

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P2061/2020
PERMIT APPLICATION NO.531/2019/03P

CATCHWORDS

Objectors review of decision to grant permit – General Residential Zone – five townhouses – neighbourhood character – ResCode – amenity – visual impact – road capacity.

APPLICANTS	Amy Elizabeth Bursten and Others
RESPONSIBLE AUTHORITY	Nillumbik Shire Council
RESPONDENT	Ekrem Saka
SUBJECT LAND	7 Valley Court, Diamond Creek
HEARING TYPE	Hearing
DATE OF HEARING	31 August 2021
DATE OF ORDER	9 December 2021
CITATION	Bursten v Nillumbik SC [2021] VCAT 1475

ORDER

Permit granted

- 1 In application P2061/2020 the decision of the responsible authority is varied.
- 2 In planning permit application 531/2019/03P a planning permit is granted for the land at 7 Valley Court, Diamond Creek subject to conditions in Appendix A and plans to be endorsed. The permit allows:
 - Buildings and works for the construction of five dwellings.

Dalia Cook
Member

APPEARANCES

For applicants	Ms Amy Bursten
For responsible authority	Ms Lisa Zhao, Town Planner
For respondent	Mr Lorenzo Rigoni, Town Planner, Terrain Consulting



INFORMATION

Description of proposal	Development of five double storey townhouses, each with garage and tandem parking space. One visitor parking space would be provided.
Nature of proceeding	Application under section 82 of the <i>Planning and Environment Act 1987</i> – to review the decision to grant a permit
Planning scheme	Nillumbik Planning Scheme
Zone and overlays	General Residential Zone (Schedule 1) No overlays apply The land is within a designated Bushfire Prone Area
Permit requirements	Clause 32.08-6 – construction of two or more dwellings on a lot
Key scheme policies and provisions	Clauses 13.02-1S (Bushfire Planning), 15.01-2L-02 (Medium Density Housing Design), 15.01-5S (Neighbourhood Character), 15.01-5L (Neighbourhood Character – Nillumbik) and 16.01-1L (Location of Medium Density Residential Development), 52.06 (Car Parking) and 55 (ResCode) in addition to Clause 65 (Decision Guidelines)



Land description

The subject land is an irregularly shaped parcel of approximately 1,330 square metres. It sits at the end of a court bowl in an established residential area. The land slopes approximately 2.9 metres from west to north east.

The land is currently developed with a single detached dwelling.

Land to the immediate south and east contain single detached dwellings, with a cemetery adjacent to the west and a naturalistic reserve adjacent to the north.

The land is approximately 430 metres from local shops (Chute Street) and approximately 900 metres from the Diamond Creek Activity Centre. A bus route runs along Main-Hurstbridge Road nearby.

The land is subject to an approved Cultural Heritage Management Plan in respect of the proposed activity.¹

Tribunal inspection

I inspected the subject land, direct interfaces and broader surrounds (including nearby activity centres) from the public realm following the hearing on an unaccompanied basis.

I also inspected nearby residential properties at 5, 6 and 10 Valley Court.

¹ Approved on 1 October 2020. The land also contains an artefact found during the course of a complex investigation which has been identified as a registered Aboriginal place.

REASONS²

INTRODUCTION

- 1 Valley Court is a residential cul de sac that is currently developed with single detached dwellings. The applicant proposes to redevelop the land with five townhouses.³
- 2 Nillumbik Shire Council (Council) processed the application and determined to grant a planning permit subject to conditions. Council considered that the proposal achieved a reasonable level of compliance with planning scheme policies and provisions and that this was a suitable location for a medium density development of this scale and design.
- 3 Ms Bursten and other objectors seek review of this decision. They raised concerns including the stark contrast with existing neighbourhood character, inadequate road and other infrastructure to service this extent of change and impacts on amenity. In summary, they considered that the land was not suitably located to sustain development of this intensity.
- 4 The applicant submitted the land was well located to provide an increase in housing densities consistent with state and local planning policy, and that the proposal would offer positive housing choice. It submitted the dwellings were well designed to comply with ResCode standards and objectives, would provide adequate on site parking and would not cause unreasonable effects on neighbouring amenity.

KEY ISSUES

- 5 Key issues for my determination of this application include:
 - Does the proposal align with strategic policies for the land pertaining to locations for medium density development?
 - Would the proposal respond acceptably to existing and preferred neighbourhood character?
 - Has the proposal been suitably sited and designed having regard to its setting? To what extent has compliance with ResCode (Clause 55 of the Nillumbik Planning Scheme) been achieved?

² The submissions of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

³ At the hearing, parties confirmed that the plans that formed the basis of Council's decision were identified as Revision D, supplemented by an updated landscape plan prepared and draft Waste Management Plan. I accept that these are the plans under review and determined to disregard any non-compliance with the provisions of section 57A of the *Planning and Environment Act 1987* with the consent of the parties.

- Would the proposal result in acceptable impacts on amenity?

Alignment with strategic policy and zone controls

- 6 Local policies in the Nillumbik Planning Scheme (planning scheme) were re-written and consolidated through the recently gazetted planning scheme amendment C135nil.⁴
- 7 Parties addressed the updated provisions in their submissions at the hearing.
- 8 Council advised that the General Residential Zone is the highest order residential zone applied in the municipality, providing encouragement for multi-unit development at a moderate level of change.
- 9 I consider the proposal is consistent with the overall direction of Plan Melbourne 2017-2050 and state planning policy with respect to increasing housing densities within the Urban Growth Boundary.
- 10 It is clear to me that the proposal would align with the purpose of the General Residential Zone to “encourage a diversity of housing types and housing growth”. However, objectors queried whether it met the second element of this purpose, which gives particular support for diversity and growth “in locations offering good access to services and transport”.
- 11 I have considered numerous earlier decisions of the Tribunal identified by the parties in submissions. In each of these decisions, the Tribunal confirmed that locations generally comparable to this are inherently suitable for medium density development. This finding was made in numerous instances where a site was not readily proximate to a major activity centre but was nevertheless not remote from services and facilities.⁵
- 12 I also note that these decisions pre-date the planning policies relating to suitable locations for medium density housing in the current planning scheme but consider that similar principles apply.
- 13 Clause 16.01-1L provides policy for the location of medium density residential development. It seeks to direct such housing to areas with convenient access (defined as approximately 400 metres) to certain facilities.
- 14 I find that the subject land has a number of characteristics that meet this policy ambition, with a regular main bus route in convenient walking distance, proximate public open space, a well serviced and diverse local neighbourhood commercial centre and other community facilities including a school, kindergarten and cemetery.
- 15 I accept that the subject land is approximately 1km from the Diamond Creek Major Activity Centre. However, this does not negate the fact that

⁴ Introduced on 7 July 2021.

⁵ For example, *Vangona Nominees Pty Ltd v Nillumbik SC* [2014] VCAT 52, *Vangona Nominees Pty Ltd v Nillumbik SC and Others* [2020] VCAT 76, *Coco v Nillumbik and Others* [2005] VCAT 836.

the land still has good access to services and transport in line with the purpose of the zone and policy.

- 16 On a scale of accessibility to services and facilities, I regard this site as well suited to medium density development subject to appropriate layout and design.
- 17 Objectors submitted that the density of the proposed development could not reasonably be sustained for this land.
- 18 It is relevant that no density controls are provided in the planning scheme in this instance and I consider that a more nuanced analysis of the acceptability of the proposal in its physical and policy context is called for.
- 19 Objectors also submitted that an equally important purpose of the zone, to encourage development that respects the character of the area, would not be met. I consider this below.

Neighbourhood character response

- 20 State and local planning policies repeatedly encourage respect for neighbourhood character. This is an important aspect of policy that needs to be balanced with other policy objectives such as those relating to housing.
- 21 The former Neighbourhood Character Policy at Clause 22.01 has been superseded.
- 22 In submissions for Council, Ms Zhao identified a number of sites within the nearby residential area that had been subdivided or developed with townhouses. She offered these as examples of emerging character.
- 23 However, on closer examination, these examples are far less intensive than the current proposal, entailing either single storey detached dwellings or second dwellings on sizeable properties (often subdivided).
- 24 Therefore, this is the first medium density proposal of its type in the immediate area, with 5 double storey dwellings, some of which are attached in form.
- 25 If approved, it would represent a change in neighbourhood character. However, to my mind, the more pertinent question is whether the proposal is consistent with the preferred character sought for this area by the planning scheme.
- 26 It is worth addressing the newly gazetted policies in detail since this is one of the first Tribunal cases applying these provisions.
- 27 The policy objective of Clause 15.01-5S is “to recognise, support and protect neighbourhood character, cultural identity, and sense of place”. Relevant strategies include:
 - Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.

- Ensure the preferred neighbourhood character is consistent with medium and higher density housing outcomes in areas identified for increased housing.
- Ensure development responds to its context and reinforces a sense of place and the valued features and characteristics of the local environment and place...

28 Objectives for all precincts in Clause 15.01-5L seek to:

- To maintain the existing vegetation including canopy trees.
- To minimise detrimental impacts on the landscape from site erosion and excavation.
- To ensure buildings do not dominate the streetscape.
- To ensure that car parking areas, garages and carports do not dominate sites when viewed from the street.
- To maintain and enhance the continuous flow of the garden settings and the openness of the front boundary treatment.

29 The planning scheme provides detailed strategies and policy guidelines for this precinct. I have applied these in a synthesised way throughout this decision.

30 The site has already been cleared of vegetation.⁶ It provides an opportunity for an enhanced landscape outcome. The site layout provides an open front setback with an opportunity to create a garden setting, especially at the interface with the cemetery grounds and the public reserve to the rear. There are numerous opportunities for small to medium sized canopy trees throughout the site as depicted in the landscape plan.

31 While some objectors were concerned that some tree species selected may be oversized, this is an issue that should be considered by Council's arborist before approving the landscape plan submitted for endorsement. There is a ready opportunity for alternative canopy trees to be selected as appropriate.

32 The development has been designed with a conventional double storey townhouse presenting to the street, with remaining townhouses stepping down the landform as discussed further below. While this does not replicate the existing character of single storey detached dwellings in the street, I consider that it provides a reasonable transition that is suitably respectful.

33 The subject land is identified within the Garden Court Precinct. Specific objectives for this precinct seek to maintain the dominance of landform and surrounding vegetation. It also seeks to maintain the mix of native and exotic vegetation including canopy trees and understorey.

34 A consolidated driveway is suitably positioned to the side of the dwelling and the garages would not dominate principal public views from the court given their easterly orientation and setback from the property frontage.

⁶ By the previous owner prior to the sale to the applicant.

- 35 I have considered submissions from parties in respect of the contents of the Diamond Creek Twenty20 Structure Plan. The *Neighbourhood Character Study: Residential Design Guidelines* (amended 2003) are a reference document in the planning scheme.
- 36 To the extent that the Structure Plan expresses a preferred neighbourhood character of a “semirural township with a dominant tree canopy of predominantly local native trees”, the semi rural character is not consistently sought for all parts of Diamond Creek and is not a clear aspiration of the gazetted provisions of the planning scheme.
- 37 I find that the proposal would represent an acceptable approach to the objectives within the provisions of the planning scheme. The design responds suitably to the slope of the land and would not have broader impacts on the underlying landform or vegetation of this setting.
- 38 While landscaping is an important characteristic of neighbourhood character, I agree with Council and the permit applicant that the prevailing landscape character derives from a backdrop of canopy trees rather than from a strong layered or canopy tree character within individual residential properties.
- 39 Likewise, I consider that the proposal provides an appropriate response to the *Residential Design Guidelines* in terms of site layout, response to landform, building design and landscaping. It is important that the buildings are centralised on the site and generally well removed from eastern and western boundaries.
- 40 The landscape plan accompanying the application indicates that the proposal would result in an enhanced landscaped presentation that would meet these policy aspirations for a mix of vegetation.
- 41 The proposal would also reasonably comply with relevant strategies to the extent that it exhibits contemporary design that does not detract from the preferred character of the area.

Design response and ResCode

- 42 An extract from the ground floor layout of the proposal in the amended application plans is depicted below for reference. There is a further detailed landscape plan accompanying the application.



- 43 I find that the design and layout of the proposal would respond suitably to the medium density housing design policies in Clause 15.01-2L-02 of the planning scheme. More specifically, it would:
- give visual primacy to the front dwelling when viewed from the street;
 - avoid continuous building lines and blank walls, providing an acceptable level of external articulation;
 - provide practical and useable areas of private open space for each dwelling; and
 - mostly avoid a ‘gunbarrel’ driveway by introducing a range of landscaping areas.
- 44 The permit applicant emphasised that there was a high level of compliance with the numeric standards of ResCode in Clause 55 in addition to the relevant objectives. Mr Rigoni submitted that:
- at 39% garden area, the proposal would exceed with the mandatory garden requirement of the zone;
 - the proposal would achieve 32% permeability, compared with the standard of 20%;
 - site coverage would be limited to 37%, compared to a permissible 60%.
- 45 The only notable departure from ResCode standards is in respect of the front setback (B6). Dwelling 1 would have a minimum setback of 5.5 metres, compared with 6.3 metres sought by the standard.
- 46 Policy guidelines for the Garden Court precinct seek to maintain ‘predominant front setbacks of 7-8 metres’, with side setbacks of 1-3 metres. However, it expressly contemplates a variation to orientation and setbacks of adjoining properties and the streetscape for this particular precinct, Garden Court 3.
- 47 Council submitted that the reduction in front setback was acceptable in this context and would meet the objective of Clause 55.03-1 to “ensure that the

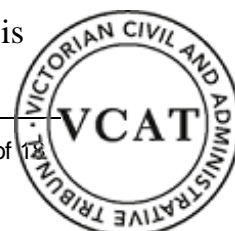
setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site”. Ms Zhao highlighted the curved nature of the front property boundary as well as the mix of dwelling orientation to the court.

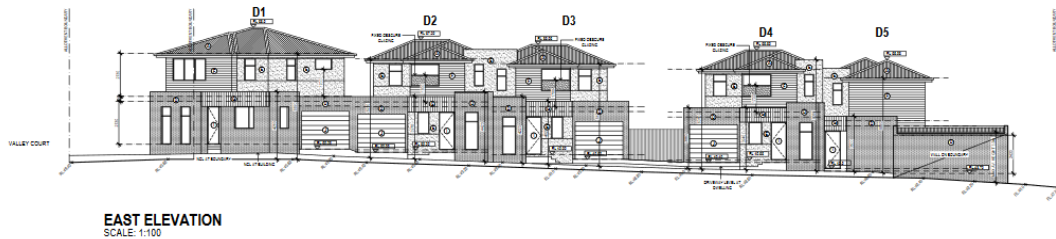
- 48 Council also considered that the detached dwelling form of Dwelling 1 was a suitable response to the streetscape.
- 49 I support the layout and design of the front dwelling as it would present to the court. While it is double storey and most existing dwellings are single storey, it is relatively compact and adopts many conventional design elements such as pitched roofs, face brickwork, weatherboard and render.
- 50 Likewise, in this particular instance, given the varied presentation of dwellings to the court bowl, I support the departure from the front setback standard. This is not a streetscape with an obvious or consistent front setback, and dwellings vary in their orientation to the street. This is recognised expressly in local policy.
- 51 Relevantly, the proposed setback is well within the range of existing housing in the street and would provide an opportunity for a landscaped setback, being a valued characteristic of the existing setting.
- 52 I accept submissions for the objectors that the front elevation as depicted on the application plans (viewed from the south west) needs to be understood with the juxtaposition of the remaining dwellings that will sit behind it (stepping down with site levels).
- 53 Notwithstanding, given the dwelling configuration, from various points along the court the dwellings will appear in groupings with varied orientation, rather than being one directly behind the other. I regard this as a positive element of the design.
- 54 The dwellings will also be viewed against the backdrop of large existing trees within the cemetery grounds.
- 55 While I accept that the proposed site coverage of 37% appears to be far more intensive compared with existing detached dwellings in the immediate vicinity, it is important to bear in mind that the land is within a zone earmarked for more intensive residential development.
- 56 This anticipated increase in density is to be understood in conjunction with the character outcomes sought by policies recently introduced in the planning scheme as applied above.

Impacts on amenity

Potential impacts on neighbours

- 57 The objectors were concerned about the potential impact on the outlook from dwellings, particularly 10 Valley Crescent, which has a number of habitable room windows facing the subject land. The relevant elevation is extracted from the amended application plans below.





- 58 Having inspected the subject land and adjacent dwellings, I regard the treatment of the immediate residential interfaces as acceptable.
- 59 The proposed development is well separated from this property given the layout of the driveway. With the exception of the limited garage construction close to the common boundary adjacent to an existing garage on No. 10 Valley Court, the nearest dwelling would be sited a prevailing 7 plus metres from the common boundary, with a small incursion for Dwelling 5 (separated 4 metres from the common boundary) and a setback in excess of 8.8 metres to the nearest point of Dwelling 1 (angled away from the property to the east).
- 60 Beyond this, the dwelling at No. 10 is set back 3.1 metres from the common boundary with its own intervening driveway. While there are numerous habitable room windows facing the subject land, I consider that the new townhouses have been designed to respond appropriately to slope (stepping down towards the rear of the site) and are limited to a conventional 2 storey height (less than 8 metres, being well below the maximum height permissible in the zone).
- 61 Notably, they also have meaningful separation between building forms especially through the centre of the site (approximately 4 metre separation from wall-wall between Dwellings 1 and 2 and approximately 6 metre separation from wall-wall between Dwellings 3 and 4).
- 62 This combines with further articulation/setbacks at upper levels of all dwellings and the appropriate use of conventional external materials and finishes.
- 63 There is also meaningful capacity for screen planting along the driveway interface with the subject land as demonstrated in the draft landscape plan.
- 64 I also inspected Ms Bursten's dwelling at No. 6 Valley Court. I consider that this dwelling only has an oblique outlook to the subject land which is well separated. The proposal would not impact key, valued viewlines from this property to the adjacent vegetated reserve. A comparable observation is made in terms of the outlook from principal living rooms of No. 10 Valley Court.
- 65 Overall, there is a high level of compliance with the objectives and standards of ResCode that address interface conditions. For example, the proposal well exceeds the side and rear setback standard. There is minimal on-boundary construction and this is limited to a location adjacent to an existing outbuilding on the neighbouring property.

- 66 The development would also comfortably meet the overlooking and overshadowing standards of ResCode.
- 67 I am satisfied from the additional shadow diagrams prepared on behalf of the applicant that there would be no unreasonable overshadowing of the solar panels on the roof of 10 Valley Crescent, either at the equinox or winter solstice.⁷
- 68 I find that the interface with the dwelling at 5 Valley Crescent is relatively non-sensitive since it has been developed with an open front garden and carport, with the house substantially set back and orientated in a different direction with an outlook to the street and rear. I consider the more confined setback for Dwelling 1 as acceptable in this context.
- 69 The site benefits from direct adjacency with the Diamond Creek cemetery. I regard this as a relatively passive land use that would not be unreasonably impacted by conventional residential townhouse development.
- 70 Similarly, while the site interfaces at the rear with a public reserve containing the Sawpit Creek, this part of the reserve is adjacent to the busy convergence of Main Road/Ryans Road/Diamond Creek Road roundabout. On my observation, it is relatively utilitarian and does not provide ready opportunities for public resort or recreation. Also, the immediate vicinity does exhibit strongly identifiable landscape values that stand to be affected negatively by the proposed development of double storey townhouses within a residential area.

Traffic, parking and waste management

- 71 Ms Bursten submitted that Valley Grove has a narrow sealed width (approximately 2.8 metres) and does not provide any on-street parking. She considered that one visitor parking space as proposed would be inadequate for the practical needs of future residents.
- 72 Ms Bursten also suggested that the court was not able to cater safely for the increase in traffic associated with four new dwellings, especially if this became a precedent for further development in the street.
- 73 The objectors pointed out that the permit applicant had not submitted a report of an expert traffic engineer addressing these issues.
- 74 I accept that one aspect of policy relating to medium density housing is to discourage medium density housing in areas where existing services, facilities and infrastructure are inadequate to support the scale of development.
- 75 Council referred the permit application to its Infrastructure Services and Building Services departments who supported the grant of a permit subject to conditions.

⁷ Noting that winter shadows would fall below the roof level of that dwelling.



- 76 The subject land is within a serviced area of the municipality and could manage off site impacts from five townhouses, such as stormwater run off subject to appropriate conditions.
- 77 I find that the provision of on-site parking would generally be adequate for the development. I am influenced by the fact that the proposal would meet the statutory parking rate in Clause 52.06 of the planning scheme for two car parking spaces per three bedroom dwelling, plus one visitor parking space for five dwellings.
- 78 The visitor parking space is mid-development and suitably accessible. Likely vehicle manoeuvres (swept paths) have been identified on the site plan as workable.
- 79 Although the sealed surface of Valley Court is relatively narrow and would only allow one way movement for the most part, I consider that the traffic impacts of an additional four dwellings could reasonably be absorbed by the physical context.
- 80 This is a relatively low speed environment. In particular, the application proposes a single consolidated accessway, good sightlines would be achievable and there would be opportunities for vehicles to prop in the street to allow others to pass safely.
- 81 Even though the increase in traffic may be noticed by existing residents compared to a very low base, I do not regard this as unreasonable given the purpose of the General Residential Zone to provide additional housing opportunities.
- 82 Having inspected the subject land and surrounds, it is apparent that Council may wish to consider road infrastructure upgrades if applications for redevelopment at higher residential densities become more frequent. However, this is not necessitated by the current development of itself and I am not aware of any other concurrent development applications in the immediate area.
- 83 In particular, Edinburgh Street (the main entrance road) has a rural unsealed character which may not be consistent with planning scheme aspirations or infrastructure standards for more intensive development. Similarly, I am not aware of the boundaries of the road reserve in Valley Court but there may be more efficient opportunities for road configuration or parking if residential densities increase over time. These are matters for Council as the local road authority.
- 84 Objectors submitted that the permit applicant had not demonstrated that it could provide suitable arrangements for waste collection, either in terms of holding capacity or waste collection truck movements in the court.
- 85 Council proposed the relocation of bin storage closer to the street boundary and imposed a draft permit condition requiring waste collection by private contractor. This was not opposed by the permit applicant.



- 86 There is limited on-street space for bins for this property given the location of the site at the court bowl. This would potentially justify collection by a private contractor. I am satisfied there is sufficient space to relocate the bins and provide suitable screening from the public realm as part of the refinement of plans for endorsement under the permit.
- 87 The applicant also provided a draft Waste Management Plan to Council in response to a request for further information. This documented the type of vehicle proposed to be used for collection and its frequency (generally twice per week).
- 88 I am not persuaded that the measures identified in the draft Waste Management Plan are unachievable given the dimensions of the court. By comparison, it appears that Council's conventional waste collection vehicles are able to achieve access without major disruption. A twice-weekly collection is not unreasonable for this established residential area.

OTHER MATTERS

- 89 The subject land is within a designated Bushfire Prone Area. Given the characteristics of this established residential area, I do not consider that the broader landscape or particular site characteristics would preclude the proposed development given the need to prioritise the protection of human life under Clause 13.02-1S of the planning scheme.
- 90 While the application was not required to be referred to the Country Fire Authority, the applicant will be required to meet requisite standards when applying for a building permit.
- 91 Overall, I consider the permit conditions are adequate to provide for the suitable endorsement of plans and implementation of the approved development.

CONCLUSION

- 92 For the reasons given above, notwithstanding the extent of change from existing conditions, it is appropriate to grant a planning permit for the development of the subject land for five dwellings in the proposed layout and configuration.

Dalia Cook
Member



APPENDIX A – PERMIT CONDITIONS

PERMIT APPLICATION NO:	531/2019/03P
LAND:	7 Valley Court, Diamond Creek

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Buildings and works for the construction of five dwellings.

CONDITIONS

- 1 Before the development commences, three copies of amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of this permit. The plans must be generally in accordance with the plans identified as TP1.0, TP2.0, TP3.0, TP4.0 Rev D Job # 19137 dated September 2020 prepared by Archsign) submitted 1/10/2020, Frater Waste Management Plan dated 14/9/20, Sheets 1 and 2 of 2 Rev C Project # 200829 Dated 20/10/20 prepared by Moorilla Studio Landscapes but modified to show:
 - (a) The bin storage area relocated to the west of the driveway adjacent to the dwelling 1 front yard.
 - (b) Either:
 - i a sill with a minimum height of 1.7 metres above finished floor level,
 - ii fixed external screen with a maximum permeability of 25% to a minimum height of 1.7 metres above finished floor level; or,
 - iii fixed obscure glazing (not film) with a maximum transparency of 25% to a minimum height of 1.7 metres above finished floor level, to the following windows:
 - Dwelling 1 first floor south east facing bedroom 1 window
 - Dwelling 1 first floor south west facing bedroom 1 window
 - Dwelling 1 first floor north west facing bedroom 3 window
 - Dwelling 2 first floor south facing bedroom 2 window
 - Dwelling 3 first floor north facing bedroom 2 window
 - Dwelling 4 first floor south facing bedroom 2 window



- Dwelling 5 first floor south facing bedroom 1 window.
- 2 Where fixed screens are proposed, a section diagram must be included to demonstrate how the screens minimise overlooking of adjoining properties to comply with Standard B22 of ResCode (Clause 55).
 - (a) The adjoining property to the east numbered correctly as 10 Valley Court.
 - (b) Provision of a 1.8 metre high fence between each dwellings secluded private open space for internal privacy.
 - (c) All tandem car parking spaces must have a dimension of 2.6m by 4.9m as required by Clause 52.06.
 - 3 The development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
 - 4 Unless with the prior written consent of the Responsible Authority, within 3 months of the completion of the development, all landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
 - 5 The garden areas shown on the endorsed plan must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Should any tree or shrub be removed or destroyed it may be required to be replaced by a tree or shrub of similar size and variety.
 - 6 Prior to occupation of the development, all visual screening measures shown on the endorsed plans must be installed in order to prevent unreasonable overlooking and must be maintained to the satisfaction of the responsible authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the responsible authority.
 - 7 The driveway width at the property boundary must have a width of three metres unless otherwise directed by Council. The crossing must have a minimum splay of one in three for the first three metres of the crossing unless otherwise directed by Council. Council may direct the applicant to construct a wider splay in areas of high traffic volume or where other traffic safety issues exist.
 - 8 The development, including any new paved areas, must be drained so as to prevent the uncontrolled discharge of stormwater from the subject site across any road or footpath or onto any adjoining land for all rainfall events up to, and including, the 5% Annual Exceedance Probability (AEP) event.
 - 9 Stormwater from the roof of the approved development must be directed to a holding tank with a minimum storage capacity of 2000 litres. The overflow from the tank must be directed to the Council nominated point of stormwater discharge via an on-site detention device.

Water in the holding tank may be used for one or more of the following purposes: toilet flushing; property irrigation; vehicle washing and any other purpose approved by the Responsible Authority.

- 10 The drainage system within the subject site must be designed to the requirements and satisfaction of the Responsible Authority.
- 11 Any connection to Council's underground drainage system within road reserves or drainage easements must be carried out under Council supervision and an Infrastructure Works permit. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain to the nominated legal stormwater point of discharge, via an on-site detention device. The property does not have a legal stormwater point of discharge, consequently, the applicant must apply for a legal point of discharge.
- 12 The on-site detention device must be designed by a qualified engineer and plans submitted to the Responsible Authority for approval (prior to the commencement of the development unless with the prior written consent of the Responsible Authority).
- 13 The engineer that is designing the on-site detention device must obtain all relevant input figures from Council. The permissible site discharge must be restricted to a pre development flow rate for a 1 in 5 year average recurrence interval (ARI) event and detained for a 1 in 10 year ARI event.
- 14 An on-site detention device must be installed, at no cost to Council, to restrict the property storm water discharge to a flow equivalent to the pre-development design flow rate as approved by the Responsible Authority. The on-site detention system outlet must be connected to the Council nominated point of stormwater discharge.
- 15 Construction of the on-site detention device must be carried out under Council supervision, in accordance with the approved plans and specifications and under an Infrastructure Works permit.
- 16 No polluted and/or sediment laden runoff from the land may be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property during the construction of the development. Sediment fencing and/or pollution/litter traps must be installed on site and serviced accordingly to the satisfaction of the Responsible Authority.
- 17 Vehicular access and egress to the dwelling from the roadway must be by way of a vehicle crossing constructed to the requirements of the Responsible Authority, to suit the proposed driveway and the vehicles that will use the crossing. The Responsible Authority must approve the location, design and construction of the crossing.
- 18 Any existing unused crossing must be removed and the disturbed area reinstated to the satisfaction of the Responsible Authority.



- 19 All vehicle crossing works must be carried out with Council supervision under an Infrastructure Works permit.
- 20 The width of the driveway at the property boundary must match the width of the vehicle crossing.
- 21 The vehicular driveway must be properly formed with a centre V shape and constructed meeting the ramp grades specified in the Nillumbik Planning Scheme (Clause 52.06-9, Design standard 3: Gradients) and to such levels to ensure that it can be utilised at all times. The driveway must be drained, constructed in concrete, asphalt or similar surface and maintained in a continuously useable condition. All works are to be carried out to the satisfaction of the Responsible Authority. Minimum 225mm diameter underground drains must be used for the internal drainage system underneath the driveway.
- 22 Demolition works, all excavation and building works, installation of services and on-site detention device, and connection must be undertaken in accordance with the approved Cultural Heritage Management Plan prepared by Jem Archeology dated 1 October 2020, specifically part 1: Cultural Heritage Management Conditions.
- 23 Waste storage and collection must undertaken by a private contractor in accordance with the approved management plan and must be conducted in such a manner as not to affect the amenity of the surrounding area and which does not cause any interference with the circulation and parking of vehicles on abutting streets to the satisfaction of the Responsible Authority.
- 24 This permit will expire if one of the following circumstances applies:
 - (a) The development is not commenced within 2 years of the date of this permit.
 - (b) The development is not completed within 4 years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards if the development has not commenced, or 12 months after if the development has commenced but is not yet completed.

End of conditions