

Assessment Officer Report

PA2403256 – 79 Balwyn
Road, Balwyn.
Fintona Girls School



Officer Assessment Report
Development Approvals & Design



Department
of Transport
and Planning

OFFICIAL



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Executive Summary



Key Information	Details		
Application No:	PA2403256		
Received:	7 October 2024		
Statutory Days:	4		
Applicant:	Fintona Girls School c/- Ratio		
Planning Scheme:	Boroondara		
Land Address:	79 Balwyn Road, Balwyn		
Title:	Volume 06172 Folio 276 Volume 09757 Folio 111		
Encumbrances, Caveats and Notices	Agreement – Section 52A Town and Country Planning Act 1961 – M812160A Agreement – Section 173 Planning and Environment Act 1987 – AE774575U		
Proposal:	Buildings and works for the construction of a new performing arts centre in associated with an existing education facility.		
Development Value:	\$ 20 m		
Why is the Minister responsible?	In accordance with the schedule to Clause 72.01 of the Stonnington Planning Scheme, the Minister for Planning is the Responsible Authority for this application because it is for the development of school building that is ancillary to, carried out in conjunction with and on the same land or contiguous land in the same ownership as a primary school or secondary school as the estimated cost is greater than \$3 million.		
Why is a permit required?	Clause	Control	Trigger
Zone:	Clause 32.09	Neighbourhood Residential Zone Schedule 1 (NRZ1) Neighbourhood Residential Zone Schedule 3 (NRZ3)	<i>Construct a building or construct or carry out works</i>
Overlays:	Clause 43.02	Design and Development Overlay Schedule 2 (DDO2)	N/A
	Clause 43.01	Heritage Overlay Schedule 169	N/A
Particular Provisions:	Clause 52.06	Car Parking	N/A
Cultural Heritage:	A CHMP is not required.		
Total Site Area:	3984	m ² (Area for proposed works within the school grounds)	
Height:	3	Storeys excluding plant	
	17.4	Metres excluding plant	
Parking:	Cars	Motorcycles	Bicycles
	49		8
Referral Authorities:	Boroondara City Council (informal)		
Public Notice:	Notice of the application under section 52 of the Act was not required because: <i>If a development plan has been prepared to the satisfaction of the Responsible Authority, an</i>		



application under any provision of this planning scheme is exempt from the notice requirements of Section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

Delegates List: Not required



Application Process

1. The school was founded in 1896 and has had construction of multiple new buildings and extensive planning permit history. Multiple Planning Permits have been issued by City of Boroondara Council over a period of time, including the current Masterplan which was endorsed in 2017.
2. The key milestones in the application process were as follows:

Milestone	Date
Pre-application meeting (DTP & applicant)	4 September 2024
Application lodgement	7 October 2024
S50 Amendment	24 January 2025
Decision Plans	Plans prepared by COX Architects , titled ' FGS Performing Arts Centre ' and dated 08/08/2024
Other Assessment Documents	<ul style="list-style-type: none">• Landscape Plan prepared by Papworth Design, dated 20/09/2024• Acoustic logic, prepared by Acoustic Logic, Rev. 1, dated 01/10/2024• Arboricultural Impact Assessment Report, prepared by Howell, Ver. 1, dated 01/10/2024• Stormwater Management Plan, prepared by MCG Consult Pty Ltd, Rev. A, dated 25 September 2024• Sustainability Management Plan, prepared by Blue Bee, dated 2 October 2024• Transport Impact Assessment, prepared by Ratio, dated 3 October 2024

3. The subject of this report is the decision plans (as described above).

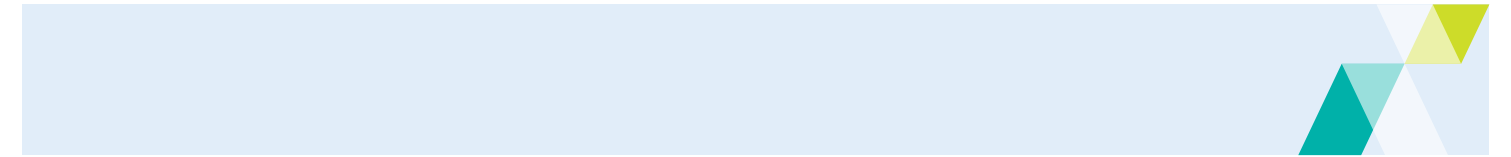
S50 Amendment

4. A s50 Amendment has been submitted for the application providing updated information pertaining to the titles associated with the subject site and the parcel of land on which the new performing arts centre will be located.
5. The titles originally lodged with the application included the following covenants which provided clear restrictions to any buildings proposed to be constructed as part of the school.

Covenant – 1671397, 1581939, 1554968

'the said Lot hereby transferred or any part of parts thereof covenants with the said Francil Mark Syme and David York Syme their heirs executors and administrators and also as a separate covenant with every registered proprietor for the time being of any lot on the said Plan of Subdivision: -

- a) *That no buildings now erected or to be erected on the land hereby transferred shall be used by her or them as a church convent – school mission residence for clergy or teachers or any other body or class of persons Refuge Orphanage Hospital Home Laundry Club Institution or Enterprise otherwise than for a Girls' School conducted according to the teachings of the Protestant faith or otherwise than aforesaid by any Society or Organization whether conducted by individuals or associations or in any other way which shall have for its aims or objects the making or doing of any works or things conducive directly or indirectly to the aims and objects of any religion or any political or social creed or for aiding or furthering the work thereof and otherwise than aforesaid no such building shall be used by her or them for public entertainment of any kind or for charitable education and/or business purposes of any kind.*

- 
- b) *That no building or buildings other than a detached private dwelling house or houses with the usual offices thereto shall at any time be erected or placed on the land hereby transferred and no such buildings shall be constructed of any material other than brick or concrete or be roofed with materials other than slates or tiles.*
- c) *That no such detached private dwelling house with the usual offices thereto (inclusive of outbuildings) shall be of a less value than eight hundred pounds each and such value shall be the actual cost of labour and material alone and any question as to value shall be conclusively settled by the transferors' architect or surveyor and no such buildings shall be used otherwise than as and for a private residence.'*
6. The applicants have undertaken legal obligations to remove the restrictive covenant, with all legal beneficiaries having signed a Deed of Covenant Release which was registered at the Titles office.
7. New titles have been issued and provided as part of the s50 amendment documents, these titles are clear of any restrictive covenants.

Proposal Summary

8. Planning Permit application PA2403256 proposes to demolish a single storey dwelling located on school grounds, tree removal and removal of the south and north car parks accessed via the Cherry Road frontage for the construction of a new performing arts centre.
9. Specific details of the application include:
- Demolition of single storey residence.
 - Removal of south car park (18 car spaces)
 - Removal of the north car park (25 car spaces)
 - Removal of Trees 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 and 39 as identified in the submitted arborist report.
 - Removal of 3 crossovers to Cherry Street.
 - Construction of one new crossover to Cherry Street.
 - Construction of new Performing Arts Centre including:
 - Basement containing 49 car parking spaces and 8 bicycle spaces, loading area, lift lobby and stairs.
 - Ground floor containing stage, auditorium, bathrooms, music classrooms, drama classrooms, costume and props store, studio, foyer, staff workroom and kitchen.
 - First floor containing a variety of music workrooms, ensemble room and plan services yard.
 - Roof including solar panels.
 - Maximum building height of 17.4m.
 - Comprehensive landscaping plan.
10. The applicant has provided the following concept images of the proposal:

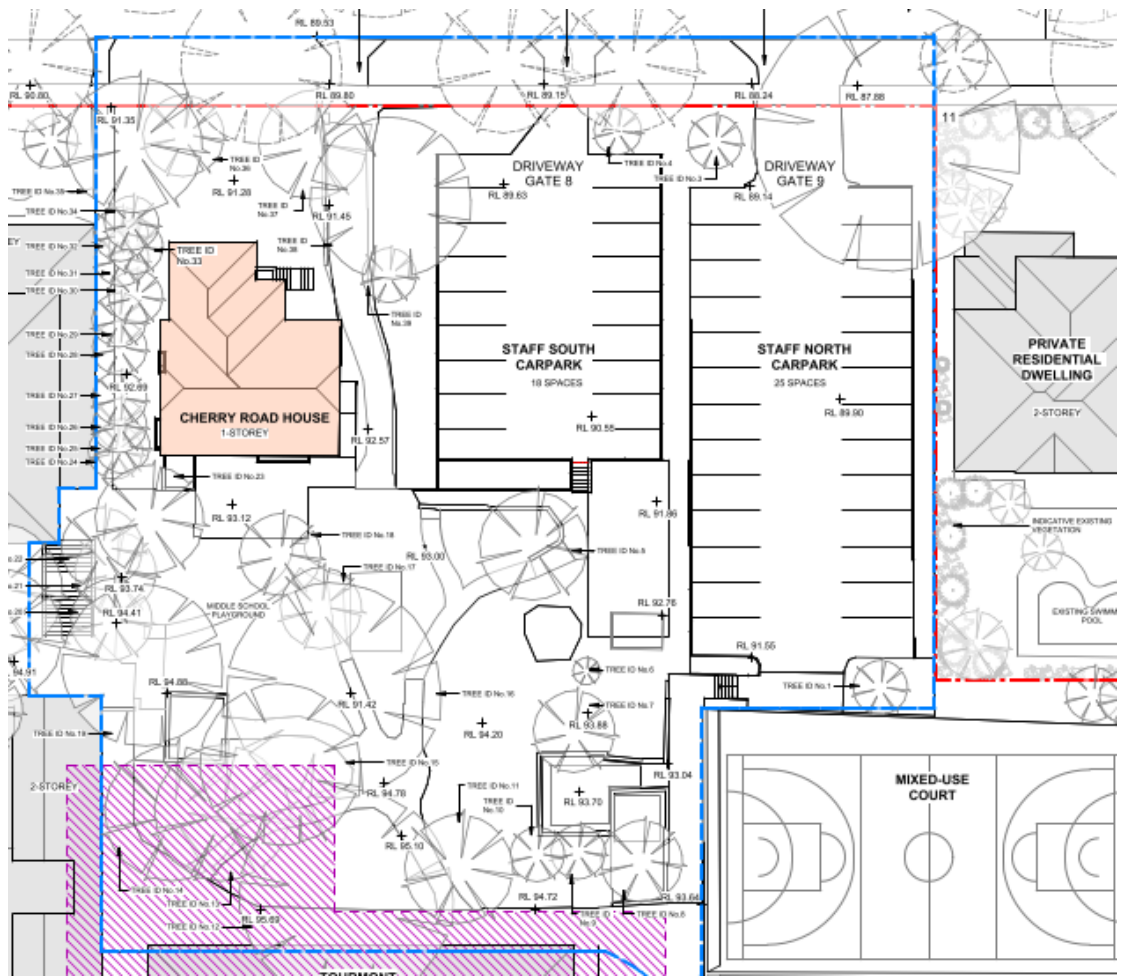


Figure 1: Existing site conditions

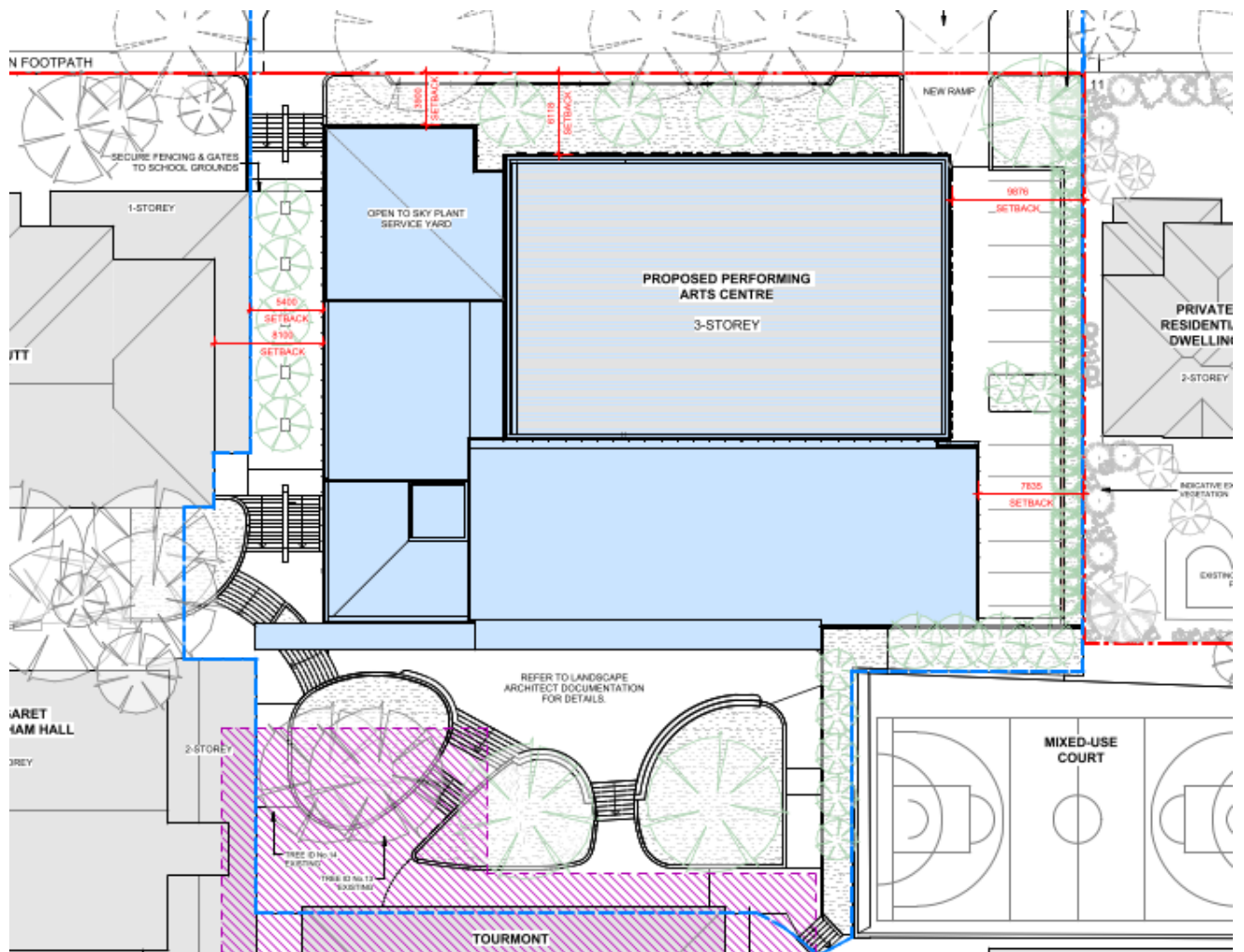


Figure 2: Proposed site plan

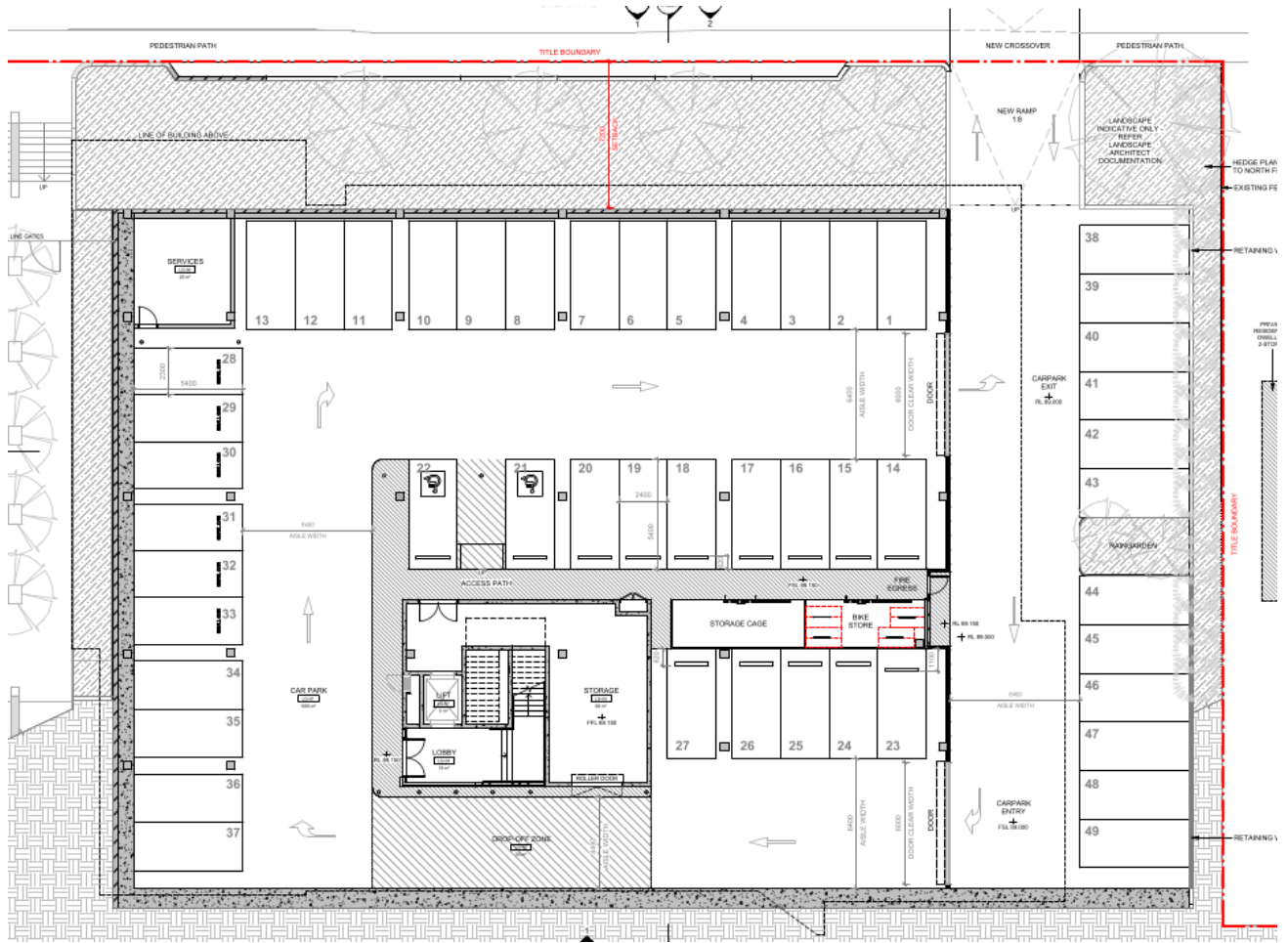


Figure 3: Basement Plan

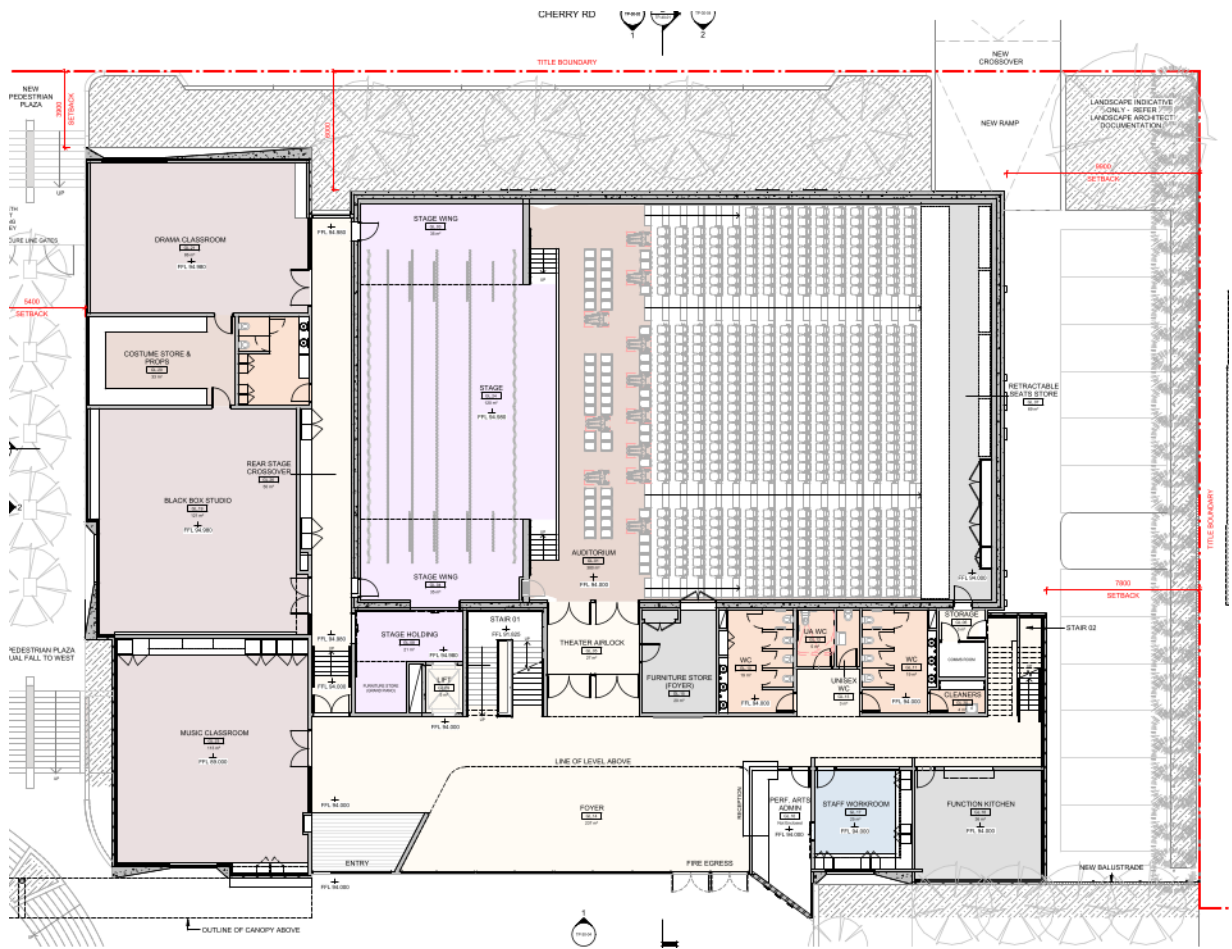


Figure 4: Ground floor Plan

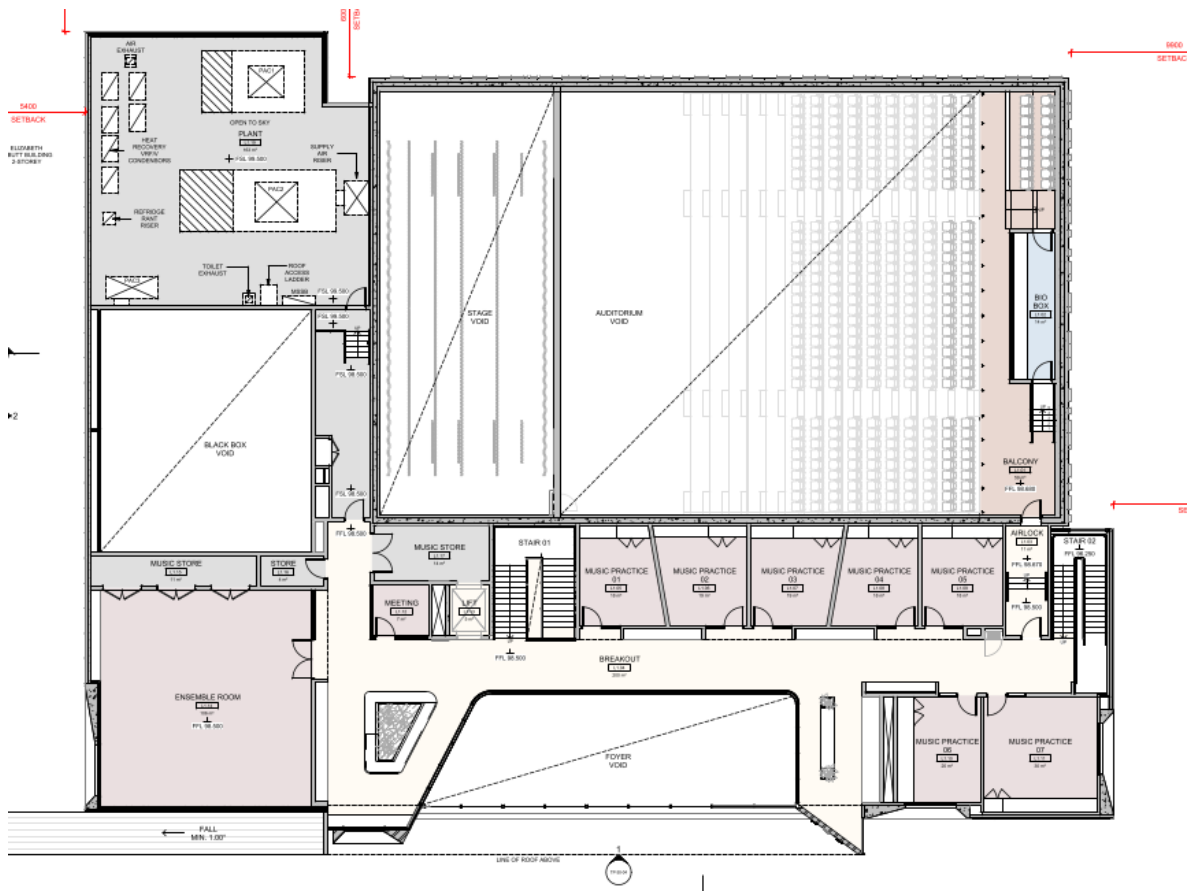


Figure 5: Level 1 floor Plan

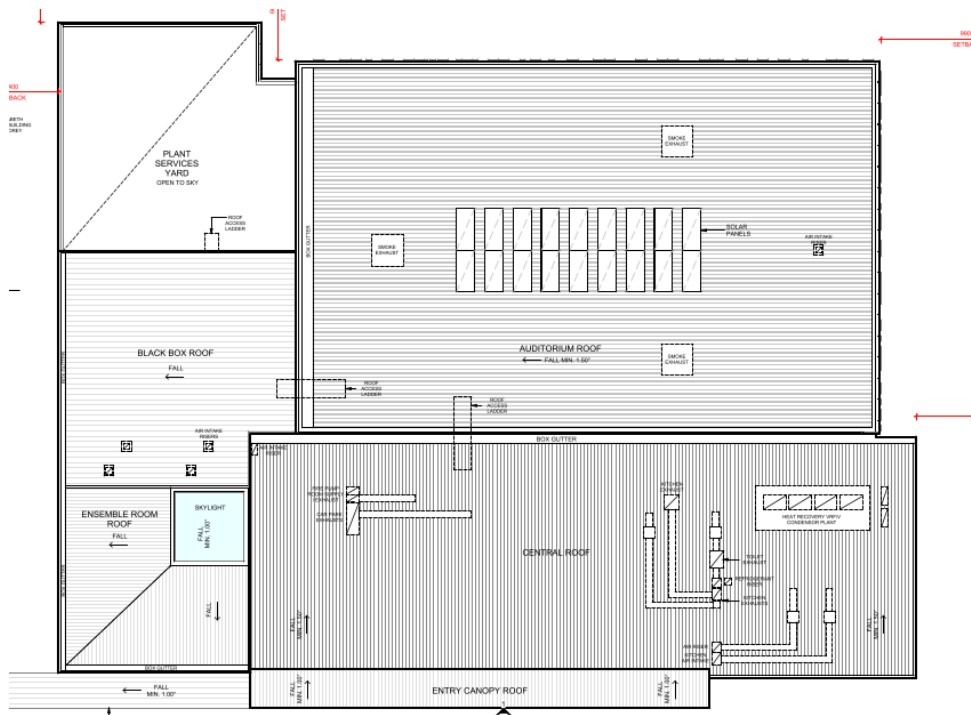


Figure 6: Roof Plan

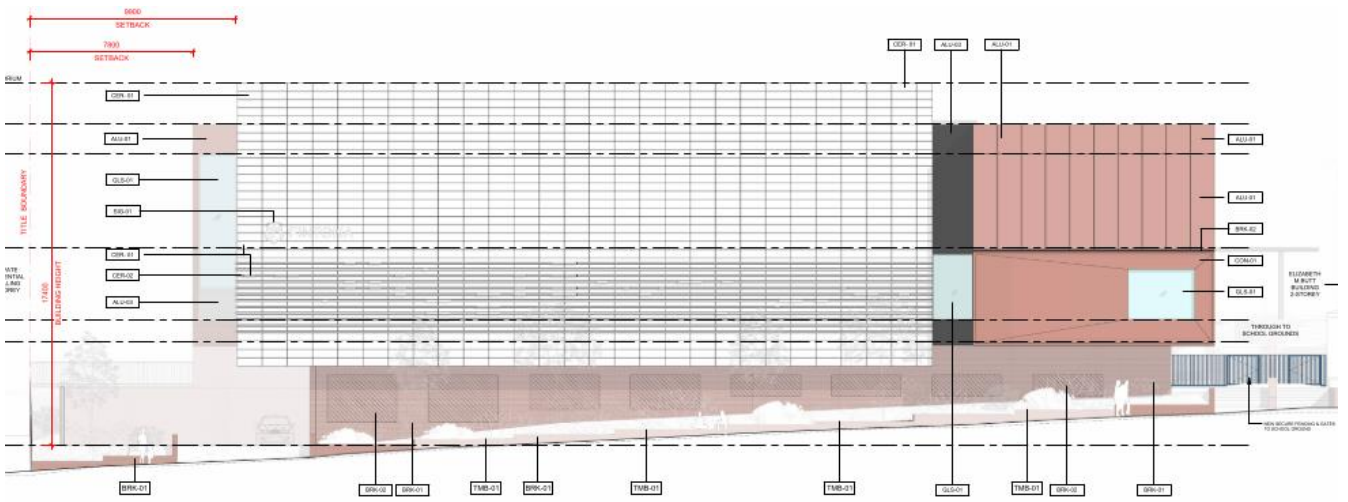
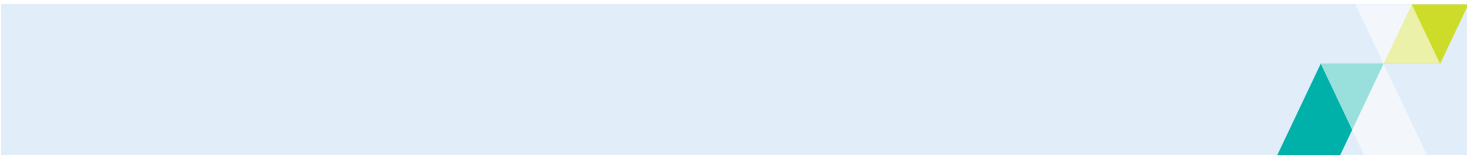


Figure 7: West (street) elevation

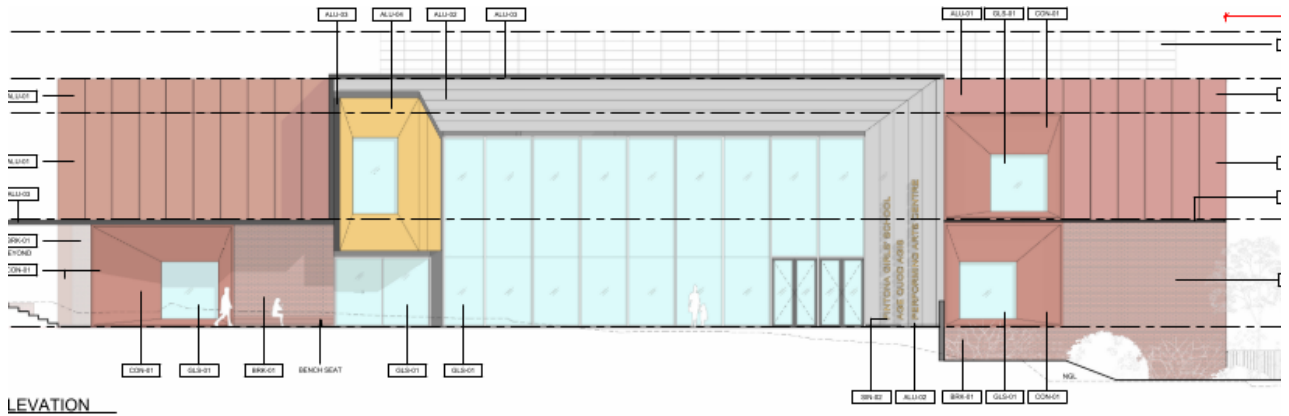


Figure 8: East (internal) elevation



Figure 9: Cherry Street elevation (car park entrance)



Figure 10: Cherry Street elevation



Figure 11: Cherry Street pedestrian entrance



Figure 12: View internal to the school



Figure 13: New internal Plaza



Figure 14: New pedestrian access from Cherry Street.



Figure 15: New pedestrian access from Cherry Street.



Site Description

11. The site is referred to as 79 Balwyn Road, Balwyn. The overall site is irregular in shape and located on the western side of Balwyn Road midway between Whitehorse Road and Mont Albert Road. It includes a variety of school buildings including classrooms, sporting facilities, heritage buildings, administration and onsite car parking to provide education for girls from Year 5 to Year 12, with years Prep to Year 4 located in an offsite campus located on the eastern side of Balwyn Road.



12.

Figure 16: Subject Site (source applicant)

13. The area associated with the works includes a dwelling owned by the school along the Cherry Street frontage, the north and south car park and the Middle School playground.

Site Surrounds

14. The surrounding development consists mainly of the broader context of the school and one residential interface located to the north.
15. Development surrounding the site can be described as follows:
 - To the **north** of the site:

Directly to the north of the area included in the scope of works is a privately owned residential dwelling (11 Cherry Street). The double storey dwelling is a renovated 1930 dwelling typical of the area. The dwelling has setbacks from all boundaries.



- To the **south** of the site:

To the south of the scope of works is the school owned 'Elizabeth M Butt Building' and the 'Margaret Cunningham Hall'. These buildings are located within the school grounds and are surrounded by landscaping.

- To the **east** of the site:

To the east of the scope of works is located the 'Tourmont' heritage building. This part of the school is included in Heritage Overlay HO169 and is considered as a Grade A building constructed as a Queen Anne villa style constructed in 1891.

The proposed works are separated from this building by an extensive garden and Middle School playground.





- To the **west** of the site:

To the west of Cherry Street, is extensive council owned parkland, including Balwyn Park, Balwyn Park South Oval and playground equipment.





Municipal Planning Strategy

16. The following objectives and strategies of the Municipal Strategic Statement of the scheme are relevant to the proposal:

Clause	Description
02.01	Context <i>Provides context of City of Boroondara including environmental landscapes, housing, built form, economic development and transport.</i>
02.02	Vision <i>Sets out the strategy for the community vision including strategic direction and objectives.</i>
02.03-4	Built Environment and heritage <i>Provides direction for built form and character within the municipality.</i>
02.03-7	Infrastructure <i>Ensure that health and education institutions are integrated with their surrounding area and are planned in a coordinated manner.</i>

Planning Policy Framework

17. The following objectives and strategies of the Planning Policy Framework of the scheme are relevant to the proposal:

Clause 11	Settlement
11.01-1S	Settlement <i>To facilitate the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements.</i>
11.02-1S	Supply of urban land <i>To ensure a sufficient supply of land is available for residential, commercial, retail, industrial, recreational, institutional and other community uses.</i>
Clause 15	Built Environment and Heritage
15.01-1S	Urban Design <i>To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.</i>
15.01-1L-01	Urban design and built form outcomes <i>To achieve high quality urban design and built form outcomes which enhance streetscapes, maintain amenity and cater to a diversity of user needs.</i>
15.01-2S	Building design <i>To achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development.</i>
15.01-4S	Healthy neighbourhoods <i>To achieve neighbourhoods that foster healthy and active living and community wellbeing.</i>
15.01-4R	Healthy neighbourhoods – Metropolitan Melbourne <i>Create a city of 20 minute neighbourhoods, that give people the ability to meet most of their everyday needs within a 20 minute, walk, cycle or local public transport trip from their home.</i>
Clause 18	Transport
18.02-4L-02	Car Parking - Boroondara <i>To ensure adequate user and visitor car parking is provided with use and development.</i>



Clause 19	Infrastructure
19.02-2S	<p>Education facilities</p> <p><i>Facilitate the establishment and expansion of primary and secondary education facilities to meet the existing and future education needs of communities.</i></p> <p><i>Recognise that primary and secondary education facilities are different to dwellings in their purpose and function and can have different built form (including height, scale and mass).</i></p>

18. The assessment section of this report provides a detailed assessment of the relevant planning policies

Zoning and Overlays

Applicable Zone/s

Neighbourhood Residential Zone – Schedule 1

19. A planning permit is required to construct a building or construct or carry out works in accordance with a Section 2 use of Clause 32.09-2. The site benefits from existing use rights and therefore no planning permit is required to use land for the school.
20. The purpose of the **Neighbourhood Residential Zone** is:
 - To implement the *State Planning Policy Framework* and the *Local Planning Policy Framework*, including the *Municipal Strategic Statement* and local planning policies.
 - *To recognise areas of predominantly single and double storey residential development.*
 - *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*
 - *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*
21. The following sections include a discussion of how the proposal responds to these requirements.

Applicable Overlay/s

Development Plan Overlay – Schedule 2

22. A planning permit is required to construct a building or construct or carry out works in accordance with Schedule 2 of Clause 43.04.
23. The purposes of the Development Plan Overlay are as follows:
 - *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
 - *To identify areas which require the form and conditions of future use and development to be shown on a development plan before a permit can be granted to use or develop the land.*
 - *To exempt an application from notice and review if a development plan has been prepared to the satisfaction of the responsible authority.*
24. Pursuant to Clause 43.04-2 a permit granted must:
 - *Be generally in accordance with the development plan.*
 - *Include any conditions or requirements specified in a schedule to this overlay.*

Heritage Overlay – HO169

25. A planning permit is required to demolish or remove a building, construct a building or construct or carry out works in accordance with Clause 43.01-1.
26. The objectives and decision guidelines relevant to this proposal are:
 - The significance of the heritage place and whether the proposal will adversely affect the natural or cultural significance of the place.
 - Whether the location, bulk, form or appearance of the proposed building is in keeping with the character and appearance of adjacent buildings and the heritage place.
 - Whether the demolition, removal or external alteration will adversely affect the significance of the heritage place.
 - Whether the proposed works will adversely affect the significance, character or appearance of the heritage place.
27. The proposed works are located within land affected by heritage overlay HO169, however the extent of works within the overlay are limited to the landscaping of the new plaza and will not affect any heritage building on the site.

Particular and General Provisions

Provisions that Require, Enable or Exempt a Permit

Clause 52.06 (Car Parking)

28. Clause 52.06 -1 is applied to an increase in floor area or site area of an existing use. The proposal is not a new use of land but the addition of the auditorium results in an increase in floor area. The application documents have confirmed that there is no change to operation of the school and no increase to the number of staff or students at the school.
29. The proposal demolishes the northern and southern car parks with these car parking spaces being incorporated in the new basement car park.

Clause 52.34 (Bicycle Facilities)

30. The application proposed no increase to student numbers or teaching staff. As there are no changes to the staff or student numbers, no additional bicycle parking is required.

Clause 53.19 (non-government schools)

31. Clause 53.19 applies to the use and development of land for a primary school, secondary school, or education centre that is ancillary to, carried out in conjunction with, and on the same land or contiguous land in the same ownership as, a primary school or secondary school.
32. An application to which Clause 53.19 applies, exempts it from the decision requirements of section 64(1), (2), and (3), and the review rights of section 82(1) of the Act.

Clause 53.18 Stormwater in Urban development

33. Clause 53.18 (Stormwater in urban developments) applies to this application for buildings and works. The clause includes standards and objectives relating to stormwater management and aim to ensure that stormwater in urban development, including retention and reuse, is managed to mitigate the impacts on the environment, property and



public safety, and to provide cooling, local habitat and amenity benefits. General Requirements and Performance Standards.



Referrals

34. The application was referred to the following groups:

Provision / Clause	Organisation	Response and date received
Section 52 Referral – Informal	Boroondara City council	21 November 2024

Municipal Council Comments

35. The Boroondara City Council (the council) considered the application and have provided the following comments.

On 17 September 2024, Council participated in a pre-application meeting with representatives for Fintona Girls School. The meeting discussed a new Performing Arts Centre (with undercroft carparking) to the Cherry Road frontage of the school, with plans provided similar to those currently lodged with the Department.

Council notes that the area affected by the proposed redevelopment is currently zoned Neighbourhood Residential Zone – Schedule 3 (NRZ3) and covered by the Development Plan Overlay – Schedule 2 (DPO2). A development plan has been approved for institutional uses, endorsed on 13 February 2019.

A permit granted must be generally in accordance with the approved development plan. Council considers that while the proposed development has some planning merit, the proposal is not in accordance with the development plan and the applicant should be required to amend the Development Plan prior to lodging an application for permit with the Department.

Key aspects of the proposal which are not consistent with the endorsed Development Plan include:

- 1. Overall building height exceeds the endorsed building envelope.*
- 2. The building extends outside the endorsed building envelope, particularly to the streetscape where the setback is reduced from 6.5 metres to 3.9 metres.*

It is understood that the school has submitted a planning permit application through the Department pursuant to Clause 53.19 (Non-government Schools) for the development of the land. Clause 72.01-1 states, the Minister for Planning is the Responsible Authority for a primary school or secondary school for which the estimated cost of development is \$3 million or greater. Council's view is that such an application is premature and undermines the intent of the Development Plan Overlay and process that is in place.

It is considered that a planning permit should not be granted without the preparation of an amended Development Plan. Applying for a planning permit application prior to undertaking these processes is ad hoc planning which does not provide Council or the community with an understanding of the impact of the future development of the school and implications to the wider area. A permit in isolation is not fair or orderly planning. Further, it breaches the requirements at Clause 43.04-2 of the Planning Scheme with states a permit granted must generally in accordance with the development plan.

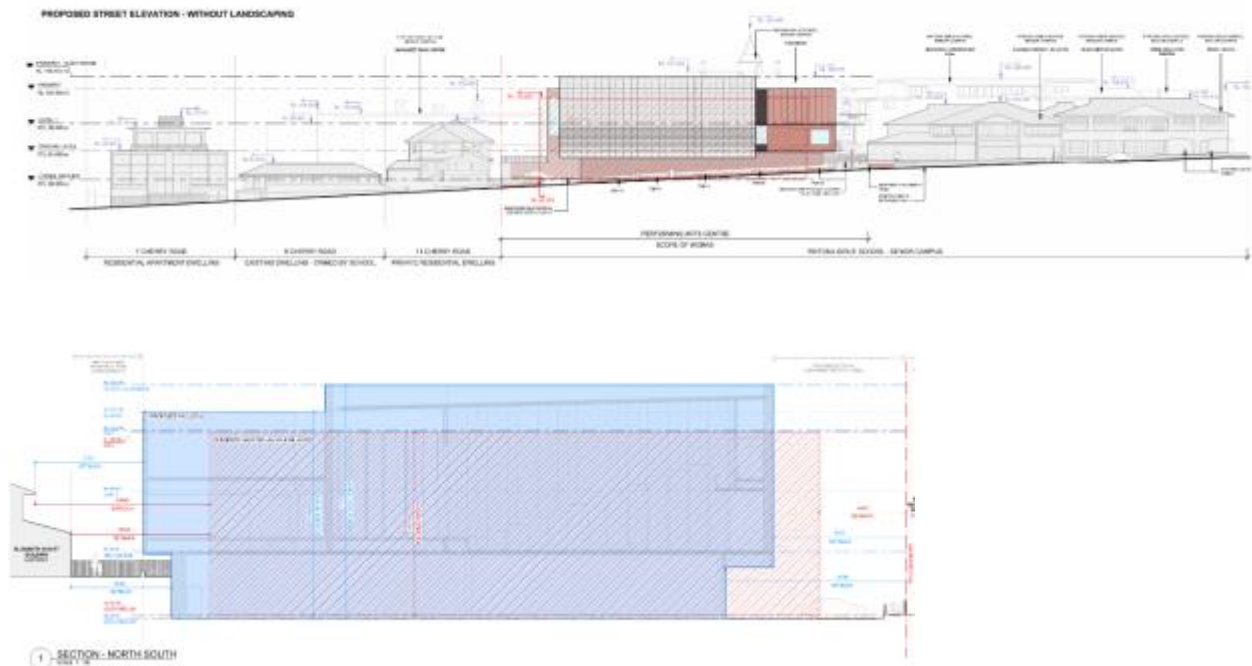
With respect to the merits of the application, Council provides the following comments that also flag concerns which include (but are not limited to):

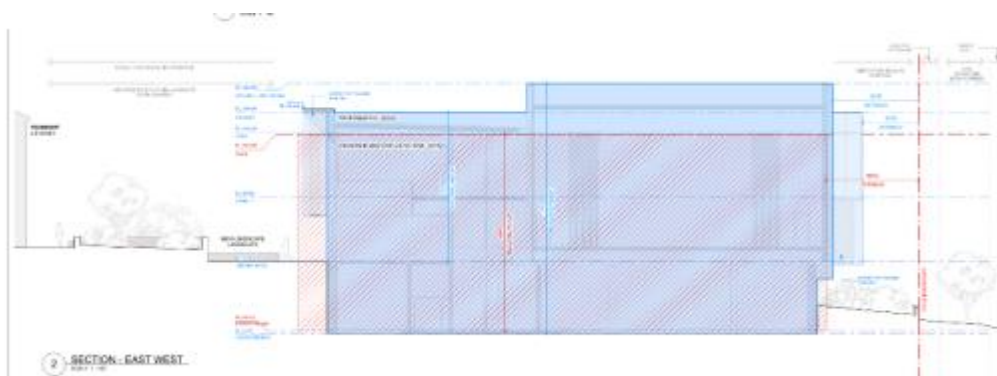
1. Built Form

Councils Urban Designer has provided the following feedback:

1. We appreciate that the endorsed master plan provides indicative building envelopes for future buildings and accept the proposition that some deviation from the master plan parameters may occur during the development of the detailed design stage. However, any such variations should not change the building heights or setbacks, especially to the street, in a manner that will intensify the visual bulk anticipated in the master plan. Indeed, the approved building envelope offers the overall outline within which the final design product should sit comfortably, carefully responding to the streetscape character, subdivision pattern, grain, rhythm and proportions.
2. In response to the issues we raised at the pre-application meeting, the applicants have now provided a streetscape elevation, see below, with the proposed Performance Arts Centre (PAC) superimposed to demonstrate the acceptability of the form in the street. The approved building envelope is marked in red hatching on the street elevation below. The built form appears to be stretching out in some areas while retreating and pulling back in others. While the north-south cross section indicates increased setbacks to the north - an improvement to the interface with the northern neighbour, the east-west cross section shows a reduction in the setbacks to the street. It may seem that it is a mere half a metre reduction in the auditorium setback - from 6.50m to 6m, the combined visual impact of the reduced setback, increased height and raw


geometric/box-like form will be stark and formidable in the Cheery Road streetscape.





3. In response to the concerns we raised regarding the Cherry Road interface, the architects have made the following design improvements:
 - a. Enhancing façade articulation and visual interest at street level by adding the hit-and-miss brickwork, which should provide interaction and engagement with the public realm, plus improving safety since some light will spill out onto the street at night.
 - b. Adding some variation in the tone and patterning of the ceramic tiles of the upper levels (the Auditorium) to soften the apparent mass.
 - c. Extending the hit-and-miss brickwork to the side along the pedestrian entrance and walkway and adding a few openings in other locations., as evident in the views below.



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4. As the above 3D renders illustrate, these refinements have improved the scheme visually, offering opportunities for engagement and interaction with the street and main pedestrian pathway. In its effort to give back to the neighbourhood and community, the proposal also includes some bench seating for the public to use, integrated with the brick planter boxes along the footpath, a positive contribution.
 5. While the architectural design is undeniably of high quality, it is crucial to strike a balance between the operational/functional requirements of the PAC and its response and contribution to adjoining interfaces, public and private. The latest design refinements, in response to the feedback from the pre-application meeting, have notably improved the interface with the public realm. However, the integration of the new mass, particularly the auditorium, with the street is an area that is yet to be perfected, as the streetscape elevation in the first figure above illustrates.
 6. Clearly, it is impossible to hide a building mass that is 33m long, 13+m high and 20+m deep, especially if elevated above the ground floor level, or even blend it with the domestic street scale, but it is possible to model the mass to pick up the predominant proportions and rhythm in the street. As the streetscape elevation demonstrates, the crude box-like form of the auditorium is almost double the size of the apartment building to the north. By virtue of their function and size, auditoriums can be massive and imposing in any context, let alone a humble residential setting like this.
 7. We accept that the PAC was approved in its current location in the master plan. However, we think the auditorium's architectural resolution could be more sympathetic and considerate of its neighbours to avoid dwarfing them. Varying the tone and patterning of the ceramic tiles is welcome as a design strategy to enhance the articulation of this volume, but this level of modulation is incommensurate with its size and proportions.
 8. Some variation in the wall surface alignment and vertical relief in the auditorium mass may be necessary to improve its relationship with neighbours and facilitate its integration with the streetscape. The architects could explore the same concept of the angled deep reveals used for the openings elsewhere but blind, i.e., solid, no holes, see rough markups on the 3D view below, or any other ideas they find appropriate to deliver this outcome. Note that the white colour and light tone of the ceramic tiles amplify the starkness of this volume.



2. Tree removal and landscaping

- The Tree Protection Local Law 2024 (the Local Law) applies in the City of Boroondara. The application documents note that the redevelopment will result in the removal of Trees 2, 5, 7, 13, 14, 15, 19, and 38 which are considered canopy trees and protected under Council's Local Law.
- Council's Arborist has advised that Tree Protection Local Law Permits are not assured for all trees and that it should also be considered that replacement planting would be required as a condition of any permit issued. In particular Council's Arborist has noted that removal of Trees numbered 2, 7, 13, 14, 15 and 19 in the submitted arborist report would be unlikely to be supported.
- It is considered that trees 2, 7, 13, 14, and 15 can be retained within the current design via modification of the proposed landscaping layout.
- Tree 19 sits outside the endorsed development plan overlay building envelope. It is considered that the proposed building works should be adjusted to remain within this approved envelope and to thereby facilitate retention of this tree.
- It should be further noted that some of the small trees noted for removal may be trees planted as condition for prior removal permits under the Tree Protection Local Law. Consent from Council would be required for the replanting or relocation of these trees.
- Please note that the Local Law requires that a permit be sought from Council for the removal of a canopy tree. A permit is also required to carry out works (including excavation and construction) within 2 metres of a canopy tree. Works occurring more than 2 metres away from a canopy tree may still constitute damage or destruction of the tree and may require a permit. A copy of the Local Law may be viewed on Council's website. Further information can be found at <https://www.boroondara.vic.gov.au/waste-environment/trees-and-naturestrips/find-out-if-tree-protected>



Notice

36. The application is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the *Planning and Environment Act 1987* pursuant to the following provisions:
- *If a development plan has been prepared to the satisfaction of the responsible authority, an application under any provision of this planning scheme is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and review rights of section 82(1) of the Act.*




Strategic Direction and Land Use

38. The *Planning Policy Framework* encourage appropriate land use and development which enhances the built environment, supports economic growth, meets the community expectations on retail and commercial provision, delivers diversity in housing supply to meet existing and future needs, and integrates transport and infrastructure planning.
39. The relevant MPS and PPF policies have been considered in assessing the application.
40. The proposed land use is consistent with the strategic direction of the following policies.
41. Clause 02.03-3 Infrastructure seeks to:
 - Ensure health and education institutions are integrated with their surrounding area and are planned in a co-ordinated manner.
 - Ensure community and development infrastructure complements residential areas and responds to demand and that development contributes to infrastructure as appropriate.
42. Clause 13.07-1L (Discretionary uses and development in residential areas) seeks to:
 - *To minimise adverse amenity impacts from non-residential uses on surrounding residential properties.*
 - *To ensure that development associated with discretionary uses respects the established neighbourhood character and contributes to achieving the area's preferred character.*
 - *Encourage car parking to be located to the side or rear of buildings instead of within front setbacks.*
 - *Provide landscaping along boundaries abutting residential properties.*
43. Clause 15, 15.01-1S, 15.01-2S, 15.01-5S and 15.01-2L-01 collectively have the following objectives and strategies relating to design:
 - *Planning should ensure all land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context.*
 - *To achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development.*
 - *Support development that respects the existing neighbourhood character or contributes to a preferred neighbourhood character.*
44. Clause 19.02-2S provides the following guidance:

Education Facilities

To assist in the integration of education and early childhood facilities with local and regional communities.

 - *Consider the demographic trends, existing and future demand requirements and the integration of facilities into communities in planning for the location of education and early childhood facilities.*
 - *Facilitate the establishment and expansion of primary and secondary education facilities to meet the existing and future education needs of communities.*
 - *Recognise that primary and secondary education facilities are different to dwellings in their purpose and function and can have different built form (including height, scale and mass).*
45. The proposed new performing arts centre have taken local planning policies into consideration. The siting of the building along Cherry Road is respectful of both the adjoining school buildings and the residential property to the north.

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46. The new building is sited predominantly within the envelope envisioned within the approved masterplan, with minor variations to the building outline through the increase in setbacks to the adjoining residential property and a reduction in setbacks to adjacent school owned buildings and the street.
 47. The new performing arts centre will contribute to the educational needs of the school community and the surrounding area.

Neighbourhood Residential Zone

48. The purpose of the zone is to:
 - *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
 - *To recognise areas of predominantly single and double storey residential development.*
 - *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*
 - *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*
49. The guidelines in the zone provide direction for non-residential uses which are allowable under Section 2 of Clause 32.09-1. For the consideration of non-residential uses, the decision guidelines direct decisions to consider the following:
 - *Whether the use or development is compatible with residential use.*
 - *Whether the use generally serves local community needs.*
 - *The scale and intensity of the use and development.*
 - *The design, height, setback and appearance of the proposed buildings and works.*
 - *The proposed landscaping.*
 - *The provision of car and bicycle parking and associated accessways.*
 - *The safety, efficiency and amenity effects of traffic to be generated by the proposal.*
50. Accordance with the purpose of zone which recognises residential land for the use for community facilities, the proposed construction of a new building provides an acceptable built form, setbacks, landscaping and car parking when assessed against the decision guidelines for non-residential use and development.
51. The use of land as a school is ongoing and does not trigger a planning permit.

Buildings and Works

52. Detailed plans have been submitted to the proposed Performing Arts Centre (PAC).
53. The works include the following:
 - Demolition of a single storey dwelling, north car park and south car park.
 - Removal of trees and current middle school outdoor play area.
 - Construction of the PAC, including basement car park, auditorium, various music and performance rooms, bathrooms, teaching facilities, music storerooms and prop storerooms.

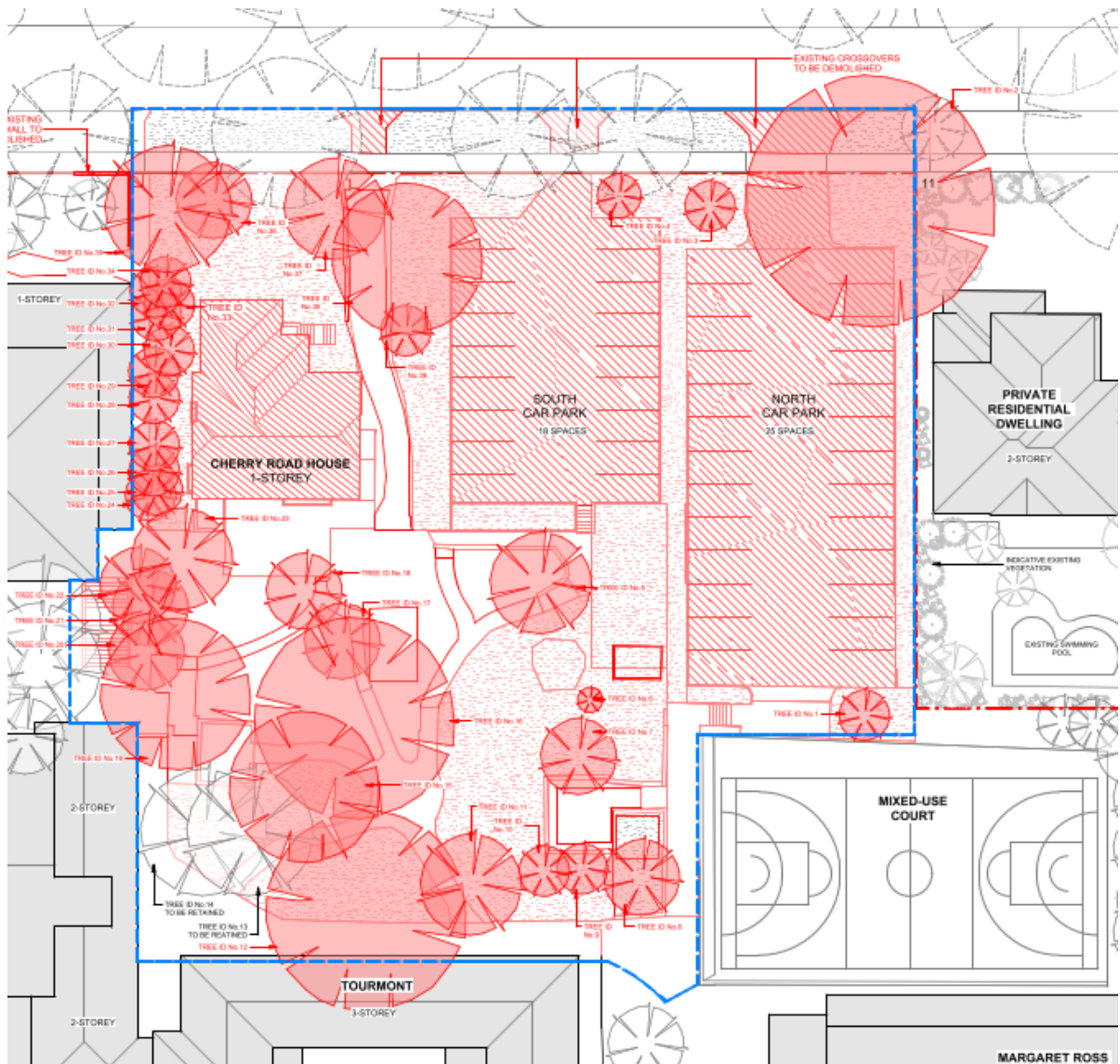


Figure 17: Extent of demolition

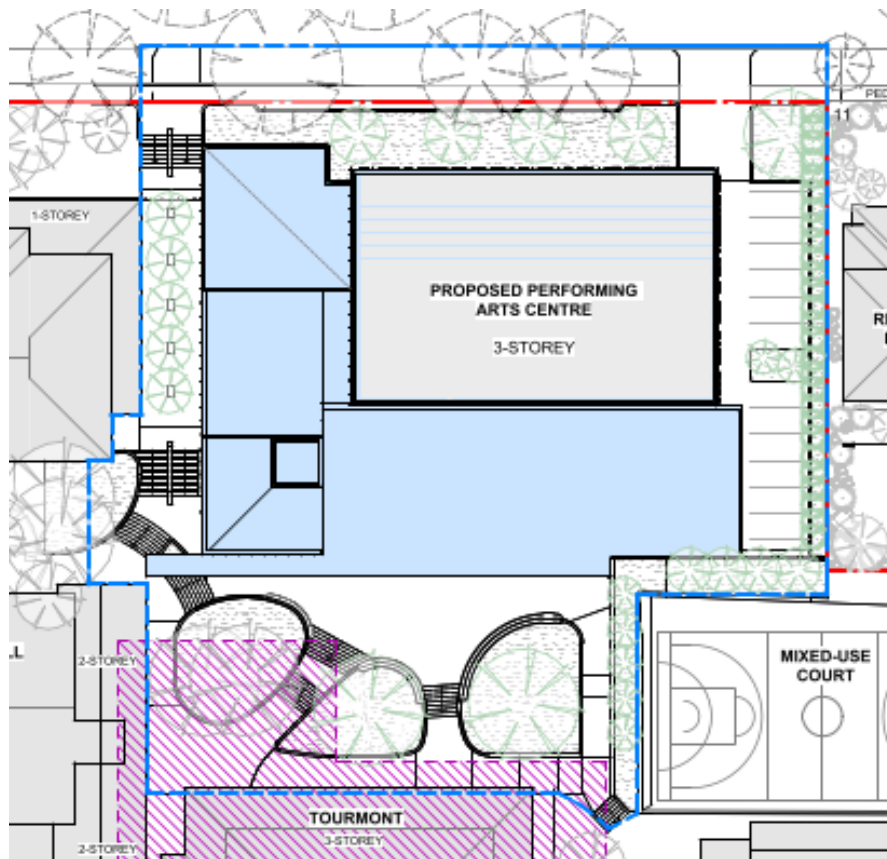


Figure 18: Location of PAC

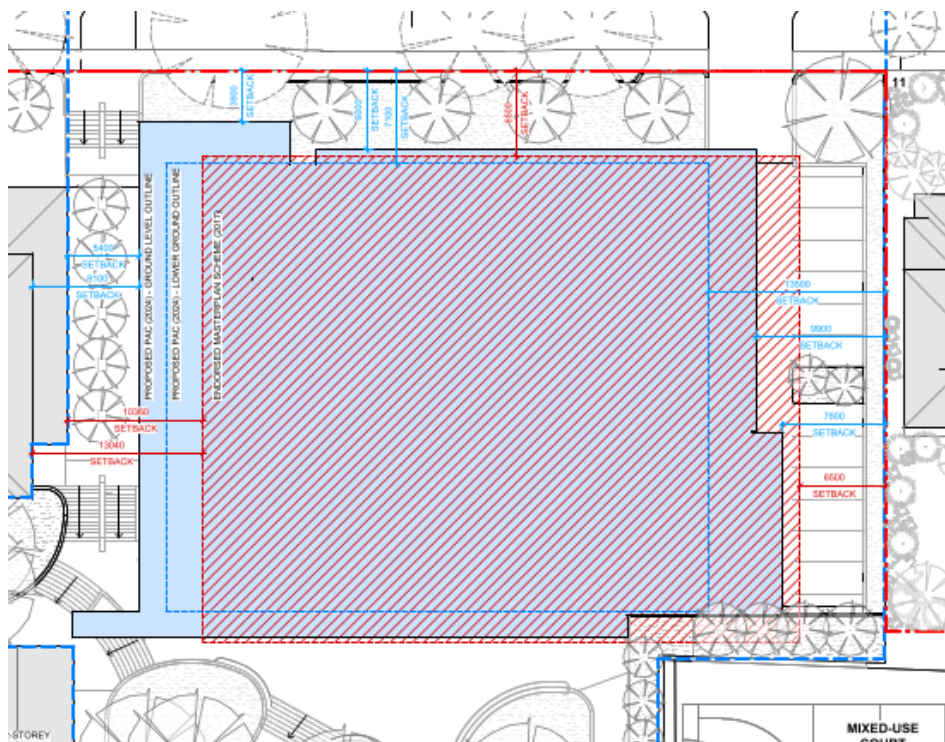


Figure 19: Variation of PAC to approve master plan

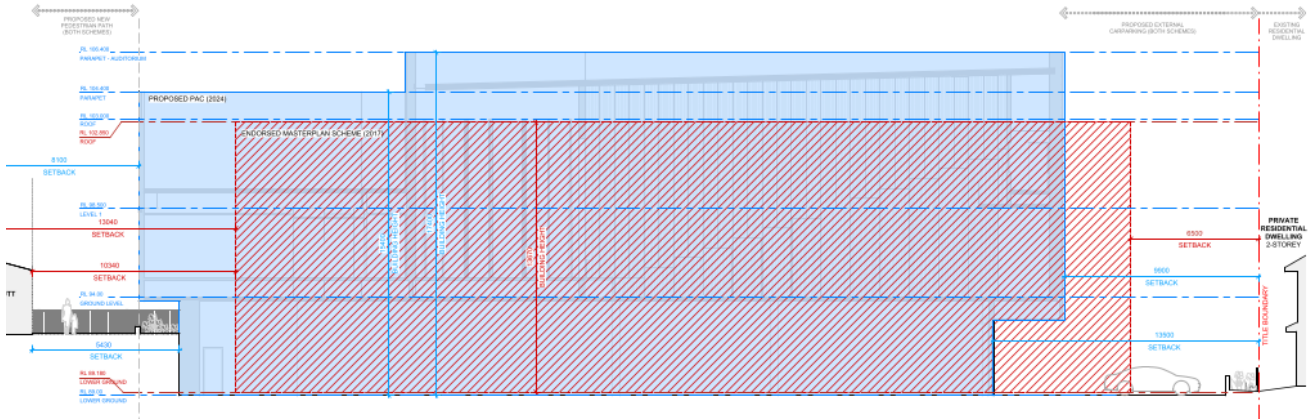


Figure 20: Variation of PAC to approve master plan- Section north south

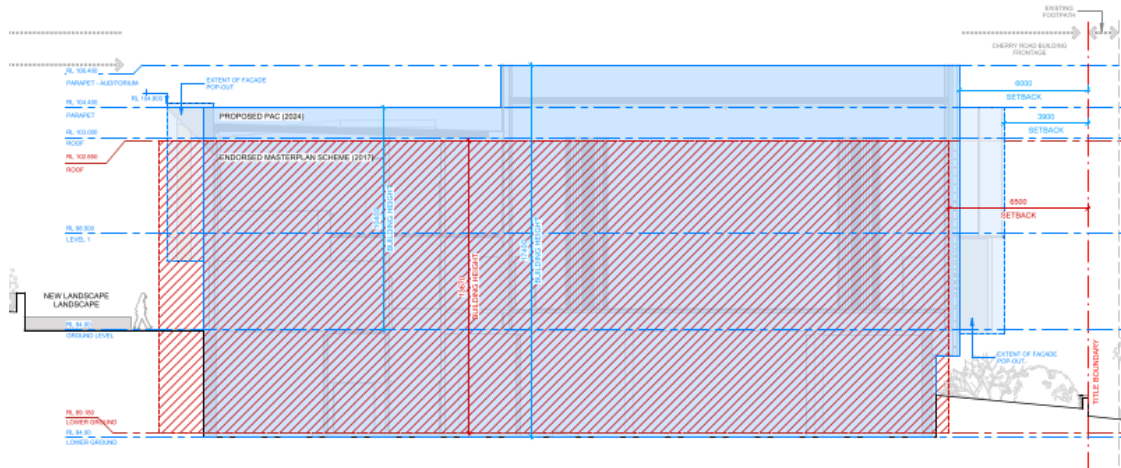


Figure 21: Variation of PAC to approve master plan- Section east west

54. The plans show the new Performing Arts Centre in relation to the Cherry Road frontage and the adjoining residential property, it also demonstrates the proposed variations between the building outline of the new building against the approved building envelope as shown in the masterplan.
55. The variations to the overall siting and size of the proposed building compared to the approved envelope are minimal in the context of the scope of works, with the applicants proposing to increase the offsets to the adjoining residential property through moving the building south and slightly increasing the overall height.
56. There is significant fall across the site from south to north, resulting in a higher built form along the northern elevation. This has been addressed through the use of increased setbacks and a staggered built form. Although the built form exceeds the height of the approved building envelope by 3.7m, it is acknowledged that the master plan provided for a similar sized building and the proposal is generally in accordance with what was approved.

Height and Setbacks

57. The proposal has a maximum building height of 17.4m to the top of the building on the northern end and a building height of 13.4m at the southern end due to the fall of the land.

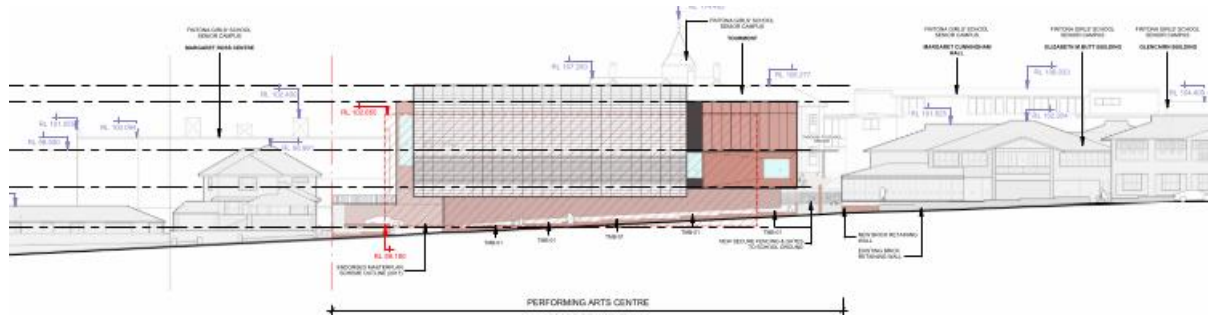


Figure 22: Cherry Road Elevation

58. The proposal is consistent in height with other new buildings on the school grounds and consistent with the heritage building located behind the new structure.
59. In addition to the heights of the adjoining recently constructed school buildings, a new residential apartment building has been constructed at No. 7 Cherry Road which contains a higher built form compared to the adjoining dwellings and is not inconsistent with the heights proposed for the PAC.
60. The approved master plan allowed for a building height of 13.6m from lower ground, not taking into account the fall across the block of land.
61. To address the increase in height of the building, the design has increased setbacks to the dwelling located along the northern boundary. The approved building envelope proposed a 6.5m setback along the entire northern boundary with adjoining residence. The updated design has increased the setback to a minimum of 7.8m and a maximum of 9.9m.
62. The increase to the setbacks along the northern boundary has been achieved by reducing the setback along the southern elevation through the reduction of setback to adjoining school buildings. The reduction from 10.36m to 5.4m has minimal impact on the school owned buildings which consist primarily of classrooms.
63. The setback to Cherry Road has been reduced from 6.5m to a staggered setback ranging from 7.1m down to 3.9m as a result of building articulation and provision of a classroom facing the street and breaking up the built form.



Figure 23: Cherry Road Elevation



64. The PAC provides a new interface for the school to Cherry Road rather than the current arrangement of limited classrooms and car parking for teaching staff. The new building will have limited impact on residential and public interfaces with only one dwelling affected and council parkland located on the opposite side of the street.
65. The zone recognises that non-residential uses are different from residential, however the proposed built form is considered to be generally in accordance with the building heights specified in the masterplan and are therefore considered acceptable. The proposed building also sits comfortably within the sloping topography of the site.

Design Detail

66. The applicant submitted a comprehensive materials schedule as part of the application documents. This includes the design detail for the upgrades to the retained buildings.
67. The new building comprises of a mix of materials including brickwork, coloured concrete, ceramic tiles, various metal sheet panelling and glass.
68. The new architecture is considered a significant improvement from the existing conditions and presents an attractive modern building to the streetscape. The building provides for an improved pedestrian link for students into the school from Cherry Road and a new secure carpark for teaching staff obscured from the public view.
69. Three crossovers to Cherry Road have been reduced to a new single crossover providing access to the basement car park resulting in greater on street parking opportunities and the reinstatement of nature strip. The provision of classrooms facing the street provide for better passive surveillance of this street frontage compared to the current conditions.
70. The various use of materials provides for a building which allows for visual interest and is consistent with other new buildings both on the site and is typical of new buildings within the surrounding area.

Amenity

Amenity Impacts (internal and offsite)

71. The amenity impacts to the adjoining residential properties will be limited, the new PAC building is generally consistent with other new school buildings and with the approved masterplan.
72. The application has been submitted with an acoustic report to demonstrate the noise generated by the additional building will not create any further unreasonable noise impacts to the adjoining residential properties. All mechanical plant equipment is proposed to be located on the roof top of the buildings distancing them from impacts to the street and adjoining residential property.
73. In addition to noise considerations, the bulk of the built form has been moved south with an increase to the northern setbacks, approved in the masterplan, from 6.5m to an increased staggered setback of 7.8m – 13.5m. The property to the north is the only sensitive interface as a privately owned dwelling, with all other interfaces being owned by the school and council parkland located to the western side of the street frontage.
74. Conditions will be included in any permit granted to ensure the amenity of the adjoining residential property is protected.

Overshadowing

75. The application included shadow diagrams demonstrating that the proposed works will not overshadow the adjoining residential property located to the north of the building. Shadows extend out into the street in the morning and remain contained within the school grounds from 12pm onwards.



Public Realm

Ground Level Activation / Public interfaces

76. Street level activation and passive surveillance has been considered and addressed through the provision of windows in the first level drama classroom and the window to the connecting corridor. This is supported by a new pedestrian path along the southern side of the PAC. The gated entrance will be provided with new permeable fencing and gates allowing views from the internal plaza of the school down to the street level.

Landscaping

77. The application has been submitted with a high-level landscape plan detailing the new landscaping direction around the development.
78. The removal of trees from the site does not require planning permission, however, is required under local laws which has been applied for separately. This will allow for the removal for the construction of the PAC and new landscaping along the street frontage and internally to the school. The landscaping plan has retained trees where possible, with 24 trees to be removed consisting of 7 trees of medium retention and 17 of low retention.
79. The landscape plans show a comprehensive landscape plan; however, the planting schedule is missing from the plans detailing tree types and numbers. This will be required to be submitted as a condition on any permit to issue.



Figure 24: Overall landscaping concept



1. CHERRY ROAD ENTRANCE VIEW



2. MAIN STAIR ACCESS VIEW



3. FORECOURT VIEW

Figure 25: Additional landscaping view

Car and Bicycle Parking

Car Parking

80. The proposal does not include any additional staff or students and does not trigger the requirement for additional onsite car parking. The removal of the north and south car park (43 spaces) for the construction of the new PAC is replaced within the new basement car park.
81. The proposal provides for 49 new car parking spaces, including two accessible car parking spaces and 8 new bicycle spaces in a secure storage cage meeting the car parking requirements.

Bicycle Facilities

82. The application does not include any additional staff or students. Therefore, no additional bicycle parking is required; however, the new basement car park provides an additional 8 secure bicycle parking spaces as part of the application.


Waste

83. A waste management plan has not been provided however the waste management on the site is not expected to vary significantly from the current conditions. Waste management will be managed in accordance with the existing operations of the school.

Sustainability

Environmentally Sustainable Design

84. The application has been submitted with a Sustainable Management Plan (SMP) report for the proposal which broadly outlines the strategies and sustainability initiatives that will be deployed within the proposed scope of works.

- 
85. The SMP includes a BESS report which achieves a rating of 54% demonstrating that the proposed new PAC building will achieve best practice.

Stormwater Management

86. The application has been submitted with a Stormwater Management Plan as part of the application documents which provides stormwater treatment for the extent of the proposed works.
87. The new development will include a total of 25kL rainwater storage to reduce the volume of run-off, this water is to be used for toilet flushing and landscaping irrigation.

DTP response to Council concerns

88. In Council's referral response, it is noted that a number of concerns have been raised, including that the development is not generally in accordance with the approved development plan. The primary concerns include variations to the built form which sit outside of the approved building envelope including height and setbacks from the street and adjoining residential properties.
89. While it is acknowledged that minor variations to the proposed built form which sit outside of the approved building envelope of the Master Plan are sought, the setbacks to the only residential interface located to the north, have been significantly increased from the approved building envelope. Setbacks to the north have been increased from 6.5m approved under the Development Plan to staggered setbacks of 7.8m – 13.5m.
90. The variation to the front setback as envisaged by the Master Plan is minor and can be supported. The front wall of the building is 49m in length with 38m of this frontage setback 6m in lieu of 6.5m and the remaining 11m of wall set back 3.9m in lieu of 6.5m. The smaller component of building with the 3.9m setback is adjacent to an existing school property which is not deemed as a sensitive interface, in addition, the western side of Cherry Road consists of parkland and has no residential interface.
91. The council note that the applicants have made changes to the design in response to the comments provided at a pre-application meeting which include enhancing the façade articulation and visual interest from the street, adding some variation in tone and patterning of the ceramic tiles and adding some walkways and other openings in the building frontage. It is acknowledged by Council that these changes have notably improved the interface with the public realm, but they do not believe that the auditorium architectural resolution is sympathetic or considerate of the adjoining properties.
92. DTP acknowledges council's views. However, it is also acknowledged that schools in established residential areas have a different built form to residential properties. The PAC is proposed in the location approved by the development plan and the overall variations are minor in terms of setbacks to boundaries. The overall proposal is considered to be a significant improvement to the one adjoining residential property.

PLANNING PERMIT

Permit No.:	PA2403256
Planning scheme:	Boroondara Planning Scheme
Responsible authority:	Minister for Planning
ADDRESS OF THE LAND:	79 Balwyn Road, Balwyn

THE PERMIT ALLOWS:

Planning scheme clause No.	Description of what is allowed
32.09-10	Construct a building or construct or carry out works for a Section 2 use.
43.01-1	Construct a building or construct or carry out works within a Heritage Overlay
43.04-2	Permit must be generally in accordance with the development plan

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

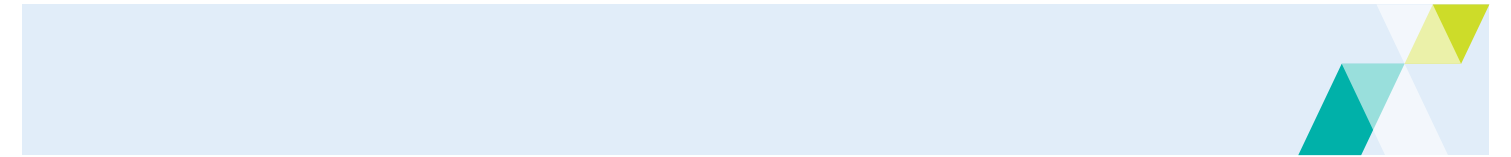
Compliance with documents approved under this permit

1. At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the responsible authority.

Amended Plans

2. Before the development starts, including demolition, bulk excavation and site preparation works, detailed development plans for that stage including a development summary must be approved and endorsed by the Responsible Authority. The plans must be generally in accordance with the plans prepared by COX Architecture, dated 08 August 2024, but modified to show:
 - a) Location of rainwater tanks (25kL) as specified in the submitted Stormwater Management Plan, prepared by MCG Consult, dated 25 September 2024.
 - b) Any changes required by the Landscape plan.
 - c) Proposed site plan updated to include tree ID numbers for retained trees.
 - d) Plans updated to identify tree numbers (as detailed in the arborist report) and include the TPZ of street trees located in the nature strip adjacent to the subject site.

Landscaping

- 
3. Concurrent with the endorsement of plans, an amended landscape plan must be submitted to and approved by the Responsible Authority. The Landscape plan must be prepared to the satisfaction of the Responsible Authority, be drawn to scale with dimensions, be generally in accordance with the landscape plan prepared by Papworth Design, dated 20.09.24, and must include the following:
 - a) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
 - b) Details of surface finishes of pathways, permeable paving and seating areas.
 - c) Details of how the project responds to water sensitive urban design principles, including how storm water will be mitigated, captured, cleaned and stored for onsite use and the location and type of irrigation systems to be used including the location of any rainwater tanks to be used for irrigation.
 4. At all times the landscaping shown on the approved landscape plan must be maintained (including the replacement of any dead, diseased or damaged plants) to the satisfaction of the Responsible Authority.

Tree protection

5. Before the development starts, including demolition, a Tree Protection Zone (TPZ) must be established and maintained on the subject land (and nature strip if required) during and until completion of all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority.
 - a) Tree protection distances:
 - i. Tree 13 – *Grevillia robusta* (Silky Oak) – 5.52 metre radius from centre of the tree base.
 - ii. Tree 14 – *Grevillia robusta* (Silky Oak) – 6.72 metre radius from centre of the tree base.
 - iii. Street Trees (x4) – 3 metre minimum radius from the centre of the tree base.
 - b) Tree Protection Zone measures are to be established in accordance with Australian Standard 4970-2009 and including the following:
 - i. Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place by concrete feet.
 - ii. Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.
 - iii. Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary watering in summer months as required.
 - iv. No excavation, construction works or activities, grade changes, surface treatments or stage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the responsible authority.
 - v. All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.
 - vi. All sub surface utilities and utility connection points, inspection pits and associated infrastructure trenching and installation are to be designed so that they are located outside the TPZs of retained trees, to the satisfaction of the responsible authority. Utility conduits can be located beneath TPZs but must be installed using trenchless excavation (eg:boring) and installed to a minimum depth of 0.6 metres below natural grade.
 - vii. Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.
 - viii. Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorised person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.



Vehicle crossing

6. Before the development is occupied, any new vehicle crossing must be constructed to the satisfaction of the Boroondara City Council.
7. Before the development is occupied all existing disused or redundant vehicle crossings must be removed and the nature strip and kerb and channel reinstated to the satisfaction of the Boroondara City Council.

Noise Impacts

8. Noise levels emanating from the music building must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1. Any works required to ensure and maintain the noise levels are in compliance with this policy must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.

General Amenity

9. The amenity of the area must not be detrimentally affected by the use(s), including through:
 - The transport of materials, goods or commodities to and from the land;
 - The unsightly appearance of any buildings, works or materials;
 - The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or
 - The presence of vermin;

To the satisfaction of the Responsible Authority.

Control of light spill

10. External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

Sustainable Management Plan (SMP)

11. Concurrent with the endorsement of plans, the Sustainability Management Plan (SMP) Statement prepared by Blue Bee Sustainable Services, dated 2 October 2024 must be approved by the Responsible Authority. The performance outcomes for the development must be in accordance with the report, to the satisfaction of the Responsible Authority. The report must not be altered without the prior written consent of the Responsible Authority.
12. Any change during detailed design, which prevents or alters the attainment of the performance outcomes specified in the endorsed report in an addendum to this report, which must be provided to the satisfaction of the Responsible Authority prior to the commencement of construction.

Construction Management Plan (CMP)

13. Before the development starts, including demolition, site preparation works and the removal of vegetation, a Construction Management Plan (CMP) must be submitted to and approved by the



Boroondara City Council. When approved, the CMP will be endorsed and will form part of this permit. The CMP must include (but not necessarily be limited to) the following:

- a) Be prepared in accordance with the *Civil construction building and demolition guide, Publication 1834* (EPA, 2020).
- b) Adopt the form of the template included in the EPA guide and must address the following risks:
 - i. Noise and vibration
 - ii. Erosion, sediment and dust
 - iii. Contaminated land and groundwater
 - iv. Chemicals
 - v. Waste
- c) The working hours schedule for construction, building and demolition noise in accordance with the EPA guide (unless with the further written consent of the Responsible Authority).
- d) Include a traffic management plan showing:
 - i. Access routes for construction vehicles.
 - ii. Swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction.
 - iii. Proposed parking locations for construction vehicles and construction workers vehicles.
 - iv. Any impacts on adjacent roads and pedestrian walkways and provision for adequate movement and circulation of vehicles and pedestrians adjacent to the land during the construction phase.
- e) The person/s responsible for implementation and compliance of each aspect of the CMP.
- f) Measures to avoid and minimise amenity and environmental impacts during the construction.
- g) Procedures to manage construction noise and vibration.
- h) Procedures to manage mud and debris on the surrounding road network which may occur during construction.
- i) A construction timetable, including typical daily start and end times.

The Responsible Authority may consent in writing to vary any details in the CMP.

14. All persons undertaking works on site must be fully briefed on all aspects and requirements of the endorsed CMP. All works constructed or carried out must be in accordance with the endorsed CMP to the satisfaction of the Responsible Authority.

Commencement

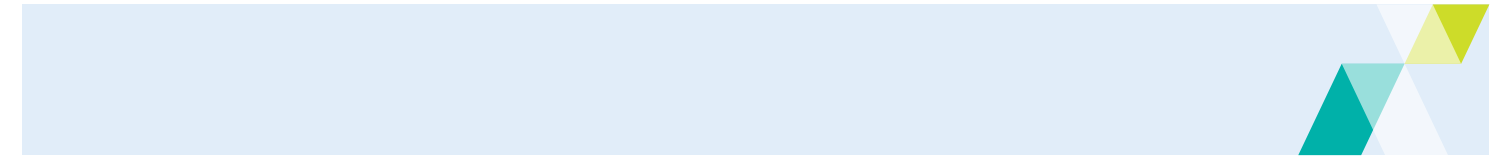
15. This permit will operate from the issued date of this permit.

Expiry

16. This permit will expire if one of the following circumstances apply:

- a) The development is not started within 2 years of the issued date of this permit.
- b) The development is not completed within 4 years of the issued date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

- 
- a) The commencement date referred to if a request is made in writing before the permit expires or within six months afterwards.
 - b) The completion date referred to if a request is made in writing within six months after the permit expires and the development started lawfully before the permit expired.

Notes:

(the following information does not form part of this permit)

The permitted use or development may need to comply with, or obtain the following further approvals:

- These notes are provided for information only and do not constitute part of the permit or conditions of this permit.
- This permit does not authorise the commencement of any demolition or construction on the land. Before any demolition or construction may commence, the applicant must apply for and obtain appropriate building approval from a Registered Building Surveyor.
- The applicant/owner will provide a copy of this planning permit and endorsed plans to any appointed Building Surveyor. It is the responsibility of the applicant/owner and the relevant Building Surveyor to ensure that all building (development) works approved by any building permit are consistent with this planning permit.
- A building permit under the *Building Act 1993*.
- Paths, access ramps and Tactile Ground Surface Indicators to be installed in accordance with DDA requirements and the relevant Australian Standards.

Tree Removal – Council

- The Tree Protection Local Law 2024 (the Local Law) applies in the City of Boroondara. The application documents note that the redevelopment will result in the removal of Trees 2, 5, 7, 13, 14, 15, 19 and 38 which are considered canopy trees and protected under Council's Local Law.
- Please note that the Local Law requires that a permit be sought from Council for the removal of a canopy tree. A permit is required to carry out works (including excavation and construction) within 2 metres of a canopy tree. Works occurring more than 2 metres away from a canopy tree may still constitute damage or destruction of the tree and may require a permit. A copy of the Local Law may be viewed on Council's website. Further information can be found at <https://www.boroondara.vic.gov.au/services/environment-and-sustainability/trees/protected-and-significant-trees>

Recommendation



93. The proposal is generally consistent with the relevant planning policies of the Boroondara Planning Scheme and will contribute to the provision of Education facilities within the Balwyn area.
94. The proposal is generally supported by the various referral agencies.
95. It is recommended that Planning Permit No. PA403256 for the construction of the new performing arts centre at Fintona Girls School, 79 Balwyn Road, Balwyn be issued subject to conditions.
96. It is **recommended** that the applicant and the council be notified of the above in writing.



Prepared by:

I have considered whether there is a conflict of interest in assessing this application and I have determined that I have:

- No Conflict**
- Conflict and have therefore undertaken the following actions:
 - Completed the **Statutory Planning Services declaration of Conflict/Interest form.**
 - Attached the Statutory Planning Services declaration of Conflict/Interest form on to the hardcopy file.
 - Attached the Statutory Planning Services declaration of Conflict/Interest form into the relevant electronic workspace.

Name: Cath te Lintelo

Title: Senior Planner, Development Approvals and Design

Signed:



Phone:

Dated:

28 January 2025

Reviewed / Approved by:

I have considered whether there is a conflict of interest in assessing this application and I have determined that I have:

- No Conflict**
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Name: Grant Logan

Title: Manager, Development Approvals and Design

Signed:



Phone: 0428809519

Dated:

28 January 2025