

#### PERMIT

#### **HERITAGE ACT 1995**

PERMIT NO: P13278

OWNER/S:

State of Victoria

ADDRESS:

Major Projects Victoria

Level 8, 121 Exhibition Street

Melbourne VIC 3000

HERITAGE REGISTER NO:

H2073

FILE NO:

REGISTRATION CATEGORY:

Heritage Place

HER/2001/001389

NAME OF PLACE:

FORMER KEW COTTAGES (KEW RESIDENTIAL SERVICES)

LOCATION:

PRINCESS STREET KEW

Pursuant to Section 74 of the Heritage Act (1995) and in respect to the above-mentioned place / object, the Executive Director, Heritage Victoria hereby grants a PERMIT, subject to conditions as prescribed hereunder to carry out the following:

Subdivision and removal of six (6) heritage registered trees as set out on submitted drawings 04-6099-010sk008 1/7/2008, 04-6099-00102-1000 T1 9/10/2007 and untitled plan showing proposed lots and reserves submitted with the application and drawings Kew Stage 2\_Drawing MGA DATUM 24/06/08 and Plan of Subdivision Plan Number PS 603974 U, Sheets 1 to 5 version 4

#### CONDITIONS:

- This permit shall expire if the permitted works have not commenced within one (1) year of the date 1. of issue of this permit, or are not completed within three (3) years of the date of issue of this permit unless otherwise agreed in writing by the Executive Director, Heritage Victoria.
- The removal of the English Oak reference number 292 is not approved. 2. Reason: The English Oak is not dead or dangerous, and is part of the oak Avenue along Lower Drive
- The proposed building envelope to lot 83 shall be redesigned to reduce its impact on heritage 3. registered tree 68, with details of the redesign submitted to the Executive Director for approval in writing.

Reason: The current building envelope is too close to tree 68 and construction within this zone has the potential to adversely impact on this tree.

#### Further details

- Unless otherwise agreed in writing with the Executive Director, works, [other than the demolition of 4. the non-heritage registered buildings and B5], shall not take place until the following additional drawings and details have been submitted and approved in writing.
  - Full engineering drawings for all excavation and/or filling across the site, showing existing and proposed final contours and retaining wall(s).
  - Full construction details for the new roads, including the junction of the new road off Main ii. Drive
  - Full design/layout details for the buildings on lots 76, 77, 79, 80, 82, 83, 84, 85, 86, 87, 88, 111. 89, 90, 96, 96, 106 to 113 inclusive, including any vehicular and or pedestrian access points.

Reason: To enable a more detailed assessment of the potential impacts of any proposed engineering and/or construction within the vicinity of the heritage registered trees.

#### Tree Protection

5. Unless otherwise agreed in writing by the Executive Director, prior to the commencement of any works within Stage 2, including the demolition of the non-heritage registered buildings and building B5, a Tree Protection Plan at a scale of 1:500 or less, showing tree protection zones for all trees included in the Victorian Heritage Register, and the proposed protection fencing, shall be submitted and approved in writing by the Executive Director. The location of the protection fencing on the plan shall be fully dimensioned either in relation to the back edge of the kerb to Main Drive for the trees in the proposed reserves 1 and 3 north of the Drive, and/or from the trunk of the tree/s themselves. Unless otherwise agreed in writing with the Executive Director, the tree fencing shall be located outside the canopies all trees, and appropriately signed. The endorsed Tree Protection Plan shall form part of this permit.

**Reason:** To provide for the accurate installation and monitoring of the tree protection fencing prior to and during the process of the demolition of the buildings on the site, the re-engineering of the site, construction of the new roads, buildings and services, to ensure maximum protection for the trees.

#### Arboricultural Management Plan

- 6. Unless otherwise agreed in writing by the Executive Director, prior to the commencement of any works within Stage 2, an **Arboricultural Management Plan** prepared by an arborist is to be submitted for approval in writing by the Executive Director. The plan must include:
  - a full management plan for the dealing with Phytophthora cinnamomi
  - the steps necessary to protect trees during the construction of the development including the procedures to be adopted for working within any root protection zones
  - Tree Management Plan for all heritage registered trees documenting works to be undertaken during and 2 years post construction; including dead wooding, mulching, watering, disease and pest control, and weed control
  - Full details on the protection and management of Heritage Trees No 330 (Cupressus macrocarpa) and No 68 (Pinus radiate) 301, 302 (Quercus robur), and 53, 61 (Quercus canariensis)

An endorsed copy of the **Arboricultural Management Plan** shall form part of this permit. **Reason:** To ensure retained heritage registered trees, trees subject to a Vegetation Protection Order, and other retained trees are protected during the construction phase of the development.

#### Landscape Plan

- 7. A Landscape Management Plan document for Stages 2, incorporating
  - all the significant trees on the site and all other retained trees,
  - details of the propose demarcation of the boundaries between reserves 1 and 3 and the adjacent residential properties,
  - full details of the proposed landscape treatment of the Main Drive and Lower Drive including proposals for re-instatement plantings along Main Drive and Lower Drive,
  - full landscape details of the intersection of Lower Drive and Main Drive,
  - the planting of a replacement Bishops Pine tree
  - · any proposed fencing treatment

is to be prepared and submitted for the approval of the Executive Director <u>before</u> the new development on the site commences. It should include clear recommendations for future management and maintenance of the significant trees within the Public Reserve, Highway Verges and Private Gardens (Tree Management Program). An endorsed copy of the Landscape Management Plan shall form part of this permit.

**Reason:** To ensure and that the proposed landscape treatment of the public open space, reinstatement of trees, and fencing is appropriate and sympathetic to the existing landscape, and to ensure the existing trees and proposed landscaping for the site is maintained into the future.

#### Section 173 Agreement

8. Prior to the lodgement of the certified plan of subdivision with the Office of Titles, the owner of the land must enter into an agreement with the responsible authority, pursuant to section 173 of the *Planning and Environment Act 1987*. This agreement must be registered by the responsible authority, pursuant to section 181 of the *Planning and Environment Act 1987*, on the certificate of title of lots 76, 77, 83, 84, 85, 86, 87, 88, 89, 90. The cost of the preparation and registration of this agreement must be met by the owner of the land. This agreement must provide for the recognition and protection of the heritage registered trees in Reserves No 1 and No 3 abutting and overhanging adjacent residential lots. It should ensure any works undertaken to, or development in the vicinity of, the trees overhanging lots 76, 77, 83, 84, 85, 86, 87, 88, 89, 90, does not adversely impact on the long term health of the trees.

**Reason:** To ensure the long term protection of the heritage registered trees within the reserves, which form and integral part of the heritage registered Main Drive Avenue.

- 9. A copy of the new titles, with confirmation of registration of the Covenant, is required to be provided to the Executive Director within 28 days of registration of the Plan of Subdivision.
  Reason: To ensure future owners of properties adjoining the public reserve are aware of the heritage register status of the trees within the public reserve abutting and overhanging their properties, and the legal implications in relation to works to these trees.
- 10. Prior to lodgement of the certified plan of subdivision with the Office of Titles the owner shall provide a copy of the certified plan of subdivision to the Executive Director for endorsement. Once endorsed the certified plan becomes part of this permit.
- 11. The development approved by this permit is to be carried out generally in accordance with the endorsed drawings, unless otherwise agreed in writing by the Executive Director, Heritage Victoria.

NOTE THAT PERMISSION HAS BEEN GIVEN FOR INSPECTIONS OF THE PLACE OR OBJECT TO BE UNDERTAKEN DURING THE CARRYING OUT OF WORKS, AND WITHIN SIX (6) MONTHS OF NOTIFICATION OF THEIR COMPLETION.

TAKE NOTICE THAT ANY NATURAL PERSON WHO CARRIES OUT WORKS OR ACTIVITIES NOT IN ACCORDANCE WITH THE PERMIT OR CONDITIONS IS GUILTY OF AN OFFENCE AND LIABLE TO A PENALTY OF UP TO 2,400 PENALTY UNITS (\$272,208) OR 5 YEARS IMPRISONMENT OR BOTH, OR IN THE CASE OF A BODY CORPORATE 4800 PENALTY UNITS (\$544,416).

THE ATTENTION OF THE OWNER AND/OR APPLICANT IS DRAWN TO THE NEED TO OBTAIN ALL OTHER RELEVANT PERMITS PRIOR TO THE COMMENCEMENT OF WORKS.

Copies to:

Statutory Planner, City of Boroondara

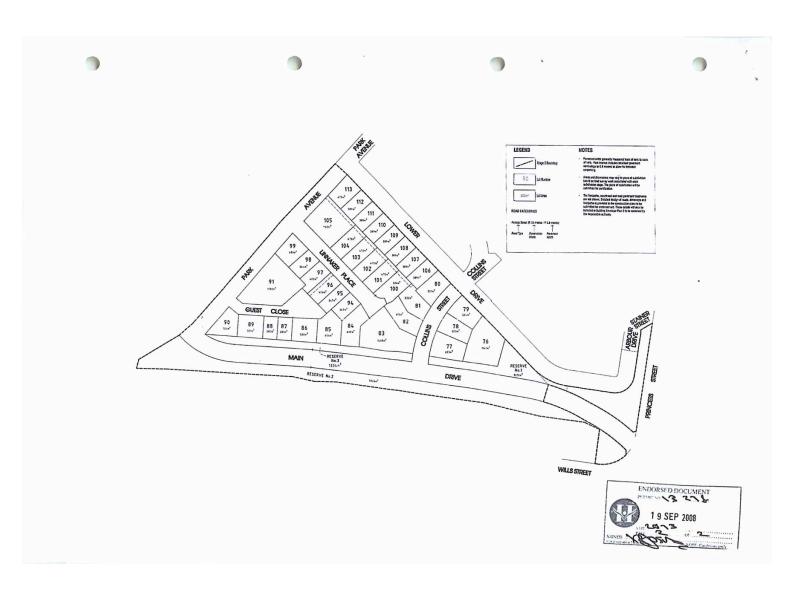
Planning, DPCD

HERITAGE VICTORIA

Signed ........Executive Director

LEVEL 7, 8 NICHOLSON STREET, EAST MELBOURNE 3002

Date / 19/0/08



#### **PERMIT**

#### **HERITAGE ACT 1995**

PERMIT NO: P13278

OWNER/S: State of Victoria

ADDRESS: Major Projects Victoria Level 8, 121 Exhibition Street

Melbourne VIC 3000

HERITAGE REGISTER NO: H2073 FILE NO:

REGISTRATION CATEGORY: Heritage Place HER/2001/001389

NAME OF PLACE: FORMER KEW COTTAGES (KEW RESIDENTIAL SERVICES)

LOCATION: PRINCESS STREET KEW

Pursuant to Section 74 of the Heritage Act (1995) and in respect to the above-mentioned place / object, the Executive Director, Heritage Victoria hereby grants a PERMIT, subject to conditions as prescribed hereunder to carry out the following:

Subdivision and removal of six (6) heritage registered trees as set out on submitted drawings 04-6099-010-sk008 1/7/2008, 04-6099-00102-1000 T1 9/10/2007 and untitled plan showing proposed lots and reserves submitted with the application and drawings Kew Stage 2\_Drawing MGA DATUM 24/06/08 and Plan of Subdivision Plan Number PS 603974 U, Sheets 1 to 5 version 4

#### **CONDITIONS:**

- 1. This permit shall expire if the permitted works have not commenced within one (1) year of the date of issue of this permit, or are not completed within three (3) years of the date of issue of this permit unless otherwise agreed in writing by the Executive Director, Heritage Victoria.
- The removal of the English Oak reference number 292 is <u>not approved</u>.
   Reason: The English Oak is not dead or dangerous, and is part of the oak Avenue along Lower Drive
- 3. The proposed building envelope to lot 83 shall be redesigned to reduce its impact on heritage registered tree 68, with details of the redesign submitted to the Executive Director for approval in writing.

**Reason:** The current building envelope is too close to tree 68 and construction within this zone has the potential to adversely impact on this tree.

#### Further details

- 4. Unless otherwise agreed in writing with the Executive Director, works, [other than the demolition of the non-heritage registered buildings and B5], shall not take place until the following additional drawings and details have been submitted and approved in writing.
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**Reason:** To enable a more detailed assessment of the potential impacts of any proposed engineering and/or construction within the vicinity of the heritage registered trees.

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  - all the significant trees on the site and all other retained trees,
  - details of the propose demarcation of the boundaries between reserves 1 and 3 and the adjacent residential properties,
  - full details of the proposed landscape treatment of the Main Drive and Lower Drive including proposals for re-instatement plantings along Main Drive and Lower Drive,
  - full landscape details of the intersection of Lower Drive and Main Drive,
  - the planting of a replacement Bishops Pine tree
  - any proposed fencing treatment

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Page 2 of 2

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**Reason:** To ensure the long term protection of the heritage registered trees within the reserves, which form and integral part of the heritage registered Main Drive Avenue.

- A copy of the new titles, with confirmation of registration of the Covenant, is required to be provided to the Executive Director within 28 days of registration of the Plan of Subdivision.
   Reason: To ensure future owners of properties adjoining the public reserve are aware of the heritage register status of the trees within the public reserve abutting and overhanging their properties, and the legal implications in relation to works to these trees.
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THE ATTENTION OF THE OWNER AND/OR APPLICANT IS DRAWN TO THE NEED TO OBTAIN ALL OTHER RELEVANT PERMITS PRIOR TO THE COMMENCEMENT OF WORKS.

Copies to:	Statutory Planner, City of Boroondara Planning, DPCD		
HERITAGE VICTORIA		Signed	Executive Director
LEVEL 7, 8 NICHOLSON STREET, EAST MELBOURNE 3002			
		Date	

File Nos. HER/2001/001389 Permit Nos. P13278

19 September 2008

## RE: FORMER KEW COTTAGES (KEW RESIDENTIAL SERVICES), PRINCESS STREET KEW, VICTORIAN HERITAGE REGISTER NUMBER H2073, PERMIT P13278

Attached is a permit for the above place. Please read the conditions imposed on this permit carefully.

The removal of Oak Tree 292 is not approved. As discussed on site, this matter should be dealt with in the context of the required Landscape Plan for Main Drive and Lower Avenue, which addresses the issue of reinstatement and re-enforcement of the avenue plantings.

In relation to condition 3, Elm Trees reference numbers 67 and 72 may be removed as these do not form part of the formal planted avenue on the north side of Main Drive and are not heritage registered trees. Their removal will enable the redesign of the proposed building envelope for Lot 83 to avoid impacting on tree 68. You may need to check with the City of Boroondara if there is any requirement under a VPO in relation to these trees.

In relation to condition 8, it is considered the existing s.173 agreement in relation to the properties abutting to the south of Main Drive, [a copy of which was attached to your letter of 22 August 2008], could serve as a model for the required section 173 Agreement.

An appeal to the Heritage Council against any of the conditions must be lodged within 60 days of this permit. Appeal Forms can be obtained from the offices of Heritage Victoria (Level 7, 8 Nicholson Street East Melbourne 3002) or by phoning (03) 9637 9475.

Notice of appeal should be addressed to the Chairperson, Heritage Council, Level 7, 8 Nicholson Street East Melbourne 3002. If you have any queries about lodging an appeal please contact Renae Jarman, Hearings Officer, on 9637 9285.

Please contact Janet Sullivan Permits Co-ordinator Heritage Victoria on (03) 9637 9474 or write to Level 7, 8 Nicholson Street East Melbourne 3002 about any other queries.

Yours sincerely

Ray Tonkin EXECUTIVE DIRECTOR HERITAGE VICTORIA

Cc Statutory Planner, City of Boroondara and, DPCD

#### **HERITAGE ACT 1995**

#### REPORT AND RECOMMENDATION TO EXECUTIVE DIRECTOR ON APPLICATION FOR A PERMIT

FEE RECEIVED: Yes for previous heritage permit which was withdrawn

**AMOUNT:** 

**REFUND REQUIRED**: No **SENT:** N/A

OWNER/S: State of Victoria

**ADDRESS:** Major Projects Victoria

Level 8, 121 Exhibition Street

Melbourne Vic 3000

**APPLICANT/S:** 

Kew Development Corporation Pty Ltd

**ADDRESS:** 

**HERITAGE REGISTER NO:** H2073

**FILE NO:** HER/2001/001389

NAME OF PLACE/OBJECT: FORMER KEW COTTAGES (KEW RESIDENTIAL SERVICES)

ADDRESS / LOCATION: PRINCESS STREET KEW

APPLICATION RECEIVED: 9 July 2008
CLOCK STOPPED: Advertising 14/7
CLOCK STOPPED: 11/8/08 Additional Info.

60 DAYS EXPIRES: 3 September 2008
RESTART: 21/7
EXPIRES: 10 Sept 08
EXPIRES: 25 Sept 08

**ADVERTISING REQUIRED:** Yes

**WHERE ADVERTISED:** *The Age*, and two signs on site. Electronic copy of application was also placed on the Heritage Victoria Website for the duration of the public notice period including the additional 14 days [see below]. Also received media coverage in local paper.

**ADVERT PERIOD ENDS:** The original period for public notice was given on 16 July 2008. The site notices, however, were not dated and so a further 14 days was allowed for written submissions from the dating of the notices. This expired on 13 August 2008

**OFFICER REPORTING:** Ray Osborne

**DESCRIPTION OF APPLICATION:** Subdivision and removal of six (6) trees, as set out on submitted drawings 04-6099-010-sk008 1/7/2008, 04-6099-00102-1000 T1 9/10/2007 and untitled plan showing proposed lots and reserves submitted with the application and drawings Kew Stage 2\_Drawing MGA DATUM 24/06/08 and Plan of Subdivision Plan Number PS 603974 U, Sheets 1 to 5 version 4 submitted in response to the request for further information.

**SITE INSPECTION:** Yes on a number of occasions, most recently on 25 August 2008 in relation to the current proposal and request made for additional information

**DISCUSSION WITH APPLICANT:** Yes on a number of occasions most recently on site on 25 August 2008

#### **RECORD OF CURRENT CONDITIONS:**

Slides/photographs in Heritage Victoria collection

HOW CULTURAL HERITAGE SIGNIFICANCE OF REGISTERED PLACE OR OBJECT IS AFFECTED BY PROPOSAL: The proposal will have some limited physical impacts due to the proposed removal of six (6) trees included in the Heritage Register, and the creation of a new road off Main Drive. The demolition of building B5, and the relocation of a number of memorials was the subject of a prior heritage approval [P9639] and are being dealt with under the terms of this approval. The proposal will also have some visual impacts as new housing will replace the existing buildings on the site, and thus intensify the level of development and change the current landscape aspects of the site. The majority of the heritage registered trees along the north side of Main Drive are proposed to be included in a public reserve, which will be managed in due course by the City of Boroondara.

EXTENT TO WHICH THE PROPOSAL WOULD AFFECT THE CULTURAL HERITAGE SIGNIFICANCE OF ANY ADJACENT OR NEIGHBOURING PROPERTY THAT IS SUBJECT TO A HERITAGE CONTROL OR INCLUDED IN THE VICTORIAN HERITAGE REGISTER The proposal will have a minimal direct impact on the adjacent former Wilsmere Lunatic Asylum site.

EFFECT REFUSAL WOULD HAVE ON REASONABLE OR ECONOMIC USE OF THE PLACE OR OBJECT: No case put in the application. A refusal would delay the implementation of the heritage permit issued under P9639.

**EXTENT OF UNDUE FINANCIAL HARDSHIP ON THE OWNER IF THE APPLICATION IS REFUSED:** No case put in the application. A refusal is not likely to result in undue financial hardship to the State of Victoria.

IF THE APPLICANT IS A PUBLIC AUTHORITY, THE EXTENT TO WHICH THEIR ABILITY TO CARRY OUT A STATUTORY DUTY WOULD BE AFFECTED BY REFUSAL OF THE APPLICATION: The applicant is not a statutory authority

ANY REPRESENTATIONS MADE FOLLOWING ADVERTISEMENT OF AN APPLICATION: One written submission received from the Kew Cottages Coalition making extensive comments. A copy is included at Appendix A.

The submission raises a number of procedural issues, including the lack of adequate information to enable the Executive Director to determine the application, and the public notice process. It also raises issued concerning the inter-relationship with and inconsistencies between the planning permit for Stage 2 and the previous and current heritage permit applications. It makes a range of points over the past management of tree issues in Stage 1, and the lack of compliance with conditions on the previous heritage permits, and ability of the applicant to comply. It recommends refusal of the current proposal for the following reason:

The refusal will minimise the likelihood of the State being caused financial hardship in relation to the registered place, and increase the potential for the State to provide improved heritage outcomes and a more inclusive community service for the disabled.

Or if it is wrong in terms of its submission, seek additional information in order to assist in the orderly and logical determination of the application. In summary, these details include:

- Licensed Surveyor Plans for State 2
- Plans showing contours, roads footpaths, building envelopes, and trees

- 3D modelling and computer generated modelling to show impacts
- An independent assessment of s.73(1)(b) –economic impacts
- Information about a Supreme Court case in relation to the Kew site
- Heritage Covenant for lots 76, 83-91 inclusive
- Evidence current permit conditions have been complied with

It also argues for the re-establishment of the original gates from Wilsmere, removed many years ago, to the front of Main Drive, and raises a number of ecological issues.

Comments – A number of the issues raised are not directly relevant to matters the Executive Director must take into account, and its arguments in relation to s.73(1)(b) and issues in relation to a Supreme Court action appear to stem from a misunderstanding of these provisions. Accordingly, the justification for the request to refuse the application is not well based.

The procedural issues are considered to be overstated, and it is difficult to conclude that any party has been to any degree materially disadvantaged by the placement of the signs on site, particularly given the public notices in newspapers and ongoing media coverage for this development.

It is acknowledged there is an inconsistency between the planning permit and the current heritage permit application, and that the previous heritage permit [P12879] which was withdrawn and the current planning permit did not/do not have adequate regard to the original Heritage Permit [P9639] in relation to the treatment of the Main Drive trees. The comments and commentary made in the written submission about this issue are not material to the Executive Directors considerations. For the development to proceed in Stage 2 the Planning Permit and Heritage Permit will have to align in due course.

The written submission does, however, raise a range of valid issues in relation to the protection and management of trees, and many of these points have been taken up in correspondence and discussions with the applicants, and can legitimately be dealt with by conditions. Additional information has been submitted in relation to the subdivision plans and the proposed reserve, and details of the requirement for a covenant provided.

Compliance with previous conditions is also acknowledged as an active issue. Part of the difficulty is that some of the conditions on the original Heritage Permit P9639 will be for the life of the development of the whole site, and will thus inevitably be complied with in stages. Furthermore, it is perhaps inevitable that the development of the site will evolve, and new and/or revised conditions will need to be considered Stage by Stage.

**ADDENDUM** – KCC submitted an additional submission on 18/9/2008 [attached at Appendix B] drawing attention a Report from the Select Committee on Public Land, and comments made in relation to Kew. KCC requested that the applicant/owner be requested to provide additional information to the Executive Director by responding to a number of the recommendations and findings in the report. KCC also request that the applicants respond to the *Victorian Governments Cultural Heritage Asset Management Principles* endorsed by the Heritage Council in September 2007. Essentially KCC are seeking the retention and adaptive re-use of the existing buildings on site for continued disability facilities.

It should be noted that the demolition of B5 and the relocation of the memorials was approved in September 2005 under the original heritage permit, and is not the subject of the Stage 2 heritage permit application. Furthermore, the HC is entering the site on the VHR exempted all the other buildings from a permit to demolish, subject to recording. It is therefore considered irrelevant to seek the applicants to respond to the matters raised by KCC in relation to the Select Committee Report, or the *Victorian Governments Cultural Heritage Asset Management Principles*.

The policy issues raised by the Select Committee are clearly relevant for the Whole of Government to consider, but not directly relevant to the Stage 2 permit for subdivision and removal of six trees.

**ANY COMMENTS FROM THE RESPONSIBLE AUTHORITY:** No objections to the proposal During the discussions and correspondence in relation to the previous heritage permit for Stage 2, the City of Boroondara indicated strong support for the creation of a public reserve on the north side of Main Drive and agreed to its long term management. Copy of letter 18 July 2008 attached.

ANY RELEVANT MATTERS RELATING TO PRESERVATION OR CONSERVATION OF THE PLACE OR OBJECT: A Draft CMP has been prepared for the remaining three buildings and the three memorials. This provides detailed advice on the three buildings, including recommendations for conservation works and a maintenance schedule.

AS A RESULT OF THE WORKS TO BE APPROVED UNDER THIS PERMIT, IS IT CONSIDERED THAT NEW PERMIT EXEMPTIONS ARE APPROPRIATE: Not at this stage but in due course it is considered a range of standard permit exemptions will be granted under s.66(3) to remove the need for the new houses to seek heritage approvals for works. Once the development is completed, the entire registration will be revisited.

#### **COMMENTS FROM REPORTING OFFICER:**

The development of the former Kew Cottages site has a complex history. In brief, the original Heritage Permit P9639, granted approval for the overall development of the site, and also fro the detailed development of what was then termed Stages I & II. This permit included a raft of permit conditions, some of which run for the period of the permit, in that it covers later stages of the development. Other conditions related to Stages I & II only.

Subsequently, Stage I & II were combined to just Stage 1, and due to a range of amendment, a new Heritage Permit was issued for Stage 1 P10367. This included a number of the conditions from P9639 and some additional conditions, particularly in relation to addressing the issue of *Pc*.

There have been a number of compliance issues in relation to the development of Stage 1, which in the case of Red Gum Park, resulted in a prosecution for unauthorised works within the vicinity of 5 heritage registered trees. Out of this, a regular tree monitoring process arose with weekly meetings on site, and regular reports submitted on all agreed works on and/or in the vicinity of VHR trees, either in Stage I or across the whole site.

In March a heritage permit application P12879 was submitted for Stage 2. It included seeking approval for a whole range of works which were actually covered under permit conditions on the originating heritage permit P9639, and did not need a further heritage permit. More importantly, however, it failed to take into account the reserve shown along Main Drive on the original approved drawings for the development of the overall site. While this plan was diagrammatic, it clearly showed the residential lots fronting Main Drive set back, and not including the avenue of trees which are included in the VHR. This application was given public notice and a submission was received from Kew Cottage Coalition, one from concerned residents about the lack of a public reserve to protect the trees and need for a covenant, and one from the National Trust objecting to the demolition of the building B5.

Following correspondence and discussions with the applicant this heritage permit application was withdrawn and the current stripped back application submitted. This clearly shows the creation of a public reserve. The other issues, such as the demolition of B5 and relocation of memorials are being dealt with under P9639.

The current heritage permit application has also been the subject of correspondence and discussions in relation to the best information and/or mechanisms to protect the trees on the site. Stage 2 has more

trees and lessons clearly have to be learnt from the development of Stage 1. Accordingly, it has been signalled and discussed that a higher level of information will be required to ensure the maximum protection possible for the trees on the site. This is reflected in the conditions above.

The issue of the removal of the six trees was discussed in some detail. Options to relocate and replant a number of the trees was explored with the applicants. The arborist at the City of Boroondara did not support the proposals from a practical and cost perspective. Accordingly, following a review of these comments and a site visit it was agreed that all but one of the trees could be removed. The exception is Oak Tree 292 on Lower Drive. While it is acknowledged that its condition is poor, it is part of the original avenue, and it is considered its potential removal should be assessed in the context of a fully developed Tree Planting Plan for Lower Drive and Main Drive, which will includes proposals for reinstating missing element from the avenue.

The creation of the public reserve along the north side of Main Drive will ensure all the VHR trees will eventually be retained in public ownership and management possibly by 2010. The reserve, however, does not include the canopies of the trees along the northern edge, only the trunks and a small distance beyond. Accordingly, to ensure long term protection and management by adjacent privet lot owners, a covenant will be included on all the relevant titles.

A s.173 agreement already exists for the trees on the southern side of Main Drive which overhang the gardens of houses in Wills Street, and a copy of this has been provided to the applicants as a potential model. It is not considered that a covenant under the Heritage Act 1995 is an appropriate mechanism in this case. Notwithstanding a covenant, however, any major works to the VHR trees will require a heritage permit.

**Summary** – It is inevitable that as the former Kew Cottages site continues to develop its existing character will change, as the density of the building increases. The concerns of the KCC in relation to the trees and Main Drive are acknowledged, and a number of valid points and observation are included, but many of the issues raised in its submission are tangential to the relevant issues to be addressed under s.73 and go to broader issues outside the scope of the Heritage Act.

The lessons learnt in Stage 1, together with the proposed conditions, and continuation of regular monitoring, which commence in early 2007, should ensure a higher level of protection for the trees.

#### **RECOMMENDATIONS:**

That a permit be issued with the conditions set out above.

OFFICER:		DATED:	
	R J Osborne		19 September 2008
PERMIT:	P13278		

#### APPENDIX A

Copy of submission from KCC in response to public notice. Copy of letter from City of Boroondara Copy of submission from KCC 18/09/2008

Amended to remove personal names 23 Dec 2008



# **Department of Planning and Community Development**

File Nos. PL-HE/03/0291 [1-9] Permit Nos. P13872 Level 4 55 Collins Street Melbourne Victoria 3000 Telephone: 8644-8800 Facsimile: 8644-8811

www.heritage .vic.gov.au

7 February 2009

Mr Brad Evans Kew Development Corporation Pty ltd 32 32 Pine Court Kew VIC 3101

Dear Mr Evans

## RE: FORMER KEW COTTAGES (KEW RESIDENTIAL SERVICES), PRINCESS STREET KEW, VICTORIAN HERITAGE REGISTER NUMBER H2073, PERMIT P13872

Attached is a permit for the above place. Please read the conditions imposed on this permit carefully.

Due to the amendments required under conditions 2 and 3 the submitted plans have **not** been endorsed. Please arrange for three sets of amended plans, as required by these conditions, to be submitted for endorsement in due course.

Please note, in relation to condition 4 and 7, while specific reference is made to the current lots numbers on AR-KG-101 issue A, the requirements shall apply to all relevant lots, irrespective of any subsequent re-numbering on the amended plans.

An appeal to the Heritage Council against any of the conditions must be lodged within 60 days of this permit. Appeal Forms can be obtained from the offices of Heritage Victoria (Level 4, 55 Collins Street Melbourne 3000) or by phoning (03) 8644 8800.

Notice of appeal should be addressed to the Chairperson, Heritage Council, Level 4, 55 Collins Street Melbourne 3000. If you have any queries about lodging an appeal please contact Renae Jarman, Hearings Officer, on 8644 8921.

Please contact Janet Sullivan Permits Co-ordinator Heritage Victoria on (03) 8644 8950 or write to Level 4, 55 Collins Street Melbourne 3000 about any other queries.

Yours sincerely

JIM GARD'NER

ACTING EXECUTIVE DIRECTOR

Copy

Lorenz Pereira, State Planning Services, DPCD [PO Box 500] EAST MELBOURNE VIC 3002 Fiona Beard, City of Boroondara

Victoria
The Place To Be

#### PERMIT

#### **HERITAGE ACT 1995**

PERMIT NO: P13872

OWNER/S:

State of Victoria

ADDRESS:

Major Projects Victoria

Level 8, 121 Exhibition Street

Melbourne VIC 3000



HERITAGE REGISTER NO:

H2073

FILE NO:

PL-HE/03/0291

REGISTRATION CATEGORY:

Heritage Place

[1-9]

NAME OF PLACE /OBJECT (IF ANY):

FORMER KEW COTTAGES (KEW RESIDENTIAL

SERVICES) LOCATION:

PRINCESS STREET KEW

Pursuant to Section 74 of the Heritage Act (1995) and in respect to the above-mentioned place / object, the Executive Director, Heritage Victoria hereby grants a PERMIT, subject to conditions as prescribed hereunder to carry out the following:

49 (forty-nine) Lot Subdivision of Stage 2 of the Kew Cottages Site, as set out on submitted plans Project No 1711301 AR-KG-002 issue A, dated Nov 2008 Subdivision Plan and Project No 1711301 AR-KG-010 issue A, dated Nov 2008, Stage 2 Tree Identification Plan, No 1711301 AR-KG-005, Staging Plan.

#### CONDITIONS:

This permit shall expire if the permitted works have not commenced within one (1) year of the date 1. of issue of this permit, or are not completed within three (3) years of the date of issue of this permit unless otherwise agreed in writing by the Executive Director, Heritage Victoria.

#### **Amended Plans**

Unless otherwise agreed in writing by the Executive Director, prior to the commencement of any works within the Stage 2D area, an amended plan detailing the location of lots fronting Main Drive, [Lots 86-92 on AR-KG-010] including the location of existing and proposed replacement trees must be submitted and approved in writing by the Executive Director. These endorsed plans shall form part of the permit.

Reason: To provide an appropriate interface between existing and proposed replacement species within the Main Drive Avenue of trees and to ensure this aspect of the development is appropriate and sympathetic to the existing and proposed landscape, and to ensure the existing and proposed trees and proposed landscaping for the site is maintained into the future.

3. An amended set of plans, which shall include a revised detail of the junction between Park Avenue and Main Drive and the continuation of Main Drive, must be submitted for endorsement in writing by the Executive Director. These endorsed plans shall form part of the permit.

Reason: To ensure the endorsed plans reflect the agreed change to the layout of this junction and the continuation of Main Drive.

#### Further details

- 4. Unless otherwise agreed in writing with the Executive Director, works, [other than the demolition of the non-heritage registered buildings, and B5], shall not take place until the following additional drawings and details have been submitted and approved in writing.
  - i. Full engineering drawings for all excavation and/or filling across the site, showing existing and proposed final contours and retaining wall(s).
  - Full construction details for the new roads, including the junction of the new roads off Main Drive and Lower Drive
  - Full design/layout details for the buildings on lots 76, 77, 80, 83 to 92 inclusive, 101,104, and115 to 124 inclusive on plan AR-KG-101 issue A, including any vehicular and or pedestrian access points.

**Reason:** To enable a more detailed assessment of the potential impacts of any proposed engineering and/or construction within the vicinity of the heritage registered trees.

#### Tree Protection

Unless otherwise agreed in writing by the Executive Director, the tree protection fencing installed in accordance with the Tree Protection Plan approved under condition 5 on Heritage Permit P 132788 shall remain in place during the entire construction phase of the development of Stage 2.
Reason: To ensure maximum protection for the trees during the demolition of the buildings on the site, the re-engineering of the site, construction of the new roads, buildings and services.

#### Landscape Plan

- 6. A Landscape Management Plan document for Stages 2, incorporating
  - all the significant trees on the site and all other retained trees,
  - details of the propose demarcation of the boundaries between reserves 1 and 3 and the adjacent residential properties,
  - full details of the proposed landscape treatment of the Main Drive and Lower Drive including proposals for re-instatement plantings along Main Drive and Lower Drive,
  - full landscape details of the intersection of Lower Drive and Main Drive,
  - the planting of a replacement Bishops Pine tree
  - any proposed fencing treatment

is to be prepared and submitted for the approval of the Executive Director <u>before</u> the new development on the site commences. It should include clear recommendations for future management and maintenance of the significant trees within the Public Reserve, Highway Verges and Private Gardens (Tree Management Program). An endorsed copy of the Landscape Management Plan shall form part of this permit.

**Reason:** To ensure and that the proposed landscape treatment of the public open space, reinstatement of trees, and fencing is appropriate and sympathetic to the existing landscape, and to ensure the existing trees and proposed landscaping for the site is maintained into the future.

#### Section 173 Agreement

7. Prior to the lodgement of the certified plan of subdivision with the Office of Titles, the owner of the land must enter into an agreement with the responsible authority, pursuant to section 173 of the *Planning and Environment Act 1987*. This agreement must be registered by the responsible authority, pursuant to section 181 of the *Planning and Environment Act 1987*, on the certificate of title of lots abutting on the reserve on the northern side of Main Drive, currently lots 76, 77, 84, 85, 86, 87, 88, 89, 90, 91, 92 on plan AR-KG-101 issue A.

Continued

The cost of the preparation and registration of this agreement must be met by the owner of the land. This agreement must provide for the recognition and protection of the heritage registered trees in Reserves No 1 and No 3 abutting and overhanging adjacent residential lots. It should ensure any works undertaken to, or development in the vicinity of, the trees overhanging lots currently numbered 76, 77, 84, 85, 86, 87, 88, 89, 90, 91, 92, on plan AR-KG-101 issue A, does not adversely impact on the long term health of the trees.

**Reason:** To ensure the long term protection of the heritage registered trees within the reserves, which form and integral part of the heritage registered Main Drive Avenue.

A copy of the new titles, with confirmation of registration of the Covenant, is required to be provided to the Executive Director within 28 days of registration of the Plan of Subdivision.

Reason: To ensure future owners of properties adjoining the public reserve are aware of the heritage register status of the trees within the public reserve abutting and overhanging their properties, and the legal implications in relation to works to these trees.

8. Prior to lodgement of the certified plan of subdivision with the Office of Titles the owner shall provide a copy of the certified plan of subdivision to the Executive Director for endorsement. Once endorsed the certified plan becomes part of this permit.

NOTE THAT PERMISSION HAS BEEN GIVEN FOR INSPECTIONS OF THE PLACE OR OBJECT TO BE UNDERTAKEN DURING THE CARRYING OUT OF WORKS, AND WITHIN SIX (6) MONTHS OF NOTIFICATION OF THEIR COMPLETION.

TAKE NOTICE THAT ANY NATURAL PERSON WHO CARRIES OUT WORKS OR ACTIVITIES NOT IN ACCORDANCE WITH THE PERMIT OR CONDITIONS IS GUILTY OF AN OFFENCE AND LIABLE TO A PENALTY OF UP TO 2,400 PENALTY UNITS (\$272,208) OR 5 YEARS IMPRISONMENT OR BOTH, OR IN THE CASE OF A BODY CORPORATE 4800 PENALTY UNITS (\$544,416).

THE ATTENTION OF THE OWNER AND/OR APPLICANT IS DRAWN TO THE NEED TO OBTAIN ALL OTHER RELEVANT PERMITS PRIOR TO THE COMMENCEMENT OF WORKS.

Lorenz Pereira, Senior Urban Planner, State Planning Services, DPCD, Level 9, 8 Nicholson Street [PO Box 500] EAST MELBOURNE VIC 3002

Fiona Beard, City of Boroondara

HERITAGE VICTORIA

Signed LEVEL 4, 55 COLLINS STREET, MELBOURNE 3000

xecutive Director

#### **HERITAGE ACT 1995**

#### REPORT AND RECOMMENDATION TO EXECUTIVE DIRECTOR ON APPLICATION FOR A PERMIT

FEE RECEIVED: No AMOUNT:\$0.00

**REFUND REQUIRED:** N/A **SENT:** N/A

**OWNER/S:** State of Victoria

ADDRESS Major Projects Victoria

Level 8, 121 Exhibition Street

Melbourne VIC 3000

**APPLICANT/S:** 

Kew Development Corporation Pty 1td

**ADDRESS:** 32 32 Pine Court

Kew VIC 3101

**HERITAGE REGISTER NO:** H2073

FILE NO: PL-HE/03/0291 [1-9]

NAME OF PLACE/OBJECT: FORMER KEW COTTAGES (KEW RESIDENTIAL

SERVICES)

**ADDRESS / LOCATION:** PRINCESS STREET KEW

APPLICATION RECEIVED: 60 DAYS EXPIRES:

CLOCK STOPPED: RESTART: EXPIRES:

**ADVERTISING REQUIRED:** Yes

**WHERE ADVERTISED:** Boroondara Leader [10/12/08], The Age [3/12/08] and on site. Electronic copy of application was also placed on the Heritage Victoria Website for the

duration of the public notice period

**ADVERT PERIOD ENDS:** 24 December 2008

**OFFICER REPORTING:** Ray Osborne

**DESCRIPTION OF APPLICATION:** 49 (forty-nine) Lot Subdivision of Stage 2 of the Kew Cottages Site, as set out on submitted plans Project No 1711301 AR-KG-002 issue A, dated Nov 2008 Subdivision Plan and Project No 1711301 AR-KG-010 issue A, dated Nov 2008, Stage 2 Tree Identification Plan, No 1711301 AR-KG-005, Staging Plan

**SITE INSPECTION:** On numerous occasions prior and during the permit application. Last inspection 20 January 2009.

**DISCUSSION WITH APPLICANT:** Yes on a number of occasions, face-to-face and via email. Last meeting on site 20 January 2009.

#### **RECORD OF CURRENT CONDITIONS:**

Slides/photographs in Heritage Victoria collection

**HOW CULTURAL HERITAGE SIGNIFICANCE OF REGISTERED PLACE OR OBJECT IS AFFECTED BY PROPOSAL:** This proposal is essentially and amendment to the previous heritage permit ref P13278 which is for a 38 lot subdivision. The increase in lots from 38 to 49 is primarily due to further sub-division of three former large lots, [Lots 83, 105 and 91] but also by some redesigning to create some smaller lots. In relation to the assessment of P13278 the report stated:

The proposal will have some limited physical impacts due to the proposed removal of six (6) trees included in the Heritage Register, and the creation of a new road off Main Drive. The demolition of building B5, and the relocation of a number of memorials was the subject of a prior heritage approval [P9639] and are being dealt with under the terms of this approval. The proposal will also have some visual impacts as new housing will replace the existing buildings on the site, and thus intensify the level of development and change the current landscape aspects of the site. The majority of the heritage registered trees along the north side of Main Drive are proposed to be included in a public reserve, which will be managed in due course by the City of Boroondara.

It is not considered that the increase in the number of lots will have any further impact.

EXTENT TO WHICH THE PROPOSAL WOULD AFFECT THE CULTURAL HERITAGE SIGNIFICANCE OF ANY ADJACENT OR NEIGHBOURING PROPERTY THAT IS SUBJECT TO A HERITAGE CONTROL OR INCLUDED IN THE VICTORIAN HERITAGE REGISTER. The proposal will have a minimal direct impact on the adjacent former Wilsmere Lunatic Asylum site, as this development is set well away from the boundary.

EFFECT REFUSAL WOULD HAVE ON REASONABLE OR ECONOMIC USE OF THE PLACE OR OBJECT: No case put in the application. A refusal would delay the implementation of the heritage permit issued under P9639.

**EXTENT OF UNDUE FINANCIAL HARDSHIP ON THE OWNER IF THE APPLICATION IS REFUSED:** No case put in the application. A refusal is not likely to result in undue financial hardship to the State of Victoria. It may cause some level of financial impact on Walkers who are developing the site on behalf of Government.

IF THE APPLICANT IS A PUBLIC AUTHORITY, THE EXTENT TO WHICH THEIR ABILITY TO CARRY OUT A STATUTORY DUTY WOULD BE AFFECTED BY REFUSAL OF THE APPLICATION: Not applicable

ANY REPRESENTATIONS MADE FOLLOWING ADVERTISEMENT OF AN APPLICATION: 2 representations were received. One from the Kew Cottages Coalition [Attachment 1] and a second was a copy of a submission from a local resident [signed by other residents] made in relation to the Planning Application being considered by DPCD. [Attachment 2]

In relation to the KCC submission, [Attachment 1] it makes comments in relation to the majority of the lots numbered **76 -124** inclusive in the Application. Many of the comments are of a similar nature:

#### Lots 76-80

The proposed Lots are not in accord with Heritage Victoria's Approved Concept Plan for the Kew Cottages Development, as endorsed on 9-Sep 2005 because:

• The land in question is clearly identified in the P9639 Approved Concept Plan as undivided open space.

The land is in a critical location at the junction of Main Drive and Lower Drive, where it provides a major contribution to the historic significance of the Cottages heritage landscape.

The proposed Lots should, therefore, either be redesigned to accord with the Approved Concept Plan, or the Applicant may wish to withdraw their application, and then proceed to seek approval for a new Concept Plan for both Stage 2 and the Balance of the Site (Stage 3-7).

The point about the new lots not being in accordance with the Concept Plan approved under P9639 is raised on the majority of the lots. Also the submission points that the Application contains inadequate information to substantiate the need to reduce the size of the approved lot. This is significant because of the very large number of additional lots proposed in the Application ie: an increase of over 33% from a total of 36 lots to 49 lots in Stage 2.

In relation to lots along the northern side of Main Drive [lots 77, 84, 85 -92] the following point is made:

The proposed Lot located on the Northern Boundary of the Main Drive Avenue of trees is also not in accord with the Section 173 Agreement that applies to Lots on the Southern Boundary.

This is significant because the Applicant has agreed "it is also appropriate that the protection of any tree along Main Drive be covenanted to ensure development of the adjoining lots is not detrimental to their long term health (S.5.1 Subdivisional area and layout), and Heritage Victoria has identified the need for the 173 Agreement to protect the heritage registered trees on Main Drive by way of Condition on Permit P13278.

However, the S.173 Agreement that applies to existing lots bordering the Main Drive heritage registered trees binds the Purchaser and his successors, "...not to subdivide the land into lots less than 700 square metres in area...", whereas this Application now appears to propose a smaller lot size of 607 square metres.

The Application must therefore be amended to comply with the S.173 Agreement and increase the size of this lot to 700 square metres or more.

Also other comments are made in relation to the lay-out:

The road layout is not in accord with the Approved Concept Plan. There are no cul-de-sacs at all in the Approved Concept Plan.

This is significant because the Approved Concept Plan was based on evidence as to the need to maintain a high level of pedestrian and disabled access within the site, and the historic design of the landscape that facilitated this access

These and similar points are made for the balance of the lots on the submitted plan.

In relation to Lot 108, the following comment is made:

The proposed Lot must also be redesigned in order to preserve and protect the Black Sheoak Tree 335 (Allocasuarina littoralis), identified by DSE (P. Watkinson, Letter to L. Pereira DPCD 4-Feb 2008 Re: Permit 2007638) as indigenous to the area and therefore to be retained under the Flora & Fauna Act:

"The Department therefore considers that the above trees are indigenous and therefore should be avoided, as per the Victoria's Native Vegetation Management - A Framework For Action. As the Responsible Authority, the Department of Planning And Community Development should ensure this occurs."

#### **Officer Comments**

It is acknowledged that the Stage 2 subdivision plan is not in accordance with the Concept Plan approved under P9639. Neither was the layout approved under P13728 for Stage 2. [See Attachment 3] The concept layout was and indicative concept only. It set some basic parameters, particularly in relation to the need for a public reserve along Main Drive to ensure the Avenue was in public ownership and/or management, other parts of the layout, were far less critical from a heritage point of view. The critical matter to be assessed is what is the impact of the revised layout for Stage 2 on the heritage significance of the site?

It is considered the Stage 2 heritage permit P13728 layout, and indeed the current layout offers a range of benefits.

- Only two roads coming off Main Drive, [one essentially existing] instead of three, thus reducing the impact on Main Drive and Lower Avenue
- The use of Cul-de-sacs to allow houses to face onto Main Drive, but with vehicular access from the north. This eliminates any need for vehicular access crossovers from Main Drive.

In relation to the area occupied by Lots 76-80, the original layout plan did indicate this as a single lot, but discussions at that time centred on it as a potential site for the sports facility, not Public Open Space, as claimed. If it had been intended to be part of the public reserve it would have been indicated as a single lot with the land to the east. Until recently, this site was occupied by a reasonably substantial administration

building, since demolished. The area for the public reserve in this triangle area is larger than shown on the concept plan.

The application does not indicate a type of building for lot 76, but in discussions with Walkers, it was indicated that a two level building with a sub-basement parking to take advantage of the fall across the site, which may contain apartments on the ground and first floor might be proposed for this site. It would not be an apartment building similar to those set out in the Concept Drawing which were proposed to be 3-4 storey "mansion" apartment buildings.

In relation to the s.173 Agreement, the proposal is not to extend the current agreement, which would not be legally possible, but to develop a similar document to address the same issues. The reference to 700 sq m which relates the lots developed on land to the south some 20 years ago is not relevant to the current layout, but clearly the provisions and mechanisms are.

It is agreed that the current application does increase the number of lots from 38 to 49 a 33 % increase, but the critical issue from a heritage point of view is the impact of this on the heritage registered trees. It is noted that 8 of the additional 11 lots are formed by the further sub-division of three large lots on the layout approved under P13728, namely lots 83, 91 and 115. Lots 91 and 115 are jot located near any heritage registered trees. Lot 83, is but the revisions in this area were sought under P13728.

It is noted that the concept plan approved under P9639 [Attachment 3] actually made allowance for **48 lots** in the area now covered by Stage 2. The lots currently proposed are actually larger than shown on the concept plan, due to the reduction in roads.

#### Copy of submission to DPCD Planning [Attachment 2]

This raises a number of similar issues. It objects to the following changes:

- 1) The addition of an apartment block opposite Lots 53 to 55
- 2) The significant reduction in size of the reserve opposite Lots 52 to 58 on Lower Drive,
- 3) The link between Lower Drive and Main Drive that is currently there being made permanent.
- 4) The addition of an extra home on the east side of Collins Street between Lower Drive and Main Drive.
- 5) The Addition of extra dwellings on smaller allotments

The submission goes on to elaborate the impacts of these changes, and also a range of traffic, car parking, road safety and amenity issues, which are essentially planning issues. It also argues that the development should follow the original approved concept plan. [Attachment 3]

#### **Comments**

The concept plan did not actually show an area of open space, but a large lot. It is clearly delineated from the public reserves running along the north side of Main Drive. The area of public reserve show is almost identical to that approved under

P13278. It is proposed to shut off the access from Min Drive into Lower Drive at the entrance, once the alternative access has been created in Stage 2. The number of lots is very similar to the original concept plan, [48] but actually larger, due to the reduction in the amount of road included in the original layout. No details have been provided of a possible apartment block, but Walkers have stated it would be 2 storeys, over a sub-basement car park, to take advantage of the fall across the site.

ANY COMMENTS FROM THE RESPONSIBLE AUTHORITY: The City of Boroondara made a written submission which was a copy of the concerns raised by them with DPCD Planning. [Attachment 3] It is a detailed submission principally addressing a range of planning issues, and what are seen as deficiencies in the submitted plans and/or lack of information. In relation heritage issues/trees the following points are made:

- Concern in relation to the small size and appropriateness of all the building envelopes along Guest Close (Lots 86-92). Impact on tree protection zones by the proposed site coverage. Also concerns in relation to lots 80, 84 and 85.
- Confirmed no concerns about removal of trees 67 and 72, and no concern with removal of 64, 334 and 337 and 771.
- Concern about the location of the boundary reserve and rear fences of properties abutting Main Drive. It is considered that a minimum 3 metre clearance should be provided from the edge of the tree trunk to the fence line for maintenance and growth purposes.
- No details provided of crossovers. Concern about crossovers for lots 76, 80, 85, 86, 95, 101, 115-124 (inclusive) and impact on trees. It is assumed access to lot 101 will be from Guest Close?
- With small lot frontages, concerned at visual impact on streetscape of crossovers.

#### **Comments**

The first issue was also a concern, and was raised with Walkers. An amendment with one less lot was submitted. It is considered there is still an issue in relation to building envelopes on two lots [89-90] not recognising the need for trees to be replanted in Main Drive to reestablish this missing part of the Avenue. This has been recognised and a condition included [2] requiring further amendments to this part of the layout. This may result in one less lot.

In terms of the boundary of the reserve, there is no material change to reserve approved under the previous permit, to which no objection was raised. No fencing is proposed to these lots, and an s.173 agreement is required to cover these lots.

In relation to THE cross-over of lower drive a supplementary report and details were submitted by Walkers on 27 January 2009 setting out the details and some amendments to address an issue in relation to trees 299 and 301 in Lower Drive.

ANY RELEVANT MATTERS RELATING TO PRESERVATION OR CONSERVATION OF THE PLACE OR OBJECT: A CMP has been submitted for the remaining three buildings and the three memorials. This provides detailed advice on the three buildings, including recommendations for conservation works and a maintenance schedule. This has satisfied a requirement of a condition on heritage permit P9639.

AS A RESULT OF THE WORKS TO BE APPROVED UNDER THIS PERMIT, IS IT CONSIDERED THAT NEW PERMIT EXEMPTIONS ARE APPROPRIATE: Not at this stage but in due course it is considered a range of standard permit exemptions will be granted under s.66(3) to remove the need for the new houses to seek heritage approvals for works. Once the development is completed, the entire registration will be revisited.

#### **COMMENTS FROM REPORTING OFFICER:**

The development of the former Kew Cottages site has a complex history. In brief, the original Heritage Permit P9639, granted approval for the overall development of the site, and also fro the detailed development of what was then termed Stages I & II. This permit included a raft of permit conditions, some of which run for the period of the permit, in that it covers later stages of the development. Other conditions related to Stages I & II only.

Subsequently, Stage I & II were combined to become Stage 1, and due to a range of amendment, a new Heritage Permit was issued for Stage 1 under P10367. This included a number of the conditions from P9639 and some additional conditions, particularly in relation to addressing the issue of *Pc*.

There have been a number of compliance issues in relation to the development of Stage 1, which in the case of Red Gum Park, resulted in a prosecution for unauthorised works within the vicinity of 5 heritage registered trees. Out of this, a regular tree monitoring process arose with weekly meetings on site, and regular reports submitted on all agreed works on and/or in the vicinity of VHR trees, either in Stage I or across the whole site.

In March a heritage permit application P12879 was submitted for he next stage of the development – known as Stage 2. It included seeking approval for a whole range of works which were actually covered under permit conditions on the originating heritage permit P9639, and did not need a further heritage permit. More importantly, however, it failed to take into account the reserve shown along Main Drive on the original approved drawings for the development of the overall site. While this plan was diagrammatic, it clearly showed the residential lots fronting Main Drive set back, and not including the avenue of trees which are included in the VHR. This application was given public notice and a submission was received from Kew Cottage Coalition, one from concerned residents about the lack of a public reserve to protect the trees and need for a covenant, and one from the National Trust objecting to the demolition of the building B5.

Following correspondence and discussions with the applicant this heritage permit application was withdrawn and a new heritage permit application P13278 submitted for a 38 lot subdivision. This was granted approval subject to a range of conditions [copy attached Appendix C]. A number of these conditions have already been satisfied.

The current permit is seeking an increase in the number of lots from 38 to 49, principally by re-sub-dividing 3 large lots on the former approved plan, and some re-designing. Lot 83 has gone from 1 to 3 lots [+2], Lot 91 from 1 to 4 lots [+3], and lots 105 from 1 to 4 lots [+3].

The principal issues in relation to P13278 revolved around protecting trees during construction, and ensuring on-going protection and management of the trees via a legal [s.173] agreement. The revised layout does give cause for concern in relation to the potential impacts of proposed lots 86-92 on Main Drive. The layout for lots 89 - 91 assumes no trees within this part of Main Drive. While it is the case that there are no trees in this area, it has always been the clear intention that all missing trees in the Main Drive and Lower Drive Avenues WILL be replanted, to re-establish and re-enforce the Avenue.

This issue has been discussed with Walkers, and it has been agreed that this part of the development will need re-designing to ensure there is room for the replanting of the required trees and to make allowance for their growth to maturity. This will result in one less lot on the south side of Guest Close and north side of Main Drive. A condition requiring this amendment, tied into a Staging Plan is included. Some conditions from P13278 are also included relating to the Landscape Plan, s.173 Agreement, and final sub-division plans.

A further amendment agreed is the redesign of the junction between Park Avenue and Main Drive, to a standard 90 degree design. This is due to the reconsideration of the road layout in future stages and the retention of Main Drive as an access road beyond this junction. This represents a positive change to the original concept for the road layout.

Other conditions on P13278 not yet complied with are carried forward to the current permit.

**Aboriginal Heritage Act 2006 -** All relevant permits for excavation works within the identified sensitive area at Kew Cottages were granted under the previous legislation, so under the Transitional Provisions of the AHA1006, there is not a requirement for a cultural heritage management plan.

RECOMMENDATIONS:			
That a permit b	e issued with the conditions set out above:		
OFFICER:	DATED:		
	R J Osborne		
PERMIT:	P13872		
	Submission from Kew Cottages Coalition Copy of submission to DPCD Planning		

**Attachment 3** Extract from approved concept plan Under P9639

# Progress Leader

Ph 9941 1500 Classifieds 9875 8000 \$1 incl. GST

TUESDAY, SEPTEMBER 5, 2006

www.progressleader.com.au





BALWYN'S IDOL? **DEAN GEYER** IN OZ TOP 12



Artefact threat to

Kew plan

#### PETER ROLFE

ABORIGINAL leaders have threatened to stall the \$400 million redevelopment of the former Kew Cottages precinct to protect historic artefacts they believe are buried on the site.

\*\*Precision analysis from could be lost forever.\*\*

Fearing ancient items could be lost forever

rearing ancient items could be lost forever when up to 520 homes are built on the prime 27ha site, they have called for a thorough archaeological investigation. And they have promised protests and legal action if a sacred "scarred tree" and three areas of Aboriginal archaeological potential archaeological potential archieuthed are disturbed.

are disturbed. Wurundjeri elder Annette Xiberras said the land was once a site for Aboriginal riverside weddings and should be protected from development by Sydney's Walker Corporation at all costs.

Corporation at all costs.
"These sites are the maps to our history
and they tell us about our past," she said.
"If we don't look after them for our future
generations to see, it's cutting a link to our
culture that we should be holding onto."
Weller. Composition, prolecusyman. Lin

Walker Corporation spokeswoman Lia Thomas said the four Aboriginal sites were unlikely to affect the redevelopment, but could not say when they would be further

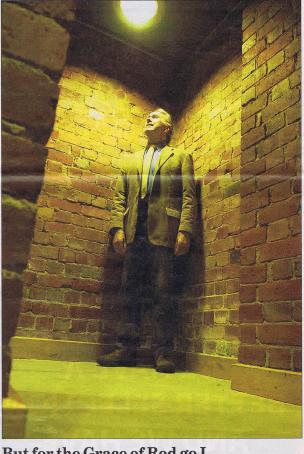
Aboriginal scarred tree

analysed. "Walker is in consultation with the Wurundjeri Council," she said.

Wurundjeri Tribal Land Compensation and Cultural Heritage Council chief executive Megan Goulding said the development would be closely monitored.

The developer would need permission from the Wurundjeri Council to disturb the Aboriginal sites and "iff they are going to (excavate) those areas then they require an Aboriginal heritage monitor to see if there are any artefacts", Ms Goulding said.

» Continued: Page 3



#### But for the Grace of Rod go I

Veteran actor Terence Donovan plays former Melbourne Archbishop Daniel Mannix, a man who drew crowds of thousands and fascinated PM Robert Menzies, in a show scripted by comedian Rod Quantock. Report: Page 15. Picture: IANCOOK N10PP101







**SPLIT & DUCTED COOLING SALE** 

HOME . OFFICE SHOPS **OVER 20 BRANDS**  ALSO . Split system . Box air-con Evaporative cooling . Fans

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KCC Reply Appendix

4 June 2018

Page 27

## KEW URBAN CONSERVATION STUDY

VOLUME 1

May 1988
Pru Sanderson Design Pty Ltd
66 Smith Street
South Melbourne 3205
Australia

#### KEW URBAN CONSERVATION STUDY

Table of Contents

VOLUMI Prefac Ackno		ments		Page	
1.0	INTRO	DUCTION	1/1		
2.0	SUMM	ARY			
2.1	History		2/1		
2.2	_	Method and	2/3		
2.3	Recom	mendations	2/7		
3.0	RECOMMENDATIONS				
3.1	Structu	res			
	3.1.1	Grade A St	ructures	3/1	
	3.1.2	Grade B St			
	3.1.3	Grade C St	ructures	3/5	
3.2	Landsc	anes		3/6	
	3.2.1	Summary of	of Sites	3/6	
	3.2.2	•		3/6	
3.3	Plannir	ıg		3/7	
	3.3.1	Existing Co	ontrols	3/7	
		3.3.1.1	Introduction	3/7	
		3.3.1.2	Population and Residential Land Use	3/7	
		3.3.1.3	Non-Residential Land Use	3/9	
		3.3.1.4	Planning Controls	3/10	
	•	3.3.1.5	Government Policies	3/14	
	3.3.2	Recommen	ded Planning Controls	3/15	
	3.3.3	Recommen	ded Urban Conservation Areas	3/15	
		3.3.3.1	UCA No.1 (A)	3/17	
		3.3.3.2	UCA No.1 (B)	3/18	
		3.3.3.3	UCA No.1 (C)	3/19	
		3.3.3.4	UCA No.1 (D)	3/20	
		3.3.3.5	UCA No.1 (E)	3/21	
		3.3.3.6	UCA No.1 (F)	3/22	
	3.3.4	Recommen	ded Listing of Structures	3/23	
3.4		ng Conservation		3/25	
3.5	3.5 Building Infill			3/25	
APPENI	DICES				
Appendix	κA	The Study	Brief		
Appendix B		ICOMOS Burra Charter			
Appendix C		ICOMOS Guidelines to the Burra Charter			

#### VOLUME 2

4.0	HISTO	RY		
4.1	A Hist	ory of Kew		4/1
		1845 - 188	30	4/3
		1880 - 189		4/7
		1893 - 192		4/11
		1921 - 193		4/13
		1933 - 194		4/19
			Development	4/23
5.0	SURV	EY AND A	SSESSMENT OF STRUCTURES	
5.1	Grade	5/1		
	5.1.1	Introduction	Introduction	
		5.1.1.1	Buildings Designated as 'Grade A':	
			Listed by Street	5/3
	5.1.2	Citations	•	5/7
		(NB Citat	ions listed by citation number, not by pag-	e number)
		Houses		
			Early - Mid-Victorian	Citation 1 - 9
			Late Victorian	Citation 10 - 37
			Late Victorian - Edwardian	Citation 38 - 50
			WWI - WWII	Citation 51 - 56
			Post WWII	Citation 57 - 64
		Churches		Citation 65 - 67
		Public and	l Commercial	Citation 68 - 70
		Institution	al	Citation 71 - 76
		Memorials	S	Citation 77 - 81
		Sundry		Citation 82 - 84
5.2	Grade	B Structures		
6.0	SURV.	EY AND AS	SSESSMENT OF LANDSCAPES	
6.1	Open S	Spaces		6/1
	6.1.1	Formal Pa	rklands	6/2
		6.1.1.1	Victoria Park	6/2
		6.1.1.2	Alexandra Gardens	6/4
	6.1.2	Remnants	of Former Users	6/6
		6.1.2.1	Outer Circle Railway	6/6
		6.1.2.2	Foley Park	6/8
	6.1.3	Yarra Bou	levard	6/10
		6.1.3.1	Studley Park	6/11
		6.1.3.2	Yarra Bend Park	6/12
		6.1.3.3	The Boulevard	6/14

	6.1.4 Natural Drainage and Flood Prone Areas			6/15
		6.1.4.1	Eglington Reserve	6/15
		6.1.4.2	Hyde Park	6/17
		6.1.4.3	Willsmere Park	6/19
		6.1.4.4		6/21
		6.1.4.5	Kew Golf Club	6/22
		6.1.4.6		6/23
		6.1.4.7	Stradbroke Park	6/25
7.0	BUILDING CONSERVATION GUIDELINES			
7.1	Introdu	ction		7/1
7.2	Guideli	nes		
APPENI		~-	0.77	
Appendix	хD	Glossary o	of Terms	
Volumi	Е 3			
8.0	MASTI	ER LISTS		
8.1	Introdu	ction to the	Master Lists	

8.2 Master List of Structures by Street

#### Preface

This report contains the results of Stage 2 of the Kew Urban Conservation Study. Stage 1 of the Study was commissioned by the Victorian National Estate Committee and the City of Kew in May 1986.

Stage 1 was prepared by Allom Lovell Sanderson Pty Ltd, and Stage 2 commenced by Allom Lovell Sanderson and completed by Pru Sanderson Design Pty Ltd.

#### Acknowledgements

The consultants responsible for the initial parts of Stage 2 were Allom Lovell Sanderson Pty Ltd. Their study team comprised Pru Sanderson, Peter Lovell, Rima D'Arcy, Shane Carmody, Angela Roennfeldt and Jennette Kilby. Completion of Stage 2 was undertaken by Pru Sanderson Design Pty Ltd, and the team comprised of Pru Sanderson and Angela Roennfeldt.

The consultants would like to acknowledge the interest and assistance of the following people and organisations during the preparation of this report:

John Waugh, Andrew Rodda and Alex Tarr, City of Kew.

Mrs Dorothy Benyei and Mrs Thea Sartori of the Kew Historical Society

National Trust of Australia (Victoria)

Historic Buildings Council

Staff of the State Library of Victoria

## CHAPTER 1.0 INTRODUCTION

#### 1.0 INTRODUCTION

#### Area of the Study

The Study area has been the whole of the City of Kew as defined by the Yarra River, Barkers Road, and Burke Road.

#### The Study Brief

The purpose of this study as outlined in Section 3.1 of the brief was stated '... to identify, evaluate and document the built and environmental heritage of the City of Kew demonstrating its full historical, developmental and stylistic range and to place it within the context of the history of Victoria; to assess the importance of the City's heritage as a State and community resource; and to develop a comprehensive program for the conservation of the City's heritage and its integration into the general planning framework of the Melbourne Metropolitan Planning Scheme and Council policy.'

A complete copy of the study brief is included as Appendix A of this volume of the report. That brief outlines that the report was to be prepared in two stages. The scope of Stage 1 was given as:

#### Stage 1: Preliminary Survey

The preliminary survey shall establish:-

- (a) The available sources of information and an analytical bibliography;
- (b) A brief understanding of the major historical themes that constitute the significance of the study area (the whole of the City of Kew);
- (c) A firm estimate of the number of individual sites and areas that will require detailed investigation;
- (d) The scope and extent of all other work prescribed in the Stage 2 task specifications;
- (e) The proposed systems, criteria and format to be used;
- (f) Any suggested changes to the task specifications;
- (g) The time, budget and personnel allocations for each task and the final production of the document, including travel, accommodation, photography, printing and preparation of reports;

While for Stage 2 the scope was given as:

#### Stage 2: Task Specifications

The following tasks shall be undertaken in the order that they appear below as Stage 2 of the Study:-

- (a) The Environmental History of European and Non-Aboriginal Settlement and Development;
- (b) The Identification and Evaluation of Buildings, Works, Objects, Natural Features, Sites

1/1

- and Areas of Architectural and/or Historic Significance;
- (c) Heritage Conservation in the Planning Context:
  Existing and Proposed Planning Policies and their impact upon Effective Heritage
  Conservation;
- (d) Recommendations for Statutory Controls;
- (e) Heritage Management Guidelines for the Administration of Statutory Conservation Controls:
- (f) Heritage Management Guidelines for Architectural Infill or Enhancement.

#### Terminology and Principles

In fulfilling this brief, the principles outlined in the Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (The Burra Charter), as endorsed by the Australian Heritage Commission, have been followed and also the guidelines for the establishment of cultural significance also formed by Australia ICOMOS. The Burra Charter is included as Appendix B and the Guidelines as Appendix C of this volume of the report. Both documents have been particularly pertinent to Task B of Stage 2 of the report.

#### Report Structure

The Report has been divided into three volumes, with their contents as outlined above in the Table of Contents.

Volume 1 contains a summary of the information included in the three volumes and an outline of all the recommendations of the report. It also explains the rationale and methodology taken throughout the preparation of the report and the criteria upon which certain decisions were made. It includes information of particular concern to statutory bodies, by summarizing the recommendations to those bodies on the protection of individual buildings, landscapes, sites and areas.

Volume 2 contains a history of the City of Kew, the individual citations on each of the structures designated Grade 'A' in the survey, data sheets on the buildings designated Grade 'B', the detailed assessment of landscapes in the area, and a copy of the conservation guidelines for the use of owners of buildings designated 'A', 'B' or 'C', and of the Infill Guidelines for new structures. Volume 2, therefore, includes the detailed historical background behind all the buildings in the area that have been identified as holding heritage significance (Grade 'A'). It also includes the architectural and historical assessment of each of those buildings and the means by which any of the significant or contributory buildings of the area can be cared for in a manner that retains their heritage significance. It includes information of concern to all potential users of the report, from owners of identified buildings, to the City of Kew, to statutory and non-statutory heritage bodies.

Volume 3 is essentially an index to Volume 2. It includes a list of all the streets in the City of Kew, a summary of which structures in those streets are of concern to the study, what grading each structure has been designated, what the current statutory controls are over each and a

summary of the recommendations of this report for the future statutory protection. It includes information of concern to any user of the report who is requiring a summation of both the current and recommended situations for each structure in Kew. Reference to Volume 3 would indicate whether subsequent reference to Volume 2 would elaborate on the item of concern to the enquirer.

#### WILLS STREET, 'WILLSMERE'

Original Use: Kew Asylum

Date of Construction: 1864-1880s<sup>26</sup>

DESIGNATION A CITATION NO.71

Architect: A.E. Johnson, J.J. Clark, S. Merrett, William Wardell,

Peter Kerr, A.T. Snow and G.W. Watson<sup>27</sup>



#### HISTORY AND DESCRIPTION

In the north-west corner of Kew, and bounded by the Yarra, land was initially set aside for a village reserve but the site subsequently was occupied by the Kew Asylum<sup>28</sup>. Commenced as a replacement for the overcrowed lunatic asylum at Yarra Bend<sup>29</sup>, the earliest buildings on this site are the two lodges and the entrance gateways designed by architects in the Public Works Department<sup>30</sup>. The first section of the main building was begun in 1864 and completed in December 1871 at a cost of £155,958 31, while throughout 1870s and 1880s the Department continued the construction, additions and repair of Asylum buildings<sup>32</sup>. The Asylum is massive in extent and forms an 'E'shape in plan: the same form as those at Ararat and Beechworth, but far larger. The overall style of the building is the Italianate, with a pavilioned form, squat tower flanking the entrance, and a slate mansarded roof. The building itself is tall, and it is set on a very high point of land above the Yarra River. As a result is clearly visible for a great distance around Melbourne.

#### SIGNIFICANCE

The Statement of Significance given here is that adopted by the Australian Heritage Commission: 'Kew Mental Hospital, Princess Street Kew, is one of the few landmarks prominent throughout Melbourne. The complex is probably the largest erected in the nineteenth century in Victoria and is architecturally a most notable example of such an institution erected by the Public Works Department of Victoria in the Italianate style. The complex is distinctive for its design, the central block being the most important part, but is of greater significance for its overall planning complete with surrounding dwarf walls.

#### HERITAGE LISTINGS

HBR: N/A

GBR: Registered. RNE: Registered.

National Trust: Classified No.1278

<sup>1</sup> HBC, Willsmere Hospital, Princess Street, Kew: Background', held in file No.83/3780

<sup>&</sup>lt;sup>2</sup> Contributing architects were also members of the Public Works Department. HBC, loc.cit..

<sup>&</sup>lt;sup>3</sup> 'Kew Urban Conservation Study: History - Final Draft'

<sup>4 .</sup>Trethowan, loc.cit

<sup>&</sup>lt;sup>5</sup> Architects' Index, University of Melbourne

<sup>6</sup> National Trust of Aust. (Vic), 'Research into Former Male Attendants' Mess Room...', 29 May 1979

<sup>7</sup> The Architects' Index and Trethowan's report give a comprehensive listing of works undertaken.

1 KAN-VARAL-LONSANTANT-STYNY VOLL OF 3

#### 6.1.2 Remnants of Former Users

There are large tracts of land in Kew that have remained with no buildings on them because of a former use that made them unavailable for settlement. The former Outer Circle Railway had a dramatic effect on the street patterns and settlement generally, in the northern areas of the suburb. Kew retains large tracts today that are in a potentially similar situation, such as the land held by the Willsmere Hospital, Royal Talbot and the Guide Dog Training Centre, which remain largely unsettled and park-like.

#### 6.1.2.1 Outer Circle Railway Reserve

Extent: Willsmere Road at Earl Street, to Burke Road at Heather Grove

Historical Documentation

1882 - Outer Circle Railway scheme mooted. 26

1888-1891 - Outer Circle Railway built. 27

April 1893 - Outer Circle Railway closed. 28

1939 - The former Outer Circle Railway land between Princess Street and Park Crescent purchased by the Kew Council in October for £2,750 and work began on levelling the embankments to the original surface level. <sup>29</sup>

1943 - W.D. Birrell, Town Clerk of Kew, proposed that the former Outer Circle Railway line be converted to a reserve.  $^{30}$ 

1946 - The former Outer Circle Railway land between Campbell Street and Burke Road was purchased by the Council for £2,133.  $^{31}$ 

1954 - The sections of the former railway line extending from Princess Street to Park Crescent and from Campbell Street to Burke Road were designated as 'open space'.  $^{32}$ 

December 1956 - M.M.B.W. paid the Kew Council £25,000 in compensation for the Outer Circle Railway land for the purpose of an arterial road. <sup>33</sup>

#### **Existing Condition**

From the linear form of the reserve that remains the former use of this strip of land is clearly evident, however the levelling of the embankments have removed any direct evidence of the railway. The land remains as open grassland with very sparse planting right along its length.

Min-vayan - Lotshapany

## 3.3.2 Recommended Planning Controls

The approach recommended for the implementation of a conservation strategy for the City of Kew is that controls should be applied through the provisions of the *Historic Buildings Act* and the *Australian Heritage Commission Act*, and the provisions of the existing planning scheme.

The recommended controls relate to both areas and precincts, and individual structures. It is recommended that area control be achieved through the designation of certain parts of the City as Urban Conservation Areas (UCA) under the existing provisions of the planning scheme. In addition to area controls, the protection of about 430 individual structures (designated Grade A and B in the study) has been recommended through their being listed in the Planning Scheme, while Grade A buildings are recommended for inclusion on at least one of the Historic Buildings Register, the Government Buildings Register or the Register of the National Estate. While all Grade A buildings are recommended to be listed in the Planning Scheme, a number fall outside the recommended Urban Conservation Areas and therefore have no protection of their surroundings. As a result, it is recommended that some of these buildings be protected through Conservation Plan (CP) areas which provide for control of land associated with or adjacent to, a designated structure. Those buildings recommended to have protection through CP areas are outlined in the following figures and in the master list of streets in Volume 3 of the report.

#### 3.3.3 Recommended Urban Conservation Areas

Six discrete areas of the City have been recommended for designation as Urban Conservation Areas No.1 under the MMPS. These are all new conservation areas, as none presently exist in the City of Kew. The six areas designated Urban Conservation Area No. 1 are in the environs of:

- A Walmer Street
- B Barry Street
- C Glenferrie Road
- D Boroondara Cemetery
- E Sackville Street
- F Oswin Street

The exact extent of each is shown in detail on the following plans, and the reasons why the designations have been made, briefly described.

The UCA 1 areas are essentially built-up areas in which the predominant concern is the conservation of the building stock and the associated environs. The specific provisions of the Planning Scheme (Division 3C - Urban Conservation Areas, Clause 25L(4)) under which controls to such areas are derived is as follows:

1



Planning and Environment Act 1987 KEW PLANNING SCHEME Notice of Approval of Amendment Amendment L1

The Minister for Planning and Environment has approved Amendment L1 to the Kew Planning Scheme.

The amendment comes into operation on the date this notice is published in the Government Gazette.

The amendment rezones land in Wills Street, Kew from Existing Public Purposes Reservation (Hospital) to Residential C zone.

A copy of the amendment can be inspected, free of charge, during office hours, at the offices of the City of Kew, Charles Street, Kew, and at the Ministry for Planning and Environment, 477 Collins Street, Melbourne.

GEOFF CODE, Manager Planning Co-ordination Branch

53986/89

KCC Reply Appendix 4 June 2018 Page 42

Victoria Government Gazette

#### 2 S 2 12 January 1989

## Gazette Services

The Victoria Government Gazette (VGG) is published by VGPO for the State of Victoria and is produced in three editions.

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KCC Reply Appendix 4 June 2018 Page 43

# EXHIBITION COPY

KEW PLANNING SCHEME AMENDMENT L1

The Planning Authority for this amendment is the Minister for Planning and Environment.

LOCAL SECTION

The Local Section is amended as follows -

Map 46 is amended in accordance with the map forming part of this amendment.

KCC Reply Appendix

4 June 2018

Page 44

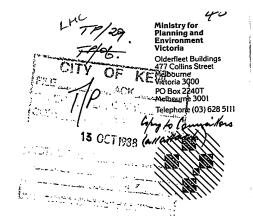




#### CITY OF BOROONDARA LIBRARIES KEW LIBRARY

The Town Clerk City of Kew PO Box 42 KEW 3101

Attention: Mr J Waugh



mp.1.10oc.2

10 OCT 1988

Dear Sir/Madam

KEW PLANNING SCHEME AMENDMENT L1

Under Section 17 of the Planning and Environment Act 1987, I enclose a copy of :

the above amendment

the explanatory report

Under Section 18 of the Act you must make these documents available for inspection by any person, free of charge during office hours until the amendment is approved or lapses.

A notice of the amendment will appear in the Government Gazette on 12 October 1988. A copy of this notice is also enclosed so that your office can inform people of the closing date for submissions and where they must be sent.

If you have any questions about this matter, please telephone  $\ensuremath{\mathsf{Rob}}$  Gluyas on  $890\ 1190\ .$ 

Yours sincerely

416

RES LH 711.58 KEW Kew (Vic.). City Council. Kew planning scheme amendment L1. AN:00899712 BN:214740

205200

G COOK ASSISTANT MANAGER PLANNING CO-ORDINATION BRANCH

111.28 111.28

Enc.

LHC 711. 58 KEW

PA-284M1R

PLANNING AND ENVIRONMENT ACT 1987

ŗ

KEW PLANNING SCHEME

NOTICE OF AMENDMENT

AMENDMENT L1

The Minister for Planning and Environment has prepared Amendment Ll to the Kew Planning Scheme.

The amendment proposes to rezone an area of land on the north side of Wills Street, Kew, from an Existing Public Purposes (Hospital) Reservation, to a Residential C Zone. The land forms part of the Willsmere Hospital complex.

A copy of the amendment can be inspected free of charge, during office hours at the Ministry for Planning and Environment, Ground Floor, The Olderfleet Buildings, 477 Collins Street, Melbourne; City of Kev, Municipal Offices, Charles Stret, Kew.

Submissions about the amendment must be sent to the Minister for Planning and Environment, Attention: Planning Co-Ordination Branch, PO Box 2240T, Melbourne, 3001, by 14 November 1988.

GEOFF COOK ASSISTANT MANAGER PLANNING CO-ORDINATION BRANCH

#### PLANNING AND ENVIRONMENT ACT 1987

#### KEW PLANNING SCHEME

#### AMENDMENT L1

#### EXPLANATORY REPORT

The amendment proposes the rezoning of approximately 1.8 hectares of land on the north side of Wills Street, Kew. The land is currently in an Existing Public Purposes (Hospital) Reservation and the proposed zone is a Residential C Zone. The land is surplus to the requirements of the Victorian Government and is scheduled for disposal.

The land is developed with 20 detached houses which are part of the Willsmere Hospital complex. It is intended to remove these houses and resubdivide the land into lots each with an average area of approximately 800 square metres.

The rezoning of land is generally in conformity with the adjoining areas to the south and east of the subject land and, together with the zone provisions, is unlikely to have significant effect on the environment.

Rezoning will also be subject to an agreement pursuant to Section 173 of the Act between Council and the Victorian Government Major Project Unit.

Such agreement will ensure that:

- . the minimum lot size shall be 700 square metres;
- . the land shall only be used for detached houses;
- . vehicular access shall only be from Wills Street;
- the historic avenue of oak trees adjoining to the north of the subject land shall be protected.

THIS AGREEMENT is made the BETWEEN:

day of

1988

THE MAYOR COUNCILLORS AND CITIZENS OF THE CITY OF KEW

of the one part

and

("the Council")

THE URBAN LAND AUTHORITY

("the Authority")

of the other part

#### WHEREAS:

- A. It is anticipated that the Authority will become the owner of the land outlined in orange on Plan "A" attached hereto, being part of the Crown land temporarily reserved for Mental Hospital purposes by Order in Council of 1896 published in the Government Gazette of 1896 P.1018, and Order in Council of 1935, published in the Government Gazette of 1935, P.1094 (Rs.7734), ("the land", which term shall include any part of the land).
- B. The land is affected by the provisions of the Kew Planning Scheme ("the Scheme") in relation to which the Council is the Responsible Authority.
- C. The land is reserved under the provisions of the Scheme for Hospital Purposes.
- D. The Minister for Planning and Environment being the Planning Authority pursuant to the provisions of the Planning and Environment Act 1987 ("the Act") has prepared Amendment No.\_\_\_\_ under which it is proposed that the land be included in a Residential C Zone.
- E. Grafted oak trees (Quercus Canariensis) ("the trees") are located on the land and the land immediately abutting the same to the north and the Authority agrees that the trees, so far as it is reasonably possible to do so, should be preserved for historic reasons and that restrictions should be placed upon the use of the land for Residential Purposes as set out in this Agreement.

F. The Council and the Authority have agreed that without restricting or limiting their respective powers to enter into this Agreement, this Agreement insofar as it can be so treated, shall be an Agreement under Section 173 of the Act.

## NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement unless inconsistent with the context or subject matter -

"Amendment" means Amendment RL\_\_\_\_\_ of the Scheme as is referred to in Recital D hereof;

"Owner" means the person or persons entitled from time to time to be registered by the Registrar of Titles as the proprietor or proprietors of an estate in fee simple of the land or any part thereof.

- 2. This Agreement is conditional upon -
  - (a) The Authority becoming the owner of the land.
  - (b) Notice of approval of the Amendment being published in the Government Gazette pursuant to the provisions of Section 36 of the Act.
- The Authority, with the intent that its covenants hereunder shall run with the land <u>HEREBY COVENANTS AND AGREES</u> with the Council as follows -
  - (i) Notwithstanding the provisions of Clause 7(1)(c) of the Scheme the land shall not be subdivided into lots of less than 700 square metres in area;
  - (ii) Notwithstanding the uses otherwise permitted within the Residential C Zone in the Scheme it will not use or cause or permit to be used any lot on any subdivision of the land other than for the purposes of a detached house or for dual occupancy and uses ancillary thereto (including a tennis court);
  - (iii) Save with the permission of the Responsible Authority it will not nor will it cause or allow its servants or any agents to fell lop ring-bark or uproot any of the trees except as hereinafter provided namely -
    - (a) any of the trees or part thereof which are dead or dying or have become dangerous may be felled lopped ring-barked or uprooted to abate any actual or potential hazard which may cause injury to any person or property.

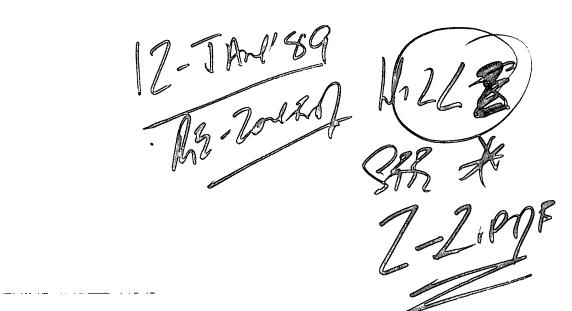
- (b) any of the trees in relation to which notice have been given pursuant to the Forests Act 1958, the Country Fire Authority Act 1958 or the Local Government Act 1958 may be destroyed.
- (c) any of the trees may be destroyed felled lopped or otherwise affected if it is necessary to do so in the exercise of powers conferred by Act of Parliament or Regulations thereunder upon any public authority (other than the Authority) government department or municipal council.
- (iv) Notwithstanding the provisions of sub-paragraph (iii) hereof, no works or excavating or trenching for pipes services or filling or any purpose whatsoever shall be carried out beneath the canopy of any of the trees unless required under or in pursuance of any Act or Acts of Parliament and Regulations thereunder or by any public authority (other than the Authority) government department or municipal council.
- (v) Vehicular access to the land or to any lot on any subdivision of the land shall only be from Wills Street.
- 3. If any provision of this Agreement is not valid it shall not affect the validity of the other provisions of this Agreement but shall be read down or severed so as to leave the other provisions of this Agreement in effect.
- 4. The Authority agrees to do all things necessary to enable the Council to enter a Memorandum of this Agreement on any Certificate or Certificates of Title to the land in accordance with Section 181 of the Act including signing any further Agreement, acknowledgement or document to enable the said Memorandum to be registered under that Section.
- 5. The Authority and the Council covenant and agree to do all things necessary including the signing of such further Agreement or other document that may be required to ensure that each of their covenants and agreements hereunder are carried out and effected.
- 6. The Authority agrees to pay to the Council on demand the reasonable legal administrative and other costs and fees incurred by the Council for or in connection with the preparation execution lodging and enforcement of this Agreement.

7. Any Notice required to be given to the Authority shall be deemed to be given if forwarded by pre-paid post to it at its address in this Agreement, and any Notice required to be given to any other owner of the land or any part thereof shall be deemed to be given if forwarded by pre-paid post to such owner at the land or such relevant part and any such Notice shall be deemed to have been received by the recipient on the second next business day after posting at a registered post box.

<u>IN WITNESS</u> whereof the parties hereto have hereunto set their hands and seals the day and year hereinbefore written.

THE CORPORATE SEAL of THE MAYO	<u>)R</u> )
COUNCILLORS AND CITIZENS OF TH	<u>E</u> )
CITY OF KEW was hereunto affix	red )
in the presence of:	
	Mayor
	Councillor
· .	Chief Executive Officer
SIGNED SEALED AND DELIVERED by	)
RICHARD WILLIAM PARKER for and	on )
behalf of the <u>URBAN LAND AUTHOR</u>	RITY )
in the progence of	

(2ST51)





Planning and Environment Act 1987 KEW PLANNING SCHEME Notice of Approval of Amendment
Amendment LI

Amendment L1

The Minister for Planning and Environment has approved Amendment L1 to the Kew Planning Scheme.

The amendment comes into operation on the date this notice is published in the Government Gazette.

The amendment rezones land in Wills Street, Kew from Existing Public Purposes Reservation (Hospital) to Residential C zone.

A copy of the amendment can be inspected, free of charge, during office hours, at the offices of the City of Kew, Charles Street, Kew, and at the Ministry for Planning and Environment, 477 Collins Street, Melbourne.

GEOFF CODE, Manager Planning Co-ordination Branch



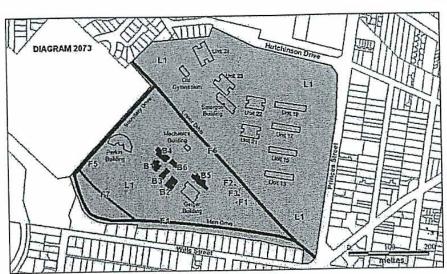
Page 52

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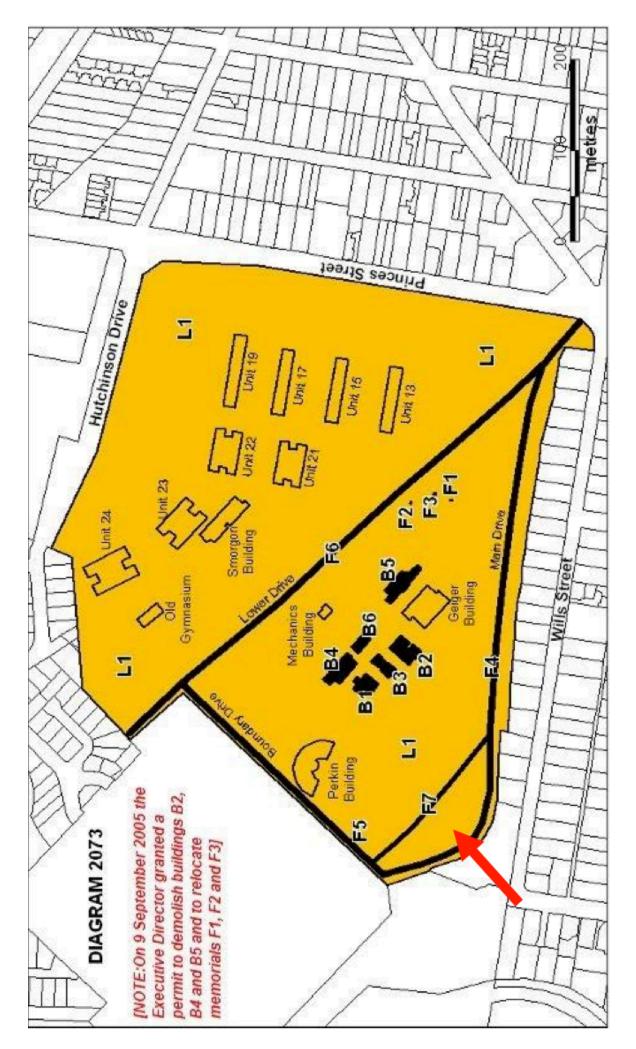
## Victorian Heritage Register

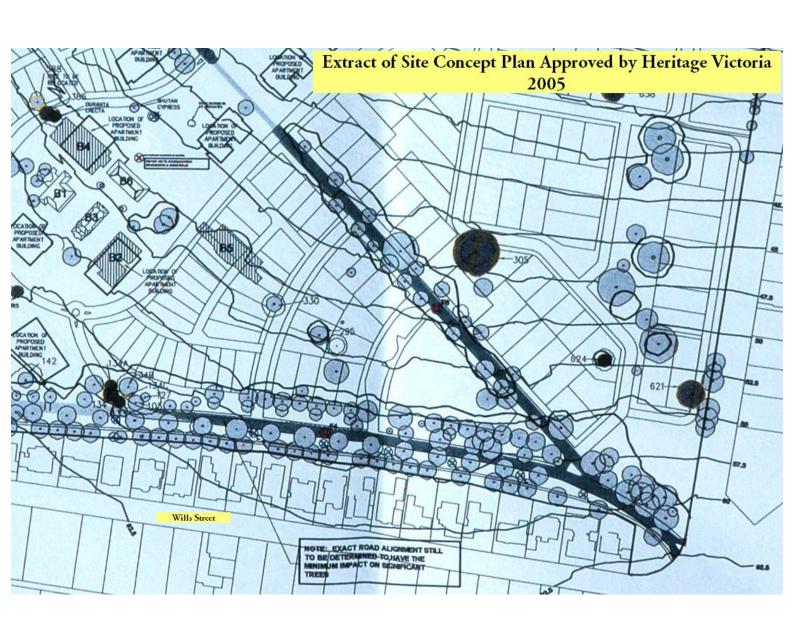


HERMES ID: 12309 HERITAGE REGISTER NUMBER: H2073 NAME: FORMER KEW COTTAGES (KEW RESIDENTIAL SERVICES) 29-Apr-2005

4:24:48PM

Page 3





# FORMER KEW COTTAGES 115 PRINCESS STREET, KEW

# **CONSERVATION MANAGEMENT PLAN**

for

B1 Cottage (Unit 10)

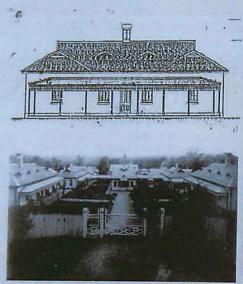
B3 School House (Parents Retreat/Chapel)

**B6 Dining Room (STAD)** 

F1 Fire Memorial

F2 Long Term Residents' Memorial

F3 Residents' Sculpture















Prepared by

HLCD Pty Ltd, 28 Drummond St, Carlton, Vic 3053 Ph: 613 9654 4801 Fax: 613 9654 4803 Email: hlcd@hlcd.com.au

FINAL REPORT

SEPTEMBER 2008

- Archaeologists provides locations of critical locations for watching brief
- · On site meeting with contractors to determine specific areas of works and timetable
- Archaeologist informed of commencement of works in critical locations with 1 week notice
- Archaeologist liaise with contractor's operator during demolition/excavation
- · If necessary works halted if significant archaeological features exposed.
- · Archaeologist may direct operator in exposing features
- Archaeologist records exposed features photographically and with measured drawings, when completed contractor's operator recommences works
- Possible additional halt if further features exposed.

It is anticipated that the existing buildings, which are to be demolished, the sites of the two early wards, and some ancillary structures are certain to provide substantial archaeological evidence, and so halts to demolition and excavation of up to a half a day at a time, and possibly involving 2 or 3 halts on each site should be allowed,

Other areas are likely to reveal footings and clearance can continue with excavators. Halts of a few hours might be required to complete recording.

It should be stressed that the monitoring program is highly dependent on the nature and timing of demolition, civil works and construction. Clearly if no excavation of demolition is proposed in an area with archaeological potential, then there would be no need for a watching brief in such an area.

At the completion of the watching brief, or in the respective stages of the project a written report along with illustrations photographs and site drawings. Documentation will be prepared according to Heritage Victoria required standards, with a written report, site and detail plans of any features recorded and photographic record supplied to the client and Heritage Victoria in hard copy and CD.

## 6.7 RELOCATION OF MONUMENTS

In permitting development of parts of the Kew Cottages site, Heritage Victoria has given permission for the relocation of the three monuments and the F1 Fire Memorial garden to another part of the KRS site. This would be after approval of the proposed new locations, careful recording of the existing conditions, reinstatement works and conservation works.

Prior to relocating any of the monuments, measured documentation should be undertaken to record their current setting and to aid in their reconstruction. The documentation should include photographs, measured plans of garden beds and built elements, identification and mapping of plants (including the height of standard roses), as well as the relationship between the garden beds and the monuments. This information would form an important part of obtaining approvals for relocation from Heritage Victoria.

HLCD Pty Ltd (ABN 63 083 840 724) 28 Drummond Street Carlton Vic. 3053. PH: 613 9654 4801 FAX: 613 9654 4803 hlcd@hlcd.com.au

62

sympathetic to the existing significant fabric but should involve design excellence and innovation. They should not create confusion as to whether they were part of the earlier site fabric.

#### B1 Cottage (Unit 10)

A new addition to B1 Cottage would be possible on the northwest side as shown on Cons-B1, Appendix 9.4, Section 9.4.3. The addition should have its own separate roof form, allowing the cottage roof form to be understood as a separate element. The addition should be set in from either end of the existing 1887 part by a minimum of 2 metres to enable reading of the original cottage form. Another desirable method would be to create a separate building in this location and link it to B1 Cottage using a small linking element. The form and mass of the new addition should be subservient to the original cottage and not overwhelm it in scale. It should be contemporary in design and not copy the detailing of the Cottage.

#### B 3 School House (Parents Retreat/Chapel)

No new built additions are appropriate for B3 School House.

#### **B6 Dining Room (STAD)**

Small additions could replace the toilets within the verandah line on the southeast side of B6 Dining Hall. Another potential area for an addition to this building is on the northeast side where a link could be provided to a small discrete building. This would be similar to what has occurred in the past with a kitchen building. The link should be provided beneath the verandah roofline and any new addition would need to be designed as a small visual element which is not against B6. It should be contemporary in design and not copy the detailing of the Dining

#### 6.4.2 NEW BUILDING DEVELOPMENT

Development of new structures in the vicinity of the three buildings is permitted on this site provided that new structures are:

- sited in locations clearly removed from the historic fabric identified as being of primary significance;
- sited so as to retain views which have been identified as being of significance;
- sited so as not to impact on significant trees or plantings;
- sited so as to avoid overwhelming understanding of the original scale of the cottage development; and
- sited so as respect the need for a watching brief on the parts of the site with pre-1920s historical archaeological potential.

Proposed new buildings must not render the existing buildings of heritage value redundant and it must be demonstrated that any functional requirements for new buildings cannot be appropriately accommodated within the existing buildings before new buildings are approved.

i buildings are required in close proximity to the heritage core, new buildings should be designed as smaller discrete structures, with spaces between, rather than a massive structure which may overwhelm the remaining structures.

New buildings should not be attached to buildings except where set out in the Conservation Plans in Appendix 9.4, Section 9.4.3 and should require minimal change to significant fabric.

> HLCD Pty Ltd (ABN 63 063 840 724) 28 Drummond Street Carlton Vic. 3053. PH: 613 9654 4801 FAX: 613 9654 4803 hlcd@hlcd.com.au

> > (P9639- Refer to this approva

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How does the statement statement already approved under the statement approved appro

KCC Reply Appendix

4 June 2018

Page 58



Any additions to existing buildings must only be permitted where they demonstrate a contribution to the viable and sustainable use of those buildings. The degree of alteration must consider the relative integrity of the building and its setting, the sustainability of its use and the retention of its cultural values.

Additions introducing new materials or design should be done in a simple contemporary manner not by falsely recreating the appearance of age. They should be done in a manner sympathetic to the existing significant fabric but should involve design excellence and innovation. They should not create confusion as to whether they were part of the earlier site fabric.

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- sited so as to retain views which have been identified as being of significance;
- sited so as not to impact on significant trees or plantings;
- sited so as to avoid overwhelming the understanding of the original scale of the cottage development; and
- sited so as to respect the need for a watching brief on the parts of the site with pre-1920s historical archaeological potential.

Proposed new buildings must not render the existing buildings of heritage value redundant and it must be demonstrated that any functional requirements for new buildings cannot be appropriately accommodated within the existing buildings before new buildings are approved.



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New buildings should not be attached to buildings except where set out in the Conservation Plans in Appendix 9.4, Section 9.4.3 and should require minimal change to significant fabric.

New design should not replicate the appearance of the significant buildings. Good contemporary design that respects the character of the site and does not dominate significant aspects of the site is encouraged.

It should be noted that Heritage Victoria has already given in principal approval for new buildings in the vicinity of the heritage core, subject to detailed design development, a heritage impact statement and other conditions, on permit P9639.



#### 6.4.3 SUBDIVISION

Subdivision of parts of the Kew Cottages site has already occurred and can be expected to continue under current development proposals.

Part of the significance of Kew is the grouping of buildings B1, B3 and B6 which provide evidence of the establishment period of the site. Hence subdivision of those three elements may detract from this aspect of significance. As subdivision usually leads to physical barriers and different management of items, it is undesirable to subdivide these elements. However, if it was required for the reasonable ongoing use and conservation of these heritage items, then it may be possible if these negative impacts were avoided.

It should be noted that any proposed subdivision of the site may result in new development. The new development on the subdivided land would still need to conform to the policies set out elsewhere in this report, in order to lessen the impact on the cultural significance of the former Kew Cottages site.

#### 6.4.4 ACCESS, PLANTING & NEW LANDSCAPING

Any new planting should not dominate or compete with the existing landscape character as this would detract from understanding of the significance of the site. However, the actual treatments, i.e. asphalt, gravel etc can be altered and are not of particular significance.

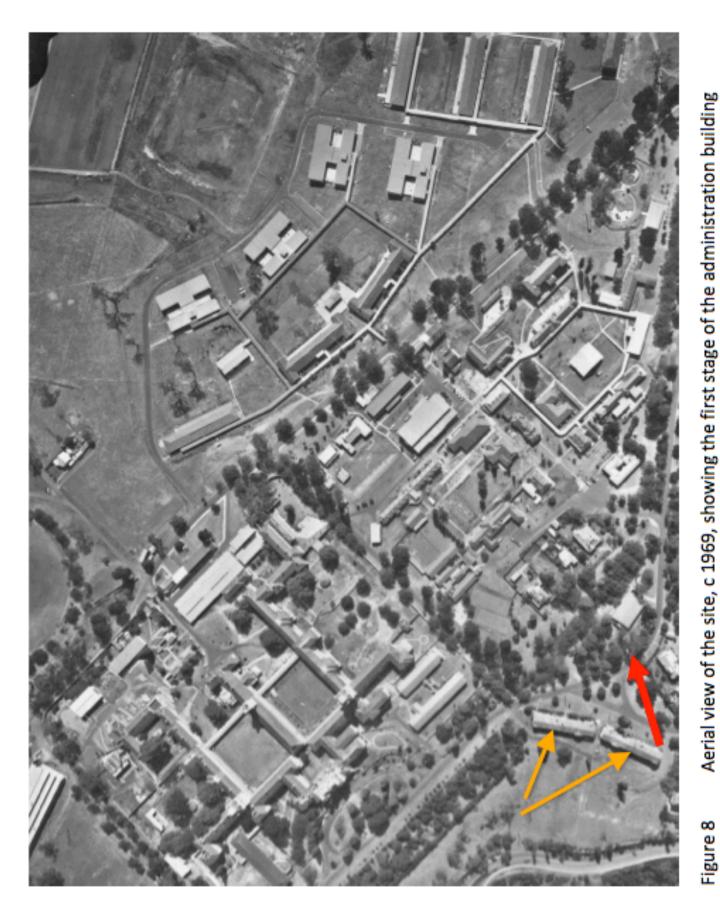
#### 6.5 FUTURE USE

The historic use of the former Kew Cottages site has changed in response to a major shift in the approach to housing intellectually disabled people by the Victorian government. While the European cottage system accommodation provided at Kew Cottages from 1887 onwards was a dramatic departure from institutional accommodation such as at Willsmere next door, current best practice of integration of intellectually disabled people into the community is another radical change. Hence the former Kew Cottages site is being redeveloped into a housing precinct where some former KRS residents are accommodated in houses which blend in with privately owned residences.

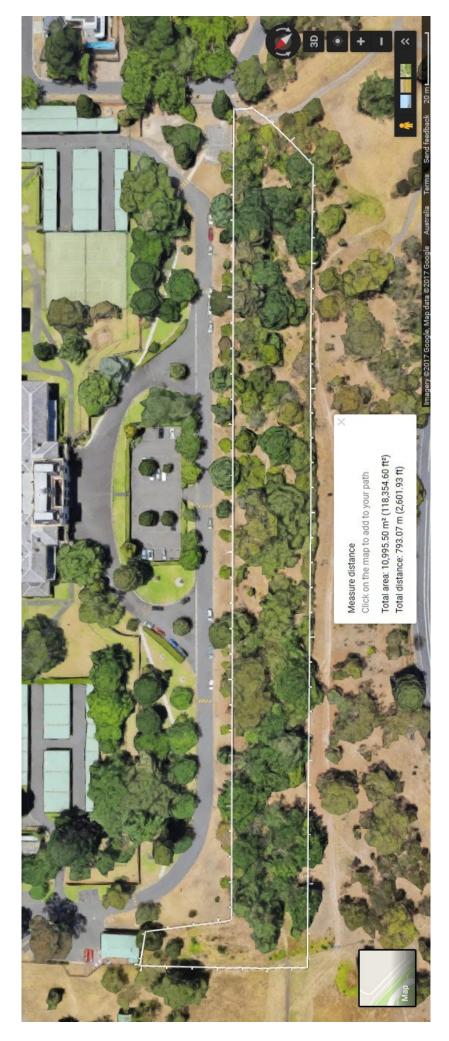
In some senses this is a continuation of the historic use of the wider property demonstrating once again the changes in practice for caring for the intellectually disabled. However for the buildings; B1 Cottage, B3 School House and B6 Dining Room, the specific historically significant use cannot be continued. In fact, only B1 Cottage has maintained its original use. B3 School House changed functions after 1907/8 and the function of B6 Dining Room had changed by the 1960s. B3 and B6 had a range of functions which were related to the continuing operation of the KRS site.

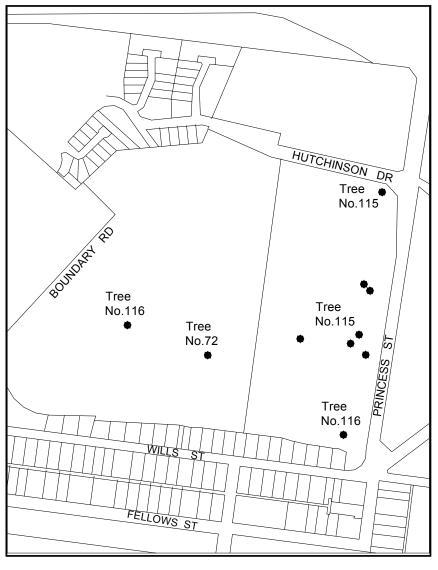
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59



Aerial view of the site, c 1969, showing the first stage of the administration building







Tree No. 72: Pinus muricata, 115 Princess Street, Kew.

154

John Patrick Pty. Ltd. Landscape Architects

Location: 115 Princess Street, Kew

Tree Identification No.: 72

Botanical Name: Pinus muricata

Common Name: Bishop pine

No. of trees 1

Melway Ref: 45 C2, C5

Height: 12m

Canopy Spread E-W: 11.6m

**N-S:** 11.2m

Trunk Girth (at 1.5m): 2.99m

Approx. Age of Tree: 80+ years

Setting/Position: Kew Cottages.

#### Category of Significance:

Horticultural Value	Location or context	Rare or localised	Х	Particularly old	Outstanding size	
Aesthetic value	Curious growth form	Historic value		Aboriginal culture	Outstanding eg. of species	

**History:** This tree was found to be unusual in cultivation, history unknown.

Health:	Pests/Diseases	Dead wood	Х	Dieback	
	Stunted growth	Stress	Х	Rot	Х
	Leaf necrosis	Low foliage density		Possum damage	

Other/Notes: Tree is under stress, with sap seeping from the base and at various points up the trunk.

Threats/Risks to Tree: Failure of bi-furcated limbs.

Hazards/Risks:	Co-dominant branches		V-crotched	Χ
	Irregular branch structure Low-hanging branches (unsafe)			
	Diseased limbs	Х	Other	

Other/Notes: Bi-furcated at 2m. The eastern side of the canopy appears to be sound, however the

west side needs to be monitored.

Works Required & Priority: Dead wood removal; cable west side of canopy. Full assessment by a qualified arborist

followed by annual inspections.

Management Prescriptions: As stated above.

Statement of Significance: The Bishop pine at 115 Princess Street, Kew is significant for the fact that it is relatively

rare in cultivation, with only up to 50 know specimens in cultivation.

26.10.2000

Recorded by: Susan Tallon

ID Confirmed: Susan Tallon

Date:



# **Department of Planning and Community Development**

Permit Application No: P16912 Condition 1 File No: 10/024946-30 & 31

8 October 2012

1 Spring Street Melbourne Victoria 3000 GPO Box 2392 Melbourne Victoria 3001 Telephone: (03) 9208 3333 Facsimile: (03) 9208 3680

DX210292

www.dpcd.vic.gov.au

Mr Brad Evans Walker Corporation Pty Ltd 32 Pine Court KEW VIC 3101

Dear Mr Evans,

# RE: PERMIT P16912 - FORMER KEW COTTAGES (KEW RESIDENTIAL SERVICES), PRINCESS STREET KEW (H2073)

I refer to your letters dated 16 September, and 8 December 2011, and final landscape plans emailed on 15 August 2012 providing information requested under Condition 1 of permit P16912. Condition 1 requires;

[This permit approves earth works and tree removals.] Amended landscape plans and a tree management plan are to be submitted and when endorsed by the Executive Director will form part of this permit. The existing landscape plans and tree report are incomplete and inaccurate, and the new plans should show replanting of the two heritage trees, a new path crossing of Main Drive, and the Lower Drive reconstruction and oak avenue replanting.

The landscape plans mainly cover the area known as Oak Walk (Park 012) and Spine Park (Parks 014, 016 & 018). The two Heritage Trees to be replanted are 409 *Acacia implexa* and 429 *Ficus macrophylla*.

The following 15 Landscape Plans partially satisfy Condition 1;

Title Sheet 1. LA924-00.00 - Issue N 2. LA924-00.04 – Issue B Construction Staging Plan 3. LA924-01.01 – Issue O Landscape Plan – Set-Out and Grading 4. LA924-01.02 – Issue R Landscape Plan – Set-Out and Grading 5. LA924-01.03 – Issue O Landscape Plan – Set-Out and Grading Landscape Plan – Surface & Finishes 6. LA924–02.01 – Issue M Landscape Plan – Surface & Finishes 7. LA924–02.02 – Issue O 8. LA924–02.03 – Issue N Landscape Plan – Surface & Finishes Landscape Plan – Planting Plan 9. LA924–03.01 – Issue M 10. LA924-03.02 - Issue P Landscape Plan – Planting Plan 11. LA924-03.03 - Issue N Landscape Plan – Planting Plan

Any personal information about you or a third party in your correspondence will be collected, held, managed, used, disclosed or transferred in accordance with the provisions of the Information Privacy Act 2000 (Vic) and applicable laws. Enquiries about access to information about you held by the Department should be directed to the Privacy Officer, Department of Planning and Community Development, PO Box 2392, Melbourne, VIC 3001.

Notwithstanding the above, please note that information provided to enable the administration of the Heritage Act 1995 may be disclosed to persons with an interest in the heritage place or object particularly, and information provided as part of a permit application may be made available on-line where the application has been publicly advertised under section 68 of the Heritage Act 1995.



#### [Type text]

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    LA924 – 04.01 – Issue H
    LA924 – 04.02 – Issue E
    LA924 – 04.03 – Issue H
    LA924 – 04.04 – Issue H
    LA924 – 04.04 – Issue H
    Detail Sheet 01
    Landscape Plan - Detail Sheet 03
    LA924 – 04.04 – Issue H
    Detail Sheet 04
```

Future landscape plans are required for the site of the existing Office Building, which is to be demolished, the removal of the adjoining paths, and the garden for the Long term Residents Memorial (F2), the replanting of heritage trees 1144 *Corymbia ficifolia*, and 455 *Cupressus torulosa* (relocated from Stage 7). The Landscape Plan LA924-03.03 (N) should ensure that the hedge planting of *Viburnum odoratissimum* (Vo) is on the adjoining lots and provision is made for a path along the north-east side of Lower Drive (F6) between Stage 2 and Stage 4B. A plan is required to show the relocation into Oak Walk of the concrete lamp from Stage 4A2, now next to tree 481 (*Fraxinus angustifolia*), which is to be removed.

Additional work is required to replant two dead standard roses in the garden of the Fire Memorial Column (F1), and the removal of mature *Arburtus unedo* and *Pittosporum undulatum* seedlings at the base of the rare Blue Mexican Cypress, *Cupressus lusitanica* 'Glauca' (no number), south of F1.

If you have any queries please contact John Hawker (03) 9208 3408 or email heritage.permits@dpcd.vic.gov.au.

Yours sincerely

Tracey Avery
Executive Director
HERITAGE VICTORIA

Cc Katie Williams Boroondara Council LorenzPereira DPCD

KCC Reply Appendix 4 June 2018 Page 66

#### **PERMIT**

#### HERITAGE ACT 1995

PERMIT NO: P16912

OWNER/S:

Mr Brad Evans

Walker

ADDRESS:

32 Pine Court

Kew 3101



HERITAGE REGISTER NO:

H2073

FILE NO:

10/024946-11

REGISTRATION CATEGORY:

Heritage Place

NAME OF PLACE /OBJECT (IF ANY):

FORMER KEW COTTAGES (KEW RESIDENTIAL

SERVICES)

LOCATION:

PRINCESS STREET KEW

Pursuant to Section 74 of the Heritage Act (1995) and in respect to the above-mentioned place / object, the Executive Director, Heritage Victoria hereby grants a PERMIT, subject to conditions as prescribed hereunder to carry out the following:

Earth works, landscaping and removal of 2 heritage trees No 409 Acacia implexa and No. 42 Ficus macrophylla. shown on plans LA924-01.02(H), LA924-01.0(G), LA924-04.03(D), and LA(24-04.03(C) endorsed by the Executive Director and forming part of this permit.

#### **CONDITIONS:**

- This permit approves earth works and tree removals. Amended landscape plans and a tree 1. management plan are to be submitted and when endorsed by the Executive Director will form part of this permit. The existing landscape plans and tree report are incomplete and inaccurate, and the new plans should show replanting of the two heritage trees, a new crossing of Main Drive, and the Lower Drive reconstruction and oak avenue replanting.
- 2. Information is to be provided on the rehabilitation of the excavated land to ensure that the top soil is replaced to ensure that the turf and 2 heritage trees can be successfully replanted.
- Prior to the commencement of earth works a plan showing the location of Tree Protection Fencing is 3. to be submitted and when endorsed by the Executive Director will form part of this permit.
- All works must cease and this office contacted if historical archaeological artefacts or deposits are 4. discovered during any excavation or subsurface works. The original path layout south of the Chapel/School House (B3) shown in the 1950s aerial photograph and the location of the c1902 entrance gates and fence may be revealed during excavation works.
- This permit shall expire if the permitted works have not commenced within one (1) year of the date 5. of issue of this permit, or are not completed within two (2) years of the date of issue of this permit unless otherwise agreed in writing by the Executive Director, Heritage Victoria.
- 6. The Executive Director is to be given five working days notice of the intention to commence the approved works
- 7. Approved works or activities are to be planned and carried out in a manner which prevents damage to the registered place / object. However, if other previously hidden original or inaccessible details of the object or place are uncovered, any works that may affect such items shall immediately cease. The Executive Director shall be notified of the details immediately to enable Heritage Victoria representatives to inspect and record the items, and for discussion to take place on the possible retention of the items, or the issue of a modified approval.
- 8. The Executive Director is to be informed when the approved works have been completed.
- 9. The development approved by this permit is to be carried out in accordance with the endorsed drawings, unless otherwise agreed in writing by the Executive Director, Heritage Victoria.

NOTE THAT PERMISSION HAS BEEN GIVEN FOR INSPECTIONS OF THE PLACE OR OBJECT TO BE UNDERTAKEN DURING THE CARRYING OUT OF WORKS, AND WITHIN SIX (6) MONTHS OF NOTIFICATION OF THEIR COMPLETION.

TAKE NOTICE THAT ANY NATURAL PERSON WHO CARRIES OUT WORKS OR ACTIVITIES NOT IN ACCORDANCE WITH THE PERMIT OR CONDITIONS IS GUILTY OF AN OFFENCE AND LIABLE TO A PENALTY OF UP TO 2,400 PENALTY UNITS (\$286,680) OR 5 YEARS IMPRISONMENT OR BOTH, OR IN THE CASE OF A BODY CORPORATE 4800 PENALTY UNITS (\$573,360).

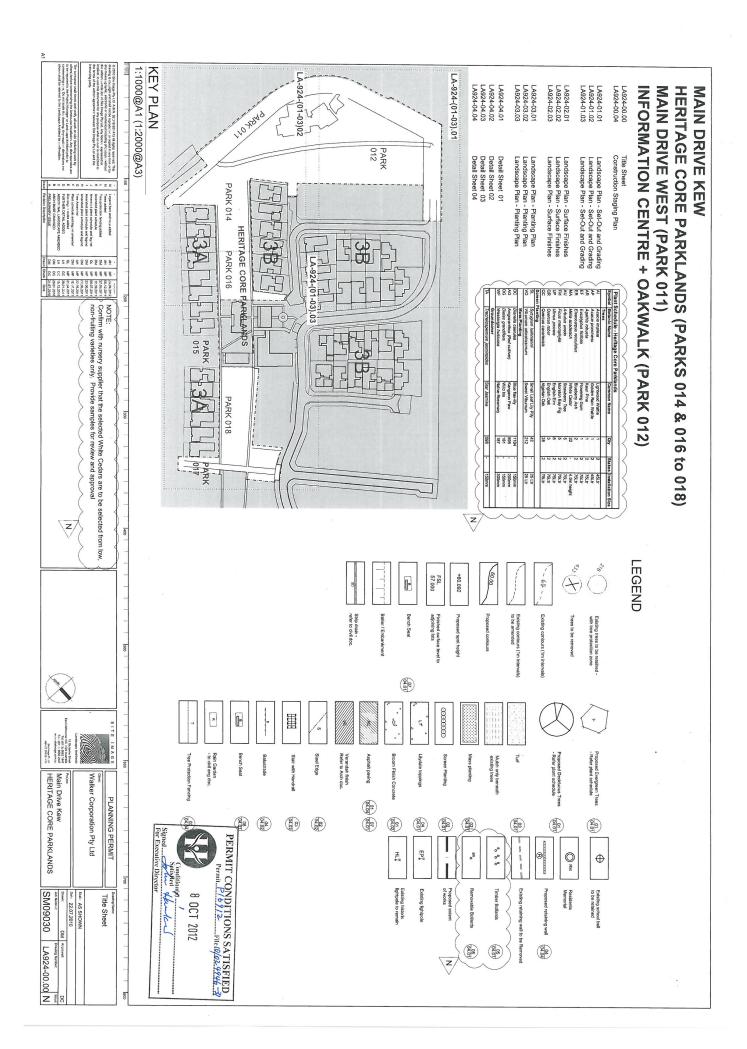
THE ATTENTION OF THE OWNER AND/OR APPLICANT IS DRAWN TO THE NEED TO OBTAIN ALL OTHER RELEVANT PERMITS PRIOR TO THE COMMENCEMENT OF WORKS.

Copies to:

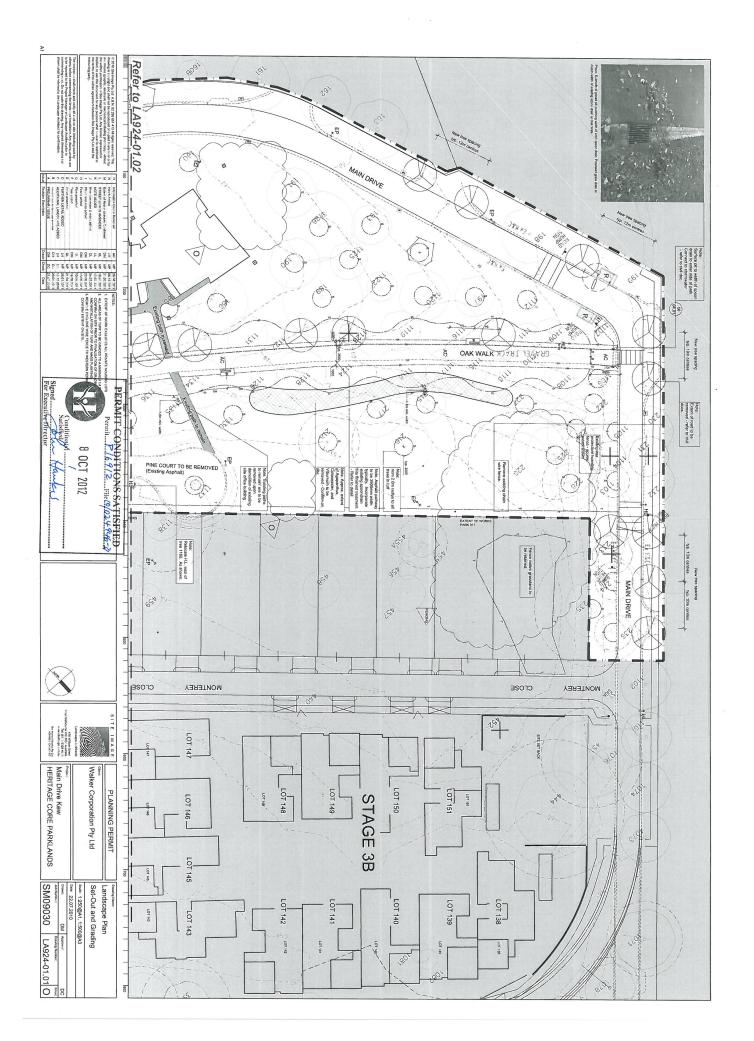
Statutory Planner, Boroondara City Council

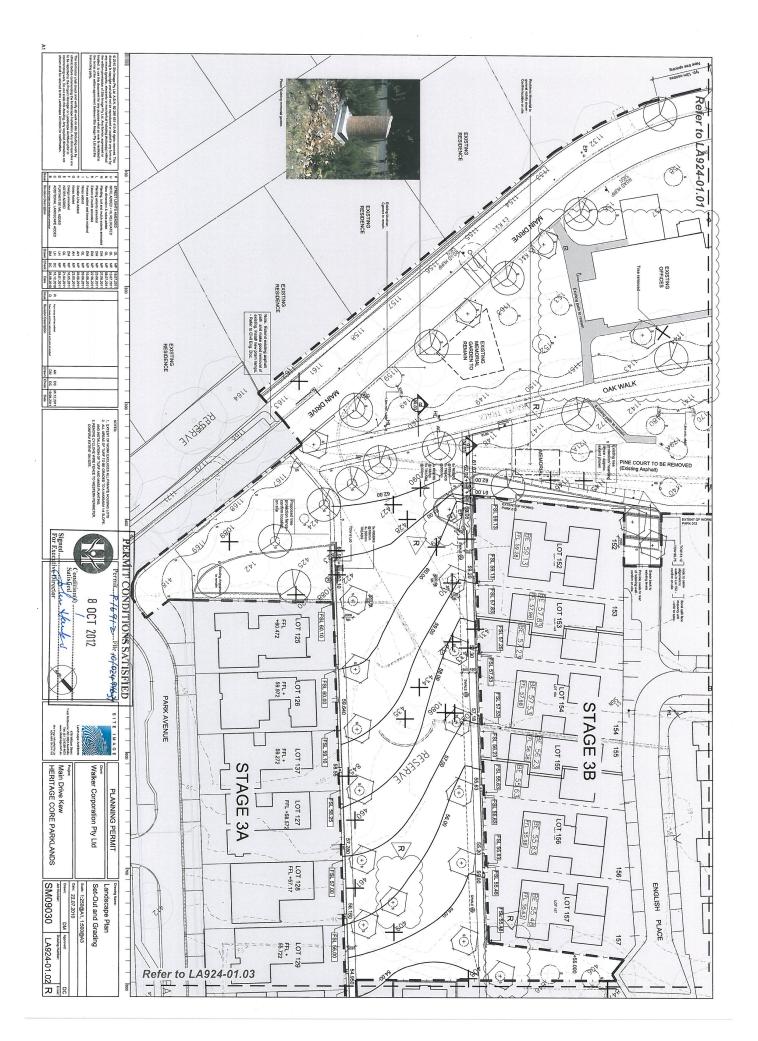
HERITAGE VICTORIA PO Box 2392 Melbourne, Vic 3001 Signed Executive Director

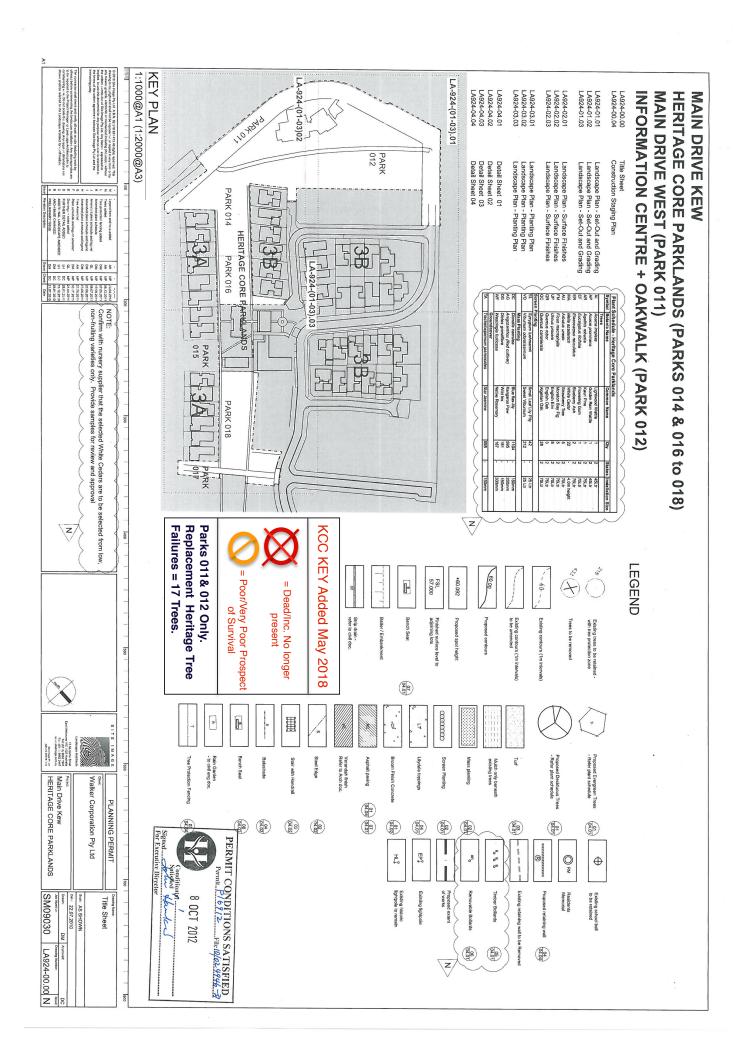
Date 14 July 2011

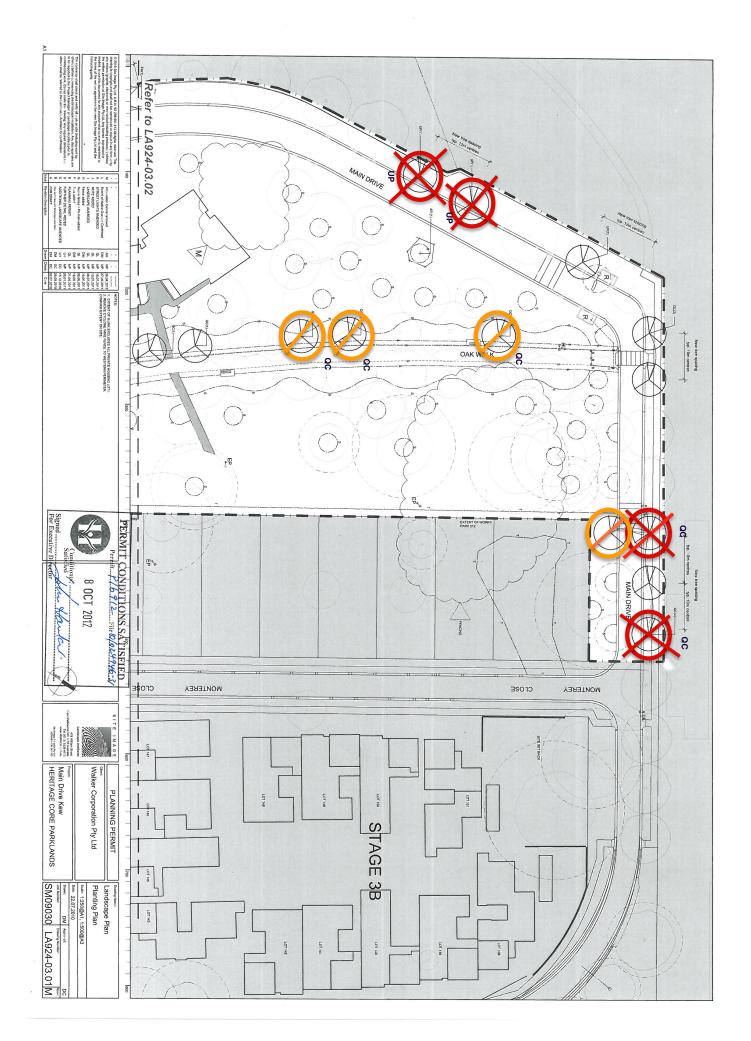


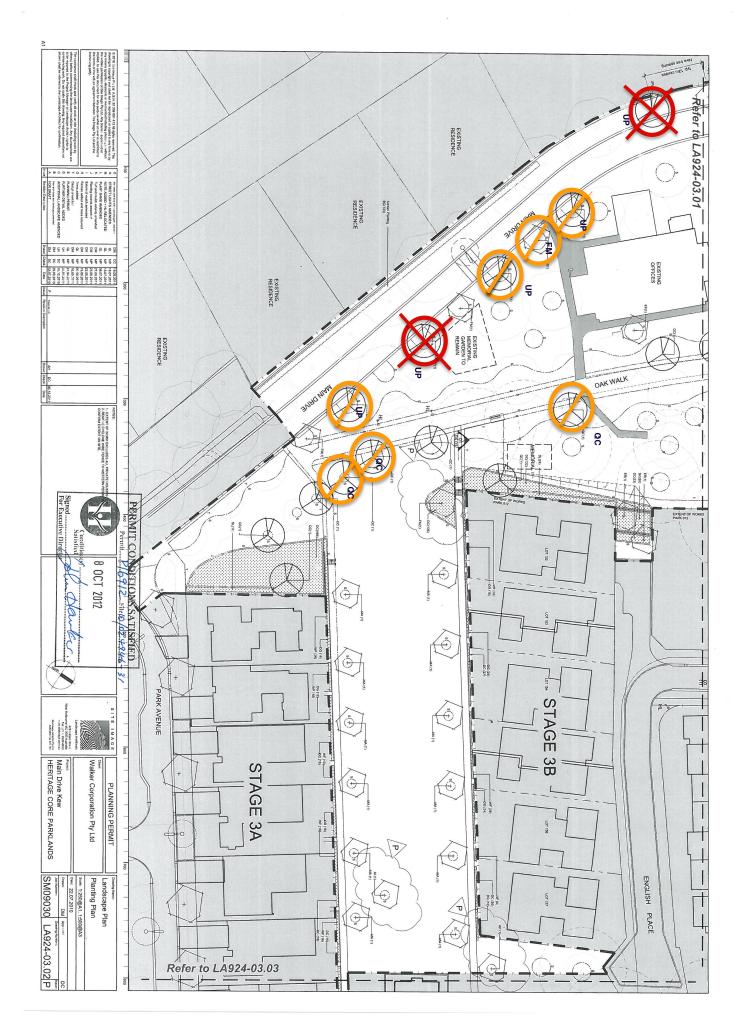












# Main Drive West – Walker Stage 8 - Island Site

# Permit P16912 (2011) Walker Replacement Trees as at March/April 2018







