

# Application for a Planning Permit

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

**⚠** 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 planning department.

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

**⚠** If the space provided on the form is insufficient, attach a separate sheet

**i** Click for further information.

## The Land **i**

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

### Street Address \*

Unit No:	St. No.: 188	St. Name: Gordon
Suburb/Locality: Footscray		Post Code: 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.

<b>A</b> <b>OR</b>	Vol.: 6235	Folio.: 922	Suburb.: Footscray
	Lot No.: 1	Type.: Title Plan	
<b>B</b>	Crown Allotment No.:	Section No.:	
	Parish/Township Name:		

## The Proposal

**⚠** You must give full details of your proposal and attach the information required to assess the application. Insufficient or unclear information will delay your application

**i** For what use, development or other matter do you require a permit? \*

Single Storey dwelling to be constructed

**i** Provide additional information about the proposal, including: plans and elevations; any information required by the planning scheme, requested by Council or outlined in a Council planning permit checklist; and if required, a description of the likely effect of the proposal.

**i** Estimated cost of any development for which the permit is required \*

300000.00

**⚠** You may be required to verify this estimate. Insert '0' if no development is proposed.

If the application is for land within **metropolitan Melbourne** (as defined in section 3 of the Planning and Environment Act 1987) and the estimated cost of the development exceeds \$1.093 million (adjusted annually by CPI) the Metropolitan Planning Levy must be paid to the State Revenue Office and a current levy certificate **must** be submitted with the application. Visit [www.sro.vic.gov.au](http://www.sro.vic.gov.au) for information.


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## Existing Conditions i

### 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.

Residential single storey dwelling on a lot less than 300m2 with no garage


 Provide a plan of the existing conditions. Photos are also helpful.

## Title Information i

### 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).
- Not Sure

 Provide a full, current copy of the title for each individual parcel of land forming the subject site. The title includes: the covering 'sregister 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.

Name:

Title: NA	First Name: Kerem	Surname: Beyazgul
Organization (if applicable):		
Unit No:	St. No: 126	St. Name: Debonair Parade
Suburb: CRAIGIEBURN	State: VIC	Postcode: 3064
Business phone: 0415149459	Email: info@whiterosestudio.com.au	
Mobile phone:	Home:	

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

### Contact person's details\*

Name: Same as applicant

Title: NA	First Name: Kerem	Surname: Beyazgul
Organization (if applicable):		
Unit No:	St. No: 126	St. Name: Debonair Parade
Suburb: CRAIGIEBURN	State: VIC	Postcode: 3064
Business phone: 0415149459	Email: info@whiterosestudio.com.au	
Mobile phone:	Home:	

### Owner \*

The person or organisation who owns the land


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

Name: Same as applicant

Title: MR	First Name: MUSTAFA	Surname: TELLI
Organization (if applicable):		
Postal Address:		If it is a P.O. Box, enter the details here:
Unit No:	St. No: 7	St. Name: Lancaster Court
Suburb: GREENVALE	State: VIC	Postcode: 3059
Business Phone:	Email: tellibuilding@gmail.com	
Mobile phone: 0435264316	Home:	

## Declaration

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; and that all the information in this application is true and correct; and the owner (if not myself) has been notified of the permit application.**

Signature:

*Kerem Beyazgul*

Date

15 / 05 / 2026

day / month / year

## Need help with the Application?

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 his application and obtain a planning permit checklist. Insufficient or unclear information may delay your application

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

No  Yes

Officer Name: Saurabha Iyer Application No 122 2026

30 / 03 / 2026


day / month / year

## Checklist

Have you:

Filled in the form completely?

Paid or included the application fee?

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

 Provided all necessary supporting information and documents?

A full, current copy of title information for each individual parcel of land forming the subject site

A plan of existing conditions.

Plans showing the layout and details of the proposal.

Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.

If required, a description of the likely effect of the proposal (for example, traffic, noise, environmental impacts)

If applicable, a current Metropolitan Planning Levy certificate (a levy certificate expires 90 days after the day on which it is issued by the State Revenue Office and then cannot be used). Failure to comply means the application is void

Completed the relevant council planning permit checklist?

Signed the declaration?

## Lodgement

Lodge the completed and signed form, the fee and all documents with:

Maribyrnong City Council  
PO Box 58  
Footscray VIC 3011  
Cnr Napier and 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.

## MORE INFORMATION

### The Land

Planning permits relate to the use and development of the land. It is important that accurate, clear and concise details of the land are provided with the application.

#### How is land identified


Land is commonly identified by a street address, but sometimes this alone does not provide an accurate identification of the relevant parcel of land relating to an application. Make sure you also provide the formal land description - the lot and plan number or the crown, section and parish/township details (as applicable) for the subject site. This information is shown on the title.

See **Example 1**.

### The Proposal

#### Why is it important to describe the proposal correctly?


The application requires a description of what you want to do with the land. You must describe how the land will be used or developed as a result of the proposal. It is important that you understand the reasons why you need a permit in order to suitably describe the proposal. By providing an accurate description of the proposal, you will avoid unnecessary delays associated with amending the description at a later date.

 Planning schemes use specific definitions for different types of use and development. Contact the Council planning office at an early stage in preparing your application to ensure that you use the appropriate terminology and provide the required details.

#### How do planning schemes affect proposals?

A planning scheme sets out policies and requirements for the use, development and protection of land. There is a planning scheme for every municipality in Victoria. Development of land includes the construction of a building, carrying out works, subdividing land or buildings and displaying signs.

Proposals must comply with the planning scheme provisions in accordance with Clause 61.05 of the planning scheme. Provisions may relate to the State Planning Policy Framework, the Local Planning Policy Framework, zones, overlays, particular and general provisions. You can access the planning scheme by either contacting Council's planning department or by visiting Planning Schemes Online at [planning-schemes.delwp.vic.gov.au](http://planning-schemes.delwp.vic.gov.au)

 You can obtain a planning certificate to establish planning scheme details about your property. A planning certificate identifies the zones and overlays that apply to the land, but it does not identify all of the provisions of the planning scheme that may be relevant to your application. Planning certificates for land in metropolitan areas and most rural areas can be obtained by visiting [www.landata.vic.gov.au](http://www.landata.vic.gov.au) Contact your local Council to obtain a planning certificate in Central Gol fields, Corangamite, Macedon Ranges and Greater Geelong. You can also use the free Planning Property Report to obtain the same information.

See **Example 2**.


#### Estimated cost of development

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. This cost does not include the costs of development that you could undertake without a permit or that are separate from the permit process. Development costs should be calculated at a normal industry rate for the type of construction you propose.

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.

 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.

**Metropolitan Planning Levy** refer Division 5A of Part 4 of the Planning and Environment Act 1987 (the Act). A planning permit application under section 47 or 96A of the Act for a development of land in metropolitan Melbourne as defined in section 3 of the Act may be a leviable application. If the cost of the development exceeds the threshold of \$1 million (adjusted annually by consumer price index) a levy certificate must be obtained from the State Revenue Office after payment of the levy. A valid levy certificate must be submitted to the responsible planning authority (usually council) with a leviable planning permit application. Refer to the State Revenue Office website at [www.sro.vic.gov.au](http://www.sro.vic.gov.au) for more information. A leviable application submitted without a levy certificate is void

### Existing Conditions

#### How should land be described?

You need to describe, in general terms, the way the land is used now, including the activities, buildings, structures and works that exist (e.g. single dwelling, 24 dwellings in a three-storey building, medical centre with three practitioners and 8 car parking spaces, vacant building, vacant land, grazing land, bush block)

Please attach to your application a plan of the existing conditions of the land. 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.

See **Example 3**.

### 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.
- signed the declaration on the last page of the application form

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.

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

VOLUME 06235 FOLIO 922

Security no : 124133985813A  
Produced 22/04/2026 08:16 AM

### LAND DESCRIPTION

Lot 1 on Title Plan 617130K.  
PARENT TITLE Volume 05861 Folio 061  
Created by instrument 1703158 06/09/1938

### REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
MUSTAFA TELLI of 7 LANCASTER COURT GREENVALE VIC 3059  
BA224640G 19/03/2026

### 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 TP617130K FOR FURTHER DETAILS AND BOUNDARIES

### ACTIVITY IN THE LAST 125 DAYS

NUMBER		STATUS	DATE
BA205133H (E)	CONV PCT & NOM ECT TO LC	Completed	12/03/2026
BA224640G (E)	TRANSFER	Registered	19/03/2026

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

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

Street Address: 188 GORDON STREET FOOTSCRAY VIC 3011

### ADMINISTRATIVE NOTICES

NIL

eCT Control 18463F VICLAND CONVEYANCING  
Effective from 19/03/2026

DOCUMENT END

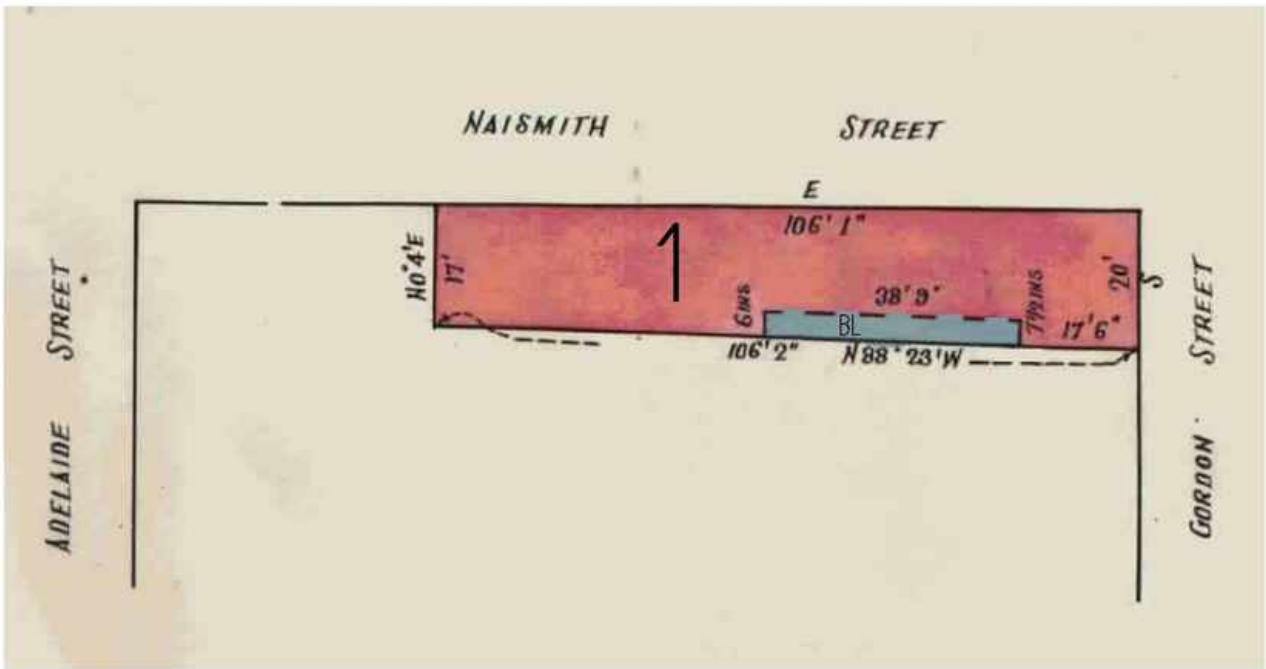
**CITY OF MARIBYRNONG  
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<b>TITLE PLAN</b>	<b>EDITION 1</b>	<b>TP 617130K</b>
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<p><b>Location of Land</b></p> <p>Parish: AT WEST FOOTSCRAY PARISH OF CUT-PAW-PAW          Township:          Section: 15          Crown Allotment: 7(PT)          Crown Portion:</p> <p>Last Plan Reference:          Derived From: VOL 6235 FOL 922          Depth Limitation: NIL</p>	<p style="text-align: center;"><b>Notations</b></p> <p>ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN</p>
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<p style="text-align: center;"><b>Description of Land / Easement Information</b></p> <p><b>ENCUMBRANCES REFERRED TO.</b></p> <p>As to the land colored blue ---</p> <p><u>THE RIGHT</u> (if any) of the owner or owners for the time being of the land abutting on the south thereof to---- have and maintain eaves attached to buildings erected on the said land abutting on the south-----</p>	<p>THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT</p> <p>COMPILED: 29/08/2000          VERIFIED: MP</p>
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**COLOUR CODE**  
BL=BLUE



CITY OF MARIBYRNONG  
ADVERTISED PLAN

<b>TABLE OF PARCEL IDENTIFIERS</b>
WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962
PARCEL 1 = CA 7 (PT)

# PLANNING REPORT

188 GORDON STREET, FOOTSCRAY

WHITEROSE STUDIO

MAY 2026

**CITY OF MARIBYRNONG  
ADVERTISED PLAN**

## Document Control – Project Reference 13251

Date Approved	Version Number	Author	Reviewer	Distributed
12 May 2026	1	D.Bu	N.Robins	Client

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An aerial photograph of a construction site, showing a network of roads and several large, circular concrete structures under development. The entire image is overlaid with a semi-transparent yellow filter. The text 'Land Development Intelligence' is written in white, bold, sans-serif font, oriented vertically on the left side of the image.

# Land Development Intelligence<sup>®</sup>

# EXECUTIVE SUMMARY

This report is prepared on behalf of Whiterose Studio to accompany a planning permit application to construct one single storey dwelling.

## Subject Site

Located within Wurundjeri Country, the subject site is commonly known as 188 Gordon Street, Footscray and formally identified as Lot 1 on Title Plan 617130K.

## Proposal

The proposal is to construct one (1) single storey dwelling on a lot less than 300 square metres.

## Planning Controls

Pursuant to the Maribyrnong Planning Scheme (the 'Scheme'), the following planning controls apply to the subject site;

Zoning	Housing Choice and Transport Zone – Schedule 2 (HCTZ2)
Overlays	Development Contributions Plan Overlay – Schedule 2 (DCPO2)
Particular Provisions	Clause 52.06 (Car Parking) Clause 52.37 (Canopy Trees) Clause 54 (One Dwelling on a Lot or Small Second Dwelling)
General Provisions	Clause 65.01 (Approval of an application or plan).

## Permit Triggers

The proposal to construct a single dwelling triggers a planning permit pursuant to:

- Clause 32.10-3 to construct one dwelling on a lot less than 300sqm.

## Aboriginal Cultural Heritage

The land is not mapped within an area of Aboriginal cultural heritage sensitivity. Even if it were, the construction of one dwelling is an exempt activity under Regulation 9. As such, a CHMP is not required.

## Planning Considerations

The proposal is to construct a single dwelling on a lot less than 300 square metres.

The proposal satisfies every Clause 54 (ResCode) standard except Standards A2-1 (street setback), A2-6 (tree canopy), A3-2 (private open space), A4-3 (overshadowing) and A5-4 (solar protection to north facing windows), and satisfies every Clause 54 Objective. The variations are relatively minor and are appropriate given the size and orientation of the site, the relatively cheek-by-jowl context of the area and the objectives are met.

We also note that the majority of the Clause 54 Standards are deemed to comply standards. For convenience, please refer to **Appendix A** at the end of this report for the full Clause 54 ResCode assessment.

# Supporting Information

This report should be read in conjunction with the following documents and specialist information accompanying the permit application:

1. Certificate of Title for Lot 1 on Title Plan 617130K.
2. Survey Plan prepared by DFJ, Version 2.
3. Development Plans prepared by Whiterose Studio, Version A, dated 6 May 2026.

# 1. SITE AND SURROUNDS

## 1.1. Subject Site

The subject site is commonly known as 188 Gordon Street, Footscray and formally identified as Lot 1 on Title Plan 617130.

Key features of the site are tabulated below.

TABLE 2: SITE FEATURES

Covenants, Restrictions or Section 173 Agreements	No covenants nor Section 173 Agreements. Eaves easement to part of the southern boundary.
Site area	182 square metres.
Site Configuration	Generally rectangular.
Topography	Negligible fall.
Existing site conditions	Land has been cleared and is currently vacant.
Vegetation	No significant vegetation on site.
Vehicle Access	Crossover to Naismith Street.
Other	The site is not within an area of Aboriginal Cultural Heritage Sensitivity.



FIGURE 1: AERIAL IMAGE OF SITE (NEARMAP, DATED FEBRUARY 2026)

## 1.2. Surrounds

The following land uses and development directly abuts the subject site:

TABLE 3: ABUTTING LAND USES AND DEVELOPMENT

North	Naismith Street, a local road accommodating one lane of traffic in each direction, blue-stone kerb, nature strip and footpaths. The opposite side of Naismith Street contains various single and double storey dwellings including a recent double storey dwelling at 184 Gordon Street.
East	Gordon Street, an arterial road contained within a Transport Zone 2. This road accommodates one lane of traffic in each direction, and on-street parking, blue-stone kerb, nature strips and footpaths to both sides. There is a bus stop in close proximity to the site.
South	At 190-190A Gordon Street, a single dwelling on a lot of approximately 400sqm, with a driveway and garage to its south. The dwelling has one habitable room window facing the common boundary with SPOS to its rear adjacent to the site.
West	At 1 Naismith Street, a single storey dwelling with its front setback adjacent to the site.

The site is located within an established area of Footscray containing a mixture of single dwellings and multi-dwelling development. The Western Hospital Footscray is located 100m north of the site and the Footscray Activity Centre is located 700m to the east.

The built form in the area is quite “cheek-by-jowl” with many small lots in the area. The area’s built form is eclectic and ranges from Edwardian dwellings through to modern dwellings, walk up flat, modern apartments and a housing commission tower. Canopy vegetation predominantly comprises of street trees.

The site’s location in its wider context is illustrated below.

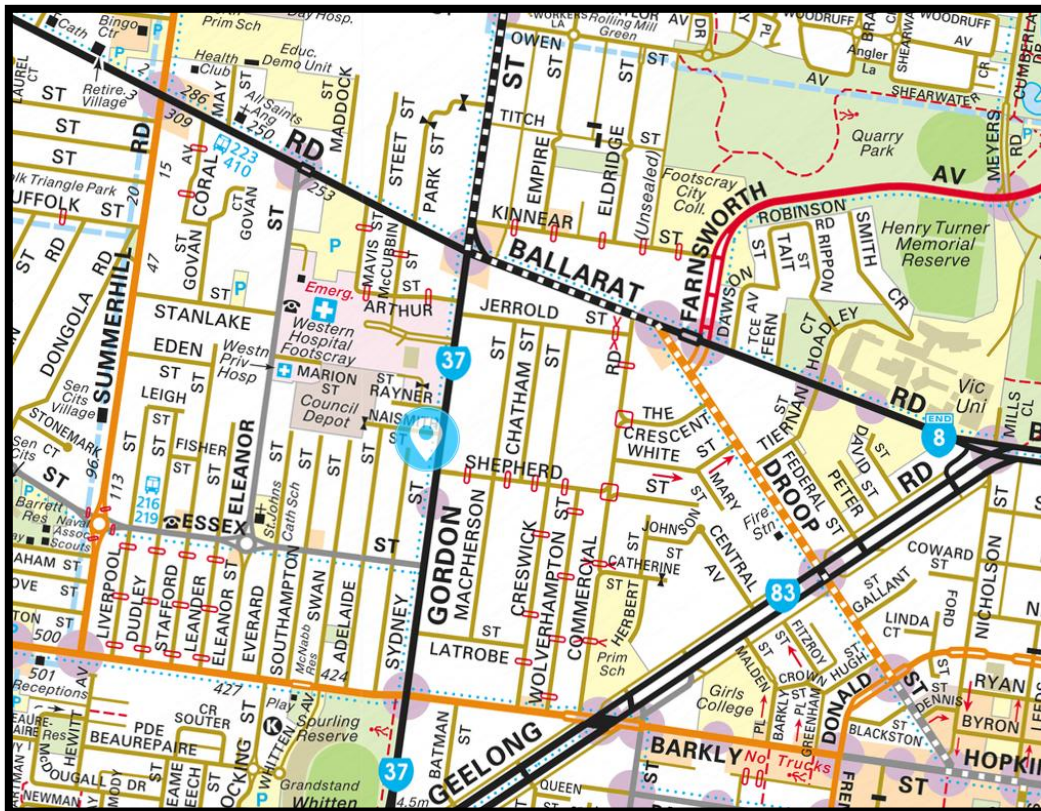


FIGURE 2: LOCALITY PLAN (MELWAYS ONLINE, ACCESSED APRIL 2026)

# 2. PROPOSAL

The proposal is to construct one single storey dwelling. The dwelling is modest with two bedrooms, study, an open place living / kitchen and ground level secluded private open space.

The dwelling has a front setback (excluding porch) of 4.5m to Gordon Street, is built to the northern and southern boundaries (in part), and a minimum 4m setback from the western boundary.

The dwelling has a skillion roof form with highlight windows to Naismith Street. The dwelling will be finished with a mix of high quality Hebel and Axon panel cladding.

Proposed site coverage is 67%, permeability is 32% and garden area is 33%.

A new canopy tree will be planted within the front setback of the proposed dwelling facing Gordon Street.



FIGURE 3 : EXTRACT OF SUBMISSION PLANS PREPARED BY WHITEROSE STUDIOS

# 3. PLANNING CONTROLS

## 3.1. Zoning

The subject land is located within the Housing Choice and Transport Zone – Schedule 2. The purpose of this zone is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide housing at increased densities around activity centres and well-served locations, close to employment, services and public transport.*
- *To encourage a scale of development that provides a transition between more intense development to lower-scale residential areas.*
- *To encourage a diversity of housing types and affordable housing.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

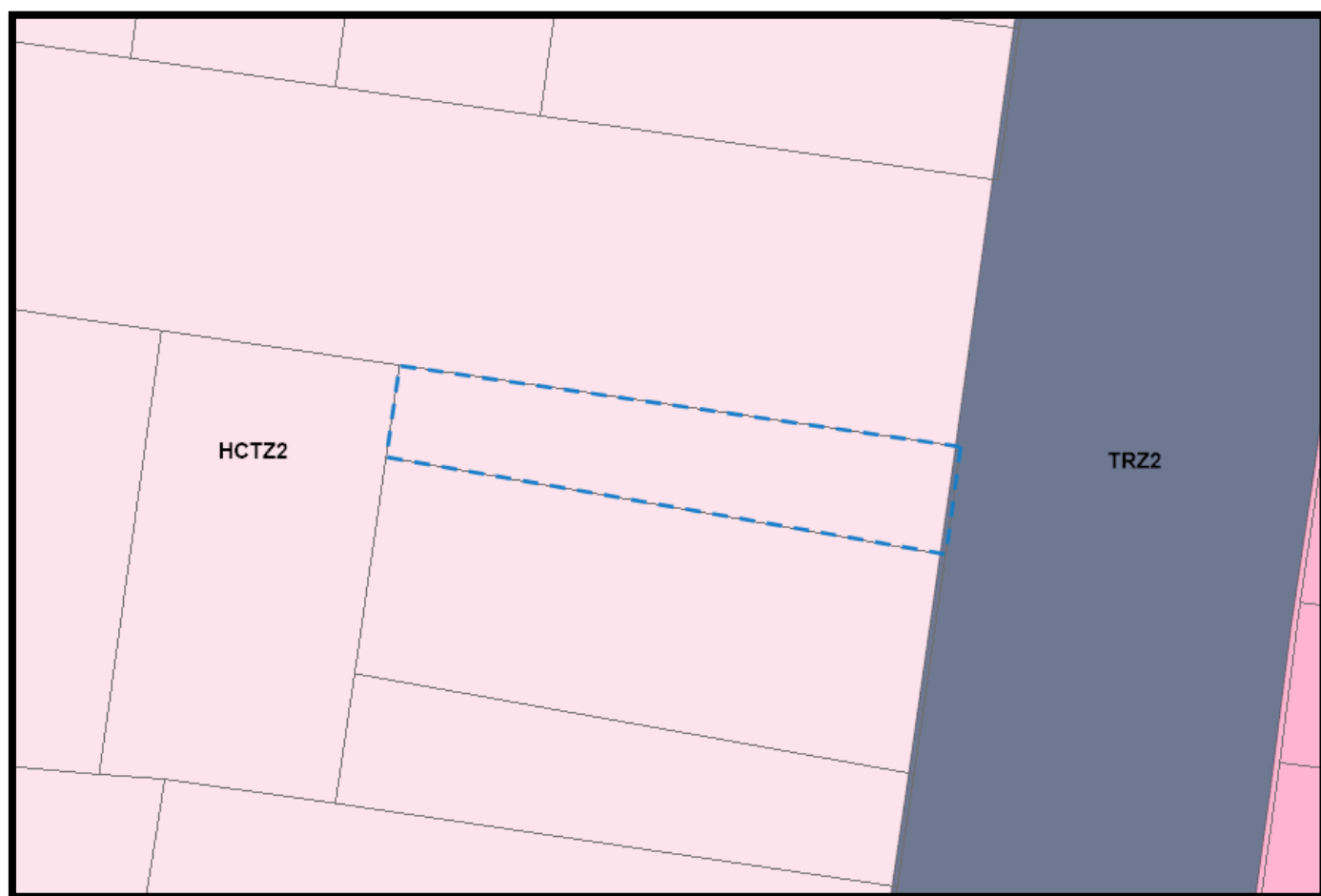


FIGURE 4: VIC PLAN ZONING MAP (ACCESSED 1 MAY 2026)

Use of the land for dwelling is as-of-right pursuant to Clause 32.10-1 of the Maribyrnong Planning Scheme.

Pursuant to Clause 32.10-3, a permit is triggered to construct one dwelling on a lot less than 300sqm.

A development must meet the requirements of Clause 54. Our assessment against Clause 54 is provided at **Appendix A**.

The proposed maximum height of 4.83m is well within the maximum height limits pursuant to Clause 32.10-8 which specifies a maximum height of 11m and 3 storey building height.

Pursuant to Clause 32.10-10, an application under clause 32.10-3 is exempt from the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act if all the applicable standards under clauses 54.02-1, 54.02-2, 54.02-3, 54.02-4, 54.02-5, 54.02-6, 54.02-7, 54.04 and 54.05-2 are met. However, as the proposal seeks minor variations to some of the relevant clauses listed, the proposal is exempt from third party review except in relation to standards A2-1 (street setback), A2-6 (tree canopy), A3-2 (private open space), A4-3 (overshadowing) and A5-4 (solar protection to north facing windows), and satisfies every Clause 54 Objective.

### 3.2. Overlays

#### Development Contributions Plan Overlay – Schedule 2

The subject site is affected by a Development Contributions Plan Overlay – Schedule 2 as shown below.

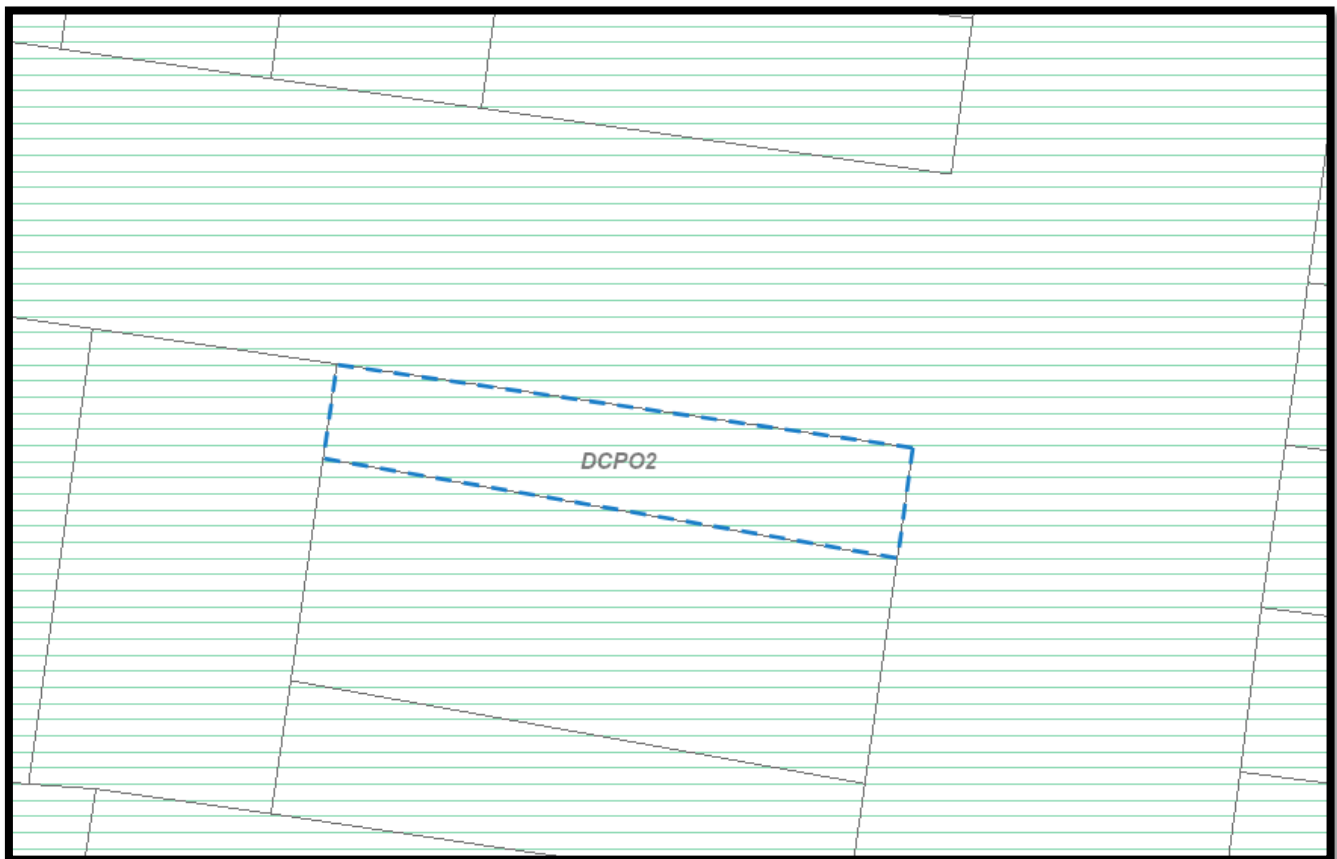


FIGURE 5: DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY – SCHEDULE 2 (VICPLAN, 1 MAY 2026)

The DCPO2 does not trigger a permit. The applicable contributions can be levied via a permit condition.

### 3.3. Particular Provisions

#### 3.3.1. Clause 52.06 – Car Parking

Pursuant to Clause 52.06-1, Clause 52.06 does not apply to the construction and use of one dwelling on a lot in the Housing Choice and Transport Zone.

#### 3.3.2. Clause 52.37 – Canopy Trees

There are no trees on the site. Clause 52.37 does not trigger a permit.

### 3.3.3. Clause 54 – ResCode (One Dwelling on a Lot)

The proposal to construct a single dwelling on a lot less than 300 squares requires an assessment against Clause 54 of the Maribyrnong Planning Scheme. Accordingly, the table provided below indicates the standards that have been met and the standards that require variations.

Based on the table below, our assessment of the submitted plans has revealed that ResCode Standard A2-1 (street setback), A3-2 (private open space) and A4-3 (Overshadowing) do not comply with the standards where variations are required. Following the table, this report includes a detailed discussion of the how the design response proposed appropriately achieves the relevant objective despite non-compliance with the minimum standard.

To support our requests for the relevant ResCode Standard variations, we refer to numerous VCAT decisions which provide commentary with respect to single dwelling developments on cheek-by-jowl sites such as *Meehan v Yarra CC [2023] VCAT 769 (10 July 2023)*, *Constantinou v Yarra CC [2025] VCAT 1108 (16 December 2025)*, *Di Mase v Yarra CC [2009] VCAT 1222 (23 June 2009)* & *Gillett v Yarra CC [2025] VCAT 335 (15 April 2025)*.

In summary, the decisions referenced above discuss and provide guidance to specify the nature of cheek-by-jowl compact lots already have limited opportunities to maintain space from boundaries. As such, reduced setbacks and overshadowing of private open space are typical conditions within these areas and not necessarily unacceptable outcomes. As such, please refer to the discussion section after the table below for full justification of the standard variations.

Please refer to **Appendix A** attached at the end of this report for the full assessment.

<b>Clause 54 Compliance Summary</b>		
<b>Standard</b>	<b>Deemed to Comply?</b>	<b>Exempt from Third Party Review?</b>
A2-1 - Street setback	Variation	Not Exempt
A2-2 - Building height	✓	Exempt
A2-3 - Side and rear setbacks	✓	Exempt
A2-4 - Walls on boundaries	✓	Exempt
A2-5 - Site coverage	✓	Exempt
A2-6 - Tree canopy	Variation	Not Exempt
A2-7 - Front fences	✓	Exempt
A3-1 – Street integration	✓	Exempt
A3-2 - Private open space	Variation	Not Exempt
A3-3 – Solar access to open space	✓	Exempt
A3-4 - Daylight to new windows	✓	Exempt
A4-1 - Daylight to existing windows	✓	Exempt
A4-2 - Existing north-facing windows	✓	Exempt
A4-3 - Overshadowing secluded open space	Variation	Not Exempt
A4-4 - Overlooking	✓	Exempt
A5-1 - Permeability	✓	Exempt
A5-2 - Overshadowing domestic solar energy systems	✓	Exempt
A5-3 – Rooftop solar energy generation area	✓	Exempt
A5-4 – Solar protection to new north facing windows	Variation	Not Exempt

## A2-1 - Street Setback

The subject site is located on the corner of Gordon Street and Naismith Street where the minimum front setbacks required to comply with ResCode Standard A2-1 are:

- Gordon Street (front) – 4.465m.
- Naismith Street (side) – 2m.

Respectively, the proposed development proposes a 3.8m setback from Gordon Street and no setback to Naismith Street. As such, the proposal does not meet the minimum setbacks prescribed pursuant to Clause 54.02-1 of the Maribyrnong Planning Scheme. Accordingly, a variation to the standard is sought, however we maintain the proposal achieves the following objective:

- *To ensure that the setbacks of buildings from a street respond to the existing or preferred neighbourhood character and make efficient use of the site.*

To demonstrate how the proposal achieves the objective above, we have considered the following decision guidelines in our response:

- *Any relevant neighbourhood character objective, policy or statement set out in this scheme.*
- *The design response.*
- *Whether the siting of the building is constrained by the shape, dimensions, slope or other conditions of the site.*
- *Whether a different setback would be more appropriate taking into account the prevailing setbacks of existing buildings on nearby lots.*
- *The visual impact of the building when viewed from the street and from adjoining properties.*
- *Whether a different setback affects the ability to retain or plant canopy trees.*

With respect to Neighbourhood Character, it is noted the subject site is zoned HCTZ where neighbourhood character policy is not applicable in the assessment of this application pursuant to Clause 15.01-5L of the Maribyrnong Planning Scheme. Notwithstanding this, the site is located within an established residential area generally characterised by a mix of single detached dwellings, multi-dwelling developments and narrow compact lots (cheek-by-jowl).

Noting the proposed 3.8m setback to Gordon Street, the skillion roof design of the proposed dwelling results in the front verandah exceeding 3.6m in height. Otherwise, the proposal incorporates a 4.5m setback to the front wall of the dwelling recessed within the entry verandah. The 4.5m setback recessed wall to Gordon Street demonstrates the design response has appropriately considered the adjoining southern setback and broader streetscape to ensure the building will not unreasonably disrupt the streetscape. When viewed from Gordon Street, the framing element of the design will appear as a lightweight architectural feature of the dwelling rather than an intrusive structure which would otherwise disruptively encroach into the streetscape.

Otherwise, the proposed setback of 3.8m continues to allow for adequate canopy tree planting within the front setback as demonstrated by the site plan and showing the planting of a canopy tree within the front setback.

To Naismith Street, the proposed development does not provide for any setback due to the width and size of the block. Noting the tapering width of the lot (5.18m – 6.1m), the incorporation of a 2m setback from Naismith Street is not a practical outcome given this would render any dwelling unusable if implemented as illustrated below.

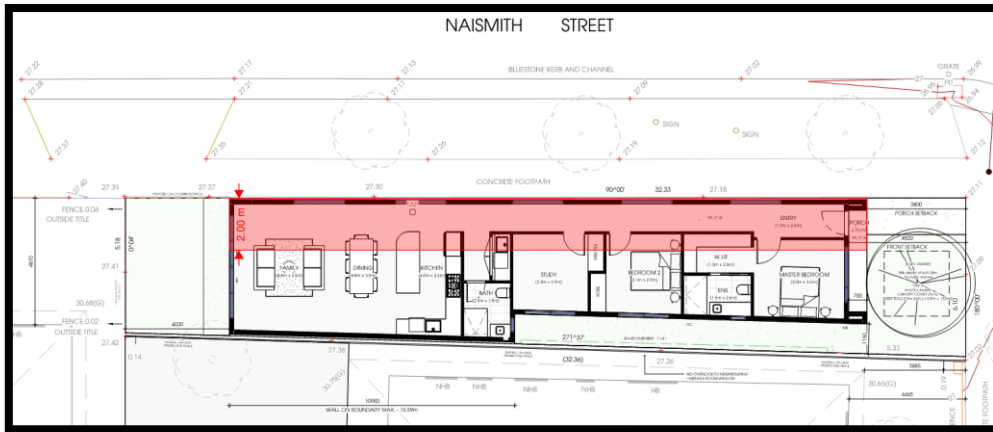


FIGURE 6: HIGHLIGHTED EXTENT OF 2M SIDE SETBACK REQUIRED FOR STANDARD COMPLIANCE

In addition to the site constraints, the previous dwelling was constructed with a wall on boundary to Naismith Street as shown below in historic aerial photographs. As such, the proposed wall on boundary is consistent with the historic streetscape conditions which ensures the proposed development will not unreasonably disrupt or change the streetscape rhythm.



FIGURE 7 : HISTORIC PHOTOGRAPHS OF THE SITE, AERIAL IMAGE (DATED SEPTEMBER 2020) GOOGLE STREET VIEW (DATED DECEMBER 2020)

Overall, a variation to the setbacks to Gordon and Naismith frontages are considered reasonable given the setback of the building appropriately responds to the character of the area while making efficient use of the site having regard to the site constraints. Therefore, a variation to the standard is reasonable.

## A2.6 – Tree Canopy

The proposed tree canopy planting standard requires two (2) canopy trees to be planted on site to meet the standard given the subject site is 182m<sup>2</sup> in size. As such, the proposal is partially non-compliant as the development proposes one (1) canopy tree within the front setback to Gordon Street. Accordingly, a variation is required to vary the standard pursuant to Clause 54.02-6 of the Maribyrnong Planning Scheme, however we maintain the proposal achieves the following objectives:

- *To provide tree canopy that responds to the neighbourhood character of the area and reduces the visual impact of buildings on the streetscape.*
- *To preserve existing canopy cover and support the provision of new canopy cover.*
- *To ensure new canopy trees are climate responsive, support biodiversity, wellbeing and amenity, and help reduce urban heat.*

To demonstrate how the proposal achieves the objective above, we have considered the following decision guidelines in our response:

- *Any relevant neighbourhood character objective, policy or statement set out in this scheme.*
- *The site context and design response.*
- *The extent to which the existing and proposed canopy trees contribute to a greener environment and reduce urban heat.*
- *Whether the growth characteristics of existing trees and proposed canopy trees will provide the required canopy cover.*
- *The suitability of the planting location, deep soil areas and planter soil volume for proposed canopy trees.*
- *Whether the species of canopy tree is suited to the soil conditions of the site.*
- *Whether an alternative combination of the canopy trees will provide the required canopy cover.*

The existing subject site is vacant and devoid of any existing vegetation. As such, there are no trees to retain or protect on the site. In addition, given the narrow nature of the lot, landscaping opportunities are limited in allowing for extensive planting within the front and rear of the site.

In consideration of the site constraints, a variation to allow for a single canopy tree in lieu of 2 trees is considered acceptable given the proposed centrally, unobstructed tree (euky dwarfy) proposed within the front setback will allow for an acceptable landscaping outcome as the species of tree will have a mature height (6m) greater than that of the overall height of the proposed building (4.83m). On this basis, the proposed canopy tree will appropriately provide a suitable landscaping outcome to the site commensurate to a single storey dwelling on a narrow lot.

With respect to potential planting at the back, we note any canopy tree planting to the rear is not feasible given this would reduce the overall useability of the small area of secluded private open space to the rear. In addition, any tree proposed within the rear would be unsuitable given the side and rear fencing obstructions.

On this basis, a variation to the standard is considered reasonable as the site will enjoy a well landscaped outcome without compromising the useability of the rear open space.



### **A4-3 – Overshadowing to Private Open Space**

Based on the shadow diagram plans provided between the hours of 9am – 3pm, there is a minor variation to the overshadowing standard pursuant to Clause 54.04-3 of the Maribyrnong Planning Scheme. The adjoining size of SPOS to the adjoining property at 190-190A Gordon Street is approximately 60.4m<sup>2</sup> where the proposal maintains at least 50% (minimum 30.2m<sup>2</sup>) of un-shadowed SPOS between the hours of 9am – 1pm (4 hours). At 2pm, the shadow model show the dwelling maintains 29m<sup>2</sup> of un-shadowed SPOS; as such the variation is 1.2sqm from the minimum 30.2sqm or 3.97%, and only at the 5<sup>th</sup> hour shadow model.

Accordingly, a minor variation to the standard is required as we maintain the proposal achieves the following objective:

- *To ensure buildings do not significantly overshadow existing secluded private open space.*

To demonstrate how the proposal achieves the objective above, we have considered the following decision guidelines in our response:

- *The design response.*
- *The impact on the amenity of existing dwellings or small second dwellings.*
- *Existing sunlight penetration to the secluded private open space of the existing dwelling or small second dwelling.*
- *The time of day that sunlight will be available to the secluded private open space of the existing dwelling or small second dwelling.*
- *The effect of a reduction in sunlight on the existing use of the existing secluded private open space.*

The proposed dwelling is single storey in scale with the SPOS sited to the rear. The siting and scale of the building has been designed to minimise the impact of shadows to the adjoining property to the south. This is achieved by siting the SPOS to the west which will largely match the siting location of SPOS of the adjoining property to the south to ensure continued unobscured solar access from the north. Furthermore, the skillion roof form of the development has been designed so the lowest point of the tapering roof is interfacing the adjoining area of SPOS to the south at 190-190A Gordon Street. This minimises shadows cast to 190-190A Gordon Street.

With respect to the extent of the variation sought, the remaining 29m<sup>2</sup> of unshadowed SPOS (required 30m<sup>2</sup>) to 190 Gordon Street at 2pm is only 1.2m<sup>2</sup> short of meeting the standard. In consideration of the minor non-compliance, the extent of overshadowing is considered negligible as this will not result in adjoining space being unusable. Therefore, a variation to the overshadowing standard is considered reasonable given the design has been carefully considered where the extent of overshadowing impact is not significant.

### **A5-4 - Solar protection to new north-facing windows objective**

The proposed dwelling's contemporary skillion roof design incorporates multiple north facing highlight windows. As such, a variation to the standard pursuant to Clause 54.05-4 of the Maribyrnong Planning Scheme is required given the highlight windows are not shaded by any shading devices. Despite the absence of shading devices, we maintain the proposal continues to achieve the following objective:

- *To encourage external shading of north facing windows to minimise summer heat gain.*

To demonstrate how the proposal achieves the objective above, we have considered the following decision guidelines in our response:

- *The design response.*
- *The size and orientation of the lot.*
- *The type and useability of external solar shading devices, including alternative design responses.*

Based on the orientation, size and functionality of the north facing highlight windows, a variation is reasonable to not allow for any external shading given the windows are only intended to allow for daylight into the rear living space and hallway. Based on the number of highlight windows and their respective small sizes, there will not result in any significant summer heat gain. As such any shading of the windows will only result in the reduction of internal amenity which is considered unnecessary as the current design response appropriately balances energy efficiency and internal amenity.

# CONCLUSION

The proposal satisfies every Clause 54 (ResCode) standard except Standards A2-1 (street setback), A2-6 (tree canopy), A3-2 (private open space), A4-3 (overshadowing) and A5-4 (solar protection to north facing windows), and satisfies every Clause 54 Objective. For the reasons set out in this report, a planning permit should be issued.

# APPENDIX A – CLAUSE 54 RESCODE ASSESSMENT

# Appendix A

## CLAUSE 54 ASSESSMENT –One dwelling on a lot

	Clause	Standard	Application Response	Deemed to comply? Y/N
<b>APPLICATION REQUIREMENTS</b>	Clause 54.01	<p>An application to which this clause applies must be accompanied by:</p> <ul style="list-style-type: none"> <li>▪ A site description.</li> <li>▪ A design response.</li> <li>▪ A written statement outlining which standards are met and which are not met. If a standard is not met, the written statement must include an explanation of how the development meets the corresponding objective having regard to the corresponding decision guidelines.</li> </ul>	<p>Refer to the Survey Plan and the Town Planning Drawings for the site and neighbourhood description and design response.</p> <p>This report assesses the proposal against the standards and where relevant the objectives.</p>	Yes
<b>Site description</b>	Clause 55.01-1	<p>The neighbourhood and site description may use a site plan, photographs or other techniques and must accurately describe:</p> <ul style="list-style-type: none"> <li>▪ The built form, scale and character of surrounding development including front fencing.</li> <li>▪ Site shape, size, orientation and easements.</li> <li>▪ Levels of the site and the difference in levels between the site and surrounding properties.</li> <li>▪ The location of existing buildings on the site and on surrounding properties, including the location and height of walls built to the boundary of the site.</li> <li>▪ The use of surrounding buildings.</li> <li>▪ The location of secluded private open space and habitable room windows of surrounding properties which have an outlook to the site within 9 metres.</li> <li>▪ Solar access to the site and to surrounding properties.</li> <li>▪ Location of existing trees 5 metres in height or greater, with a trunk circumference of 0.5 metres or greater at 1.4 metres above ground level, on the site.</li> <li>▪ Any cut and filled areas of soil, where known.</li> <li>▪ Street frontage features such as poles, services, street trees and kerb crossovers.</li> <li>▪ The location of any existing domestic solar energy system on the roof of a dwelling, apartment development or residential building on surrounding properties.</li> </ul> <p>If in the opinion of the responsible authority a requirement of the site description is not relevant to the evaluation of an application, the responsible authority may waive or reduce the requirement.</p>	Refer to the Survey Plan and Section 2 of this report.	Yes

<b>Design response</b>	Clause 54.01-2	<p>The design response must explain how the proposed design derives from and responds to the site description.</p> <p>The design response must include correctly proportioned street elevations or photographs showing the development in the context of adjacent buildings.</p> <p>The design response must include a landscape plan that details the proposed:</p> <ul style="list-style-type: none"> <li>▪ Retention and planting of canopy trees.</li> <li>▪ Planting of other vegetation including location, species, number and size at maturity of vegetation.</li> <li>▪ Where required, areas of deep soil and root barriers.</li> <li>▪ Irrigation system to support existing and planted vegetation including details of any alternative water supply sources.</li> <li>▪ Selection of vegetation that responds to the site's environment and geographic factors.</li> </ul> <p>If in the opinion of the responsible authority a design response requirement is not relevant to the evaluation of an application, it may waive or reduce the requirement.</p>	Please refer to the town planning drawings and this planning report for the design response.	Yes
<b>NEIGHBOURHOOD CHARACTER</b>				
<b>Street setback</b>	Clause 54.02-1 [Standard A2-1]	<p><b>Standard A2-1</b></p> <p>Walls of buildings are set back from streets:</p> <ul style="list-style-type: none"> <li>• At least the distance specified in a schedule to the zone if the distance specified in the schedule is less than the distance specified in Table A2-1; or</li> <li>• If no distance is specified in a schedule to the zone, the distance specified in Table A2-1.</li> </ul> <p>Porches, pergolas and verandahs that are less than 3.6 metres high and eaves may encroach not more than 2.5 metres into the setbacks of this standard.</p>	<p><b>Variation Required.</b></p> <p>No 190 Gordon Street has a front setback of 4.465m. The proposed dwelling has a front setback (excluding the porch) of 4.5m, however, the porch exceeds 3.6m height and therefore the setback is technically 3.8m to Gordon Street.</p> <p>To Naismith Street, the zero lot setback varies standard A2-1.</p> <p>Please refer to Section 3 of this report for the full assessment in justifying a variation.</p>	No
<b>Building height</b>	Clause 54.02-2 [Standard A2-2]	<p><b>Standard A2-2</b></p> <p>The maximum building height does not exceed the maximum height specified in the zone, schedule to the zone or an overlay that applies to the land.</p>	The proposed maximum height of 4.83m satisfies Clause 32.10-8 for a maximum 11m and 3 storey building height.	Yes

		If no maximum height is specified in the zone, schedule to the zone or an overlay, the maximum building height does not exceed 9 metres, unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more, in which case the maximum building height does not exceed 10 metres.		
<b>Side and rear setbacks</b>	Clause 54.02-3 [Standard A2-3]	<p><b>Standard A2-3</b></p> <p>A new building not on or within 200mm of a boundary is set back from side or rear boundaries at least 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.</p> <p>Sunblinds, verandahs, porches, eaves, facias, gutters, masonry chimneys, flues, pipes, domestic fuel or water tanks, and heating or cooling equipment or other services may encroach not more than 0.5 metres into the side and rear setbacks.</p> <p>Landings that have an area of not more than 2 square metres and less than 1 metre high, stairways, ramps, pergolas, shade sails and carports may encroach into the side and rear setbacks.</p>	The single storey walls are setback sufficiently from the south and west boundaries to easily satisfy Standard A2-3.	Yes
<b>Walls on boundaries</b>	Clause 54.02-4 [Standard A2-4]	<p><b>Standard A2-4</b></p> <p>A new wall constructed on or within 200mm of a side or rear boundary of a lot or a carport constructed on or within 1 metre of a side or rear boundary of a lot does not abut the boundary for a length that exceeds the greater of the following distances:</p> <ul style="list-style-type: none"> <li>• 10 metres plus 25 per cent of the remaining length of the boundary of an adjoining lot, or</li> <li>• The length of existing or simultaneously constructed walls or carports abutting the boundary on an abutting lot.</li> </ul> <p>A new wall or carport may fully abut a side or rear boundary where slope and retaining walls or fences would result in the effective height of the wall or carport being less than 2 metres on the abutting property boundary.</p> <p>A building on a boundary includes a building set back up to 200mm from a boundary.</p> <p>The height of a new wall constructed on or within 200mm of a side or rear boundary or a carport constructed on or within 1 metre of a side or rear boundary does not exceed an average of 3.2 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.</p>	The dwelling's wall on the south boundary has a length of 10.98m, an average wall height of 3.05m and maximum wall height of 3.12m, satisfying Standard A2-4.	Yes

<p><b>Site coverage</b></p>	<p>Clause 54.02-5 [Standard A2-5]</p>	<p><b>Standard A2-5</b></p> <p>The site area covered by buildings does not exceed:</p> <ul style="list-style-type: none"> <li>• The maximum site coverage specified in a schedule to the zone; or</li> <li>• If no maximum site coverage is specified in a schedule to the zone, the percentage specified in Table A2-5.</li> </ul> <p>If the maximum site coverage is specified in a schedule to a zone, it must be greater than the percentage specified in Table A2-5.</p>	<p>Site coverage is 66% satisfying Clause 54.02-5 for a maximum 70%.</p>	<p>Yes</p>								
<p><b>Tree canopy</b></p>	<p>Clause 54.02-6 [Standard A2-6]</p>	<p><b>Standard A2-6</b></p> <p>Provide a minimum number of trees as specified in Table A2-6.</p> <table border="1" data-bbox="705 555 1258 858"> <caption>Table A2-6 Minimum tree requirement</caption> <thead> <tr> <th>Site area</th> <th>Tree</th> </tr> </thead> <tbody> <tr> <td>100 square metres or less</td> <td>One tree</td> </tr> <tr> <td>Above 100 square metres to 200 square metres</td> <td>Two trees</td> </tr> <tr> <td>Above 200 square metres to 300 square metres</td> <td>Three trees</td> </tr> </tbody> </table> <p>A tree must meet the following:</p> <ul style="list-style-type: none"> <li>• Reach a height of at least 6 metres at maturity.</li> <li>• Achieve a canopy width of at least 4 metres at maturity.</li> <li>• Planted in a minimum deep soil area of 12 square metres with a minimum plan dimension 2.5 metres or in a planter with a minimum volume of 12 cubic metres with a minimum depth of 0.8 metres of planter soil.</li> </ul> <p>Existing trees to be retained meet all of the following:</p> <ul style="list-style-type: none"> <li>• Has a height of at least 5 metres,</li> <li>• Has a trunk circumference of 0.5 metres or greater at 1.4 metres above ground level,</li> <li>• Has a trunk that is located at least 4 metres from proposed buildings.</li> </ul>	Site area	Tree	100 square metres or less	One tree	Above 100 square metres to 200 square metres	Two trees	Above 200 square metres to 300 square metres	Three trees	<p>The proposal provides one (1) canopy tree on the site plan within the front setback of the proposed dwelling.</p> <p>Please refer to the Section 3 of this report for discussion on the justification for a variation.</p>	<p>No</p>
Site area	Tree											
100 square metres or less	One tree											
Above 100 square metres to 200 square metres	Two trees											
Above 200 square metres to 300 square metres	Three trees											

		<p>Existing trees that are retained can be used to satisfy the tree canopy requirement.</p> <p>Any tree required to be planted under this standard must be of species to the satisfaction of the responsible authority, having regard to the location and relevant geographic factors.</p> <p>Existing trees to be retained meet all of the following:</p> <ul style="list-style-type: none"> <li>▪ Has a height of at least 5 metres,</li> <li>▪ Has a trunk circumference of 0.5 metres or greater at 1.4 metres above ground level,</li> <li>▪ Has a trunk that is located at least 4 metres from proposed buildings.</li> </ul> <p>The minimum canopy cover is met using any combination of trees specified in Table B2-7.2. refer clause for detail.</p> <p>Existing trees that are retained can be used in calculating canopy cover.</p> <p>Provide at least one new or retained tree in the front setback and the rear setback.</p> <p>Trees are located in either:</p> <ul style="list-style-type: none"> <li>▪ An area of deep soil as specified in Table B2-7.2; or</li> <li>▪ A planter as specified in Table B2-7.2.</li> </ul> <p>Any tree required to be planted under this standard must be of species to the satisfaction of the responsible authority, having regard to the location and relevant geographic factors.</p>		
<p><b>Front fences</b></p>	<p>Clause 54.02-7 [Standard A2-7]</p>	<p><b>Standard A2-7</b></p> <p>A front fence within 3 metres of a street is:</p> <ul style="list-style-type: none"> <li>▪ The maximum height specified in a schedule to the zone, or</li> <li>▪ If no maximum height is specified in a schedule to the zone, the maximum height specified in Table A2-7.</li> </ul>	<p>No front fence is proposed</p>	<p>Yes</p>

Table A2-7 Maximum front fence height				
		Street context	Maximum front fence height	
		Streets in a Transport Zone 2	2 metres	
		Other streets	1.5 metres	

LIVEABILITY				
<b>Street integration</b>	Clause 54.03-1 [Standard A3-1]	<p><b>Standard A3-1</b></p> <p>Where a development fronts a street, a vehicle accessway or abuts public open space, passive surveillance is provided by a direct view from a balcony or a habitable room window to each street, vehicle accessway and public open space.</p> <p>This standard does not apply to a small second dwelling.</p>	<p>The proposed dwelling fronts Gordon Street and is designed so the Master Bedroom window is directly facing Gordon Street.</p> <p>The standard is met.</p>	Yes
<b>Private open space</b>	Clause 54.03-2 [Standard A3-2]	<p><b>Standard A3-2</b></p> <p>A dwelling or small second dwelling has private open space of an area and dimensions specified in a schedule to the zone.</p> <p>If no area or dimension is specified in a schedule to the zone, a dwelling has private open space with direct access from a living area, dining area or kitchen consisting of:</p> <ul style="list-style-type: none"> <li>An area of 20 per cent of the area of the lot, but not less than 25 square metres. At least one part of the private open space consists of secluded private open space with a minimum area of 25 square metres and a minimum dimension of 3 metres width; or</li> <li>A balcony with at least the area and dimensions specified in Table A3-2; or</li> <li>An area on a roof of at least 10 square metres, with a minimum dimension of 2 metres width.</li> </ul>	<p><b>Variation Required.</b></p> <p>Dwelling 1 is provided with a SPOS area of 21sqm with a minimum width of 4m. The proposal does not meet the minimum requirements to comply with the standard.</p> <p>However, as discussed above in Section 3 of this report, a variation to the standard is considered reasonable given the proposal achieves the objective.</p> <p>Please refer to Section 3 of this report for the assessment.</p>	No

		<p>If the area and dimensions of the private open space or secluded private open space is specified in a schedule to the zone;</p> <ul style="list-style-type: none"> <li>• The area and dimensions specified for private open space and secluded private open space must be less than the area and dimensions specified in this standard, and</li> <li>• The area and dimensions specified for a balcony or an area on a roof must be less than the area and dimensions specified in this standard.</li> </ul> <p>A small second dwelling has a secluded private open space consisting of an area of 8 square metres with a minimum dimension of 1.6 metres and convenient access from a living area, dining area or kitchen.</p> <p>If a cooling or heating unit is located in the secluded private open space or private open space the required area is increased by 1.5 square metres.</p> <p>Where ground level private open space is provided an area for clothes drying is provided.</p>		
<b>Solar access to open space</b>	<p>Clause 54.03-3 [Standard A3-3]</p>	<p><b>Standard A3-3</b></p> <p>The southern boundary of secluded private open space is set back from any wall on the north of the space at least <math>(2 + 0.9h)</math> metres, where 'h' is the height of the wall.</p>	<p>There are no walls on the northern boundary of the SPOS.</p>	<p>Yes</p>
<b>Daylight to New Windows</b>	<p>Clause 54.03-4 [Standard A3-4]</p>	<p><b>Standard A3-4</b></p> <p>A window in an external wall of the building is provided to all habitable rooms.</p> <p>Habitable rooms in a dwelling have a window that faces:</p> <ul style="list-style-type: none"> <li>• An outdoor space clear to the sky or a light court with a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky, not including land on an abutting lot; or</li> <li>• A verandah provided it is open for at least one third of its perimeter; or</li> <li>• A carport provided it has two or more open sides and is open for at least one third of its perimeter.</li> </ul>	<p>Each new window will have an outdoor area of 3 square metres clear to the sky with a minimum dimension of 1 metre clear to the sky.</p>	<p>Yes</p>
<b>EXTERNAL AMENITY</b>				

Daylight to existing windows	Clause 54.04-1 [Standard A4-1]	<p><b>Standard A4-1</b></p> <p>Buildings opposite an existing habitable room window provide for a light court to the existing window that has a minimum area of 3 square metres and minimum dimension of 1 metre clear to the sky. The calculation of the area may include land on the abutting lot.</p> <p>Walls or carports more than 3 metres in height opposite an existing habitable room window are set back from the window at least 50 per cent of the height of the new wall if the wall is within a 55 degree arc from the centre of the existing window. The arc may be swung to within 35 degrees of the plane of the wall containing the existing window.</p> <p>Where the existing window is above ground floor level, the wall height is measured from the floor level of the room containing the window.</p>	<p>No 190-190A Gordon Street contains one existing habitable room window facing the site. A light court of at least 3sqm with a minimum dimension of 1m is maintained and new walls are setback at least 50% of the wall height.</p> <p>The standard is met.</p>	Yes
Existing north-facing windows	Clause 54.04-2 [Standard A4-2]	<p><b>Standard A4-2</b></p> <p>Where a north-facing habitable room window of a neighbouring dwelling or small second dwelling is within 3 metres of a boundary on an abutting lot, a new building is to be set back from the boundary by at least 1 metre, plus 0.6 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres. This setback is to be provided for a distance of at least 3 metres from the edge of each side of the window.</p> <p>For this standard a north-facing window is a window with an axis perpendicular to its surface oriented from north 20 degrees west to north 30 degrees east.</p>	<p>The adjoining property at 190-190A Gordon Street to the south of the subject site only has one (1) north facing habitable room window.</p> <p>The proposed building has a wall height less than 3.6m and is setback minimum 1.15m for a length of 3m on either side of the window from the common boundary to ensure compliance.</p>	Yes
Overshadowing secluded open space	Clause 54.04-3 [Standard A4-3]	<p><b>Standard A4-3</b></p> <p>The area of secluded private open space that is not overshadowed by the new development is greater than 50 per cent, or 25 square metres with a minimum dimension of 3 metres, whichever is the lesser area, for a minimum of five hours between 9 am and 3 pm on 22 September.</p> <p>If existing sunlight to the secluded private open space of an existing dwelling or small second dwelling is less than the requirements of this standard, the amount of sunlight will not be further reduced.</p>	<p>The proposal only marginally does not comply with the relevant standard. Please refer to the Clause 54 Section for full details.</p> <p>However a variation is considered reasonable given the design response appropriate satisfies the objective.</p>	No.
Overlooking	Clause 54.04-4 [Standard A4-4]	<p><b>Standard A4-4</b></p> <p>In Clause 54.04-4 a habitable room does not include a bedroom.</p>		Yes

A habitable room window, balcony, podium, terrace, deck or patio is located and designed to avoid direct views into the secluded private open space of an existing dwelling or small second dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio. Views are measured within a 45 degree angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7 metres above floor level.

A habitable room window, balcony, terrace, deck or patio that is located with a direct view into a habitable room window of an existing dwelling or small second dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio:

- Is offset a minimum of 1.5 metres from the edge of one window to the edge of the other; or
- Has sill heights of at least 1.7 metres above floor level; or
- Has fixed, obscure glazing in any part of the window below 1.7 metre above floor level; or
- Has permanently fixed external screens to at least 1.7 metres above floor level and be no more than 25 per cent transparent; or
- Has fixed elements that prevent the direct view, such as horizontal ledges or vertical fins.

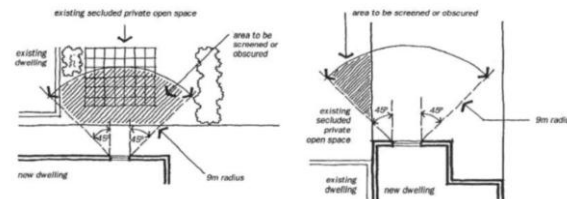
Obscure glazing in any part of the window below 1.7 metres above floor level may be operable provided that there are no direct views as specified in this standard.

Screens used to obscure a view are:

- Perforated panels or trellis with a maximum of 25 per cent openings or solid translucent panels.
- Permanent, fixed and durable.
- Designed and coloured to blend in with the development.

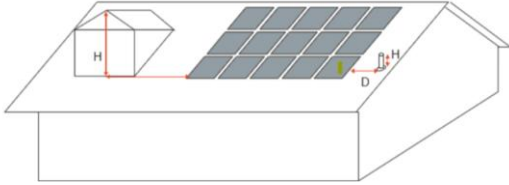
This standard does not apply to a new habitable room window, balcony, terrace, deck or patio which faces a property boundary where there is a visual barrier at least 1.8 metres high and the floor level of the habitable room, balcony, terrace, deck or patio is less than 0.8 metres above ground level at the boundary.

**Diagram A4-4 Overlooking**



The boundary fencing is currently occupied by a 1.8m high steel fence which ensures overlooking from the single storey dwelling is limited in accordance with Standard A4-4.

SUSTAINABILITY				
<b>Permeability</b>	Clause 54.05-1 [Standard A5-1]	<b>Standard A5-1</b> The site area covered by the pervious surfaces is at least 20 percent of the site.	The permeability is 32% of the site, exceeding the minimum 20%.	Yes
<b>Overshadowing domestic solar energy systems</b>	Clause 54.05-2 [Standard A5-2]	<b>Standard AB5-2</b> Any part of a new building that will reduce the sunlight at any time between 9 am and 4 pm on 22 September to an existing domestic solar energy system on the roof of a building on an adjoining lot be set back from the boundary to that lot by at least 1 metre at 3.6 metres above ground level, plus 0.3 metres for every metre of building height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.  This standard applies to an existing building in a Township Zone, General Residential Zone or Neighbourhood Residential Zone.  In Clause 54.05-2 domestic solar energy system means a domestic solar energy system that existed at the date the application was lodged.	The single storey dwelling will not cast shadows to the domestic solar energy systems on any surrounding dwellings.  In addition, there are no existing domestic solar energy facilities surrounding the subject site.	Yes
<b>Rooftop solar energy generation area</b>	Clause 54.05-3 [Standard A5-3]	<b>Standard A5-3</b> In Clause 54.05-3 rooftop solar energy area means an area provided on the roof of a dwelling to enable the future installation of a solar energy system.  An area on the roof is capable of siting a rooftop solar energy area for each dwelling which: <ul style="list-style-type: none"> <li>▪ Has a minimum dimension of 1.7 metres.</li> <li>▪ Has a minimum area in accordance with Table A5-3.</li> <li>▪ Is oriented to the north, west or east.</li> <li>▪ Is positioned on the top two thirds of a pitched roof.</li> <li>▪ Can be a contiguous area or multiple smaller areas.</li> <li>▪ Is free of obstructions on the roof of the dwelling within twice the height of each obstruction (H), measured horizontally (D) from the centre point of the base of the obstruction to the nearest point of the rooftop solar energy area.</li> </ul>	26m <sup>2</sup> of roof space has been illustrated on the roof plan as being allocated for roof top solar energy generation.	Yes

		<p><b>Diagram A5-3 Allowable distance between obstructions and the rooftop solar energy area</b></p>  <p>Obstructions located south of all points of the rooftop solar energy area are not subject to the horizontal distance requirements.</p> <p><b>Table A5-3 Minimum rooftop solar energy generation area.</b></p> <table border="1" data-bbox="707 507 1267 703"> <thead> <tr> <th>Number of bedrooms</th> <th>Minimum roof area</th> </tr> </thead> <tbody> <tr> <td>1 bedroom dwelling</td> <td>15 square metres</td> </tr> <tr> <td>2 or 3 bedroom dwelling</td> <td>26 square metres</td> </tr> <tr> <td>4 or more bedroom dwelling</td> <td>34 square metres</td> </tr> </tbody> </table> <p>This standard does not apply to a small second dwelling.</p>	Number of bedrooms	Minimum roof area	1 bedroom dwelling	15 square metres	2 or 3 bedroom dwelling	26 square metres	4 or more bedroom dwelling	34 square metres		
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<p><b>Solar protection to new north facing windows</b></p>	<p>Clause 54.05-4 [Standard A5-4]</p>	<p><b>Standard A5-4</b></p> <p>North facing windows are shaded by eaves, fixed horizontal shading devices or fixed awnings with a minimum horizontal depth of 0.25 times the window height.</p> <p>This standard does not apply to a small second dwelling.</p>	<p>The north facing highlight windows are small and are only intended to allow for limited solar access into the proposed living spaces.</p> <p>As such, no shading devices or fixed awnings are proposed and a variation is required.</p> <p>Please refer to the ResCode discussion section of this report for full details.</p>	<p>No</p>								

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