



Attachment 4

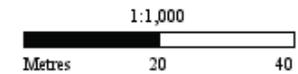


Attachment 6



Land proposed to be sold

- KEY**
- Multi Assessment
 - Multi Lot
 - Road Names - Major
 - Road Names - Minor
 - Property
 - Roads - Major
 - Suburbs
 - Property



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Attachment 6

Map Produced: 08 November, 2017 09:51:31