

# Application to AMEND a Planning Permit

If you need help to complete this form, read MORE INFORMATION at the end of this form.

Planning Enquiries  
Phone: (03) 9688 0200  
Web: [www.maribyrnong.vic.gov.au](http://www.maribyrnong.vic.gov.au)

**⚠** Any material submitted with this application, including plans and personal information, will be made available for public viewing, including electronically, and copies may be made for interested parties for the purpose of enabling consideration and review as part of a planning process under the *Planning and Environment Act 1987*. If you have any questions, please contact Council's planning department.

**⚠** This form cannot be used to:

- amend a permit or part of a permit if the Victorian Civil and Administrative Tribunal (VCAT) has directed under section 85 of the Act that the responsible authority must not amend that permit or that part of the permit (as the case requires); or
- amend a permit issued by the Minister under Division 6 of Part 4 of the Act (these applications must be made to the Minister under section 971 of the Act).

**⚠** Questions marked with an asterisk (\*) must be completed.

**i** Click for further information.

Clear Form

## The Land **i**

Address of the land. Complete the Street Address and one of the Formal Land Descriptions.

### Street Address \*

Unit No.:	St. No.:	St. Name: 109A
Suburb/Locality: Whitehall Street Footscray		Postcode: 3011

### Formal Land Description \*

Complete either A or B.

**⚠** This information can be found on the certificate of title.

If this application relates to more than one address, attach a separate sheet setting out any additional property details.

A   Lodged Plan  Title Plan  Plan of Subdivision

**OR**

B

## Planning Permit Details **i**

What permit is being amended?\*

Planning Permit No.: TP328/2021(1)

## The Amended Proposal **i**

**⚠** You must give full details of the amendment being applied for. Insufficient or unclear information will delay your application.

What is the amendment being applied for?\*

- Indicate the type of changes proposed to the permit.
- List details of the proposed changes.

If the space provided is insufficient, attach a separate sheet.

This application seeks to amend:

<input checked="" type="checkbox"/> What the permit allows	<input checked="" type="checkbox"/> Plans endorsed under the permit
<input type="checkbox"/> Current conditions of the permit	<input type="checkbox"/> Other documents endorsed under the permit

Details: Amend permit and endorsed plans to provide for a caretakers dwelling as detailed in the applicaiton documents

**⚠** Provide plans clearly identifying all proposed changes to the endorsed plans, together with: any information required by the planning scheme, requested by Council or outlined in a Council checklist; and if required, include a description of the likely effect of the proposal.

## Development Cost

### Estimate cost of development\*

If the permit allows **development**, estimate the cost difference between the development allowed by the permit and the development to be allowed by the amended permit.

Cost of proposed amended development:		Cost of the permitted development:		Cost difference (+ or -):
\$ 1,630,000	-	\$ 1,630,000	=	\$ 0

Insert 'NA' if no development is proposed by the permit.

You may be required to verify this estimate.

## Existing Conditions

### Describe how the land is used and developed now \*

For example, vacant, three dwellings, medical centre with two practitioners, licensed restaurant with 80 seats, grazing.

Have the conditions of the land changed since the time of the original permit application?  Yes  No

If yes, please provide details of the existing conditions.

Carwash is now operating

Provide a plan of the existing conditions if the conditions have changed since the time of the original permit application. Photos are also helpful.

## Title Information

### Encumbrances on title \*

Does the proposal breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?

- Yes (If 'yes' contact council for advice on how to proceed before continuing with this application.)
- No
- Not applicable (no such encumbrance applies).

Provide a full, current copy of the title for each individual parcel of land forming the subject site. The title includes: the covering 'register search statement', the title diagram and the associated title documents, known as 'instruments', for example, restrictive covenants.

## Applicant and Owner Details i

Provide details of the applicant and the owner of the land.

### Applicant \*

The person who wants the permit.

Please provide at least one contact phone number \*

Where the preferred contact person for the application is different from the applicant, provide the details of that person.

### Owner \*

The person or organisation who owns the land

Where the owner is different from the applicant, provide the details of that person or organisation.

Name:		
Title: Ms	First Name: Robyn	Surname: Gray
Organisation (if applicable): Graykinnane Pty Ltd		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.:	St. Name: PO Box 512
Suburb/Locality: Ascot Vale		State: Vic Postcode: 3032


<b>Contact information for applicant OR contact person below</b>	
Business phone:	Email: robyn@graykinnane.com.au
Mobile phone: 0409009833	Fax:

<b>Contact person's details*</b>		Same as applicant <input checked="" type="checkbox"/>
Name:		
Title:	First Name:	Surname:
Organisation (if applicable):		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.:	St. Name:
Suburb/Locality:		State: Postcode:

Name:		Same as applicant <input type="checkbox"/>
Title:	First Name:	Surname:
Organisation (if applicable): Futtuoso Pty Ltd		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No.:	St. No.: 6	St. Name: Mitchell Street
Suburb/Locality: Shepparton		State: Vic Postcode: 3630
Owner's Signature (Optional):		Date: day / month / year

## Declaration i

This form must be signed by the applicant\*

 Remember it is against the law to provide false or misleading information, which could result in a heavy fine and cancellation of the permit.

I declare that I am the applicant; that all the information in this application is true and correct; that all changes to the permit and plan have been listed as part of the amended proposal and that the owner (if not myself) has been notified of the permit application.

Signature: 	Date: 14/10/2024 day / month / year
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## Need help with the Application? i

If you need help to complete this form, read More Information at the end of this form or contact Council's planning department. General information about the planning process is available at [planning.vic.gov.au](http://planning.vic.gov.au)

Contact Council's planning department to discuss the specific requirements for this application and obtain a checklist. Insufficient or unclear information may delay your application.

Has there been a pre-application meeting with a council planning officer?

<input checked="" type="radio"/> No	<input type="radio"/> Yes	If 'Yes', with whom?:
		Date: day / month / year



## Checklist

Have you:

- Filled in the form completely?
- Paid or included the application fee?
- Attached all necessary supporting information and documents?
- Completed the relevant council planning permit checklist?
- Signed the declaration above?



Most applications require a fee to be paid. Contact Council to determine the appropriate fee.

## Lodgement

Lodge the completed and signed form and all documents with:

Maribyrnong City Council  
PO Box 58  
Footscray VIC 3011  
Cnr Napier & Hyde Streets  
Footscray VIC 3011

**Contact information:**

Phone: (03) 9688 0200  
Email: [email@maribyrnong.vic.gov.au](mailto:email@maribyrnong.vic.gov.au)  
DX: 81112

**Deliver application in person, by post or by electronic lodgement.**

## The Land

It is important that your application to amend a planning permit includes details of the land, consistent with the Planning Permit. Refer to a copy of your Planning Permit, when completing the street address section of the form.

Also ensure you provide up-to-date details for the formal land description, using the current copy of the title.

## Planning Permit Details

You must identify the permit being amended by specifying the permit number. This can be found at the beginning of the permit.

## The Amended Proposal

First select the type of amendment being applied for. This may include an amendment to:

- the use and/or development allowed by the permit
- conditions of the permit.
- plans approved by the permit.
- any other document approved by the permit.

Then describe the changes proposed to the permit, including any changes to the plans or other documents included in the permit.

## Development Cost

In most instances an application fee will be required. This fee must be paid when you lodge the application. The fee is set down by government regulations.

To help Council calculate the application fee, you must provide an accurate cost estimate of the proposed development to be allowed by the amended permit and the difference between the development allowed by the permit.

Council may ask you to justify your cost estimates. Costs are required solely to allow Council to calculate the permit application fee.

Fees are exempt from GST.

The cost difference is calculated as follows:

Development cost related to the Application to Amend a Planning Permit	–	Development cost related to the Application for Planning Permit	=	Cost Difference
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If the estimated cost of the proposed amended development is less than the estimated cost of the development allowed by the permit, show it as a negative number.

### Example 1

Where the cost of the development to be allowed by the amended permit is lower than the cost of the development allowed by the permit:

$$\$180,000 - \$195,000 = -\$15,000$$

### Example 2

Where the cost of the development to be allowed by the amended permit is higher than the cost of the development allowed by the permit:

$$\$250,000 - \$195,000 = \$55,000$$

▲ Costs for different types of development can be obtained from specialist publications such as Cordell Housing: Building Cost Guide or Rawlinsons: Australian Construction Handbook.

▲ Contact the Council to determine the appropriate fee. Go to [planning.vic.gov.au](http://planning.vic.gov.au) to view a summary of fees in the Planning and Environment (Fees) Regulations.

## Existing Conditions

### How should land be described?

If the conditions of the land have changed since the time of the original permit application, you need to describe, in general terms, the way the land is used now, including the activities, buildings, structures and works that exist (for example, single dwelling, 24 dwellings in a three-storey building, medical centre with three practitioners and 8 car parking spaces, vacant land).

Please attach to your application a plan of the existing conditions of the land, if the conditions have changed since the time of the original permit application. Check with the local Council for the quantity, scale and level of detail required.

It is also helpful to include photographs of the existing conditions.

## Title Information

### What is an encumbrance?

An 'encumbrance' is a formal obligation on the land, with the most common type being a 'mortgage'. Other common examples of encumbrances include:

- **Restrictive Covenants:** A 'restrictive covenant' is a written agreement between owners of land restricting the use or development of the land for the benefit of others, (eg. a limit of one dwelling or limits on types of building materials to be used).
- **Section 173 Agreements:** A 'section 173 agreement' is a contract between an owner of the land and the Council which sets out limitations on the use or development of the land.
- **Easements:** An 'easement' gives rights to other parties to use the land or provide for services or access on, under or above the surface of the land.
- **Building Envelopes:** A 'building envelope' defines the development boundaries for the land.

Aside from mortgages, the above encumbrances can potentially limit or even prevent certain types of proposals.

### What documents should I check to find encumbrances?

Encumbrances are identified on the title (register search statement) under the header 'encumbrances, caveats and notices'. The actual details of an encumbrance are usually provided in a separate document (instrument) associated with the title. Sometimes encumbrances are also marked on the title diagram or plan, such as easements or building envelopes.

### What about caveats and notices?

A 'caveat' is a record of a claim from a party to an interest in the land. Caveats are not normally relevant to planning applications as they typically relate to a purchaser, mortgagee or chargee claim, but can sometimes include claims to a covenant or easement on the land. These types of caveats may affect your proposal.

Other less common types of obligations may also be specified on title in the form of 'notices'. These may have an effect on your proposal, such as a notice that the building on the land is listed on the Heritage Register.

### What happens if the proposal contravenes an encumbrance on title?

Encumbrances may affect or limit your proposal or prevent it from proceeding. Section 61(4) of the *Planning and Environment Act 1987* for example, prevents a Council from granting a permit if it would result in a breach of a registered restrictive covenant. If the proposal contravenes any encumbrance, contact the Council for advice on how to proceed.

You may be able to modify your proposal to respond to the issue. If not, separate procedures exist to change or remove the various types of encumbrances from the title. The procedures are generally quite involved and if the encumbrance relates to more than the subject property, the process will include notice to the affected party.

▲ You should seek advice from an appropriately qualified person, such as a solicitor, if you need to interpret the effect of an encumbrance or if you seek to amend or remove an encumbrance.

### Why is title information required?

Title information confirms the location and dimensions of the land specified in the planning application and any obligations affecting what can be done on or with the land.

As well as describing the land, a full copy of the title will include a diagram or plan of the land and will identify any encumbrances, caveats and notices.

### What is a 'full' copy of the title?

The title information accompanying your application must include a 'register search statement' and the title diagram, which together make up the title. In addition, any relevant associated title documents, known as 'instruments', must also be provided to make up a full copy of the title.

Check the title to see if any of the types of encumbrances, such as a restrictive covenant, section 173 agreement, easement or building envelope, are listed. If so, you must submit a copy of the document (instrument) describing that encumbrance. Mortgages do not need to be provided with planning applications.

Some titles have not yet been converted by Land Registry into an electronic register search statement format. In these earlier types of titles, the diagram and encumbrances are often detailed on the actual title, rather than in separate plans or instruments.

### Why is 'current' title information required?

It is important that you attach a current copy of the title for each individual parcel of land forming the subject site. 'Current' title information accurately provides all relevant and up-to-date information.

Some councils require that title information must have been searched within a specified time frame. Contact the Council for advice on their requirements.

Copies of title documents can be obtained from Land Registry: Level 10, 570 Bourke Street, Melbourne; 03 8636 2010; [www.landata.vic.gov.au](http://www.landata.vic.gov.au) – go direct to "titles & property certificates".

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## Applicant and Owner Details

This section provides information about the permit applicant, the owner of the land and the person who should be contacted about any matters concerning the permit application.

The applicant is the person or organisation that wants the permit. The applicant can, but need not, be the contact person.

In order to avoid any confusion, the Council will communicate only with the person who is also responsible for providing further details. The contact may be a professional adviser (e.g. architect or planner) engaged to prepare or manage the application. To ensure prompt communications, contact details should be given.

Check with Council how they prefer to communicate with you about the application. If an email address is provided this may be the preferred method of communication between Council and the applicant/contact.

The owner of the land is the person or organisation who owns the land at the time the application is made. Where a parcel of land has been sold and an application made prior to settlement, the owner's details should be identified as those of the vendor. The owner can, but need not, be the contact or the applicant.

See **Example**.

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## Declaration

The declaration should be signed by the person who takes responsibility for the accuracy of all the information that is provided. This declaration is a signed statement that the information included with the application is true and correct at the time of lodgement.

The declaration can be signed by the applicant or owner. If the owner is not the applicant, the owner must either sign the application form or must be notified of the application which is acknowledged in the declaration.

Obtaining or attempting to obtain a permit by wilfully making or causing any false representation or declaration, either orally or in writing, is an offence under the *Planning and Environment Act 1987* and could result in a fine and/or cancellation of the permit.

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## Need help with the Application?

If you have attended a pre-application meeting with a Council planner, fill in the name of the planner and the date, so that the person can be consulted about the application once it has been lodged. This will help speed up the processing of your application.

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## Checklist

You should provide sufficient supporting material with the application to describe the proposal in enough detail for the council to make a decision. It is important that copies of all plans and information submitted with the application are legible.

There may be specific application requirements set out in the planning scheme for the use or development you propose. The application should demonstrate how these have been addressed or met.

The checklist is to help ensure that you have:

- provided all the required information on the form
- included payment of the application fee
- attached all necessary supporting information and documents
- completed the relevant Council planning permit checklist
- signed the declaration on the last page of the application form.

The more complete the information you provide with your application, the sooner Council will be able to make a decision.

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## Lodgement

The application must be lodged with the Council responsible for the planning scheme in which the land affected by the application is located. In some cases the Minister for Planning or another body is the responsible authority instead of Council. Ask the Council if in doubt.

Check with council how they prefer to have the application lodged. For example, they may have an online lodgement system, prefer email or want an electronic and hard copy. Check also how many copies of plans and the size of plans that may be required.

Contact details are listed in the lodgement section on the last page of the form.

**Approval from other authorities:** In addition to obtaining a planning permit, approvals or exemptions may be required from other authorities or Council departments. Depending on the nature of your proposal, these may include food or health registrations, building permits or approvals from water and other service authorities.

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## Applicant and Owner Details i

Provide details of the applicant and the owner of the land.

### Applicant \*

The person who wants the permit.

*Please provide at least one contact phone number \**

*Where the preferred contact person for the application is different from the applicant, provide the details of that person.*

### Owner \*

The person or organisation who owns the land

*Where the owner is different from the applicant, provide the details of that person or organisation.*

Name:		
Title: <b>MR</b>	First Name: <b>LEN</b>	Surname: <b>BROWNING</b>
Organisation (if applicable): <b>RESPONSIBLE DEVELOPERS PTY LTD</b>		
Postal Address: <small>If it is a P.O. Box, enter the details here:</small>		
Unit No.: <b>4</b>	St. No.: <b>12</b>	St. Name: <b>ARDOUR LANE</b>
Suburb/Locality: <b>WYCHEPROOF</b>	State: <b>VIC</b>	Postcode: <b>3527</b>

<b>Contact information for applicant OR contact person below</b>	
Business phone: <b>9123 4567</b>	Email: <b>tcpl@bigpond.net.au</b>
Mobile phone: <b>0412 345 678</b>	Fax: <b>9123 4567</b>

<b>Contact person's details*</b>		Same as applicant <input type="checkbox"/>
Name:		
Title: <b>MR</b>	First Name: <b>ANDREW</b>	Surname: <b>HODGE</b>
Organisation (if applicable): <b>TOWN PLANNING CONSULTANTS</b>		
Postal Address: <small>If it is a P.O. Box, enter the details here:</small>		
Unit No.:	St. No.:	St. Name: <b>PO BOX 111</b>
Suburb/Locality: <b>PARKDALE</b>	State: <b>VIC</b>	Postcode: <b>3194</b>

<b>Owner *</b>		Same as applicant <input checked="" type="checkbox"/>
Name:		
Title:	First Name:	Surname:
Organisation (if applicable):		
Postal Address: <small>If it is a P.O. Box, enter the details here:</small>		
Unit No.:	St. No.:	St. Name:
Suburb/Locality:	State:	Postcode:
Owner's Signature (Optional):	Date: <small>day / month / year</small>	

# REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 10500 FOLIO 697

Security no : 124117768159K  
Produced 27/08/2024 02:06 PM

## LAND DESCRIPTION

Lot 15 on Plan of Subdivision 429674C.  
PARENT TITLES :  
Volume 08795 Folio 500      Volume 08827 Folio 256  
Created by instrument PS429674C 29/02/2000



## REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
FRUTTUSO PTY LTD of 6 MITCHELL STREET SHEPPARTON VIC 3630  
AV008959E 11/11/2021

## ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

## DIAGRAM LOCATION

SEE PS429674C FOR FURTHER DETAILS AND BOUNDARIES

## ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 109A WHITEHALL STREET FOOTSCRAY VIC 3011

## ADMINISTRATIVE NOTICES

NIL

eCT Control      19295U BSP LAWYERS  
Effective from 11/11/2021

## OWNERS CORPORATIONS

The land in this folio is affected by  
OWNERS CORPORATION PLAN NO. PS429674C

DOCUMENT END





# Imaged Document Cover Sheet

CITY OF MARIBYRNONG  
**RECEIVED**  
27/08/2024  
URBAN PLANNING

The document following this cover sheet is an imaged document supplied by LANDATA®, Secure Electronic Registries Victoria.

Document Type	<b>Plan</b>
Document Identification	<b>PS429674C</b>
Number of Pages (excluding this cover sheet)	<b>7</b>
Document Assembled	<b>27/08/2024 14:06</b>

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The document is invalid if this cover sheet is removed or altered.

<b>PLAN OF SUBDIVISION</b>	Stage No.	LTO use only <b>EDITION 5</b>	<b>P.S.429674C</b>
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**Location of Land**  
**Parish:** CUT PAW PAW  
**County:** BOURKE  
**City:** FOOTSCRAY  
**Section:** A  
 CROWN ALLOTMENTS 5,6,7 & 8  
**LTO base record:** D.C.M.B.  
**Title References:**  
 Vol 8795 Fol 500  
 Vol 8827 Fol 256  
**Last Plan Reference:** LOTS 1 & 2 LP 76398

**Postal Address:**  
 107-109 WHITEHALL STREET  
 FOOTSCRAY 3011  
**AMG Co-ordinates:** N 5 813 000  
 (Of approx. centre of plan) E 315 400 **Zone 55**

**Vesting of Roads or Reserves**

Identifier	Council/Body/Person
NIL	NIL

**Council Certification and Endorsement**

Council Name: *City of Maribyrnong* Ref: *SUB 99/77*

~~1. This plan is certified under section 6 of the Subdivision Act 1988.~~  
 2. This plan is certified under section 11(7) of the Subdivision Act 1988.  
 Date of original certification under section 6 *6/1/2000*  
 3. This is a statement of compliance issued under section 21 of the Subdivision Act 1988.

Open Space

(I) A requirement for public open space under section 18 Subdivision Act 1988 ~~has~~ / has not been made.  
~~(II) The requirement has been satisfied.~~  
~~(III) The requirement is to be satisfied in Stage~~

Council Delegate  
~~Council seal~~  
 Date *28/2/2000*

**Notations**

**Depth Limitation:** Does not apply

THE COMMON PROPERTY IS ALL THE LAND IN THE PLAN EXCEPT LOTS 1 TO 98

BOUNDARIES SHOWN BY THICK CONTINUOUS LINES AND NOT DIMENSIONED ARE DEFINED BY BUILDINGS

LOCATION OF BOUNDARIES DEFINED BY BUILDINGS  
 MEDIAN BOUNDARIES MARKED M  
 EXTERIOR FACE ALL OTHER BOUNDARIES

**Staging** This ~~is~~/is not a staged subdivision  
 Planning Permit No.

ON THE REGISTRATION OF THIS PLAN THE DRAINAGE AND SEWERAGE EASEMENTS CREATED IN LP 76398 WILL MERGE

**Survey:** This plan is ~~to not~~ based on survey.  
 To be completed where applicable.  
 This survey has been connected to permanent marks no(s). PCM 112030163  
 In proclaimed Survey Area no. & PCM 112030166

**Easement Information**

**Legend:** A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)

SECTION 12(2) OF THE SUBDIVISION ACT 1988 APPLIES TO ALL THE LAND IN THIS PLAN

Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	SEWERAGE	1.83	THIS PLAN	CITY WEST WATER LTD.
E-2	SEWERAGE	1.83	INST. E728943	M.M.B.W.
E-3	ELECTRICITY SUPPLY	SEE DIAG	THIS PLAN	A.G.L. ELECTRICITY LTD.
E-4	ELECTRICITY SUPPLY	0.5	THIS PLAN	LOTS 4 & 5 IN THIS PLAN

**LTO use only**  
 Statement of Compliance / Exemption Statement

Received

Date *21/1/00*

**LTO use only**  
 PLAN REGISTERED  
 TIME *11am*  
 DATE *29/2/2000*

*[Signature]*  
 Assistant Registrar of Titles

Sheet 1 of 6 Sheets

**CONNELLY & ASSOCIATES**  
**SURVEYORS PTY. LTD.**  
 2 LAWSON STREET  
 NORTH BALWYN 3104  
 Ph. 9819 7643  
 Fax. 9819 7643  
 Mobile. 0412 567 778

LICENSED SURVEYOR (PRINT) STEWART CONNELLY

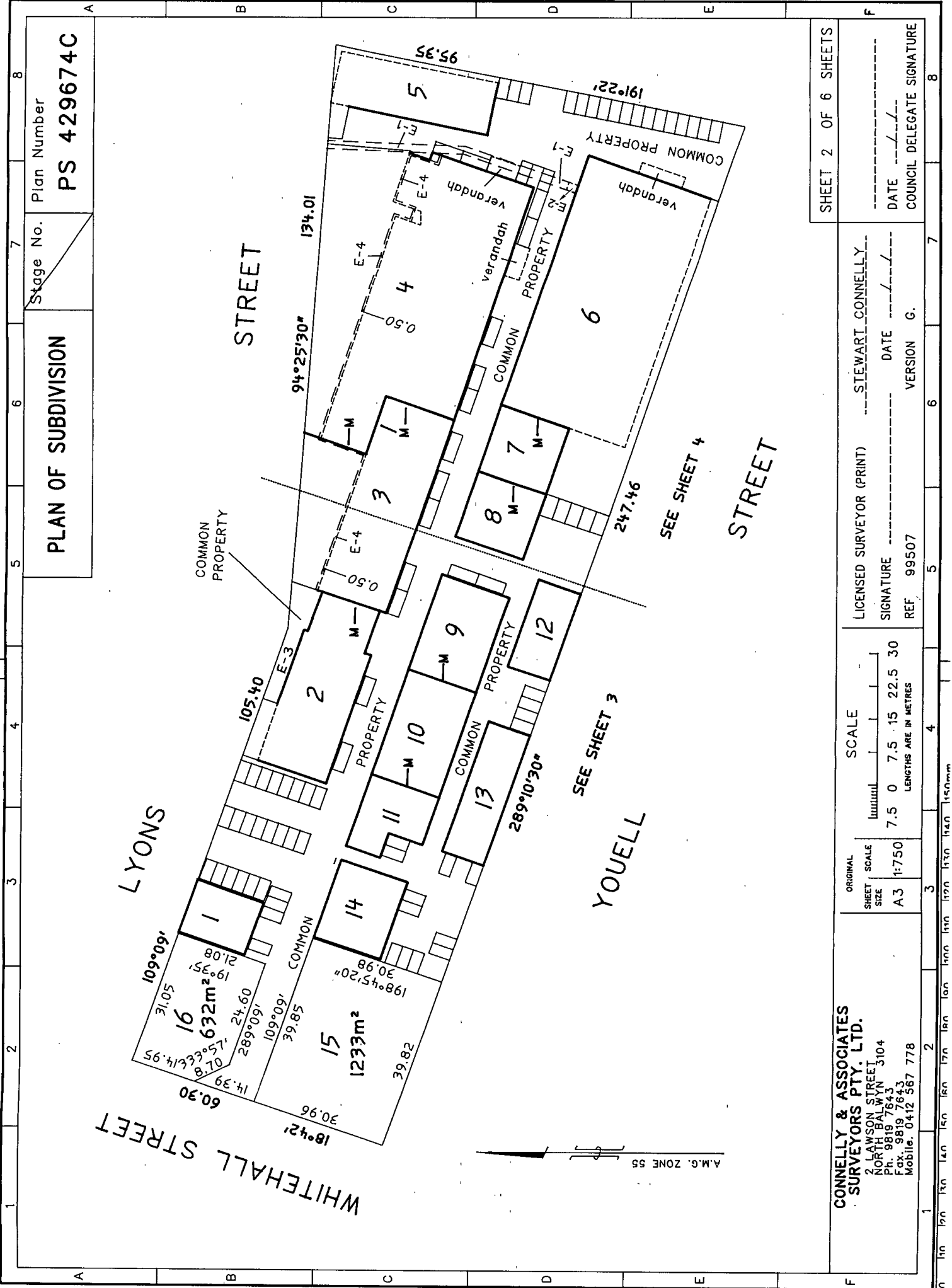
SIGNATURE \_\_\_\_\_ DATE *28/2/00*

REF 99507 VERSION G.

DATE / /

COUNCIL DELEGATE SIGNATURE

Original sheet size **A3**



Stage No. **PS 429674C**  
 Plan Number

**PLAN OF SUBDIVISION**

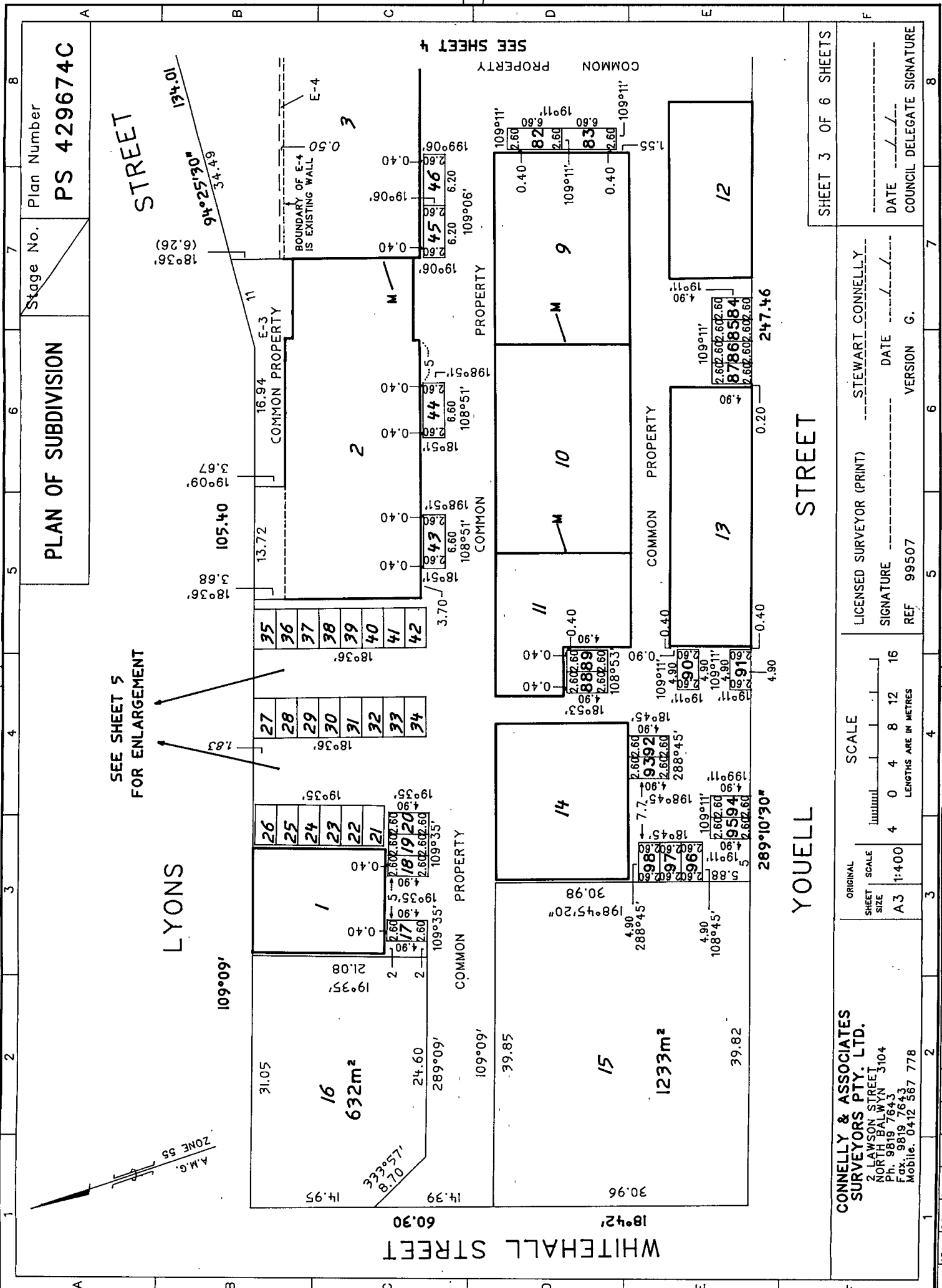
SHEET 2 OF 6 SHEETS  
 DATE ---/---/---  
 COUNCIL DELEGATE SIGNATURE

LICENSED SURVEYOR (PRINT) STEWART CONNELLY  
 SIGNATURE \_\_\_\_\_ DATE ---/---/---  
 REF 99507 VERSION G.

ORIGINAL SCALE  
 SHEET SCALE  
 SIZE A3 1:750  
 7.5 0 7.5 15 22.5 30  
 LENGTHS ARE IN METRES

**CONNELLY & ASSOCIATES**  
**SURVEYORS PTY. LTD.**  
 2 LAWSON STREET  
 NORTH BALWYN 3104  
 Ph. 9819 7543  
 Fax. 9819 7643  
 Mobile. 0412 567 778

1 2 3 4 5 6 7 8  
 A B C D E F



PLAN OF SUBDIVISION  
 PS 429674C  
 Stage No.  
 Plan Number

SEE SHEET 5  
 FOR ENLARGEMENT

STREET

LYONS

WHITEHALL STREET

YOUELL STREET

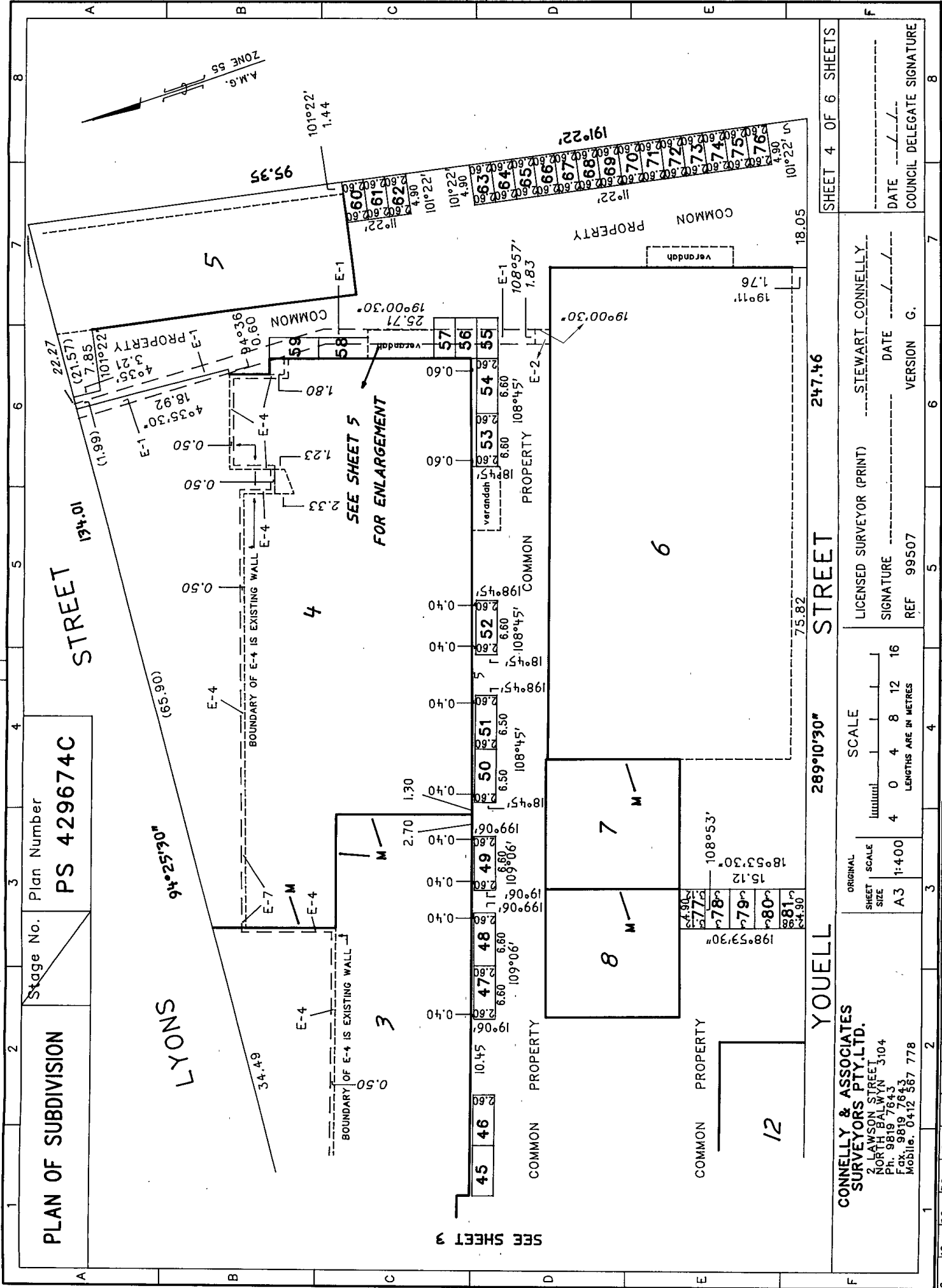
SHEET 3 OF 6 SHEETS

CONNELLY & ASSOCIATES  
 SURVEYORS PTY. LTD.  
 2 LAWSON STREET  
 NORTH BALWYN 3104  
 Ph. 9819 7643  
 Fax. 9819 7643  
 Mobile. 0412 567 778

ORIGINAL SCALE  
 SHEET SIZE A3  
 SCALE 1:400  
 LENGTHS ARE IN METRES

LICENSED SURVEYOR (PRINT) STEWART CONNELLY  
 SIGNATURE \_\_\_\_\_ DATE \_\_\_\_/\_\_\_\_/\_\_\_\_  
 REF 99507 VERSION G.

COUNCIL DELEGATE SIGNATURE  
 DATE \_\_\_\_/\_\_\_\_/\_\_\_\_



**PLAN OF SUBDIVISION**  
 Stage No. **PS 429674C**  
 Plan Number

**LYONS STREET**  
 94°25'30"

**STREET**  
 194.01

**YOUELL STREET**  
 289°10'30"

**STREET**  
 247.46

SHEET 4 OF 6 SHEETS

**CONNELLY & ASSOCIATES SURVEYORS PTY. LTD.**  
 2 LAWSON STREET, 3104  
 NORTH BALBYN WA 6104  
 Ph. 9819 7843  
 Fax. 9819 7843  
 Mobile. 0412 567 778

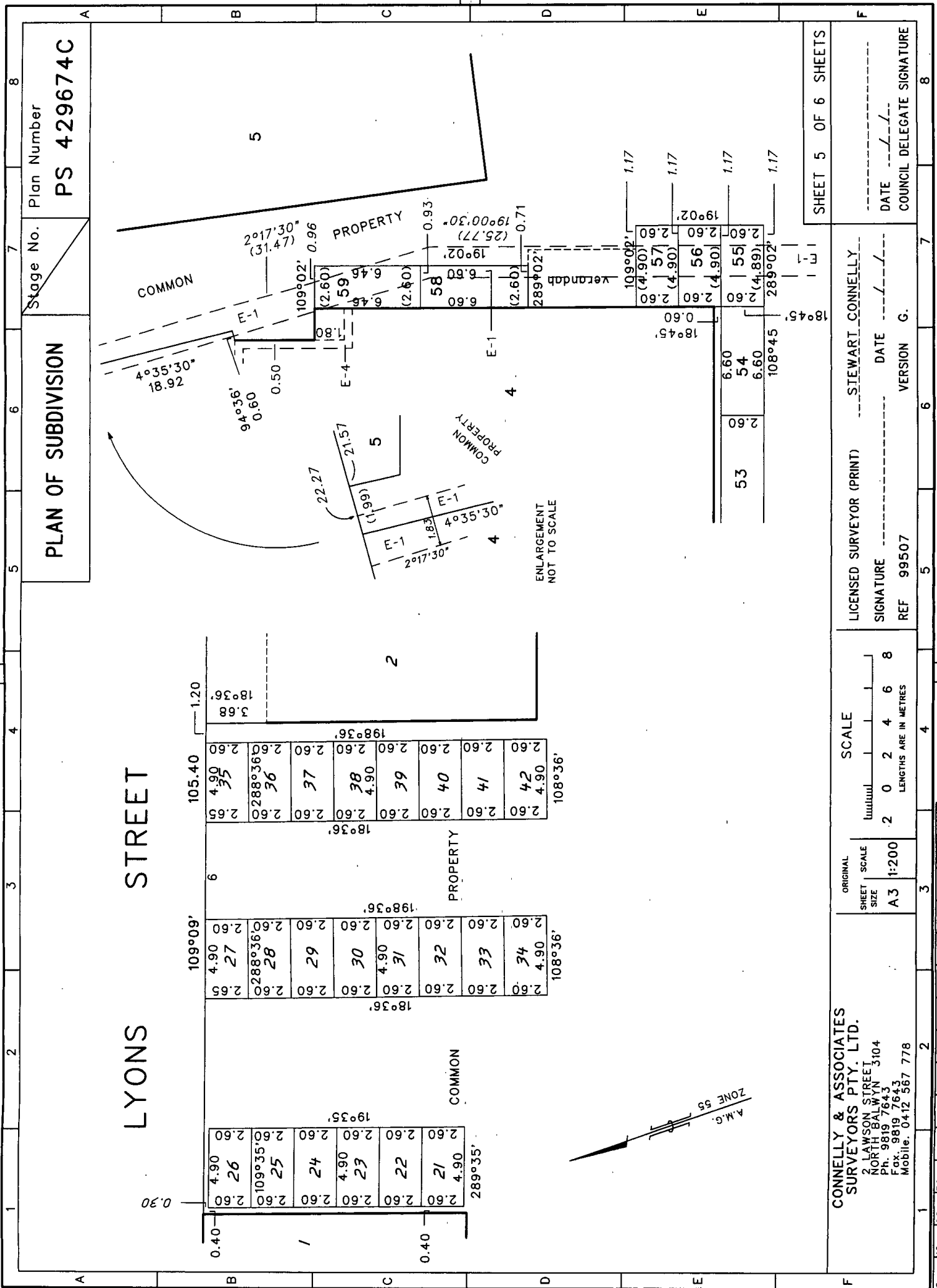
ORIGINAL SHEET SIZE A3  
 SCALE 1:400  
 LENGTHS ARE IN METRES

LICENSED SURVEYOR (PRINT) STEWART CONNELLY  
 SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
 REF 99507 VERSION G.

DATE \_\_\_\_\_  
 COUNCIL DELEGATE SIGNATURE \_\_\_\_\_

10 110 120 130 140 150 160 170 180 190 200 210 220 230 240 250 260 270 280 290 300 310 320 330 340 350 360 370 380 390 400 410 420 430 440 450mm

1 2 3 4 5 6 7 8



Lot No.	Area (sqm)	Area (sqft)
21	2.60	2.60
22	2.60	2.60
23	2.60	2.60
24	2.60	2.60
25	2.60	2.60
26	2.60	2.60
27	2.60	2.60
28	2.60	2.60
29	2.60	2.60
30	2.60	2.60
31	2.60	2.60
32	2.60	2.60
33	2.60	2.60
34	2.60	2.60
35	2.60	2.60
36	2.60	2.60
37	2.60	2.60
38	2.60	2.60
39	2.60	2.60
40	2.60	2.60
41	2.60	2.60
42	2.60	2.60

Lot No.	Area (sqm)	Area (sqft)
53	6.60	6.60
54	5.40	5.40
55	6.60	6.60
56	2.60	2.60
57	2.60	2.60
58	2.60	2.60

**PLAN OF SUBDIVISION**

Stage No. **PS 429674C**

Plan Number **PS 429674C**

**CONNELLY & ASSOCIATES SURVEYORS PTY. LTD.**  
 2 LAWSON STREET  
 NORTH BALWYN 3104  
 Ph. 9819 7643  
 Fax. 9819 7643  
 Mobile. 0412 567 778

LICENSED SURVEYOR (PRINT) **STEWART CONNELLY**

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

REF **99507** VERSION **G.**

SCALE: ORIGINAL SCALE 1:200, SHEET SIZE A3, LENGTHS ARE IN METRES

SHEET 5 OF 6 SHEETS

DATE \_\_\_\_\_ COUNCIL DELEGATE SIGNATURE \_\_\_\_\_

PS429674C

FOR CURRENT BODY CORPORATE DETAILS  
SEE BODY CORPORATE SEARCH REPORT







## Owners Corporation Search Report

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Produced: 27/08/2024 02:06:21 PM

**OWNERS CORPORATION  
PLAN NO. PS429674C**

The land in PS429674C is affected by 1 Owners Corporation(s)

### Land Affected by Owners Corporation:

Common Property, Lots 1 - 98.

### Limitations on Owners Corporation:

Unlimited

### Postal Address for Services of Notices:

PROPERTY INVESTMENT SERVICES PTY LTD LEVEL 5 517 ST KILDA ROAD MELBOURNE VIC 3004

AQ130389F 06/09/2017

### Owners Corporation Manager:

NIL

### Rules:

Model Rules apply unless a matter is provided for in Owners Corporation Rules. See Section 139(3) Owners Corporation Act 2006

### Owners Corporation Rules:

1. PS429674C 29/02/2000
2. W662519C 14/04/2000

### Additional Owners Corporation Information:

NIL

### Notations:

NIL

### Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Common Property	0	0
Lot 1	100	100
Lot 2	325	325
Lot 3	525	525
Lot 4	825	825
Lot 5	225	225



# Department of Environment, Land, Water & Planning

## Owners Corporation Search Report

Produced: 27/08/2024 02:06:21 PM

**OWNERS CORPORATION  
PLAN NO. PS429674C**

### Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Lot 6	900	900
Lot 7	125	125
Lot 8	125	125
Lot 9	200	200
Lot 10	200	200
Lot 11	100	100
Lot 12	100	100
Lot 13	150	150
Lot 14	150	150
Lot 15	100	100
Lot 16	50	50
Lot 17	10	10
Lot 18	10	10
Lot 19	10	10
Lot 20	10	10
Lot 21	10	10
Lot 22	10	10
Lot 23	10	10
Lot 24	10	10
Lot 25	10	10
Lot 26	10	10
Lot 27	10	10
Lot 28	10	10
Lot 29	10	10
Lot 30	10	10
Lot 31	10	10
Lot 32	10	10
Lot 33	10	10
Lot 34	10	10



# Department of Environment, Land, Water & Planning

## Owners Corporation Search Report

Produced: 27/08/2024 02:06:21 PM

**OWNERS CORPORATION  
PLAN NO. PS429674C**

### Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Lot 35	10	10
Lot 36	10	10
Lot 37	10	10
Lot 38	10	10
Lot 39	10	10
Lot 40	10	10
Lot 41	10	10
Lot 42	10	10
Lot 43	10	10
Lot 44	10	10
Lot 45	10	10
Lot 46	10	10
Lot 47	10	10
Lot 48	10	10
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Lot 56	10	10
Lot 57	10	10
Lot 58	10	10
Lot 59	10	10
Lot 60	10	10
Lot 61	10	10
Lot 62	10	10
Lot 63	10	10



# Department of Environment, Land, Water & Planning

## Owners Corporation Search Report

Produced: 27/08/2024 02:06:21 PM

**OWNERS CORPORATION  
PLAN NO. PS429674C**

**Entitlement and Liability:**

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Lot 64	10	10
Lot 65	10	10
Lot 66	10	10
Lot 67	10	10
Lot 68	10	10
Lot 69	10	10
Lot 70	10	10
Lot 71	10	10
Lot 72	10	10
Lot 73	10	10
Lot 74	10	10
Lot 75	10	10
Lot 76	10	10
Lot 77	10	10
Lot 78	10	10
Lot 79	10	10
Lot 80	10	10
Lot 81	10	10
Lot 82	10	10
Lot 83	10	10
Lot 84	10	10
Lot 85	10	10
Lot 86	10	10
Lot 87	10	10
Lot 88	10	10
Lot 89	10	10
Lot 90	10	10
Lot 91	10	10
Lot 92	10	10





# Department of Environment, Land, Water & Planning

## Owners Corporation Search Report

Produced: 27/08/2024 02:06:21 PM

**OWNERS CORPORATION  
PLAN NO. PS429674C**

### Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Lot 93	10	10
Lot 94	10	10
Lot 95	10	10
Lot 96	10	10
Lot 97	10	10
Lot 98	10	10
<b>Total</b>	<b>5020.00</b>	<b>5020.00</b>

From 31 December 2007 every Body Corporate is deemed to be an Owners Corporation. Any reference to a Body Corporate in any Plan, Instrument or Folio is to be read as a reference to an Owners Corporation.

Statement End.

**Town Planning Submission**

**109A Whitehall Street, Footscray**

**Maribyrnong Planning Scheme**



**October 2024**



# 01

## Introduction

Planning permission is sought to amend Planning Permit TP328/2021(2) on land at 109A Whitehall Street, Footscray.

The Planning Permit allows:

*Construct a building and carry out works on land contained within the Industrial 1 Zone and the Special Building Overlay and alter access to a road in a Transport Zone 2.*

Plans were endorsed by Council on the 14 October 2022.

Pursuant to Section 72 of the *Planning & Environment Act 1987* the permit was amended on 8 September 2023 to allow for an:

- Amendment to plans to increase the width of the crossover to Youell Street from 3.50 metres to 6.0 metre wider (6.0 metre) commercial crossover; and
- Associated changes to Condition 1(a) of the permit.

Plans under the amended permit were also endorsed on 8 September 2024.

Pursuant to Section 72 of the *Planning & Environment Act 1987* it is now sought to allow for the use of “caretakers house” with minor amendments to the floor plan to accommodate the use.

The site is located within an Industrial 1 Zone (Schedule 1) pursuant to provisions of the Maribyrnong Planning Scheme and is covered by a Special Building Overlay (SBO) and Development Contributions Plan Overlay (Schedule 1).

The application requires the following planning approvals pursuant the



Maribyrnong Planning Scheme:

- For the use “Caretakers house” (Section 2 permit required use) pursuant to Clause 33.01-1 of the Industrial 1 Zone.

This report provides an assessment of the proposal against relevant provisions of the Maribyrnong Planning Scheme and should be read in association with:

- Plans prepared by Jontian Group
- Risk Assessment prepared by AMOG Pty Ltd



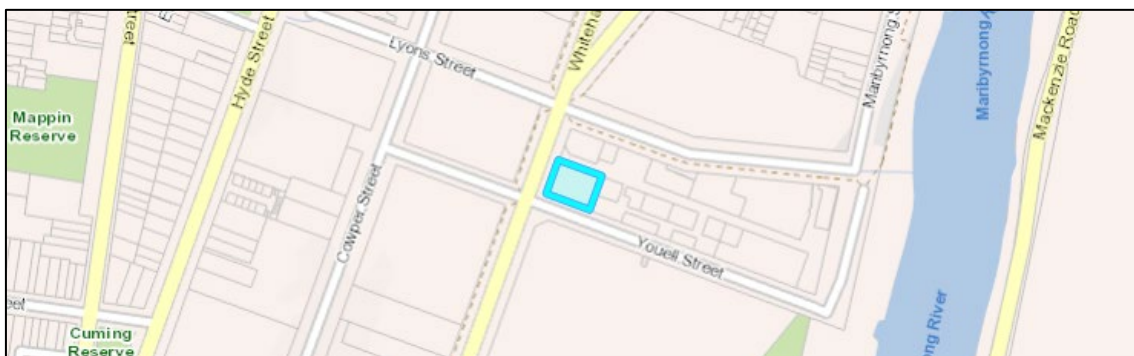


# 02

## Site Analysis

### 02.1 Subject Site

The subject site is located on the northeast corner of the intersection of Whitehall Street and Youell Street, within the industrial area of Footscray to the west of the river.



**Cadastral map of the subject site**

The land is formally described as Lot 15 on Plan of Subdivision 429674. The land has frontage to Whitehall Street of 30.96 metres and an abuttal to Youell Street of 39.82 metres. A service road is located to the northern side of the boundary.

The land is currently being developed in accordance with the endorsed plans. The development provides for a double storey building with flat roof. The ground floor use will comprise a car wash with various bays and first floor use comprises office use associated with the business. Vehicle access is provided via a new crossover from Youell Street.

Photographs are provided below of the subject site:



**Subject Site from Yousell Street**



**Subject Site from Whitehall Street**



**Internal view of carwash**



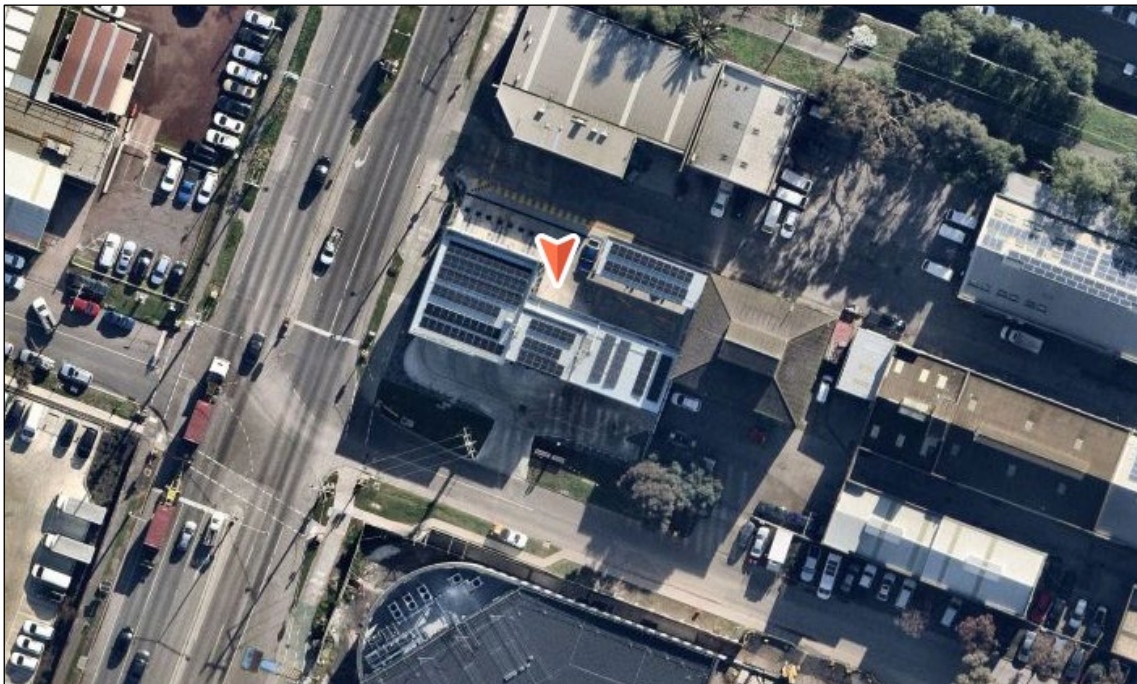


## 02.2 Surrounds

The subject site is located in an established commercial and industrial precinct to the west of the Maribyrnong River and to the south of Footscray Road which is covered by the Industrial 1 and Industrial 3 Zones pursuant to the Maribyrnong Planning Scheme.



Location Map



Aerial Photograph

Existing built form within the surrounding context ranges from small, more traditional, industrial/warehouse style development to large format warehouse, office, and distribution style buildings which are predominately surrounded by hardstand carparking areas and small landscape strips along frontage.



In relation to the site's immediate context, the land to the north at 107A Whitehall Street has been developed with a double storey commercial development that has been constructed to the northern portion of the site, addressing a splay to the service road to the south. The building is constructed of rendered concrete with some areas of fenestration addressing Whitehall Street and the splay. Under-croft car parking is featured to the southern side of the building.

To the east, the land at 21 Yousell Street, has been developed with a triple storey warehouse building which is well setback from the frontage with Yousell Street. Loading areas address Yousell street together with a hardstand car parking area to the frontage. A small area of landscaping is featured to the frontage. Access is via a central accessway which also services 107-109 Whitehall Street and 25 Yousell Street.



# 03

## Proposal

Planning permission is sought to amend Planning Permit TP328/2021(1) on land at 109A Whitehall Street, Footscray.

The Planning Permit allows:

*Construct a building and carry out works on land contained within the Industrial 1 Zone and the Special Building Overlay and alter access to a road in a Transport Zone 2.*

Plans were endorsed by Council on the 14 October 2022.

Pursuant to Section 72 of the *Planning & Environment Act 1987* the permit was amended on 8 September 2023 to allow for an:

- Amendment to plans to increase the width of the crossover to Youell Street from 3.50 metres to 6.0 metre wider (6.0 metre) commercial crossover; and
- Associated changes to Condition 1(a) of the permit.

Plans under the amended permit were also endorsed on 8 September 2024.

### **Section 72 Amendment**

Pursuant to Section 72 of the *Planning & Environment Act 1987* approval is sought to amend the Permit to allow for:

- a “Caretakers house” with minor amendments to the floor plan to accommodate the use.

### **Caretaker House**

The need for the “caretaker house” use, as proposed by the application, is



required in association the business proposed on the land (car wash).

The operation of the business will require a staff member to be on-site 24 hours a day and seven days a week in order to ensure safety and security of the business.

The staff member will also be required to collect and manage cash from the car washing machines and to be on hand to address any mechanical issues that may arise from the operation.

The purpose of the caretaker house will not be to “house” a staff member but rather to provide sleep quarters to the shift workers that will be required to operate the business after standard business hours.

As the staff members who will be rostered on to stay overnight will vary it is intended that they each be provided with an individual room that they use when staying overnight.

#### **Amendments to Permit Required**

To accommodate the proposed amendments to the scheme we seek to amend the Permit preamble as follows:

*Construct a building and carry out works on land contained within the Industrial 1 Zone and the Special Building Overlay, for the use of the land for a caretaker’s house and alter access to a road in a Transport Zone 2.*



# 04

## Relevant Planning Provisions

Clauses of the of relevance to the application are identified below:

### 04.1 Planning Policy Framework

#### Clause 11 Settlement

- 11.01-1R Settlement - Metropolitan Melbourne

#### Clause 15 Built Environment and Heritage

- 15.01-1S Urban design
- 15.01-1R Urban design - Metropolitan Melbourne

#### Clause 17 Economic Development

- 17.01-1R Diversified Economy – Metropolitan Melbourne
- 17.03-1S Industrial Land Supply
- 17.03-2S Sustainable Industry
- 17.02-1S Business

#### Clause 18 Transport

- 18.01-1S Land use and transport planning
- 18.02-1R Sustainable personal transport - Metropolitan Melbourne

### 04.2 Local Planning Policy Framework

- 21.02 Municipal Profile
- 21.03 Council vision
- 21.06 Built environment and Heritage



- 21.07-4                   Caretakers Houses
- 21.08                     Economic Development
- 21.11                     Local Areas
- 22.04                     Yarraville Port Core Employment Area

### **04.3 Zoning**

- 37.08                     Industrial 1 Zone (Schedule 1)

### **04.4 Overlays**

- 44.05                     Special Building Overlay
- 45.06                     Development Contributions Plan Overlay  
(Schedule 1)

### **04.5 Particular and General Provisions**

The following Particular and General Provisions are relevant to the proposal:

- 52.05                     Signs
- 65                         Decision guidelines





# 05

## Planning Assessment

### 05.1 Preamble

An assessment of the proposed development requires consideration of the following matters:

- The level of strategic support for the proposed use in the Planning Policy Framework.

A consideration of these matters is provided below.

### 05.2 Strategic Considerations

In relation to the State Planning Policies, Clause 11.06 (Settlement) and Clause 17 (Economic Development) identify the need to deliver an urban structure that drives productivity, attracts investment, supports innovation and creates jobs. Commercial and industrial uses in appropriate areas are required to achieve these outcomes by delivering neighbourhoods that offer a mix of uses.

Designated activity centres and employment nodes are preferred locations for these uses given their ability to accommodate the service requirements of businesses whilst avoiding unreasonable impacts upon the amenity of sensitive land uses. This is reflected in the following objectives of the State Planning Policy Framework.

#### **11.03-1S Activity centres**

*Objective: To encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.*



### **17.01-1 Business**

*Objective: To encourage development which meet the communities' needs for retail, entertainment, office and other commercial services.*

Maribyrnong's Local Planning Policies note the role of commercial and industrial areas within the municipality:

#### **Clause 21.02 Municipal Profile**

##### *Economic Development*

*Historically, Maribyrnong's industrial areas have provided a strong employment base for the city. Early industry was closely associated with shipping and primary industries. Later, the municipality's comparatively sparse settlement, large lots and established workforce proved highly suitable for the development of large manufacturing and defence industries.*

*Over the last few decades, the character of employment in Maribyrnong has been transitioning from a 'production focused' economy to one more focused on services. This transition has seen many traditional 'production style' jobs disappear in the face of removal of tariffs, competition from lower cost producers from overseas and technological advances. At the same time, the proportion of service sector jobs has been steadily increasing, representing demand for a wide array of services. (...)*

##### *Built Form and Heritage (inter alia)*

*The context for development varies from established residential neighbourhoods and commercial centres to large scale new estates. New development needs to be responsive to its context. The extent of new development provides opportunities to build on the qualities of the city's heritage and neighbourhood character and streetscapes whilst also introducing new forms of development that can enhance the city's role, design, image and liveability.*

The subject site is located within the Riverside Precinct on the Footscray Metropolitan Activity Centre Framework Plan at Clause 21.11. Footscray, and in particular the area between the Maribyrnong River and Whitehall Street,



has been identified as a location of significant community, commercial and residential development required to service Melbourne's growing west. In particular, the land use strategies and policy guidance identified at Clause 21.11 for the Footscray Metropolitan Activity Centre (FMAC) include encouraging (amongst other commercial outcomes):

- *To support/generate local opportunities for employment and business through new development.*
- *To ensure new development is of high-quality design, environmentally sustainable and has regard for the existing built form context.*

Council provides further policy guidance with respect to industrial areas within Clause 21.08 (Economic Development) which locates the subject site within a Core Employment Area for Maribyrnong. In particular, the objectives for Core Employment areas include:

- *Objective 5: To ensure high quality industrial and commercial development in Core Employment Areas.*

Having regard to the policy objective outlined above, it is submitted that the proposed provision of a caretaker's house within the approved development is consistent with the State and Local Planning Policy Framework contained in the Maribyrnong Planning Scheme in that it will support an existing business operating in Footscray.

As such, the proposed use, by way of supporting the primary business on the land, is in accordance with the purpose of the Industrial 1 Zone.

#### ***Clause 22.04 Yarraville Port Core Employment Area Policy***

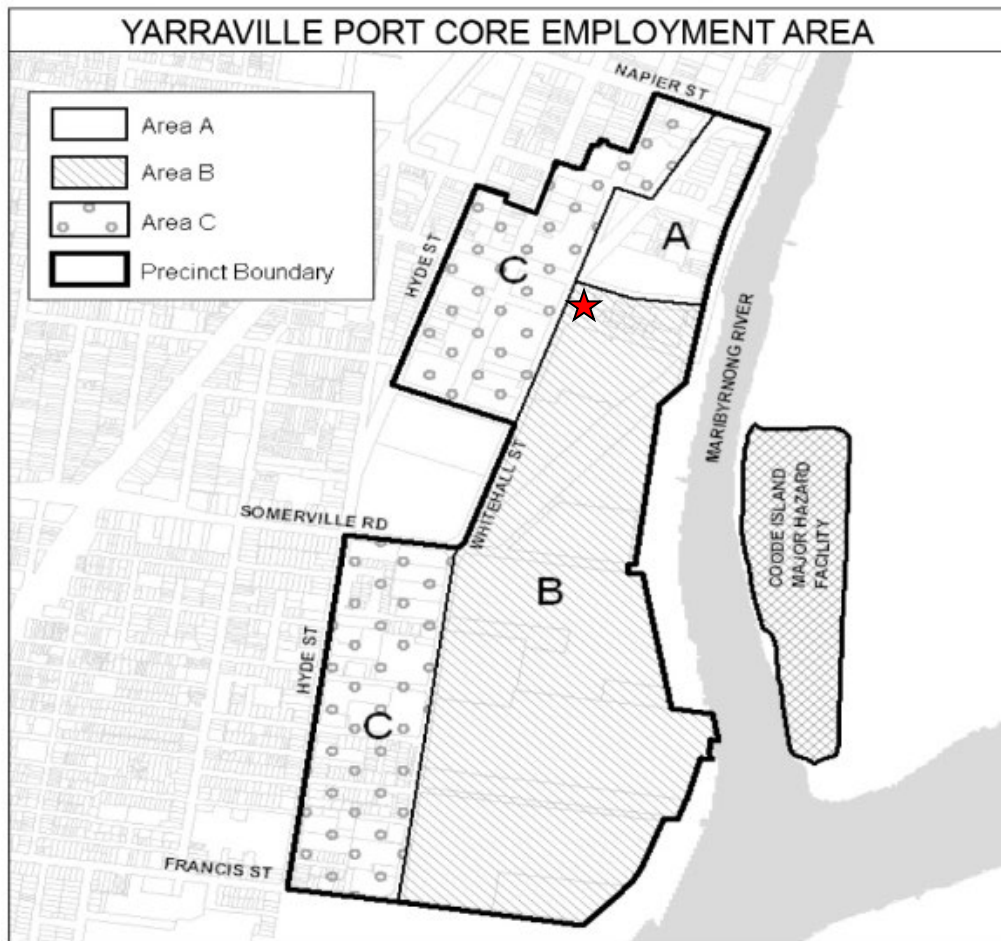
The site is located on the border of Area A and Area B with the Yarraville Port Core Employment Area.

*Area A – Comprising offices and commercial uses based around the former warehouse heritage buildings and some industrial uses. The area enjoys an attractive frontage to the Maribyrnong River and Footscray Wharf with views to the Melbourne CBD skyline.*

*Area B - Large scale industries, such as Sugar Australia and Orica, requiring river access have historically dominated this area and remain in the southern part of the area. The Port of Melbourne is now a major*



land owner and intends using the northern part of the area for port, logistics and port related industrial uses.



Area B Policy includes to:

- *Encourage logistics, low scale industrial and port related uses and development.*
- *Ensure that the use and development of the land has appropriate safety arrangements and plans in place to limit any potential impact of exposure to any incident at Coode Island MHF.*
- *Discourage uses that attract or accommodate significant numbers of people.*
- *Present attractive built form and well landscaped frontages to Whitehall Street.*
- *Discourage caretakers' houses.*



It is noted that the risk assessment prepared by AMOG considers the actual risk that might be generated as a result of the caretaker's house in the context of the Policy at Clause 22.04 and considers that this is acceptable.

The application relies on the risk assessment in order to provide a response to Clause 22.04 of the Planning Scheme.

### **Section 72 Amendment**

Pursuant to Section 72 of the *Planning & Environment Act 1987* it is now sought to allow for the use of "caretakers house" with minor amendments to the floor plan to accommodate the use.

### **Amendments to Permit Required**

To accommodate the proposed amendments, it is proposed that the preamble be amended as follows:

*Construct a building and carry out works on land contained within the Industrial 1 Zone and the Special Building Overlay, for the use of the land for a caretaker's house and alter access to a road in a Transport Zone 2.*

## **05.3 Proposed Use**

The need for the "caretaker house" use, as proposed by the application, is required to complement the business proposed on the land (car wash).

The operation of the business will require a staff member to be on-site twenty-four hours a day, seven days a week in order to ensure safety and security of the business. The staff member will be required to collect and manage cash from the car washing machines and to be on hand to monitor and address any mechanical issues that may arise from the operation should the car wash plant equipment fail.

As the staff members who will be rostered on to stay overnight will vary it is intended that they each be provided with an individual room that they use when staying overnight.

Advice from the operator of the carwash notes the following incidents that have occurred recently:

- *The business has robbed on 3 occasions and graffitied 4 times.*



- *Robbery 1 was break and enter with \$40K in equipment stolen.*
- *Robbery 2 resulted in the theft of a vehicle onsite and on that same night they broke into the Transurban building next door and took \$80K in tools and copper piping.*
- *Robbery 3 resulted in the theft of a \$10K bull bar and driving lights for a truck onsite.*
- *Graffiti is an ongoing battle and following the grant of approval for a caretaker's house at the Williamstown Car Wash (304-306 Kororoit Creek Rd, Williamstown North VIC 3016) there has been no more graffiti and no more burglaries or vandalism*

The purpose of the caretaker house will not be to “house” a staff member but rather to provide sleep quarters to the shift workers that will be required to operate the business after standard business hours.

The “caretaker’s house” use complements the surrounding land uses and Industrial 1 zoning immediately adjacent to the site and within the wider Footscray context.

The use will be accommodated within the approved floor plan and footprint and will continue to provide a high-quality industrial building in the industrial area and the use will not impact on the business and industrial uses or functioning of the surrounding industrial development.

Furthermore, the 24/7 operation of the business and having a staff member onsite will allow for passive surveillance, activation of the area and additional security within the estate after hours. This is in accordance with the definition of a caretaker’s house at Clause 73.03 (Land Use Terms) which defines it as:

*A dwelling on the same site as a building, operation, or plant, and occupied by a supervisor of that building, operation, or plant.*

The decision guidelines at Clause 33.01-2 state that the responsible authority must consider, as appropriate:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site*



*effects, having regard to any comments or directions of the referral authorities.*

- *The effect that nearby industries may have on the proposed use.*
- *The drainage of the land.*
- *The availability of and connection to services.*
- *The effect of traffic to be generated on roads.*
- *The interim use of those parts of the land not required for the proposed use.*

The proposal will not impact on the drainage of the land, nor the availability of and connection to services. As discussed in Section 5.4, the application will not impact on the traffic to be generated on the roads. Furthermore, the approval of such a facility would not unduly constrain the industrial and business use on the land, nor on the adjoining lots.

Whilst the “caretaker’s house” use as proposed by the application is considered a sensitive use with respect to the present and future operation of Coode Island facility the location of the site places this use on the “edge” of Area B and within comfortable walking distance to the Footscray Major Activity Centre as noted on the Footscray Metropolitan Activity Centre Framework Plan at Clause 21.11.

As noted in the delegates report relating to the original application:

*The application was referred to the Port of Melbourne. The Port of Melbourne have no objection to the proposal subject to a number of conditions limited to ensuring no more than 6 staff are located on site at any given time (trim ref: 21/285300). The use of the site as a car wash is not being assessed under this application as the car wash is an ‘as or right’ use Implementing a condition to govern the number of staff on site is outside the discretion of this planning assessment.*

In light of these referral comments, it is submitted that allowing staff members to occupy a caretaker’s house on the land overnight is in keeping with the referral comments and intent of the requirements.

In is submitted that the proposed use is consistent with the purpose of the



Industrial 1 Zone, the decisions guidelines and the planning policy framework and provide an appropriate response to the site's context.

In support of the application, a Risk Assessment prepared by AMOG Pty Ltd is provided. In summary this assessment states that:

*...it is considered that the risks to people and assets in the Outer Safety Area enumerated in the WorkSafe Victoria land use planning guidelines to the Proposed Development are either not applicable, or the increase in residual risk associated with the proposed development is minimal.*

#### **Clause 21.07-4 Caretaker's Houses**

Clause 21.07-4 provides assessment in relation to Caretakers Houses and sets out that *Industrial areas need to be protected from the intrusion of residential development in the form of inappropriate Caretaker's Houses.*

The clause has an Objective and Strategies:

- *To discourage Caretaker's houses in the Industrial 1, Industrial 3 and Business 3 zones.*
- *Discourage Caretaker's houses, unless it is demonstrated they are a necessary ancillary use to an existing or proposed building, operation or place.*
- *Discourage subdivision of Caretaker's houses from the use or development to which they are ancillary.*

The policy requires that applications for Caretaker's Houses be assessed against the following criteria:

- *The design of Caretaker's houses should minimise potential amenity conflicts.*
- *Caretaker's houses should not exceed 30% of the total gross floor area of the industrial or commercial building, or 100 sqm, whichever is the lesser.*
- *Parking at the rate specified in Clause 52.06 should be provided unless it can be demonstrated by a qualified professional that a variation is justified.*





The Housing Framework Plan which is included as part of clause 2107-4 identifies the site within a Core Industrial Area.

In relation to the requirements of Clause 21.07-4 it is submitted that the proposal is acceptable as follows:

- The design and layout of the caretaker's house will not result in any unreasonable impact as the occupants as the caretaker's house is on the upper level separated from the ground floor operations.
- The car wash use itself does not give rise to any unreasonable noise or discharges that would impact on the amenity of the occupants including odours or noxious chemicals.
- The caretaker's house provides for 33% of the total gross floor area of the industrial or commercial building, which is slightly greater than the 30% in the policy however the variation is minor and acceptable.
- The development provides three (3) designated car parking for staff as part of the development including one secure space and two additional spaces
- There is no intention to subdivide the caretakers dwelling from the remainder of the site.

Although it is noted that caretakers' houses are discouraged, they are not prohibited and should be assessed on a case by case basis given the individual circumstances of the use in question and the site location.

It is submitted that in this particular case, given the circumstances of the site and the impacts of vandalism theft and so on, that it is an acceptable outcome to provide a caretaker's dwelling.

This conclusion is supported by the Risk Assessment provided as part of the application.

## **05.5 General Provisions**

Clause 65 of the Maribyrnong Planning Scheme requires that before deciding on an application or approval of a plan, the Responsible Authority must consider a number of matters. An assessment against these provisions is provided as follows:



- The proposal is consistent with the matters set out in Section 60 of the *Planning and Environment Act 1987*.
- The proposal is consistent with the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement.
- The proposal is consistent with the purpose of the Industrial Zone and overlay controls affecting the land.
- The proposed development would not have an adverse impact on the amenity of the area.
- The proposed development would not cause or contribute to land degradation, salinity or reduce water quality.
- The proposed development will be connected to underground drainage and as such will not have any adverse impact on the quality of stormwater within and exiting the site.
- The subject site does not contain any indigenous native vegetation in the meaning of the Planning Scheme.
- The proposed development would not contribute to any flood, erosion or fire hazard.



# 06

## Conclusion

It is submitted that the proposal to amend the Permit pursuant to Section 72 of the *Planning & Environment Act 1987* to allow a caretaker's house and to amend the access arrangements is consistent with the Planning Policy Framework and relevant provisions set out in the Maribyrnong Planning Scheme.

The use and development proposed by this application provides a satisfactory response to the requirements of the planning scheme requirements and will result in use and development that complements the surrounding uses and is sensitive to the context in which it is proposed.

We submit that the proposal is worthy of Council support.



CITY OF MARIBYRNONG  
**RECEIVED**  
27/08/2024  
URBAN PLANNING

Engineering solutions

21 August 2024  
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Dear Ms Gray,

**Risk Advice for Proposed Development at 109A Whitehall Street Footscray**

This letter provides technical advice relating to the risk from nearby Major Hazard Facilities (MHFs) and local industry to the Proposed Development at 109A Whitehall Street Footscray Victoria 3011, which is the subject of Planning Permit Application No. TP196/2023(2).

AMOG was engaged by GrayKinnane Property as a subject matter expert to provide advice on the risk profile for this Proposed Development, associated with the nearby MHFs and local industry.

AMOG's advice is based upon a consideration of the application of the WorkSafe Victoria land use planning guidance and Maribyrnong Planning Scheme to the Proposed Development.

In summary, it is considered that the risks to people and assets in the Outer Safety Area enumerated in the WorkSafe Victoria land use planning guidelines to the Proposed Development are either not applicable, or the increase in residual risk associated with the proposed development is minimal.

Yours sincerely for

AMOG Consulting

Alex Waugh  
Senior Engineer

This letter is intended only for the addressee or addressees named and may contain confidential information. It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party.

Job Number - 2024.j040  
Reference # - I2024.j040.001.1  
Pages - 1 of 8

# 1 RISK ADVICE FOR PROPOSED DEVELOPMENT AT 109A WHITEHALL STREET FOOTSCRAY

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The advice herein covers the changes in the societal risk profile on the Proposed Development at 109A Whitehall Street arising from the nearby Stolthaven Coode Island and Terminals (Quantem) Coode Island Major Hazard Facilities (MHF).

## 1.1 SUMMARY OF THE PROPOSED DEVELOPMENT

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### 1.1.1 Location of the Proposed Development

The Proposed Development is on the property with the street address of 109A Whitehall Street Footscray. Planning Permit Application No. TP196/2023(2) pertains to the amendment of Planning Permit TP328/2021(1) to allow for a wider (6.0 metre) commercial crossover and to allow for the use of "caretakers house" with minor amendments to the floor plan to accommodate the use.

The subject site lies within Area B of the Yarraville Port Core Employment Area, as defined by Clause 22.04 of the Maribyrnong Planning Scheme (Yarraville Port Core Employment Area Policy).

To the south-west of the Proposed Development are the Stolthaven Coode Island Terminal and the Quantem Coode Island Terminal. Both terminals are MHFs within the scope of the *Occupational Health and Safety Regulations 2017*, and under the regulation of WorkSafe Victoria (WSV). The Stolthaven Coode Island Terminal and the Quantem Coode Island Terminal (hereafter the Stolthaven MHF and Quantem MHF, respectively) are used for the storage and distribution of various types of dangerous and non-dangerous goods.

Based on aerial photography, the distance between the boundary of the Stolthaven MHF and the site which is the subject of Planning Permit Application No. TP196/2023(2) is 421 m. The bund area of the nearest existing flammable liquid storage tank of the Stolthaven MHF is approximately a further 14 m inside the site boundary of the site, a total of 435 m from the Development Site (where measured in a straight line). The distance between the boundary of the Quantem MHF and the site which is the subject of Planning Permit Application No. TP196/2023(2) is 584 m. The bund area of the nearest existing flammable liquid storage tank of the Quantem MHF is approximately a further 17 m inside the site boundary of the site, a total of 601 m from the Development Site (where measured in a straight line).

### 1.1.2 Land Usage of the Proposed Development

The Proposed Development covered by TP196/2023(2) will utilise the site as a caretakers' house to complement the business proposed on the land (car wash).

### 1.1.3 Requirement for a Caretakers' House

The purpose of the caretakers' house will be to serve as onsite accommodation for maintaining security on a 24 hour basis in response to ongoing security issues relating to the site and nearby land.

The proprietor of the site has experienced several instances of theft and vandalism at a similar car wash facility in the suburb of Yarraville, and has reason to expect that a carwash at the Development Site would be subject to similar theft and vandalism issues if unattended. The proprietor has determined that an effective means of providing security for the facility, and thereby preventing such a theft and vandalism issue, is by continuous monitoring of the facility by a caretaker. The security provided by the caretaker also reduces the safety risk posed to staff operating the facility against risks of physical and psychosocial harm associated with criminal actions such as robbery or assault. As such, there is a business need for the inclusion of a caretakers' house within the Proposed Development.

## 1.2 YARRAVILLE PORT CORE EMPLOYMENT AREA POLICY

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Clause 22.04 of the Maribyrnong Planning Scheme pertains to the Yarraville Port Core Employment Area Policy, as published on the Department of Transport and Planning website (<https://planning-schemes.app.planning.vic.gov.au/Maribyrnong/ordinance/22.04>).

The objectives of the Yarraville Port Core Employment Area Policy include:

- To ensure that applications respond to amenity and risk/health impacts relating to the port and Coode Island MHF.
- To develop the precinct for industrial, office, commercial and port related activities appropriate to the function of the precinct as a buffer.
- To strongly discourage uses that attract or accommodate significant numbers of people and which cannot respond to an emergency.

Policy objectives relevant to Area B, in which the proposed development is located, include:

- Encourage logistics, low scale industrial and port related uses and development.
- Ensure that the use and development of the land has appropriate safety arrangements and plans in place to limit any potential impact of exposure to any incident at Coode Island MHF.
- Discourage uses that attract or accommodate significant numbers of people.
- Discourage caretakers' houses.

The Yarraville Port Core Employment Area Policy makes reference to the *Land Use Planning Advisory Areas for Major Hazard Facilities at Coode Island, Port of Melbourne* guidelines. These have now been superseded by the WorkSafe Victoria Land Use Planning Guidelines, which are described below.

## 1.3 WORKSAFE VICTORIA LAND USE PLANNING GUIDELINES

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Under Section 52 of the Planning and Environment Act 1987, WSV have a role to provide advice to responsible authorities on Development near to an MHF site. To provide such advice, WSV utilises their self-developed guidance, as published on the WSV website (<https://www.worksafe.vic.gov.au/land-use-planning-near-major-hazard-facility>). This guidance represents only WSV's policy for provision of advice near to MHF sites based on generic risk of

a category of MHF, and does not consider the specific risk to a development from the nearby MHF.

Under this guidance, land close to an MHF is categorised by WSV into two areas:

- Inner Safety Area, which immediately surrounds an MHF and where persons and property could be seriously impacted by a high consequence, low likelihood major incident. A high consequence incident has the potential to cause injury, fatality and significant damage to property.
- Outer Safety Area, which is a precautionary area beyond the boundary of the Inner Safety Area and where the consequences of a major incident are not likely to cause a fatality but persons present may suffer some injury or adverse effects in the event of a very large, long duration major incident.

WorkSafe Victoria states that:

*The dimensions of an Inner Safety Area are determined after reference to state or national emergency planning provisions, incident histories and an understanding of the nature and quantity of materials at the MHF. The extent of the Area is established on a precautionary basis and has been verified by comparison with other local and international jurisdictions.*

*The dimensions of an Outer Safety Area are determined on the basis of the need to identify a secondary area, farther away from the MHF, that might be impacted in the event of an extended, large scale incident where impacts could include:*

- *exposure to smoke which might affect vulnerable members of the community, making it necessary to close schools and hospitals for example, and might require their precautionary assisted evacuation*
- *a precautionary, phased evacuation of people as a result of uncertain control of a fire impinging upon a large inventory of flammable material, for example LPG*
- *specific atmospheric conditions which might facilitate the transport of toxic material farther than normal and for which shelter-in-place instructions are not appropriate, and / or*
- *exposure to toxic run-off from an incident, including contaminated water as a result of a large-scale incident having breached the secondary containment measures in place at the MHF.*

The extent of the Inner and Outer Safety Areas are defined by WorkSafe Victoria based on a categorisation of the type of MHF, but do not consider the site-specific extent of off-site risk of an individual MHF. A determination of the MHF categories of both facilities has been made based on the safety case summaries for both Coode Island MHFs.

The Stolthaven MHF license (attached to the current Stolthaven Coode Island Terminal Major Hazard Facility Safety Case Summary) authorises the facility to hold two Schedule 14 Materials (Methanol and Phenol). Methanol is listed under the Australian Code for the Transport of Dangerous Goods by Road & Rail as being a Class 3 (Flammable Liquid) with Subsidiary Hazard Division 6.1 (Toxic Substance) Dangerous Good, while Phenol is listed as a Class 6.1 (Toxic

Substance) dangerous good. The Stolthaven MHF is considered be categorised as a "Volatile Toxic" MHF under the WSV guidance. For this category of MHF, the distances for the safety areas are 400 m for the Inner Safety Area and 1000 m for the Outer Safety Area.

The Quantem MHF license (attached to the current Quantem Coode Island Terminal Safety Case Summary) authorises the facility to hold two Schedule 14 Materials (Methane or Natural Gas and Flammable Liquids) The Quantem MHF is therefore considered to be categorised as a "Highly Flammable" MHF under the WSV guidance. For this category of MHF, the distances for the safety areas are 300 m for the Inner Safety Area and 1000 m for the Outer Safety Area.

Such distances are *"typically measured from the site boundary, however where there is a small facility footprint on a large site, distances may be taken from the facility boundary."*

Based on these distances, the Proposed Development lies within the Outer Safety Area of both facilities.

## **1.4 RESPONSE TO MARIBYRNONG COUNCIL ADVICE**

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### **1.4.1 Maribyrnong Council Advice**

Maribyrnong Council has provided a letter which rejects the Proposed Development of Planning Application TP196/2023(2) on the basis that Clause 22.04 of the Maribyrnong Council Advice identifies the subject site as being within Area B, and states the following concerns:

1. The policy specific to Area B discourages caretakers' houses;
2. Risk impacts of a sensitive use within the Coode Island Major Hazard Facility affected areas.

These concerns are addressed below.

### **1.4.2 Considerations which Guide the Policy of Discouraging Caretakers' Houses**

Clause 22.04-4 of the Maribyrnong Planning Scheme states that it is policy that the responsible authority considers as appropriate:

1. The ways in which development and uses with Areas A, B and C responds to potential adverse amenity and risk impacts from the port and the Coode Island MHF.
2. In Areas A, B and C, the numbers, occupancy and vulnerability of persons likely to be present at the proposed development or use.
3. In Areas A (south of Parker Street), B and C (south of Parker Street) the ability of persons present to be organised and to safely respond to an emergency at Coode Island MHF.
4. The overall impact of developments and uses on the role of the precinct as a buffer.

These considerations are addressed in turn below.



### 1.4.2.1 **Number and Occupancy of Persons Likely to be Present at the Proposed Development or Use**

Amended Planning permit TP328/2021(2) does not specify a limit to the number of on-site workers. As noted in the delegates report relating to the original application:

*"The application was referred to the Port of Melbourne. The Port of Melbourne have no objection to the proposal subject to a number of conditions limited to ensuring no more than 6 staff are located on site at any given time (trim ref: 21/285300). The use of the site as a car wash is not being assessed under this application as the car wash is an 'as or right' use Implementing a condition to govern the number of staff on site is outside the discretion of this planning assessment."*

The level of risk exposure of the site population to incidents at the nearby MHF will therefore not substantially increase above what has already been specified by the Port of Melbourne, provided that the number of occupants on-site (including the number of occupants of the caretaker's accommodation) does not exceed 6 people.

When compared to other alternative uses in Area B such as office spaces, the occupancy of the caretakers' facility is relatively lower. Furthermore, clients of the carwash are present at the site for a shorter period of time compared to the occupants of other sites in the area, thereby reducing the level of exposure of the on-site population to the risk of an incident at an MHF.

### 1.4.2.2 **Vulnerability of Persons Likely to be Present at the Proposed Development or Use**

The occupants of the caretaker's accommodation will be associated with operation of the business, and will consist of:

- Employees of the business; and
- The proprietor of the business and their immediate family, on an intermittent basis.

The proprietor and employees of the business can be considered to be within the definition of the normal working population sensitivity category. They are not part of the vulnerable population sensitivity category, which relates to *"People with limited mobility, children, the elderly, schools, hospitals, aged care facilities and prisons."*

It is considered that in an emergency situation, the emergency response of other site occupants would be able to be directly managed by the proprietor or employees of the business. These individuals would have appropriate training and an understanding of the site emergency response plan relating to an incident at a nearby MHF.

### 1.4.2.3 **Response to Potential Impacts from the MHF**

The Proposed Development is located within the outer safety areas of the Stolthaven MHF and Quantem MHF. Within the WorkSafe Victoria guidance reproduced above, the dimensions of the Outer Safety Area are based on *"the need to identify a secondary area, farther away from the MHF, that might be impacted in the event of an extended, large scale incident"*. Four impacts of extended, large scale incidents are enumerated, which are considered for dimensioning the Outer Safety Area. The effect of these impacts on the Proposed Development are considered in turn below.

- *Exposure to smoke which might affect vulnerable members of the community, making it necessary to close schools and hospitals for example, and might require their precautionary assisted evacuation*
  - The proprietor and employees of the business are not part of the vulnerable population sensitivity category, which relates to “People with limited mobility, children, the elderly, schools, hospitals, aged care facilities and prisons.” The proprietor and employees would have appropriate training and an understanding of the site emergency response plan to directly manage the emergency response of other site occupants in the event of an incident at a nearby MHF.
- *A precautionary, phased evacuation of people as a result of uncertain control of a fire impinging upon a large inventory of flammable material, for example LPG*
  - The Quantem MHF stores methane/natural gas. Whilst a Vapour Cloud Explosion scenario is possible for lighter hydrocarbons such as methane, it is inherent in the definitions of the Inner and Outer Safety Areas that direct off-site impacts that may cause a fatality from a major incident event at an MHF will be restricted to within the Inner Safety Area. Secondary escalation of hydrocarbon fires may create a need to evacuate people from the vicinity of the MHF, however the Proposed Development is a minor intensification of the existing development, and would create a negligible additional burden on emergency services should such an evacuation become necessary.
- *Specific atmospheric conditions which might facilitate the transport of toxic material farther than normal and for which shelter-in-place instructions are not appropriate*
  - Whilst a transport of toxic materials may be possible, it is inherent in the definitions of the Inner and Outer Safety Areas that direct off-site impacts that may cause a fatality from a major incident event at an MHF will be restricted to within the Inner Safety Area. The Stolthaven MHF Safety Case Summary states that, for Toxic liquid / vapour release, “Depending on wind direction and strength, a large liquid or vapour release could result in off- site odours and in a worst- case scenario have may cause mild respiratory or eye irritation on nearby residential and commercial neighbours.” Whilst smoke generated by a fire at the facility may be toxic, such smoke would be buoyant and impact on the Proposed Development could be expected to be minor and able to be managed by occupants of the Proposed Development remaining indoors (i.e. shelter in place would be the appropriate response).
- *Exposure to toxic run-off from an incident, including contaminated water as a result of a large-scale incident having breached the secondary containment measures in place at the MHF.*
  - The storage tanks at the Stolthaven MHF and Quantem MHF are enclosed by bunded areas that are intended to retain such run off. The Stolthaven MHF Safety Case Summary states that, for Toxic liquid / vapour release, “Liquid or vapour release and subsequent toxic exposures are expected to be contained within the confines of the bunded tank storage area or road tanker fill station.” Should there be a release from the bunded area, the Proposed Development is located at considerable distance from

the MHF, with the Maribyrnong River in between, such that there are not plausible scenarios whereby such toxic run-off could impact the Proposed Development.

In summary, based on what is known about the on-site risk from the Stolthaven and Quantem MHF, the potential impact on the Proposed Development is negligible.

#### **1.4.2.4 Overall Impact of Developments and Uses on the Role of the Precinct as a Buffer**

Clause 22.04-4 of the Maribyrnong Planning Scheme states that:

*“The Yarraville Port Core Employment Area provides an important buffer between established residential areas and the Port of Melbourne and the Coode Island Major Hazard Facility (MHF), which are of state significance. The buffer is needed to protect the current and future operational requirements of the port and to minimise potential adverse amenity and risk/health impacts from the port and the Coode Island MHF.”*

Based on the aforementioned responses to Clause 22.04-4 of the Maribyrnong Planning Scheme, the proposed development is not considered to affect the current and future operational requirements of the port, and is not considered to increase amenity and risk/health impacts from the port and the Coode Island MHFs.