

Planning and Consultation Committee Meeting

to be held at the Civic Centre, Civic Drive, Greensborough
on Tuesday 9 August 2022 commencing at 7:00pm.

Agenda

Carl Cowie
Chief Executive Officer

Thursday 4 August 2022

Distribution: Public

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Council Chamber Planning and Consultation Committee Meeting seating plan

**Cr Natalie
Duffy**
Edendale Ward

Cr Karen Egan
Bunjil Ward

**Cr Richard
Stockman**
Blue Lake Ward

**Cr Ben Ramcharan
(Deputy Mayor)**
Sugarloaf Ward

**Cr Frances Eyre
(Mayor)**
Swipers Gully Ward

**Cr Geoff Paine
(Chairperson
Consultation
Matters)**
Wingrove Ward

Katia Croce
Governance
Lead

Sally Johnson
Acting Executive
Manager
Governance,
Communications
and Engagement

**Cr Peter Perkins
(Chairperson
Planning Matters)**
Ellis Ward

Carl Cowie
Chief Executive
Officer

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Nillumbik Shire Council

**Agenda of the Planning and Consultation Committee Meeting to be held
Tuesday 9 August 2022 commencing at 7:00pm.**

1. Welcome by the Chair

Members of the public are advised the meeting will be livestreamed and recorded and the livestream recording will be made publicly available on YouTube and Council's website.

2. Acknowledgement of Country

The Acknowledgement of Country to be read by the Chairperson

Nillumbik Shire Council respectfully acknowledges the Wurundjeri Woi-wurrung people as the Traditional Owners of the Country on which Nillumbik is located, and we value the significance of the Wurundjeri people's history as essential to the unique character of the shire. We pay tribute to all First Nations People living in Nillumbik, give respect to Elders past, present and future, and extend that respect to all First Nations People.

We respect the enduring strength of the Wurundjeri Woi-wurrung and acknowledge the ongoing impacts of past trauma and injustices from European invasion, massacres and genocide committed against First Nations People. We acknowledge that sovereignty was never ceded.

Wurundjeri Woi-wurrung people hold a deep and ongoing connection to this place. We value the distinctive place of our First Nations People in both Nillumbik and Australia's identity; from their cultural heritage and care of the land and waterways, to their ongoing contributions in many fields including academia, agriculture, art, economics, law, sport and politics.

3. Apologies

Recommendation

That the apologies be noted.

4. Disclosure of conflicts of interest

Committee members should note that any conflicts of interest should also be disclosed immediately before the relevant item.

5. Confirmation of Minutes

COM.001/22 Confirmation of Minutes Planning and Consultation Committee Meeting held Tuesday 12 July 2022


Summary

Confirmation of the minutes of the Planning and Consultation Committee Meeting held on Tuesday 12 July 2022.

Recommendation

That the Committee (acting under delegation from Council) confirms the minutes of the Planning and Consultation Committee Meeting held on Tuesday 12 July 2022 (**Attachment 1**).

Attachments

- 1  Minutes of the meeting held Tuesday 12 July 2022

6. Officers' reports

PCC.028/22 Construction of a second dwelling (double storey) to the rear of the existing dwelling at 2 Kirwin Avenue, Eltham

Item: Planning Matter

Distribution: Public

Manager: Rosa Zouzoulas, Executive Manager Planning and Community Safety

Author: Renae Ahern, Manager Planning Services

Application summary

Address of the land	2 Kirwin Avenue, Eltham
Site area	833 square metres
Proposal	Construction of a second dwelling (double storey) to the rear of the existing dwelling
Application number	839/2021/03P
Date lodged	31 August 2021
Applicant	J Alexander
Zoning	General Residential Zone (Schedule 1)
Overlay(s)	None
Reason for being reported	Called in by Ward Councillor
Number of objections	25
Key issues	Strategic location and mandatory requirements Response to Neighbourhood Character Private Open Space Amenity impacts Car parking and vehicle access

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PCC.028/22 Construction of a second dwelling (double storey) to the rear of the existing dwelling at 2 Kirwin Avenue, Eltham

Recommendation

That the Committee (under delegation from Council) issue a Notice of Decision to Grant a Permit to the land located at 2 Kirwin Avenue, Eltham for the construction of a second dwelling (double storey) to the rear of the existing dwelling, in accordance with the submitted plans and subject to the following conditions:

1. Before the development commences 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 submitted with the application but modified to show:
 - a) The existing vehicle crossing to Leane Drive retained or reconstructed at the same grade and location under the supervision of the project arborist to protect Council owned tree number 2.
 - b) A notation to state that excavation for the retaining wall posts must be undertaken with the supervision of the project arborist so as to not damage significant roots within the Structural Root Zone of Council owned tree numbers 5 and 6.
 - c) Tree protection measures in accordance with Section 8.3 and 8.4 of the arborist report by Taylors dated 26 November 2021, to protect Council owned tree numbers 1, 2, 5, 6, 7 and 8.
 - d) A landscape plan in accordance with Condition 3.
2. The development as shown on the endorsed plans must not be altered unless with the prior written consent of the Responsible Authority.
3. Before the development commences, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must show:
 - a) A survey of all existing vegetation and natural features;
 - b) The area or areas set aside for landscaping;
 - c) A schedule of all proposed trees, shrubs/small trees and ground cover. This schedule shall include a mixture of selected from the Council document 'Live Local Plant Local' showing the botanical and common name of each plant, the quantity to be planted, the pot size and spacing;
 - d) The location of each species to be planted and the location of all areas to be covered by grass, lawn or other surface material;
 - e) Paving, retaining walls, fence design details and other landscape works including areas of cut and fill;
 - f) Appropriate irrigation systems;
 - g) Appropriate maintenance details; and

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- h) The provision of four canopy trees to be planted throughout the development. The trees must be substantial canopy species and selected from *'Live Local Plant Local – A guide to planting in Nillumbik'*.
- 4. Unless with the prior written consent of the Responsible Authority, before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out, completed and maintained to the satisfaction of the Responsible Authority.
- 5. No trees on site (unless specified on the endorsed plans) shall be removed, destroyed, felled, lopped, ringbarked, uprooted or otherwise damaged except with the prior written consent of the Responsible Authority.
- 6. The Council owned nature strip trees must not be damaged during construction and must be protected in accordance with the tree protection measures shown on the endorsed plans.
- 7. Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the trees marked on the endorsed plans as being retained must have a Tree Protection Fence (TPF) to the satisfaction of the Responsible Authority. The fencing associated with this TPZs must meet the following requirements:
 - a) Extent
 The tree protection fencing (TPF) is to be provided to the extent of the TPZ, calculated as being a radius of 12 x Diameter at Breast Height (DBH – measured at 1.4 metres above ground level as defined by the Australian Standard AS 4970.2009)

 Fencing may be reduced directly adjacent to the works area only to allow access during construction (i.e. no more than 1 metre away from the works/construction area)
 - b) Fencing
 All tree protection fencing required by this permit must be erected in accordance with the approved TPZ.

 The TPF must be erected to form a visual and physical barrier and must be a minimum height of 1.5 metres and of chain mesh or similar fence.
 - c) Signage
 Fixed signs are to be provided on all visible sides of the TPF clearly stating "Tree Protection Zone – No Entry", to the satisfaction of the Responsible Authority.
 - d) Provision of Services
 Unless with the prior written consent of the Responsible Authority, all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, to the satisfaction of the Responsible Authority.

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- e) Access to TPZ
Should temporary access be necessary within the Tree Protection Zone during the period of construction, the Responsible Authority must be informed prior to relocating the fence (as it may be necessary to undertake additional root protection measures such as bridging over with timber).
- 8. Prior to the commencement of the approved works (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), the erected tree protection fences must be inspected and approved by the Responsible Authority. Once erected to the required standard, the tree protection fencing shall be maintained in good condition and may only be removed upon completion of all development works, to the satisfaction of the Responsible Authority.
- 9. The following actions must not be undertaken in any tree protection zone as identified in this permit, to the satisfaction of the Responsible Authority:
 - a) Materials or equipment stored within the zone;
 - b) Servicing and refuelling of equipment and vehicles;
 - c) Storage of fuel, oil dumps or chemicals;
 - d) Attachment of any device to any tree (including temporary service wires, nails, screws or any other fixing device);
 - e) Open cut trenching or excavation works (whether or not for laying of services);
 - f) Changes to the soil grade level;
 - g) Temporary buildings and works; and
 - h) Unauthorised entry by any person, vehicle or machinery.
- 10. The materials to be used in the construction of the buildings and works hereby permitted shall be of non-reflective type and finished in muted tones, to the satisfaction of the Responsible Authority.
- 11. Air-conditioning and other plant and equipment installed on the subject buildings shall be so positioned and baffled so that noise disturbance is minimised, to the satisfaction of the Responsible Authority.
- 12. Stormwater must not be discharged from the subject land other than by means of an underground pipe drain to the nominated point of stormwater discharge.
- 13. No polluted stormwater, effluent and/or sediment laden runoff from the development site is to be discharged directly or indirectly into Council's drains, Melbourne Water's drains or watercourses or adjoining private property during any stage of the construction. Sediment fencing and/or pollution/litter traps must be installed on site and serviced accordingly to the satisfaction of the Responsible Authority.
- 14. The vehicular driveway must be properly formed and constructed meeting the ramp grades specified in the Nillumbik Planning Scheme and to such levels to ensure that it can be utilised at all times. Appropriate transitions with a maximum change in grade of 1 in 8 should be provided to enable access by all types of vehicles. The

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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.

Stormwater from the driveway must be collected using 225mm wide trench-grates across the driveway at property boundary where it meets road reserve and connected to the on-site detention device/legal point of stormwater discharge.

A minimum pipe diameter of 225mm must be used for all underground drains, within the internal drainage system underneath the driveway.

15. Stormwater from the roof of existing and new dwelling must be directed, via the internal drainage system, to an underground detention storage system with must be directed to the on-site detention system. The overflow from the on-site detention system must be directed to the nominated point of discharge.

Each dwelling must be provided with an independent underground drainage discharge system. Both systems are to be connected to the nominated point of stormwater discharge.

The detention storage shall be provided underground and the stormwater drainage system from the existing dwelling must be located outside of the footprint of the proposed dwelling.

Water in the holding tanks 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.

16. The on-site detention device must be designed by a qualified engineer and plans submitted must be to the Responsible Authority for approval, prior to the commencement of the development (except with the prior written consent of the Responsible Authority).

The engineer that is designing the on-site detention device must obtain tc and tso figures from Council. The permissible site discharge must be restricted to a pre development flow rate for a 20% Average Exceedance Probability (AEP) and detained for a 10% (AEP) event.




17. An on-site detention device must be constructed, at no cost to Council, in accordance with the endorsed plans and connected to the Council nominated point of stormwater discharge.
18. 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*.
19. 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.

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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.

Attachments

- 1  Aerial Map
- 2  Site and Surrounds
- 3  Plans

Subject site and surrounds

1. The key features of the subject site are as follows:
 - The subject site is described on title as Lot 120 on Plan of Subdivision 139003, Volume 09606 Folio 651.
 - The site is located on the south side of Kirwin Avenue at the corner of Leane Drive.
 - The site has an area of 833 square metres.
 - The land falls from front to rear by approximately six metres.
 - The site contains a single storey dwelling, six small trees and some shrubs.
 - Existing vehicle crossings are located along Kirwin Avenue and Leane Drive.
 - A three metre wide sewerage and drainage easement is located along the southern boundary.
 - There are no covenants or Section 173 Agreements registered on title.
2. The Surrounding land comprises the following:
 - North: Single dwelling (single storey, detached)
 - South: Leane Drive Reserve
 - East: Single dwelling (double storey, detached)
 - West: Single dwellings (single storey, detached)

The surrounding area is characterised by detached dwellings, with open and well landscaped front setbacks. Built form is single storey and double storey, with single storey more prevalent. Housing styles are typically brick veneer with pitched tiled or steel roofs.

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Details of proposal

3. Refer to the attached plans (**Attachment 3**).
4. Key features of the proposal include:
 - Construction of a double storey dwelling to the rear of the existing dwelling.
 - Dwelling 1 (existing dwelling) contains three bedrooms, two living rooms, kitchen and a dining room.
 - Dwelling 2 contains four bedrooms, two living rooms, kitchen and a dining room.
 - Dwelling 1 and 2 are each provided with a double car garage.
 - Vehicle access utilises the existing vehicle crossings to Kirwin Avenue and Leane Drive.
 - Each dwelling is provided with private open space at ground level.
 - External materials proposed are brick, render and timber clad walls and Colorbond roof. External colours are red brick, natural timer, Dulux Dieskau (mid grey) and Monument.
 - Removal of tree numbers 9, 10, 11 and 12 (small trees) for which no permit is required pursuant to the Nillumbik Planning Scheme.

Planning history

5. There is no planning history for the site relevant to the application.

Planning controls

Zoning

6. The subject land is zoned General Residential Zone (Schedule 1). Under this zone, a permit is required to construct two or more dwellings on a lot.

Overlays

7. The subject land is not affected by any overlays.
A permit is not required to remove vegetation from the site.

Particular provisions

8. Clause 52.06 (Car Parking) of the Nillumbik Planning Scheme applies to the application. This clause seeks to ensure there is the provision of an appropriate number of car parking spaces; that car parking does not adversely affect the amenity of the locality; and 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.
9. Development of two or more dwellings on a lot must meet the requirements of Clause 55 (commonly known as 'ResCode') of the Nillumbik Planning Scheme.
10. Clause 65 (Decision Guidelines) of the Nillumbik Planning Scheme outlines general decision guidelines that must be considered when assessing an application. These guidelines include the purpose of the zone or other provision, the orderly planning of the area, and the effect on the amenity of the area.

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Relevant planning policies

11. Municipal Planning Strategy relevant to this application include:
- Clause 2.01 (Context)
 - Clause 2.03-1 (Settlement)
 - Clause 2.03-2 (Environmental and landscape values - Landscapes)
 - Clause 2.03-5 (Built environment)
12. The Planning Policy Framework relevant to this application include:
- Clause 11.01-1S (Settlement)
 - Clause 11.01-1L-02 (Land use and development in the Eltham Gateway)
 - Clause 11.03-1L-02 (Activity Centres in Nillumbik)
 - Clause 15.01-1S (Urban Design)
 - Clause 15.01-2S (Building Design)
 - Clause 15.01-2L-01 (Building Design in Nillumbik)
 - Clause 15.01-2L-02 (Medium Density Housing Design)
 - Clause 15.01-4S (Healthy Neighbourhoods)
 - Clause 15.01-5S (Neighbourhood Character)
 - Clause 15.01-5L (Neighbourhood Character – Nillumbik)
 - Clause 16.01-1S (Housing supply)
 - Clause 16.01-1L (Location of medium density residential development)
 - Clause 16.01-2S (Housing affordability)

Advertising

13. The application was advertised by way of the posting of notices to the owners and occupiers of neighbouring properties and the erection of a notice board on the site.
14. Following an amendment of the application adopting design changes, the proposal was re-advertised by the same method, plus letters to objectors. No objections were withdrawn in response to the design changes.

Objections

15. As a result of advertising, a total of 25 written objections have been received. The objections can be summarised as follows:
- Density and number of dwellings.
 - Building bulk, massing, scale and setbacks.
 - Boxy design.
 - Removal of and impacts to existing vegetation.

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- Insufficient landscaping opportunities.
- Overlooking, overshadowing, noise and loss of outlook.
- Amenity impacts to public reserve.
- Car parking, vehicle access and traffic (with emphasis on road safety and the location of the vehicle crossing for Dwelling 2)
- Flooding risk.
- Poor Environmentally Sensitive Design (ESD).
- Potential for high boundary front fence in future.
- Precedence.
- Loss of property value.

Planning application conference

16. A planning application conference was held via virtual meeting on 30 May 2022. The above issues were discussed and whilst no agreement was achieved, the position of parties was clarified.
17. Originally a boxy, largely flat roof design was proposed, however the application was amended and re-advertised prior to the planning application conference to address concerns by planning officers and objectors.

Referrals

Internal

18. The application was referred to various business units or individuals within Council for advice on particular matters. The following is a summary of the relevant advice:

Council Unit	Comments
Infrastructure Department	No concerns subject to standard drainage and traffic conditions. No objection to the crossover location at Leane Drive. The existing crossover is considered appropriate for utilisation and the current centre island has taken into account right turn access via the inclusion of the dashed centre line markings. Consideration should be given to the removal of the centre hatch in the event the dwelling is constructed.
Council's consulting arborist	The six trees on site have a low retention value. No concern raised with the proposed removal of four of the trees. All third party trees are expected to remain viable subject to standard tree protection measures.
Building Services	No concerns. A building permit will be required.

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Council Unit	Comments
Parks and Open Space	If the existing crossover is retained the Council owned nature strip tree is expected to remain viable. Reconstruction of the crossover at the same grade and location with arborist supervision is also acceptable.

External

19. There are no external referral authorities relevant to this application.

Planning assessment

Introduction

Key planning issues

20. The following have been identified as the key planning issues in relation to the assessment of this planning application:

- Strategic location and mandatory requirements.
- Response to Neighbourhood Character
- Private Open Space
- Amenity impacts.
- Car parking and vehicle access.

21. Assessment of these issues, together with a response to objections received, will be discussed in the remainder of this report.

Strategic location and mandatory requirements

22. The proposal makes a positive contribution to the supply and diversity of housing in the municipality.

23. The site is located a moderate distance (1.9 km) from the Eltham Activity Centre and train station. This location is considered policy neutral for a dual-occupancy development. Ultimately, strategic justification is determined by whether the design elements meet the specific provisions of the planning scheme. The proposal is consistent with the provisions of the planning scheme for the reasons discussed below.

24. The proposal meets the garden area requirements of Clause 32.08-4 of the Nillumbik Planning Scheme, with 46.2% garden area provided. The clause specifies that a minimum area of 35% is required.

25. The proposal has a maximum height of two-storeys and 6.7 metres. This meets the mandatory maximum height requirements of Clause 32.08-10 of the Nillumbik Planning Scheme, for three-storeys and 11 metres.

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Response to Neighbourhood Character

- 26. Clause 15.01-5L (Neighbourhood character – Nillumbik) of the Planning Scheme outlines the desired character for the area. The character policy includes precinct wide objectives to maintain canopy trees, minimise detrimental impacts on the landscape from excavation, to ensure buildings do not dominate the streetscape (including garages and driveways) and allowing a continuous garden flow across boundaries.
- 27. Objectives specific to the Garden Court precinct include maintaining the dominance of the landform and vegetation. The policy invokes a strongly reinforced theme of retention and planting of substantial canopy trees and pre-eminence of vegetation over built form.
- 28. The surrounding area can be characterised by detached dwellings, with open and well landscaped front setbacks. The existing built form found in the immediate and broader area consists of a mix of single and double storey forms. Housing styles are typically brick veneer with pitched tiled or steel roofs.

Building bulk, massing and scale

- 29. No building or works are proposed forward of the existing dwelling. The front setback will remain intact, open to the street and with opportunity for significant landscaping. Both dwellings provide a good sense of address and would integrate well with the street. Dwelling entries are easily identifiable and would be surrounded by suitable transition spaces. No front fencing is proposed, other than a small section of picket fence of 1.2 metres high, at the north-west corner of Dwelling 2, maintaining openness with the street.
- 30. Overall, building bulk, massing and scale of the proposal is considered in keeping with the character of the area. The size of the ground floor footprints are not considered excessive. The portion of site covered by building is 40.5%. The design of the proposed dwelling provides a level of articulation on each elevation and uses a mixture of building materials.
- 31. The height of the dwelling (maximum 6.7 metres) is in keeping with the developments in the area and is not visually obtrusive. Building and wall heights have been minimised by responding to the natural topography of land.
- 32. Building setbacks are sufficient to mitigate visual bulk to adjoining properties.
 Ground floor setbacks are as follows:
 - West (street): 3.5 – 4.7 metres
 - South (reserve): 3.2 metres
 - East: 1.2 – 2.5 metres
 First floor setbacks are as follows:
 - West (street): 3 – 4.7 metres (including the balcony)
 - South (reserve): 4.3 metres
 - East: 3.5 metres
- 33. The above setbacks exceed the minimum standards of Clause 55 of the Nillumbik Planning Scheme.

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34. There is meaningful separation provided between the dwellings within the site, 4.1 metres at ground level, and the design response maintains the detached character of the area.
35. Some degree of site cut is necessary to accommodate the dwelling. Importantly, the extent of earthworks proposed has been minimised and does not unreasonably transform the landscape.
36. The garages are located behind the front lines of the dwellings and do not dominate the streetscape. The extent of driveways and other hard surface areas are minimised. Walls are well articulated and recessed to break up the silhouette of the building and mitigate visual bulk.
37. The brick, render and timber panel walls and the pitched Colorbond roof is in keeping with the predominant architectural styles in the area. External colours are suitably muted and considered compatible with the Garden Court precinct of Clause 15.01-5L (Neighbourhood Character – Nillumbik) of the Nillumbik Planning Scheme. Originally, a boxy, largely flat roof design was proposed but the application was amended to address concerns by planning officers and objectors.
38. Sufficient window fenestration is provided, including windows to the public reserve. This is also important to achieve passive surveillance to the public reserve to promote safe use. The front balcony is constructed from glass, with the fine aluminium frame. This creates a light weight appearance, avoiding unreasonable visual bulk.

Vegetation Impacts and Landscaping Opportunities

39. There are six small trees on site, which are outlined as follows:
 - Tree number 3 – *Pittosporum undulatum* (Sweet Pittosporum)
Height 3.8 metres, native, low retention value
 - Tree number 4 – *Syzygium smithii* (Lilly Pilly)
Height 3.2 metres, native, low retention value
 - Tree number 9 – *Crataegus monogyna* (Common Hawthorn)
Height 3.6 metres, exotic, low retention value
 - Tree number 10 – *Pittosporum undulatum* (Sweet Pittosporum)
Height 3 metres, native, low retention value
 - Tree number 11 – *Acacia sp.* (Wattle)
Height 4.1 metres, native, low retention value
 - Tree number 12 – *Pittosporum tenuifolium* (James Stirling Pittosporum)
Height 4.8 metres, exotic, low retention value
40. The application proposes the removal of tree numbers 9, 10, 11 and 12. A permit is not required to remove these trees pursuant to the Nillumbik Planning Scheme.

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- 41. All six of the small trees on site have a low retention value. Council’s consulting arborist supports the removal of the four trees proposed to be removed. The project arborist and Council’s consulting arborist advised that all third party trees are expected to remain viable subject to standard tree protection measures. It is recommended that these measures be adopted via condition in the even a permit is issued.
- 42. The site is currently devoid of any substantial canopy trees. The proposal provides an opportunity to require canopy tree planting to achieve what was envisaged by Clause 15.01-5L (Neighbourhood Character – Nillumbik) of the Nillumbik Planning Scheme. The proposal makes sufficient provision for the planting of canopy trees and landscaping more broadly.
- 43. The Garden Court precinct seeks canopy tree planting at a density of one tree to every 200 square metres of site area. This equates to a requirement for four canopy trees and there is sufficient space to accommodate these trees on the site.
- 44. There is also sufficient provision for secondary plantings throughout the site and the extent of hard surface areas is minimised. It is recommended that a landscape plan be endorsed as part of any permit issued to show canopy tree and secondary plantings.

Private Open Space

- 45. The proposal provides the following private open space:

Dwelling number	Private open space (m ²) proposed	Minimum required (m ²) under the Planning Scheme	Including secluded private open space proposed (m ²)	Minimum required (m ²) under the Planning Scheme	Complies with Clause 55
1 (Existing)	293	40	83	25	Yes
2 (Proposed)	180	40	129	25	Yes

- 46. The secluded private open space areas have widths in excess of three metres, reasonable solar access and convenient access from a living room in accordance with Clause 55.05-5 (Private open space) of the Nillumbik Planning Scheme.

Amenity Impacts

- 47. Any potential for amenity impacts comply with the considerations of Clause 55 of the Nillumbik Planning Scheme. The site benefits from two street frontages and a third boundary adjoining the public reserve. This significantly reduces amenity impacts to surrounding properties.
- 48. Visual bulk to the adjoining property to the east is considered reasonable having regard to building height, ground floor and first floor footprints, boundary setbacks and wall articulation and recession.

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49. The degree of overshadowing to the secluded private open space of the adjoining property is reasonable as adequate sunlight will still be received through the day, measured at the equinox. The proposal complies with Clause 55.04-5 (Overshadowing Open Space) of the Nillumbik Planning Scheme.
50. The solar access to the habitable room windows and solar panels of the adjoining property would have no impact and complies with Clause 55.03-5 (Energy Efficiency) and Clause 55.04-4 (North-facing Windows) of the Nillumbik Planning Scheme.
51. Overlooking from habitable room windows to the secluded private open space and habitable room windows of surrounding dwellings is avoided and complies with Clause 55.04-6 (Overlooking) of the Nillumbik Planning Scheme. Overlooking is avoided due to the interface with two street frontages and the public reserve. Overlooking to the east is avoided by maintaining the ground floor at natural ground level and a minimal reliance on obscure glazing at the first floor.
52. Noise generated from the proposal would be limited to residential noise and be of a domestic nature. Driveways are not located immediately adjacent to bedroom windows and any air-conditioning units would be appropriately located through condition of permit.
53. Overall, the proposal complies with all other standards and objectives of Clause 55 (ResCode) of the Nillumbik Planning Scheme.

Car Parking and Vehicle Access

54. Both Dwelling 1 and 2 are provided with two car spaces in the form of double car garages. The number of car spaces and the internal dimensions of the garages meet the requirements of Clause 52.06 (Car Parking) of the Nillumbik Planning Scheme.
55. Vehicles are able to enter and exit the site conveniently via direct street access from short and conventional driveways. The access arrangements for Dwelling 1 would be unchanged and Dwelling 2 would utilise the existing vehicle crossing from Leane Drive. The vehicle crossings are appropriately located the farthest distance to the Kirwin Avenue/Leane Drive intersection. The width of the driveways and the proposed ramp grades are satisfactory and comply with the standard.
56. Objectors have raised concerns with road safety from the proximity of the existing vehicle crossing to what was described as a pedestrian refuse crossing on Leane Drive. Council's Infrastructure Department reviewed these concerns and confirmed the centre island is not a pedestrian crossing. Rather, its purpose is to limit vehicle speeds and control vehicle movements on Leane Drive. It is not intended to limit vehicle access or movements from the existing vehicle crossing.
57. Traffic management issues on Leane Drive are not attributed to the location of the existing vehicle crossing. The existing crossover is considered appropriate for utilisation, particularly when having regard to the low volume of vehicle movements generated from one dwelling. The current centre island has taken into account right turn access via the inclusion of the dashed centre line markings. Consideration should be given to the removal of the centre hatch by Council's Infrastructure Department as part of broader traffic management initiatives relating to Leane Drive, in the event the dwelling is constructed.

6. Planning Matters

PCC.028/22 Construction of a second dwelling (double storey) to the rear of the existing dwelling at 2 Kirwin Avenue, Eltham

58. The existing paling fence to Leane Drive would be removed to provide an open frontage. This would provide vehicle sight lines (shown on plans) to ensure vehicles can exit the site clear of visual obstruction in accordance with the standard. This is considered a significant improvement from the existing vehicle access arrangement.
59. The proposed development is not expected to produce traffic volumes that would exceed the capacity of the local street network.

Response to objections received

60. The written objections have raised a number of concerns with respect to the proposed development. Issues regarding built form, removal of vegetation, impacts to existing vegetation, landscaping opportunities, amenity impacts and car parking and vehicle access have been discussed in earlier sections of this assessment. A response to those issues not previously discussed and addressed is included below.

Density and number of dwellings

61. The planning scheme does not contain specific density controls. Rather, density is limited through the application and compliance with the various planning policies and objectives discussed in this report.

Amenity impacts to public reserve

62. Passive surveillance of public parks is encouraged to promote safe use. The noise generated from the proposal would be limited to residential noise and be of a domestic nature.

Flooding risk

63. The site would be appropriately drained via an approved drainage system connected to the site's legal point of discharge.

Poor Environmentally Sensitive Design (ESD)

64. The dwellings have reasonable solar access and would not impact the solar access to the habitable rooms or solar panels of surrounding properties. The proposed dwelling must meet the building regulations in relation to energy efficiency. Water consumption is not expected to exceed that of residential use.

Potential for high boundary front fence in future

65. High front fencing is not proposed with this application.

Precedence

66. Each application must be considered on its individual merits and in the context of the site. Precedence in itself is not a valid ground of refusal.

Loss of property value

67. Planning officers are unable to consider loss of property value as a relevant planning matter or as a ground of refusal.

6. Planning Matters

PCC.028/22 Construction of a second dwelling (double storey) to the rear of the existing dwelling at 2 Kirwin Avenue, Eltham

Conclusions

- 68. The proposal is considered acceptable in terms of its strategic location. The extent of building bulk, massing and scale is considered reasonable having regard to the existing and desired character of the area. No significant existing vegetation would be impacted and there is sufficient opportunity for new canopy tree planting and landscaping broadly throughout the site in accordance with the requirements of the Neighbourhood Character Policy found at Clause 15.01-5L of the Nillumbik Planning Scheme.
- 69. There is sufficient provision for private open space, car parking and vehicle access. Potential for amenity impacts such as overshadowing and overlooking have be minimised through the design and siting of the proposal.
- 70. It is considered that the proposal is an acceptable outcome for the site and surrounding area and approval is recommended, subject to conditions.

Conflicts of interest

- 71. All officers involved in the preparation of this report have made a declaration that they do not have a conflict of interest in the subject matter of this report.

- 7. Supplementary and urgent business**
- 8. Confidential reports**
- 9. Close of Meeting**