

WRITTEN STATEMENTS

11 May 2021

**Planning and Amenity Delegated
Committee Meeting**

Item 4.1 **7 Mair Street and 13–17 New Street, Brighton** **(page 3)**

1. Mr Glenn Cross (O)
2. Mrs Gina Tan (O)
3. Dr Raelene West (O)
4. Dr Amanda Lawrence (O)
5. Dr Andrew Wood (O)
6. Mr Mark Newby (O)
7. Mr Paul Little (A)

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1. Prof. Yuriy Kuleshov (O)
2. Mrs Vicky McKay (O)
3. Mrs Marie & Mr John Stanway (O)
4. Mr Phil & Mrs Pauline Anthony (O)
5. Mr Jeff Dusting (O)
6. Dr Lilia Kuleshova (O)
7. Mrs Effie Tangalakis (A)

Item 4.3 **427a & 427b Hampton Street, Hampton** **(page 41)**

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3. Ms Ursula Chye (O)
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5. Ms Wei Wei (O)
6. Ms Filomena Demaria (O)
7. Mr Michael Witchalls & Ms Roberta McIntosh (O)
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1. Mr Gordon Wong (O)

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1. Mrs Effie Tangalakis (A)

Definitions

A= Applicant

S= Supporter

O= Objector

Item 4.1
7 Mair Street and
13–17 New Street, Brighton

1. Mr Glenn Cross (O)

We abut the planned development and it will significantly reduce our quality of life and our ability to enjoy in our last years the quiet ambiance of Brighton Beach. We do not object to the development in principal we object to the scale and height and the unsightly dominance it will have over a quiet and reserved residential neighborhood. I respectfully ask that the seek a lower height and reduced mass in what is planned as a significant real estate development in a residential area Thank you

2. Mrs Gina Tan (O)

Dear committee members,

Please consider the neighborhood feel when evaluating this proposal. A 4 story structure as proposed will have a huge impact on the neighborhood - visually but also with the number of visitors and staff coming to the facility. In my opinion large developments like this are suited to areas that are already build up and very close to shops. I recognize they have a "stepped" visual approach to the structure. But 4 stories is 4 stories, and it is double the height of anything except trees in our area! Your decision is going to affect our family and neighbors greatly. It will also send a message to large corporations that residential areas are actually zoned residential anymore. They just need to use the existing rules for aged care allowances and they will get their apartment/Retirement projects approved. Please send this proposal back for replanning with true consideration for the neighborhood. Thank you kindly. Gina Tan

3. Dr Raelene West (O)

The application seeks approval for the Construction of a four storey residential aged care facility with basement levels, and roof deck and removal of easements. Key details of the proposal are as follows:

- a total of 245 residential aged care bedrooms/suites across four levels in two wings joined by a central lobby area facing Mair Street
- the northern wing of the building comprises 150 high-care suites primarily comprising individual en-suite bedrooms with common living areas
- the southern wing of the building comprises 95 lower-care suites each with individual living areas and with multiple bedrooms per suite

S173 Agreement

29. Before the development starts, the owner must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987. The agreement must provide:

- a) a requirement for all residents of the residential aged care facility to enter into a personal care plan with the operator
- b) the agreement will remain registered on the certificate of title of the land in perpetuity and will apply to the entire site.

Re S173 Agreement - these agreements are usually made between the Council and a landowner

There is significant concern with how this S173 clause is worded and the parameters of how it would be actualized with residents at Elenora

As noted in my previous submissions, Japara is attempting to build Independent Living Units (ILUs) within the residential aged care facility development, this is the existing redevelopment of an existing aged care residential facility and then japara are adding on 95 ILU's, they are not expanding the existing aged care residential facility by definition.

Japara's claim in this S173 agreement between the Council and Japara is that all residents will be required to 'enter into a personal care plan with the operator' - It is not clear what legal weight or standing a personal care plan has - it is not a legal service agreement just a template requiring the residents to outline the services they may require. It does not in fact require someone to be older or even in the use of aged care services.

There is no definition as to what they mean by a personal care plan - it is simply a non-legal document between a resident and Japara. This could simply be an A4 bit of paper with a signature between the residents and japara for some sort of service - this could just be one hour of cleaning a week or Podiatry or something - a personal care plan doesn't necessarily mean Japara will be providing aged care services to the residents in the ILUs, even though they are in aged care service provider.

When a person enters the aged care system, they are generally required to have an assessment by an aged care assessment team (ACAT). Based on that assessment, the ACAT member will talk to person about their current situation and work out if you they are eligible to receive government subsidised aged care services. The ACAT member will then develop an **ACAT support plan** that includes the types of services and level of services required to meet their needs. Based on this assessment you can be granted a home care package which will allow you to remain in your home (or yes an independent living unit) with a package of funding for supports for you to purchase (in the open market by principle).

If a person is going to remain in their home and they require only a few supports, they are also still eligible to receive the local government run Commonwealth home support package (CHSP) {which is

very minimal support such as meals and wheels, very basic personal care and some cleaning). These are the provisions for an older person to remain living in their home or an ILU utilising funded support services.

If ACAT assess someone as more complex needs and requiring substantial support, they will be referred to undertake entry to an aged care residential facility. To enter an aged care facility, a person will be required to pay either:

a Refundable Accommodation Deposit (RAD)

b or a Daily Accommodation Payment (DAP)

c Or you are using some RESP ITE from your home care package for some short term stay at the aged care residential facility

It appears that Japara using some weasel definition of a non-legal based agreement of 'a personal care plan' to try and present to Council that the residents in their ILUs will all be aged care residents within the one aged care facility, whereas this may not be the case. In reality you could have 60 residents living in the ILUs that receive one hour of cleaning a week provided by Japara and they will meet this agreement of having 'a personal care plan' with Japara and then be eligible to live there - this is not aged care residential living and the planning scheme and Council should not allow for what is essentially just independent commercial residential units to be hidden into residential aged care facilities.

As previously noted, homecare supports purchased through a homecare package creates a whole other set of elements which will be problematic for the Elanora development. The essence of a Homecare package is that you can purchase services in an open market as assessed and required with the package of funding you have. Japara should not be able to *force* a resident to use their service in order to be able to remain living there as a part of their personal care plan clause. the resident may wish to use a range of services not just japara, but maybe including japara, or down the track may be unhappy with Japara's services and may wish to use a different service provider but remain living in the unit they are in. The residents should not be forced to have to use japara just to be able to remain living there - this goes against the integrity of the open market scheme from home care packages of choice and control by the resident. Council should anticipate that there may be actions that end up at vcat if people choose to exit from the japara services but choose to remain are living in their ILU's. A significant principle of the home care packages is a separation of accommodation and services not being tied together so that you have free choice in the market.

As noted in my previous submission and what has not as yet been addressed by Japara is that for residents living in ILUs, a person could choose to use any other service provider such as community nurses, personal care, cleaning services or podiatry from a different provider and are within their rights to do so. So staff for these services will need to come into the facility to provide these services. This will further increase traffic, movement and busyness at the facility. No thinking or provisions seem to have been made as to how you will have these independent healthcare workers accessing the facility if the rooms are situated within the middle of the facility. It could be a security risk for the high care residents in the rest of the facility and also Japara staff to have independent staff from other providers moving around in the facility at unknown times of the day.

None of the increased numbers of staff and traffic associated with the provision of these external services by residents in ILUs with home care packages (if they even have a home care package that is and not just a personal care plan) seems to have been included in any of the planning mechanisms and report. There seems to be no provision for security with these external service provider staff coming in, or notification of where they will park or if they have been allocated parking which will

significantly increase on street parking if they haven't been allocated any parking in the building, and how they will move around the facility as a parallel staff too the Elenora permanent staff.

Re: **6.1. Strategic Justification**

The eastern façade at first and second floor level adjacent to 21 and 19 New Street is setback 15m (adjacent to 21 New Street), 8.7m, and 11.6m (adjacent to 19 New Street) from the boundary. The applicant has outlined that the setback to 21 New Street exceeds the 9 metre requirement, therefore there is no overlooking impacts. The setback to 19 New Street is less than 9 metres however, views are restricted by the existing boundary fence. A condition requiring overlooking diagrams has been included to the recommendation to clearly demonstrate this. The uppermost level is setback a minimum 13.2 metres, in excess of the nine (9) metre requirements, therefore there are no overlooking impacts from this level.

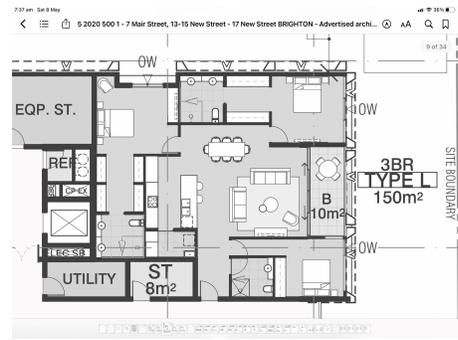
- so is the reading of this correct in that 19 New St (my residence) - levels two and three are still less than 9 metre setbacks and do not meet the requirements to meet overlooking standards - the boundary fence would only apply to level 1 as it is only two and a half metres high, not levels 2 and 3. I would define less than 9 metres as impact on levels two and three

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Improved standards to deal with infectious outbreaks
Clause 53.17 (Residential Aged Care Facility) of the Bayside Planning Scheme currently does not include standards and objectives relating to handling infectious outbreaks.

-very backward perspective by all

Retirement Villages are not Residential Aged Care Facilities and therefore do not meet the criteria for the 53.17. Therefore the apartment component of this development should comply with the DD03 and the DD01 overlay. This changes the height allowance to 8m, requires 1.7m rather than 1.2m screening, it must comply with Aboriginal Heritage and changes the car parking requirements.

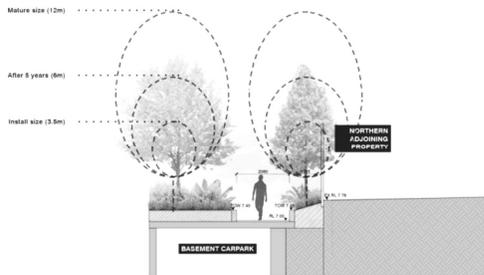
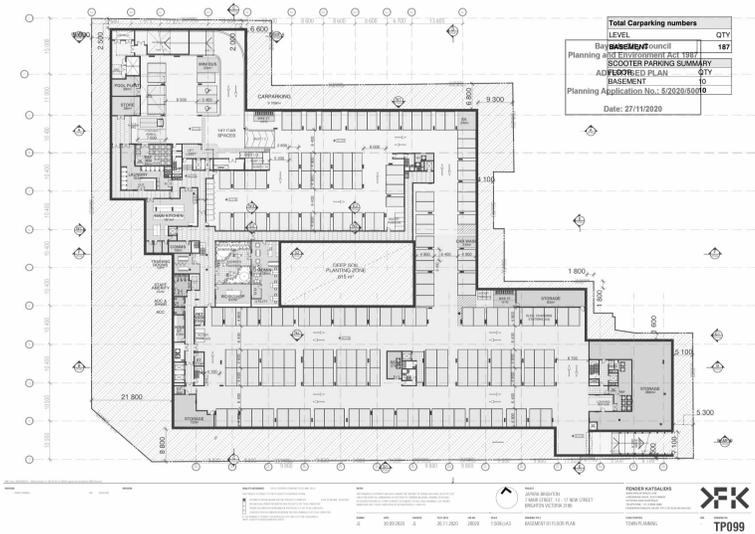


Apartment Floor Plan

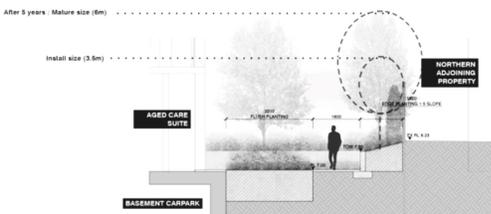
One of the 95 apartments. Showing three bedrooms, three bathrooms, balcony, kitchen and laundry. These are for independent living and only one car park for every three apartments has been allocated ie 0.3 per apartment.

Underground Carpark

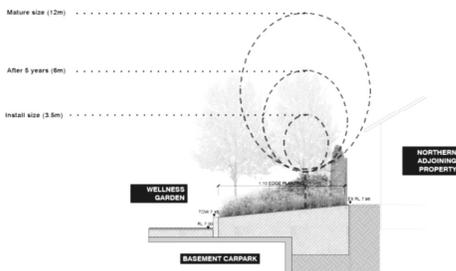
The picture above shows the extent of the underground car park. Although not required as part of the permeability assessment it should be noted that this is in a flood area. The feasibility of the redirection of the stormwater easement E1 (shown on 7 Mair Street title to be benefiting 2 Haileybury Street) servicing number 2 and 4 Haileybury Street has not been confirmed. The new Webber Report was done after private lawyers were engaged by the owners of number 2 Haileybury Street. As noted in the report, this design is subject to adding a connection point to the existing council Mair Street drain ensuring it is at a depth to allow fall from E2 and E3 and does not interfere with any other



Section FF



Section II



Section JJ

services (communication, gas, electricity etc). A potholing survey is required.

The extent of the underground car park is a landscaping concern.

The developers recognise that a “landscaped buffer at each of the site’s interfaces, softening its relationship” is required due to its uncharacteristic form in a neighbourhood zone previously protected by the DD01 and the Bayside Coastal Strategy 1997. Unfortunately, in many areas, “deep-root canopy planting” will not be possible due to the extent of the underground car park. The trees will not reach the heights needed to buffer much of the building. Also, due to their close proximity to boundaries, much of their canopy will extend into adjacent properties affecting maintenance and solar arrays.

Impact on the amenity of adjoining dwellings

If the apartment component complies with the DD01 the Residential Aged Care portion should still meet the requirements of the 53.17. The purpose of VPP Clause 53.17 is also to “ensure residential aged care facilities do not unreasonably impact on the amenity of adjoining dwellings”. Currently the setbacks from the northern properties ie adjacent to the ‘lodging rooms’ range from 2.765m to 8.2m. This is on the ground, first and second floors and the fourth floor apartment terraces. There is no privacy screening on any of these areas. The planting along the north in many areas is only going to reach a maximum of 6m at 5 years and therefore no ‘buffer the interface’

The following photos are from the secluded private open spaces of the properties to the north of the development. Number 2 Haileybury street is currently being renovated. The children’s playground to the South boundary will be reinstating following connection to the recently installed underground water tanks. Number 2 Haileybury street is 8m high as per requirements of the DD01 when it was built in 2000. It is still owned and will again be occupied by the same family. The proposed development will be almost double this in height and run at this continuous height to the west and entire south boundary of number 2 and 4 Haileybury street. As previously noted the building is between 2.765m to



8.2m from the northern properties.

Photos above are taken from a habitable room on the ground floor (left) and a bedroom on the first floor (right) of 3 Mair Street Brighton. Each window of the four levels of the proposed development will be able to look directly into these rooms. The proposed plans show NO provision for overlooking screening even though they are less than 7.3m from the boundary. The first floor terrace will be 2.8m from the property boundary and no balustrade is shown.

The VCAT Red Dot case used as justification for much of the development in the council agenda report, has not shown that the Knox Japara Residential Aged Care development was only two and three storeys.

Please see extracts from the VCAT hearing:

1. *Relevantly, new guidance for residential aged care facilities has been introduced in the planning scheme since the council made its decision. (2) Consequently, the applicant prepared and circulated amended plans for this proceeding. These plans lowered the building's height and increased its site coverage. Our decision is based on these plans.*
2. *It is proposed to develop a part-two/part three storey residential aged care facility of 89 rooms (95 beds) with associated lounge, dining and medical services.*

The Japara Knox development does not have apartments or a public cafeteria. All rooms are lodging rooms with six being shared/twin rooms. A design typical of a Residential Aged Care Facility.

Amenity for future residents

Under the 53.17 the “proposed amenity for future residents of the residential aged care facility” must be considered. The future residents of the lodging rooms will be the current residents of Elanora. Their amenity during the extensive build has not been addressed. Amanda Lawrence is POA for her mother, a resident of Elanora since 2019. **Japara has not consulted or informed residents or their families regarding the proposed development.**

The planning scheme sections relevant to discussion:

Residential aged care facility	0.3	0.3	To each lodging room
Residential village	1	1	To each one or two bedroom dwelling plus
	2	2	To each three or more bedroom dwelling (with studies or studios that are separate rooms counted as a bedrooms) plus
	1	0	For visitors to every five dwellings for developments of five or more dwellings
Retirement village	1	1	To each one or two bedroom dwelling plus
	2	2	To each three or more bedroom dwelling (with studies or studios that are separate rooms counted as a bedrooms) plus
	1	0	For visitors to every five dwellings for developments of five or more dwellings
Restaurant	0.4		To each patron permitted
		3.5	To each 100 sq m of leasable floor area

52.06

The parking requirements in the second column, Column B, does not apply to this proposed development.

53.17

To ensure residential aged care facilities do not unreasonably impact on the amenity of adjoining dwellings.

53.17-4

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as

appropriate:

- * The Municipal Planning Strategy and the Planning Policy Framework.
- * How the proposed development responds to the site and context description.
- * Where the requirements of this clause are not met, the impact on the amenity of the adjoining dwellings.

1. The proposed amenity for future residents of the residential aged care facility.

65

Because a permit can be granted does not imply that a permit should or will be granted. The responsible authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this clause.

65.01

Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.

73.03

Residential Village: Land, in one ownership, containing a number of dwellings, used to provide permanent accommodation and which includes communal, recreation, or medical facilities for residents of the village.

Retirement Village: Land used to provide permanent accommodation for retired people or the aged and may include communal recreational or medical facilities for residents of the village.

Restaurant: Land used to prepare and sell food and drink, for consumption on the premises.

DD03

The extent to which the proposed access point would conflict with any proposal to limit or prohibit traffic in certain roads.

Any adverse impacts on present vehicular traffic flows and in the context of any likely future changes in car parking and traffic conditions in the area.

DD01 overlay**Conclusion**

This is a brief summary of our discussions on the 8/5/2021. This will be an important case. Of the recent four Japara Development planning applications following the 2019 introduction of the 53.17, this is the first to contain apartments in an Residential Aged Care Facility. Other applications have separated the independent living units from the 53.17 and have complied with the alternate planning requirements. Thank you for taking the time to read this and consider the concerns of many Bayside residents.

5. Dr Andrew Wood (O)

I hereby submit to Bayside Council my objections regarding the proposed development at:

7 Mair Street BRIGHTON VIC 3186 13-15 New Street
BRIGHTON VIC 3186 17 New Street BRIGHTON VIC 3186
Application No. 500/2020

Dear Planning Officer.

Whilst I am sensitive to the growing need for aged care facilities in an ageing population base, I am very concerned about extensive property commercialisation in a residential zone. I chose to live in the area adjacent to Elanora because it's presentation is in keeping with the character of surrounding properties, despite its institutional nature.

The proposed development exceeds the building height constraints which bind all local residents. The building presents as monolithic with additional bulk compared with the envelopes of surrounding buildings. It's size will significantly impede natural light and airflow to adjacent homes. The proposed design brings uniform, 4 storey visual bulk in close proximity to adjacent property boundaries.

Local traffic flow must inevitably increase in proportion to the increased number of residents and staff at Elanora. While access to The New St component is good, access to Mair St is limited by the inability of traffic to enter from the North side of South Rd. The result will be a significant increase in through traffic burden in Haileybury St. I draw attention to the changes to parking restrictions which successfully resolved congestion caused by all-day parking on both sides of Haileybury St. I am concerned that the increased numbers of visitors to residents at Elanora as well as the increased numbers of residents able to drive cars, will result in both sides of the street becoming

congested and once more reducing Haileybury St to one car lane width.

Please note that on-street All Day Parking in Haileybury St and Mair St is quickly filled by rail travellers on Weekdays and Sport / Leisure participants on Weekends.

Further, I expect that all recent traffic studies are rendered meaningless by the impact of COVID-19 lockdown restrictions.

I would request the following modifications to reduce the amenity impacts on the neighbourhood of Elanora:

- Reduction of visual bulk by decreasing building height in favour of building width and depth.
- Establishment of breezeways and relief in the building outline to reduce the monolithic appearance
- Strict observance of setbacks.
- Prevention of overlooking of private residential space utilising obscure glass and/or balustrade to a height of 1.7m with planting and long term maintenance of tall trees to screen neighbouring properties.
- Consideration of the impact of increased numbers of independent and low dependency residents on the quality of care of the existing overwhelmingly high dependency residents.

I understand that The State Government has introduced Clause 53.17 to the Victorian Planning Provisions to permit increased building height for Residential Aged Care Facilities. I would urge Bayside Council to ensure that the 53.17 provision be applied exclusively to Government subsidised aged care lodging and not to buildings intended for Independent Living or Retirement Accommodation. Such 'low care' retirement complexes are governed by relevant Bayside Planning Provisions.

Consequently a revised design of the Japara proposal might contain separate components:

1. A high dependency government subsidised aged care component which enjoys the relaxed constraints intended by Clause 53.17
2. A retirement village containing independent living units and apartments whose design is constrained by Bayside Planning rules which would apply to ANY organisation intending to build retirement homes.

Please note that Japara developments in other Council Districts, namely Knox, Dandenong and Darebin, have been modified to achieve acceptable outcomes for both the developer and the local councils. Only Japara Darebin has 4 levels, understandable given that it is located in a Commercial Zone.

Faithfully
Dr Andrew Wood

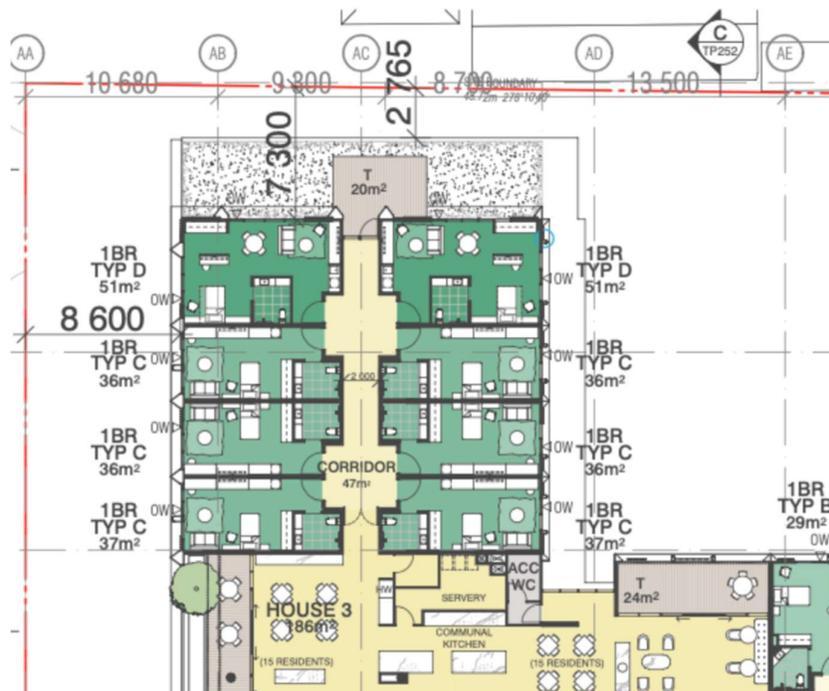
6. Mr Mark Newby (O)

First I want to thank Mayor Councillor Laurence Evans and Councillor Cr Jo Samuel-King for taking the time to meet with myself and fellow resident Amanda Lawrence to visit the site of the above proposed development during the afternoon of 8 May 2021. I also acknowledge that other Councillors have taken the time to attend various meetings of local residents that have been held since the above development proposal was initially advertised.

I registered my written objection to the development proposal via email on 31 December 2020.

A single compulsory planning information session via Zoom was not an effective forum to engage with the community or gauge the level of community concern with this development. I'm disappointed by the lack of community consultation by the Planners and the developer on this matter.

In my written objection I drew attention to the fact the northern most 1-bedroom units on levels 1 & 2 are within 9 metres of secluded open space within 3 Mair Street, however **no Overlooking Diagrams** have been produced for 3 Mair Street, where the setback is 7.3m from the abutting property boundary and there are no proposed screens on the window of these units. Overlooking would also occur from the first-floor terrace adjacent to these northern most units where the setback is only 2.7m. There is no detail provided of any screens to prevent overlooking from this level 1 raised outdoor open space.



I specifically request that “overlooking diagrams for the northern façade adjacent to 3 Mair Street demonstrating compliance with overlooking in Clause 53.17 of the Bayside Planning Scheme or amendments to the associated windows and balconies to comply with the overlooking requirements of Clause 53.17” are provided **for 3 Mair Street** prior to issuing the notice of decision to grant the above permit, or at the very least, this needs to added as a condition of the permit.

In the unfortunate event that the notice of decision to grant the above permit is issued, we request Council to include the following conditions in any relevant Planning Permit, and to use its powers to enforce those conditions:

- overlooking diagrams for the northern façade adjacent to 3 Mair Street
- A High-quality architectural firm is retained to deliver the project, to ensure a high level of architectural integrity
- Tree protection zone for trees located withing the adjoining properties
- Protection for brick walls and garage walls that form part of the boundary with adjoining properties
- A pre-construction survey of all immediately adjacent structural walls, free-standing walls, fences and trees

Regards

Mark Newby

7. Mr Paul Little (A)

Dear Mayor and Councillors,

PLANNING PERMIT APPLICATION 2020/500/1 7 MAIR STREET & 13-17 NEW STREET, BRIGHTON ('Site')

We write to you on behalf of our client Japara Property Holdings Pty Ltd, a subsidiary company of Japara Healthcare ('Japara') and in relation to their proposed redevelopment of the Site for a new, purpose built four storey Residential Aged Care Facility ('RACF') which forms Agenda Item 4.1 of tomorrow evening's Planning and Amenity Delegated Committee meeting.

Japara are one of Australia's largest private sector organisations in the aged care and retirement living industry, owning and operating 50 RACF across Australia and caring for approximately 4,000 residents. The proposed RACF on the Site is to replace the existing facility on-site (containing 142 high-care suites) and is to be Japara's flagship facility across Australia as designed by highly awarded and internationally renowned architects, *Fender Katsalidis Architects*.

The proposed aged care suites vary in their layout and size with a range of care options including low care options with a higher degree of independence through to high care offerings for more dependant individuals. This is a response by Japara to the shift toward individual care offerings, market based research and delivering the opportunity for residents to 'age in place'.

For instance, the low-care, larger suites are designed to reflect a home like environment that allow for residents to have a greater level of independence, wellness, dignity and choice that can also be shared with their spouse/family members, before higher care may be required. Regardless of a resident's requirements, an individual care package will be required and tailored to the resident's needs.

This transition toward tailored care offerings and creating a more traditional home-like environment as proposed by this application, responds directly to the Federal Government Aged Care Quality Standards (July 2019), the Federal Government's recent funding announcements regarding increasing Home Care Packages, and findings of the recent Aged Care Royal Commission. The proposed RACF by Japara is to provide an unprecedented care offering, lifestyle choice and excellent amenity for existing and future residents of Bayside.

In addition to the supporting officer report and recommendation before the Committee, we further provide the following written statement to assist in your consideration and determination of this matter:

- Our client has worked closely with Council's statutory planning officers during the planning permit application process. This includes pre-application meetings with officers through Council's 'gold level' application assessment process and responding to a variety of requests at this early stage and from various Council departments through the application's statutory processing and assessment.
- Japara has engaged with the local community through the distribution of project information pamphlets, hosting an online information session with Council officers observers to on 9 December 2020, before attending and participating in the Council lead community consultation on 22 January 2021. A comprehensive response to

objector concerns was provided and distributed to objectors in attendance at this community consultation meeting and as contained in the officer report.

- The culmination of the above work and engagement is reflected in the supporting officer report, drafted conditions, and recommendation before the Committee.
- The Bayside Planning Scheme and specifically Clause 21.02 is clear in recognising that the population of Bayside is ageing and there is a need and demand for additional aged care accommodation. This is also reflected in the *Council Plan 2017-21* and *Bayside Housing Strategy*.
- State planning policy at Clause 16.01-7S of the Planning Scheme is clear in encouraging such RACF in residential areas such as on the Site, and that *'...residential aged care facilities are different to dwellings in their purpose and function, and will have a different built form (including height, scale and mass)*.
- Pursuant to the Neighbourhood Residential Zone, use of the land for a RACF is 'as of right' and in accordance with the purpose of the zone. The proposed design response has evolved with a clear understanding of relevant planning policy requirements, the specific planning controls in place for RACF at Clause 53.17 of the Planning Scheme and the Site's opportunities and constraints, namely its substantial land size area at approximately 1.44ha.
- Such a significant land size enables the proposed built form to carefully respond and manage each of the Site's interfaces. As generally reflected in the officers report the design response not only complies with, but in most instances exceeds the requirements of Clause 53.17, including:
 - A maximum building height of 15.95 metres from Natural Ground Level to the parapet of the facilities Mair Street entrance, otherwise the building's height ranges between 14.6 – 14.9 metres, well within the 16 metres achievable.
 - A building site coverage of only 57%, significantly less than the 80% requirement.
 - Generous side and rear setbacks around the Site's perimeter in excess of Clause 53.17 requirements and increasing on the upper levels.
 - No unreasonable off-site amenity impacts to neighbouring properties, complying with relevant overlooking, overshadowing and visual bulk requirements.
- The siting of the building, including its basement, enables a long-term landscaping outcome to be achieved with the proposal providing a range of canopy trees, hedges, shrubs, creepers and ground covers and a variety of species as reflected in the landscape report prepared by *Oculus*. A net-increase in 110 canopy trees is proposed across the Site (total 146) assisting in filtering and softening the built form appearance of the building and contributing towards the neighbourhood and coastal character environment.
- The proposal provides all on-site car parking within a basement level and creates additional on-street car parking spaces through reinstating existing crossovers. As reflected in the officer report, the proposed development is expected to generate a relatively low level of additional traffic to the surrounding road network and through its dual street frontages traffic is anticipated to be distributed evenly to the Mair and New Streets.

- The construction process of the RACF is still to be confirmed by Japara, however through previous experience and mindful of existing residents, a potential solution is to stage the construction. This would involve decanting part of the existing facility and locating residents within existing rooms of the facility prior to then relocating them to the newly constructed sections of the proposal. The construction/staging process will be resolved through the design detail stages and future construction management plans as required in the draft recommendation and conditions before the Committee.

The relevance of Council's neighbourhood character policy at Clause 22.06 and DDO1 control, is diminished through the Site's characteristics and ability to provide a RACF in response to State policy and Clause 53.17 requirements recognising the difference in scale, height and built form for such facilities. As generally reflected in the Council officer report, we submit that the proposal successfully achieves a balance between the planning controls in place and the conflicting policy requirements applying to the Site and proposal and endorse the recommendation of officers as put to the Committee.

This application has involved direct and meaningful engagement with Council's planners and the various internal departments which have reviewed the application as sought. The recommendation of the officers is robust and well informed noting that the proposal has responded to its direct interfaces and addressed the reasonable amenity expectations of these properties as required by Clause 53.17 requirements.

We implore the Committee to resolve in support of this project noting that its realisation will see the delivery of residential aged care accommodation to meet the future needs of the Bayside Community.

Should the Committee require any additional information or wish to discuss this application in further detail, please contact the undersigned on 8626 9070 – (email: little@pppartners.com.au).

Yours faithfully,



PAUL LITTLE
Planning & Property Partners Pty Ltd

Item 4.2
76–78 Beach Road,
Sandringham

1. Prof. Yuriy Kuleshov (O)

Re: Objection to application for a planning permit for construction of a four-storey building at 76-78 Beach Road Sandringham (reference number 5/2020/660/1)

Dear Councillors,

Residents of Sandringham affected by the proposed development at 76-78 Beach Road would like to thank Councillors Fiona Stiffold, Jo Samuel-King and Mayor Laurence Evans for meeting with us last Saturday and listening to our concerns.

In this letter, I provide you with additional information in response to recommendation of Bayside City Council (BCC) Planning Department to approve construction of a four-storey building at 76-78 Beach Road, Sandringham. Affected residents disagree with this recommendation of the Planning Department and consider the proposed development as inappropriate. Key concerns are bulky, disproportionately large design; excessive height of the building (14.97m; almost 4m higher than 11m as specified in DDO14) and four storeys (instead of three stories as in DDO14).

Schedule 14 to the Design and Development Overlay (DDO) does allow for variations to preferred building heights. However, for such variations to be considered, the proposal must demonstrate the following:

- a high standard of architectural design
- innovative environmental design
- minimal overshadowing of adjoining residential precincts
- transition in scale to lower build forms in the area.

Let us consider these four criteria one by one.

1. High Standard of Architectural Design. According to BCC Planning Department, "The development is considered to demonstrate a high quality of architectural design" (page 227).

Seeking for an independent opinion about quality of the proposed design, residents consulted with a reputable architect who has decades of experience in designing high-quality residential and urban developments. According to this independent evaluation, the proposed architectural design does not meet a criterion of high standards. Main recommendations to make the proposed design of high quality: less emphasis on quantity and more on quality, e.g., 16-18 apartments and a greener development, 3 stories high, incorporating an internal U-shaped courtyard to capture northern light.

In "Written Submissions on Behalf of Bayside City Council" from 2 October 2019 produced by Mr. Jason Kane on instruction of BCC and presented at VCAT hearing, one can find the following: "The proposed scale and mass of the entire built form will be viewed from a number of points. The net visual impact will be a large, bulky form that will be discordant within the streetscape and is not sympathetic to the surrounding residential amenity or character " (page 13). This was Council's assessment of the 2018 design which presented much smaller built form.

Residents believe that Council will recognize that the proposed 2020 design, larger in scale and more bulky, will be even more discordant within the streetscape and is not sympathetic to the surrounding residential amenity or character, and does not meet the criterion of "High Standard of Architectural Design".

2. Innovative Environmental Design. BCC Planning Department recognized that "Given that the proposal seeks to exceed the preferred maximum building height, the building should demonstrate exemplar design including through sustainable design. A condition is therefore included in the recommendation requiring an amended Environmentally Sustainable Design (ESD) report to be provided addressing all of the recommendations of Council's Sustainability officer and demonstrating a BESS rating of 70%" (Page 228).

BESS rating for the proposed design is 50%; in its current form, it obviously does not demonstrate exemplar design and does not meet the criterion of "Innovative Environmental Design".

3. Minimal Overshadowing of Adjoining Properties. BCC Planning Department recognized that "Additional overshadowing to these properties (i.e., the adjoining properties to the east of the site in Arthur Street) would be from 3pm onwards and is only marginally greater than existing conditions" (Page 228).

Affected residents disagree with comments of the Planning Department and have different point of view: if overshadowing is greater than the existing conditions, it will degrade our existing amenities and result in detrimental impacts on neighbouring properties.

State and Local Policy State planning and local planning policies are consistent in their application of policy to ensure new development, even in commercial zones, continues to recognise and duly respect the interface to adjacent residential/sensitive development. As an example, Clause 15.01-1s in the Planning Policy Framework relating to the Built Environment states that new development is to minimise detrimental impacts on neighbouring properties and respect neighbourhood character.

The proposed development does not respect sensitive residential neighbourhood, and it does not meet the criterion of "Minimal Overshadowing of Adjoining properties".

4. Transition in Scale to Lower Built Forms in the Area. Evaluating this criterion, BCC Planning Department commented: " ... there is an effective transition to the lower existing built forms to the east of the application site " (page 228). This comment of BCC Planning Department deserves particular consideration keeping in mind that the proposed development is in historic Gypsy Village.

In "Written Submissions on Behalf of Bayside City Council" from 2 October 2019 produced by Mr. Jason Kane on instruction of BCC and presented at VCAT hearing, one can find the following: "The proposal will generate unreasonable amenity impacts on adjoining properties" (page 13) and "The Council is concerned that the proposed building will unreasonably impact on the amenity of the adjoining residential properties. Resultant from the large mass of the building at the rear of the site, the building will present significant and unreasonable visual bulk to the adjoining properties. The extent of unbroken building length at the sensitive interfaces will contribute to unreasonable impacts on the adjoining properties, in terms of visual bulk and loss of outlook. The proposal will essentially present as a dominant built form adjacent to secluded private open space & habitable room windows. These are obviously sensitive areas and important amenity features of the adjoining dwellings and provide a pleasant outlook" (page 14).

Thus, assessing impacts of the 2018 design (2-storey and an attic building 11.4 m high) the Council concluded that the proposal will generate unreasonable amenity impacts on adjoining properties.

Residents believe that despite of BCC Planning Department's comment that " ... there is an effective transition to the lower existing built forms to the east of the application site", the Council will demonstrate consistency in decision making and conclude that the 2020 design of 4-storey

14.97 m high building will have unreasonable amenity impacts on adjoining properties.

In summary, while Schedule 14 to the DDO does allow for variations to preferred building heights, the proposal did not demonstrate that it meets any of four specified criteria and consequently such variation can't be considered. Residents believe that there are no grounds to approve application for construction of 14.97m high building.

Residents of Sandringham object to this proposed inappropriate development in historic Gipsy Village and submit this objection to Bayside City Council in a good faith that the proposed development will be rejected.

Yours sincerely,
Prof. Yuriy Kuleshov

2. Mrs Vicky McKay (O)

OBJECTION RE: THE PROPOSED 4 STOREY BUILDING AT 76-78 BEACH ROAD SANDRINGHAM
APPLICATION NO 5/20/660/1

I strongly oppose this inappropriate development. To support my objection, I refer to the Bayside Planning Scheme. The proposed development is located within a Small Commercial Activity Centre – Mixed Use. The objectives for this type of mixed use property is outlined below;

- 1) To encourage uses which provide for community interaction.
- 2) To ensure new development appropriately manages amenity and interface issues with adjoining residential development.
- 3) To provide an attractive pedestrian environment to encourage walking and cycling.

It is my belief that the proposed development does not meet the above objectives for the reasons outlined below;

1) To encourage uses which provide for community interaction.

- a) Bayside Council is predominantly a residential municipality. As a consequence there is limited commercial zoned land. The proposed development within the Small Commercial Activity Centre is overwhelmingly residential, thereby reducing the sites important contribution to the provision of economic, social and employment opportunities within Bayside. If more of the proposed development were accessible to the community, (currently less than 1/3 of the ground floor is commercial space) this would be mutually beneficial for the viability of small bayside businesses. This location could become an economic hub (perhaps a shared office space for stay-at-home workers or small businesses) as well as a community meeting place (beyond the proposed use by two small business premises).
- b) The proposed property has no communal outdoor space for residents, therefore not encouraging resident interaction. Perhaps an internal or north facing courtyard could be created with a clearly defined and environmentally sensitive Entry to the property.
- c) Nor is there any outdoor community space provided. The property has inadequate setback from Beach Road. The proposed plans are built up to the westerly footpath, which does not provide adequate space for safe interaction at the front of the proposed cafe for customers and cyclist visitors.
- d) The set-back Entry to the residential property is likely to be overwhelmed with bikes in the proposed entry way as there is insufficient space allocated to bike parking. The site services are inappropriately located in the only current outdoor frontage area.

- 2) To ensure new development appropriately manages amenity and interface issues with adjoining residential development.**
- a) The proposed height of the building is 14m. The height limit for DD014 for this site is recommended at 11m.
 - b) Whilst the site is located in a Commercial 1 Zone and within an Activity Centre, it is important to acknowledge that the site has the following considerations;
 - i. Very close proximity to a number of low rise residential dwellings
 - ii. These dwellings are all within a Minimal Residential Growth area and are limited to 2 storeys and an attic.
 - iii. The 4 storey building will present a significant and unreasonable visual bulk on adjoining properties (their private open space and habitable room windows). The building is extremely imposing on neighbouring properties and highly visible from residences more than a block away.
 - iv. The proposed mass takes up a large frontage of Beach Road, adding very little by way of landscaping and enhancing the pedestrian environment. All of the surrounding neighbourhood is characterized by (predominantly) one and two storey dwellings, set in well maintained garden settings. This development, not only is not in character with the neighbourhood, but has a significant lack of trees and greenery, instead borrowing from the neighbourhood amenity. The proposed 18 trees for an area of 1,970sqm which abuts the natural bushland Coastal Reserve is grossly inadequate.
 - v. The setbacks shown for the rear (Eastern) boundary with the adjoining Arthur Street residential properties is not sufficient to respect the amenity of these properties. The proposed development has a close and imposing relationship with habitable room windows/private open space. Even with screening the significant visual impact of the 4 story property on the adjoining properties is overbearing.
 - c) The two terraces on the 3rd floor along the eastern boundary are not only projecting forward to neighbouring properties, but are also oversized and almost double the living space of each of the apartments.
 - d) The northern boundary (Caltex Service Station) does not have habitable properties to appease and yet is underutilized as a source of daylight for apartments, rather than facing east where they overlook neighbouring properties.
 - e) The front southern corner of the proposed development eclipses the light and aspect of the adjoining residential property (79-80 Beach Road) that it set back from Beach Road.
- 3) To provide an attractive pedestrian environment to encourage walking and cycling.**
- a) Although the applicants are proposing an active frontage with a café development, the proposed development abuts the pavement of a very busy road. There is minimal provision for cyclists (customers to the proposed café) to place their bicycles whilst they frequent the local business. If bikes are left on the footpath this is a danger to passing pedestrians and to passing motorists.

b) The current application proposes 39 bicycle parking spaces, however these spaces are not adequate for the potential customer base to the proposed cafe, which is located on one of Melbourne's most popular cycling routes. The plans allocate 1 bike park space per apartment in basement level 1, 5 visitor parking at ground and basement level and 5 staff parking spaces at basement level. The Bay Trail carried 250,000 bikes during 2020 (source Victorian Government Department of Transport, Piezo Sensor Strip located on Beach Road and Mildura Avenue). This equates to a daily average at the lowest of 572 on a Thursday and up to 920 on a Sunday. These figures do not take into account the approximate 10,000 plus bikes that travel on Beach Road each the weekend (source The Age, 2011). Even if a small percentage stop at the café, where will these potential customers park their bikes?

I object to the proposed development and request that Council consider introducing the following prerequisites;

- Build to a maximum 11 meters height
- Reduce the number of apartments
- Increase the commercial presence and community accessibility
- Reduce the land area occupied by the proposed building, thereby increasing public outdoor space and active frontages
- Increase the availability of publically accessible bike parking
- Increase vegetation on the site

Yours sincerely

Vicky McKay

3. Mrs Marie & Mr John Stanway (O)

Re APPLICATION NO. 5/2020/660/1 for 76-78 Beach Road SANDRINGHAM

We are rate paying residents of 1 Georgiana Street Sandringham.

We are not against development at the above address but do strongly object to the current planning proposal for the following reasons.

1. HEIGHT

The height of the proposed construction of four storeys is too high, and out of keeping with the surrounding buildings. We suggest the construction is limited to 3 storeys and should not exceed 11 m, the preferred building height as stated in the Bayside Planning Scheme 2.0

2. NUMBER OF APARTMENTS

The number of apartments of 29 and 2 commercial units will add to the already congested through-traffic and parking issues that residents currently experience. We suggest reducing the number of apartments.

3. PRIVACY, NOISE AND OVERSHADOWING

The proximity to the east border and the proposed balconies and terraces (up to 60 sq m) on the eastern side will result in loss of privacy and noise impact for surrounding residents.

Uniquely for us at 1 Georgiana Street there would be a direct line of sight into our second storey north facing bedroom (not addressed by the proposed screening) as well as overshadowing of our backyard. The air conditioning units need to be located away from surrounding residents.

We believe the current proposal should be not be accepted by the Bayside Council.

Yours sincerely

Marie and John Stanway

4. Mr Phil & Mrs Pauline Anthony (O)

To whom it may concern,

As residents of a property that adjoins the proposed development, we strongly object to the proposal for a number of valid and significant reasons.

Parking is already an issue in Arthur Street with sporting fixtures throughout the year at Trevor Barker oval, the Farmers' market, gym, SBH, train commuters, etc. Adding 29 apartments with limited car spaces as well as the proposed commercial businesses requiring parking, will only exacerbate the problem.

Whilst we agree that the site at present should be developed we do not agree with a dominating 14 m structure which will impact the visual aspect of the adjoining properties. This height exceeds the minimum 11m height limit preferred by council.

We are concerned that the setbacks of the balconies will not only be visually dominating but will increase noise levels to our backyards.

It does not appear that the development has given much consideration to landscaping and the environmental impact. Bayside, and in particular, the Gypsy Village, is a leafy, green area. The development does not reflect the Councils commitment to the Urban Forest Strategy. The landscape plan should reflect this commitment to 'protect, manage and grow the tree canopy cover across Bayside now and for future generations'. We are also concerned that established trees on our boundaries may be impacted during construction.

Sincerely,

Phil and Pauline Anthony

5. Mr Jeff Dusting (O)

Dear Councillors

We were pleased to see the successful election of councillors to our council with a keen interest in sustainable development and protection of our community. I make this submission calling upon you to consider the interests of your community and balance the aspirations of a developer over the broader vision for our community.

My submission calls out a number of key concerns, and makes specific recommendations for you to consider and balance against the dispassionate assessment of the proposal made by the town planners.

Furthermore, it is clear that the developer has engaged in strategic manipulation of the council – ignoring the basis for the council’s rejection of the 2018 proposal, and submitting an alternate proposal with greater density, overlooking, and visual bulk than the original. The residents engaged with council and the developer in 2018 and reached an agreed compromise that oriented the development orientation back to the north and west – this agreement was not finalised due to council’s inability to get formal delegation in the available time. This current proposal is significantly taller, has more visual bulk, and greater apartment density than the 2018 proposal rejected by the council and we struggle to understand how this new proposal is acceptable.

Thank you for your consideration

Jeff Dusting

Adverse Community Reaction

In addition to the 57 objections submitted to the council, a further 47 letters to the mayor were submitted between the period 19 April – 8 May 2021, with a copy of these emails provided as an attachment to this submission.

It is well known that for every person who takes the time to object there are 10 more who object but stop short of taking action.

It is clear that the local community and ratepayers of the area do not support the proposed development and are looking to council to respect the interests of the community.

Recommended Action: Prior to permit approval, seek further community consultation to assess the impact and concerns of the community

Sandringham Identity

Don’t kill the identity ... share our community, but don’t destroy it ... development should be in keeping with why the community loves sandy ... green, family oriented, sustainable, and with a nod to our history as a holiday destination and marine centre.

Monolithic blocks create urban density that does not belong here – council should reject this development and insist upon development consistent with the community.

Recommended Action: Council should reject this proposal as failing to respect the local interface with historic Gypsy Village and the marine precinct

Planning Regulations Compliance

As a professional engineer, I am accustomed to interpreting legal clauses and requirements, the DD014 requirement that a development should not exceed 11m and 3 storeys is important.

As the bayside planning team point out, this clause provides a window for a developer to exceed these requirements subject to demonstrating exceptional design considerations.

I refer you back to the considered opinion of residents and objectors who assert that the proposed development is not an example of exceptional design and merit. For reference of a suitable design the residents respect refer, <https://reunionplace.com.au/>

To be granted an exemption to the 11m height restriction, the development must have a high standard of architectural design. The residents would content that the proposed design does not represent a high standard of architecture, no innovative environmental design.

With reference to high standard architecture projects in the council area, the proposed development incorporates low quality finishes, limited landscaping, and fails to exceed any environmental benchmarks. It is hard to understand how this development can meet the threshold required to allow the 11m / 3 storey height restriction to be exceeded. An example of sympathetic high standard architecture in the area is provided at the Reunion Development planned for Hampton refer, <https://reunionplace.com.au/>

Recommended Action: Council reject the proposal and limit the development to a maximum of 11m and 3 storeys.

Recommended Action: Council reject the current application and recommend that the developer re-submit the amended plans as mutually agreed in 2018

Interface with 4-8 Arthur Street

The proposed development plans show a 2.8m paling fence at the boundary. Given the increase in the number of dwellings proposed, appropriate sound protection should be provided.

With the proximity of the proposed development to the swimming pool at 6 Arthur Street, the need for tap root trees is important to specify to avoid future damage across the boundary.

As widely discussed, there is a need for overlooking protection (see overlooking from proposed development level 2), and council is requested to note that building regulations have not kept pace with the increase in the height of the average Australian. In addition to permanent downward looking screening, the height of these screens should be increased.



The current building has a 9m height, with the proposed development up to 14m. As shown in the photo to the right, this represents a significant visual bulk and overshadowing risk. Initial assessments of the shadow analysis have identified significant flaws in the analysis and indicate that the proposed development will reduce sunlight in the back yards by more than 50%.



Recommended Action: In the event that council approves the application, council apply the following conditions:

- **Require a 3.6m sound wall be provided at the boundary with the Arthur Street properties**
- **Require visual, permanent screening to avoid downward looking to a height of 1.8m to reflect the height of the average Australian.**
- **Require mature local, tap root trees be planted at the boundary with the Arthur Street properties.**
- **Require an independent verification of the shadowing analysis provided by the developer.**

Environmental Disaster in Waiting

Following a preliminary site survey by our environmental engineer, there are likely to be significant environmental risks associated with the proposed construction, these risks include but are not limited to:

- Disturbance of sub-terranean hydrocarbons leached from unauthorised disposal at the property rear boundary during the property's history as a commercial manufacturing site – with current waste storage.
- Disturbance of sub-terranean hydrocarbons leached from the neighbouring fuel station – with Caltex completing risk mitigation sample coring over the past weeks.
- Unauthorised disposal of contaminated soils during construction

The mechanical construction methods to be employed to establish basement of the building can be reasonably expected to cause pollution to leach – into neighbouring properties, public lands and waterways.

Recommended Action: An appropriate independent environmental consultant should be engaged to assess the risk and monitor construction and spoil removal. The current practice of trusting this task to the developer is considered an inappropriate allocation of council's risk and a conflict of interest that is not best practice.

Traffic Impacts

As a profession road transport engineer, I am concerned by the safety hazards that fail to be addressed in the council's assessment of the proposed development – largely due to the assessment of the development in isolation and without consideration of the cumulative impact of prior approvals and traffic trends.

Specific concerns include:

- Inadequate sight lines for traffic exiting the proposed development
- The traffic volumes and movements considering cycle, jetty road and service station traffic on weekends

- The escalation in the use of Georgiana and Arthur St as high speed thorough fares

Recommended Action: Prior to permit approval, order a comprehensive study of the cumulative effects of high density development on beach road considering;

- **The impact of traffic movements exiting the service station, proposed commercial facilities, gymnasium, sports oval and jetty road creating a significant traffic safety hazard in the space of a 100m section of Beach Road**
- **the interface with more than 20,000 cyclists using the road on weekends,**
- **the cumulative demands on street parking on Gerorgiana and Arthur streets as a result of continued approval of commercial development and use applications without out provision for parking**

6. Dr Lilia Kuleshova (O)

Dear Councillors,

Can Council please recognise that the Planning Department's approval of the 2020 design contradicts to "Written Submissions on Behalf of Bayside City Council" from 2 October 2019 produced by Mr. Jason Kane on instruction of BCC and presented at VCAT hearing, in which BCC criticised poor design, negative impact on residents' amenities, mass of built form etc. of the 2018 design (38 p10, 39 p10, 40 p10, 46 p13)? The proposed mass of the 2020 design represents even much worse design response to its context and not suitable to represent Gateway to Sandringham.

Key concerns are bulky, disproportionately large design; excessive height of the building (The 2018 design rejected by BCC and VCAT exceeded recommended height of 11 metres by only 0.4 metres (3.6%). Height of the 2020 proposed development is 14.97 metres and it exceeds recommended height of 11 metres by more than one third (36%); this is clearly a violation of the recommendations of DDO 14. If 3.6% was considered by BCC as unacceptable, the new proposal at 36% (10 times more) in excess must not be approved by Council. The site for the proposed development is in a unique location at the **Coast and surrounded by Minimal Residential Growth Area** with no large buildings within 500m radius. It is important that the character of the suburb and historic Gipsy Village is maintained.

Schedule 14 to the Design and Development Overlay (DDO) does allow for variations to preferred building heights. However, for such variations to be considered, the proposal must demonstrate four criteria which are evaluated by us below.

1. High Standard of Architectural Design. According to BCC Planning Department, "The development is considered to demonstrate a high quality of architectural design" (page 227).

According to an independent evaluation (and it is also my view), the proposed architectural design does not meet a criterion of high standards. It was also outlined in submissions of other residents - architects living in historic Gipsy Village. High quality of architectural design can be demonstrated by a greener development with 16-18 apartments at three-level, incorporating U shape courtyard to capture northern light. Apartments and balconies can be oriented internally avoiding overlooking to the east.

In the document produced on behalf of BCC and presented at VCAT hearing, one can find the following: "The proposed scale and mass of the entire built form will be viewed from a number of points. The net visual impact will be a large, bulky form that will be discordant within the streetscape and is not sympathetic to the surrounding residential amenity or character " (46 p 13). This was Council's assessment of the 2018 design which presented much smaller built form.

Residents believe that Council will recognize that the proposed 2020 design, larger in scale and more bulky, will be even more discordant within the streetscape and is not sympathetic to the surrounding residential amenity or character.

2. "Innovative Environmental Design" - development obviously does not demonstrate exemplar design and does not meet this criterion. Planning Department included a condition in the recommendation requiring an amended Environmentally Sustainable Design (ESD) report to be provided addressing all of the recommendations of Council's Sustainability officer and demonstrating a BESS rating of 70%"

(Page 228). In its current form the 2020 design has BESS rating of 50% and it is not an "Innovative Environmental Design".

3. Minimal Overshadowing of Adjoining Properties. BCC Planning Department recognized that "Additional overshadowing to these properties (i.e., the adjoining properties to the east of the site in Arthur Street) would be from 3pm onwards.

The proposed building design has extreme closeness to and observation of residential houses, their windows and private open space; in particular, the building has projecting forward build mass on boundary with my property at 4 Arthur Street just 4,515 mm and balconies 4.015 mm. In format proposed by developers, lowering building to existing height (two storeys and an attic), significantly reducing a number of apartments, maintaining the current setback of 6.3 metres is intermediate solution to avoid negatives impacts and overshadowing on Adjoining properties.

State planning and local planning policies are consistent in their application of policy to ensure new development, even in commercial zones, continues to recognise and duly respect the interface to adjacent residential/sensitive development.

As an example, Clause 15.01-1s in the Planning Policy Framework relating to the Built Environment states that new development is to minimise detrimental impacts on neighbouring properties and respect neighbourhood character.

- Ensure that the interface between Activity Centres and adjacent residential areas is appropriate in terms of built form and amenity (obj1)
- Ensure that buildings are designed to provide a transition in built form at the interface between business and residential precincts (obj3)
- Ensure that commercial buildings at the interface between business and residential precincts are designed to respect the amenity of existing residential uses, particularly in relation to overlooking, overshadowing, noise generating uses and equipment. (obj3)

On the contrary, the proposed 2020 design does not meet those objectives; it clearly has detrimental impacts on neighbouring properties and does not respect neighbourhood character of historic Gipsy Village.

A key objective of the Design and Development Overlay (Schedule 14) is *To ensure that new development is designed to provide an appropriate transition to existing low scale residential areas.*

Clause 55;

55.04-6 Overlooking

Objective: ***To limit views into existing secluded private open space and habitable room windows***

Before deciding on an application, the responsible authority must consider:

The impact on the amenity of the secluded private open space or habitable room window.

The existing extent of overlooking into the secluded private open space and habitable room windows of existing dwellings.

and

Clause 58 – Assessment of Apartment Developments

Standard 58.04 - Amenity Impacts

58.04-1 Building setback objectives

To limit views into habitable room windows and private open space of new and existing dwellings.

Standard D14

Buildings should be set back from side and rear boundaries, and other buildings within the site to:

Avoid direct views into habitable room windows and private open space of new and existing dwellings.

The proposed development clearly does not respect sensitive residential neighbourhood, and it does not meet the criterion of "Minimal Overshadowing of Adjoining properties".

4. Transition in Scale to Lower Built Forms in the Area. In "Written Submissions on Behalf of Bayside City Council" presented at VCAT hearing, one can find the following: "The proposal will generate unreasonable amenity impacts on adjoining properties" (46 p 13) and "The Council is concerned that the proposed building will unreasonably impact on the amenity of the adjoining residential properties. Resultant from the large mass of the building at the rear of the site, the building will present significant and unreasonable visual bulk to the adjoining properties. The extent of unbroken building length at the sensitive interfaces will contribute to unreasonable impacts on the adjoining properties, in terms of visual bulk and loss of outlook. The proposal will essentially present as a dominant built form adjacent to secluded private open space & habitable room windows. These are obviously sensitive areas and important amenity features of the adjoining dwellings and provide a pleasant outlook" (50, 51 14). "The proposal seeks to squeeze too much yield from the subject site to the detriment of the residential interface. "

There are numerous signs of unreasonable rise of activity such as the number of apartments, balconies and terraces to the east which exceeds the previous 2018 design which was rejected by VCAT. If the building is constructed in the way it is currently proposed, it will damage amenities of adjoining residential dwellings; this presents an obvious example of what is commonly known as "borrowing amenities" from neighbouring properties. Twenty nine apartments is clearly overdevelopment of the site.

Furthermore, landscaping of the proposed development as suggested by VCAT was disregarded by the current application. Currently it is inadequate, with only four trees and few bushes proposed at the rear boundary. It was specified at VCAT hearing in 2019 (57, P 15) : "The Council is concerned that there insufficient areas on subject side for deep soil planting. The Council submits that the side is not so constructed that there is no opportunity to increase the setback to enable the planting of trees in deep soil to create visual relief." Yet, current Planning Department' recommendation contradicts to this statement.

Protection of trees on construction site has not been addressed. Properties on eastern boundary have numerous large trees and it is highly likely that the trees could be damaged during the proposed development. Appropriate tree protection measures should be incorporated in the application for the proposed development.

Large terraces on both sides of the proposed development (60 sq. m.) facing east and north, all balconies and windows facing east must be screened appropriately ensuring that screening is not removable and solid construction is used to reduce noise impact. Terraces and balconies are customary used for parties and barbeque; smoking during such events is common. Residential properties have storage rooms at the back, therefore, distance of 4.015 (Level 1) (or 2.25m closer than the current building) is not sufficient and represents fire hazard for the neighbouring properties.

The closest distance of the building on levels 2 and 60 sq. m. terrace from the eastern boundary is only 4.515 m and with a higher vantage point will have direct impact on secluded private space in the rear yards of our properties. This will create a dominating visual presence and potential noise issue.

Before deciding on an application, the responsible authority must consider the impacts of such proximity / overlooking / potential noise on the amenities of the existing dwellings and whether the development meets the objectives of State and Local Policy State planning and local planning policies which are consistent in their application of policy to ensure new development, even in commercial zones, continues to recognise and duly respect the interface to adjacent residential/sensitive development.

We appreciate you taking time to consider our concerns. Along with over a hundred of residents, I am submitting this objection to Bayside City Council in good faith that the proposed development will be rejected.

Yours sincerely,
Dr Lilia Kuleshova
4 Arthur Street
Sandringham 3191

7. Mrs Effie Tangelakis (A)

ASK Planning Services continues to act on behalf of the permit applicant in respect to the above. We thank you for the opportunity to make a written submission.

We also acknowledge the objections received to the application and thank the resident objectors in taking the time to attend the Consultation Meeting that was held on 15 March 2021 at 4:00pm along with three Council officers that were present. The meeting was very useful in determining what the real issues the residents have with the proposed development.

Development summary:

- Two basements with a total of 73 car parking spaces and storage, lift, stairs and waste rooms are also proposed within the basements.
- The ground floor would consist of two retail spaces – one café and one day spa (i.e beauty treatment) fronting Beach Road. The remainder of the ground floor would consist of 7 units.
- The first floor would contain 11 units.
- The second floor is proposed to consist of 9 units.
- The third floor is proposed to consist of two units.
- Height of 14.2m in an attic form for the uppermost level.



Background

In 2018 Council issued a Notice of Refusal for the construction of an apartment development for 27 units. There was no commercial component to the proposal. An appeal was lodged at VCAT who affirmed Council's decision, however for different reasons. The Tribunal's reasons were:

- That the proposal was solely for residential use and there was no commercial component and this did not meet with the purpose of the zone.
- Unacceptable internal amenity for future residents

The Tribunal was satisfied that the proposed building height, setbacks and design represent an appropriate response to the then DDO1 and the adopted DDO14.

The current design provides for two commercial spaces and improved and compliant internal amenity.

Objections

Council sent letters to adjoining and nearby properties and two signs were erected on the site. As a result, 33 proforma objections were received and several residents wrote to Council in twice or three times. There were 14 residents that wrote in separately to Council (i.e - not proforma objections).

Summary of objections

- Overlooking/Privacy
- Overshadowing
- Parking/traffic issues
- Height – should be 3 stories
- Trees that are proposed to be planted will reduce view/outlook and will also cause overshadowing.
- Lack of landscaping.
- Overdevelopment/too many apartments.
- Location of air conditioners and heaters.
- Borrowed amenity from the proposed trees
- The development fails to recognise the heritage significance of this last remaining example of 1970s commercial buildings in the area
- Development requires PFAS/hydrocarbon management construction plans

Post Consultation meeting

Following on from the Consultation meeting, without prejudice changes were made to the plans with respect to the comments and concerns regarding overlooking and the proposed screening.

ASK Planning Services circulated the updated plans to all objectors on 6 April 2021. No objections were withdrawn as a result and no new objections were lodged.

Submissions

Commercial uses

Clause 21.07 of the Planning Scheme says that *the role and viability of Activity Centres will be strengthened by residential development, however, it is important to maintain core retail functions and an appropriate retail mix.* It goes on to say that *residential development in activity centres needs to ensure increased retail and commercial floorspace is provided.*

The proposal provides for two retail uses within the building. A café is proposed, with outdoor seating located along the frontage within the 3m front setback. **This will activate the frontage of the site and provide an attractive meeting point for locals and visitors to the area.** A day spa is also proposed, which will bring specific visitors to the site. The inclusion of the proposed retail uses will complement the role of this area, while activating the frontage and in an attractive manner.

Building height

Under the Design and Development Overlay a building should not exceed 11 metres above natural ground level and should contain no more than 3 storeys. The proposed height at 14.2m however and scale is commensurate with the emerging development pattern in the precinct and has been considered as being appropriate previously. Pre-application advice (we used Council's "Gold Star" process for this) indicated the same.

We respectfully request that Council take into consideration our submissions above and issue a Notice of Decision to Grant a Planning Permit in accordance with the advertised and/or circulated plans showing the additional screening.

Effie Tangalakis

Senior Associate

askplanningservicesptyld
Town Planning

Item 4.3
427a & 427b Hampton Street,
Hampton

1. Mr Adam Miles (O)

Planning application for venue as listed at 427a Hampton street Hampton with increase of opening hours and application for bar restaurant and live venue will effect local residents! It will increase noise levels! The echo from appartments next to premises is bad enough at present! This application is unexceptable as building was zoned as business development with business hours of operation! A live venue restaurant bar will not work in Hampton will not be suitable for the area! Many residents in Grenville street appartments and appartments nearby have bedrooms at least 5 metres from venue! This will effect quiet community living! I strongly oppose grranting this application !

2. Mr Alexander Tulloch (O)

1. We object to extending of the licence to a general licence and the significant increase in patrons which will have an adverse impact on the area and adjoining properties.
2. The proposed amendment encourages a Tavern like atmosphere with loud music and noise from the patrons and this will impact on all residential properties within the vicinity.
3. The courtyard areaway intended for sit down meals only and no smoking or music was to be permitted this area at anytime.
4. No provision for soundproofing has been made or proposed by the developers which is absolutely essential.
5. The surrounding areas are occupied by families and the requested hours are excessive and the noise will interrupt their lifestyle.
- 6.Potential for disorder and antisocial behaviour in an otherwise quiet and safe Hampton precinct.
7. Potential to encourage other such establishments into the area.

3. Ms Ursula Chye (O)

In summary: Too noisy, definitely attracts undesirables, unruly drunks, fights is inevitable when consumed too much drink, NOT ENOUGH RESIDENTS PARKING biggest contention, too close proximity of zoned "Residential". Not a safe place for families with young kids & teenagers needing their sleep their rests for school. Too disruptive and misbehaviour & 'drugs' is inevitable in such environment. In breach of goodwill when mutually agreed will be a small controlled dining establishment.

4. Ms Lenore Faulkner (O)

*(*part of this submission has been redacted for privacy reasons)*

As previously stated in objection letters (below) I am concerned that approving the application for a full licence and increasing patron numbers/ open hours, would have an adverse impact on the amenity of the area and the harmony and coherence of the high density residential environment. Unless there are satisfactory measures put in place to minimise the noise, the extension to a full licence, extra patrons, extended hours and stand up drinking with live music until late hours will result in our residential apartments being uninhabitable and potential constant noise complaints to the council. A cafe licence only ensures patrons eat meals then leave the area.

The planning representative advised that satisfactory measures cannot be put in place as part of the proposal. After consultation, the owners of the venue have put together an agreement seeking our withdrawal of objection based on soundproofing and not using the rear courtyard for patrons. (below) This has only just been received and we have not had time to seek advice and respond. In principle this seems fine however we are seeking legal opinion to determine if the conditions are enforceable. We are concerned that Council will approve this application prior to it being finalised.

I'm also deeply concerned that the Council planning representative stated he has not been on site to view our concerns regarding the close proximity to residential apartments. How can decisions be made without Council sighting the issues? The Liquor Control Reform Act states that noise levels are considered as part of the licensing process and should have conditions for licensees to follow certain noise management practices. Council need to set limits on operating hours and decibels to protect residential uses.

DOCUMENT 1. ORIGINAL OBJECTION

Application reference number 5/2018/276/3 427A and 427B Hampton Street, Hampton

I am writing to register my objection to application 5/2018/276/3 for 427A and 427B Hampton Street Hampton. The basis for this opposition is that extending the licence to a general licence and the significant increase in patrons will have adverse impact on the amenity of the area especially on the adjoining properties.

Council notes for the original licence state that after two years the permit expires if the use has not started. The use was not started and the building remained empty for more than two years after the issue of the original licence. If the permit expired, and an extension was granted, should Council have informed the surrounding residents before extending?

The original use of this development on the title was "office space". A permit was subsequently granted to amend the use to food and drink premises with a 'restaurant and cafe' licence only, so as not to disturb the neighbourhood amenity. The proposed amendment to this planning permit encourages a tavern-like atmosphere, where functions with loud music and noise from patrons at the rear of the property will impact all residential properties in the vicinity of the back door and courtyard.

The courtyard was intended for sit-down meals only on the original permit. As such no smoking or music is permitted in this area at any time.

At the time of the original licence approval, the then developers agreed to erect sound proof fencing around the outdoor courtyard to minimise the noise disturbance for neighbours who are in close proximity. Specifications for this fencing were sent to adjoining properties in good faith.

After meeting with the current business owners they have advised they will not be adhering to this "gentlemen's agreement" .

Whilst the venue faces Hampton Street, noise issues stand to especially inconvenience residents surrounding the courtyard at the rear where live music and bar-type drinking is intended. Unless the rear doors are kept locked and are fitted with sound reduction treatments, adjoining families, many with young children, will be interrupted by noise of a bar-like premises.

Requested hours of operation are already excessive. The original licence was approved with the predominant activity being preparation and serving of meals for consumption on the premises. Vertical drinking with an increased number of patrons will be a beacon for late night drinking, noise, crime, disorder and antisocial behaviour in the otherwise safe Hampton precinct.

Additionally, two commercial air conditioners have recently been fitted to the rear of the building that will create further noise disturbance for neighbours who are in close proximity.

In summary, this application for extended licence is inappropriate in an essentially residential area where family life is important. To grant this extension application it would affront the licensing objectives for this area and cause distress for adjoining properties.

Lenore Faulkner

DOCUMENT 2. SUBSEQUENT OBJECTION

Hi Steven,

RE : Application 5/2018/276/3

I am in receipt of the below letter from Butcher and Vine. I have no doubt they will be serving quality food and beverage, however I feel that the letter did not address my objections. My concern is that the initial application was for 470 patrons on the liquor licence, which suggests usage intent is more along the lines of a tavern than a restaurant. I don't understand why the need for extra patrons and open times.

I wish to confirm that I will only withdraw my objection if the following points are addressed in writing. I doubt these points will have any adverse impacts on their business (if they are sincere), but it will ensure the neighbouring residents and the business can co-exist.

1. There will be no smoking or music in the rear courtyard at any time. (Which I believe was a condition of the original licence anyway.)

2. Noise proof fencing is erected on the courtyard boundary fence prior to opening (as per previous developers agreement with neighbouring properties which we signed in good faith– my copy of original consent attached). When the original licence was granted, the developers agreed that best visual and acoustic outcome would be to use stained shiplap timber fencing which acoustic paneling within the framing at a height of 2 metres - erected at their expense. This was not done as the venue was never occupied before the licence expired. Not using the tiny rear courtyard at all would be ideal and minimise most of the disturbance and objections without impacting the business.

4. Noise limits are applied to the bar area (which is at the rear of the building a few short metres from our bedrooms). Sound-proofing is applied to the building and especially the rear glass doors which must remain closed during the day and locked at night to contain the noise. Due to the

very close proximity of the residential properties at the rear, music in the wine bar is restricted to background music only. No live music, and no DJs if patrons should book functions.

5. The two commercial air conditioners recently installed on the back wall meet residential noise criteria.

Lenore Faulkner

5. Ms Wei Wei (O)

As the owner of 18/45 Grenville st Hampton I register my OBJECTION to the application 5/2018/276/3 for 427A and 427B Hampton Street Hampton.

The application on face value appears to significantly and negatively impact on the amenity of residents of 45 Grenville st whose private residences border the outdoor deck area identified in the application.

After submitting my initial objection I responded to the applicant sending more information with clarification questions but subsequently did not hear any further detail from them on how they will overcome my specific objections. Without any further meaningful information being provided to address my concerns I am not able to withdraw my objection to this application.

I believe the Councillors should support my position and hope that they do so.

Since the original permit was granted I do not believe anything material has changed with respect to the neighbourhood that would mitigate the impacts of this application. As such I request that Council deny the application and do not vary the original conditions.

To be specific the negative residential amenity impacts include increased noise, loss of privacy and odour concerns stemming from the outdoor deck being used into the late hours each day. A reasonable person would conclude that it is highly likely that such commercial use in an area immediately next door to residential lots will negatively impact on the private lot likely impacting safety, health and functionality of the residents in their homes.

The apartments at 45 Grenville st with east facing windows overlooking the area contain bedrooms and living rooms. The proposed use of and operating hours at the commercial premises and on the outdoor deck will invariably negatively impact residential amenity (eg: on necessities like sleeping). The boundary fence currently contains no acoustic appropriate mitigation measures like acoustic fencing or screens.

The existing residents must be allowed to comfortably enjoy their homes in a safe, healthy and functional manner. The application in this case appears incongruent with that.

The original permit with its conditions balanced the residential and commercial amenity in a better way than the current application. It is for this reason I request Council to not vary the permit or if they feel they need to that they stand united with the residents and add new conditions that will assure all of us that the loss of amenity will be mitigated in a reasonable manner.

6. Ms Filomena Demaria (O)

*(*part of this submission has been redacted for privacy reasons)*

i responded to an email that was sent to me last week from Richard Lawrence.

He didn't seem to address any of my concerns?
Attached below is my response.

Dear Richard

Thankyou for your email.

My objection is not about having a Restaurant in the vicinity as I consider it a welcome assett to the Hampton Community.

However your email fails to properly address my objection regarding the right of all surrounding residents peace and quiet during your proposed trading hours.

You have failed to consider the acoustics of patrons in the external courtyard which will not only impact the residential apartments adjoining the fence line of your property but will also impact the neighbouring residents.

You have failed to factor the noise pollution created by Delivery trucks entering to deliver stock ect.

In addition you have failed to provide any assurance of the location of your waste bins so as to prevent any noxious smells entering the neighbouring residents.

Therefore I will not withdraw my objection.

Kind Regards
Filomena Demaria

7. Mr Michael Witchalls & Ms Roberta McIntosh (O)

- We are directly affected by this application because we are the owners of a unit in a building situated directly behind the site at 427A/B Hampton Street.
- Our main objection to the proposed licence extension is the noise factor from the courtyard at the rear of the site. We are told that there will be live music and bar-type drinking in that area. This would be a major nuisance for nearby residents.
- This being the case, the proposed extension would have a major negative impact on our daily lives, and the lives of our neighbours.

Michael Witchalls

Roberta McIntosh

8. Mrs Caroline Chen (O)

My concern with this application is that the proposed changes will increase noise levels and general disturbance to the residential properties adjacent to and above the rear courtyard of the venue. The location of the commercial air conditioning units is also a key issue.

The application is not acceptable as there are young families and elderly residents living in our apartment block surrounding the venue. I have a young child whose bedtime will be negatively impacted by the noise. My residence is one of those directly behind the venue therefore I will be impacted by hearing all the noise caused by the diners (indoors and outdoors), music (they are planning on live music and functions with DJs) and cigarette smoke from outdoor patrons.

This will cause much distress to my family and be disruptive to our peace and enjoyment of our home.

In addition, there are 2 commercial air con units at the rear of the venue which is directly next to my property (bedroom, living room wall and backyard). These units are approx. less than 2 metres away from my wall/boundary fence. I have raised this with Bayside Planning to investigate for any contraventions and to raise concern with potential noise levels once these are in operation.

The noise from these units will cause significant disturbance to my family life and to our sleeping hours.

Hampton has always been a great place for families and is a close-knit community. Please don't let the families in the surrounding residences suffer at the cost of enabling further commercial activity without any protection for us.

I ask that the developer provide clarity and commitment on noise mitigation actions that would sufficiently protect the residents and families. This includes:

- Reducing the noise from the newly installed commercial air conditioners. The noise from the air con units must also be stringently tested to meet the acceptable standards (i.e. not above the accepted levels above ambient background noise during the day and must NOT be heard in a habitable room from an adjoining property) or relocated to a more optimal position;
- Soundproofing, especially on the external doors;
- Keeping patrons out of the rear courtyard.

Thank you for taking the time to take my objection into consideration.

9. Mr Paul Novacco (O)

Matter of Decision 4.3

427A & 427B HAMPTON STREET, HAMPTON

NOTICE OF DECISION TO GRANT AN AMENDMENT TO A PERMIT
APPLICATION: 2018/276/3 WARD: CASTLEFIELD

City Planning and Amenity - Development Services

File No: PSF/21/28 – Doc No: DOC/21/119915

Objector: Paul Novacco

The proposed amendment is considered unacceptable on the following grounds and should be rejected:

1. The increase in patrons is inappropriate.
2. Car parking provisions are grossly inadequate
3. There will be significant noise issues
4. The extended operating hours

Increase in the Number of Patrons

While a Planning Permit has already been issued for 135 patrons internally and for 35 patrons in the external rear courtyard, a total of 170 patrons, this is already considered to be a very large number of patrons for a venue in Hampton Street.

Some discrepancies have been found in the information provided. The existing permit allows 35 patrons in the rear external area and seating needs to be provided for all patrons in this rear external area, yet the drawing in Attachment 1 only shows 14 seats as being provided.

Car parking dispensation

The reference made to car parking and traffic in section 6,2 in the Council summary does not seem appropriate as the use of the premises has changed from a shop to a restaurant and wine bar.

Based on the original VCAT decision for this development, VCAT Ref No P3100/2011, Bayside No 2011/359/1, car parking requirements was for 28 on-site spaces for all the **SHOPS**, with a dispensation for 21 considering that 7 would be provided under the building for shop use. Note that this was for all the shops, not just the proposed restaurant and wine bar.

While the original car parking requirement and dispensation would have been based on the total internal area of the **SHOPS**, in accordance with Area Column "B" of Table 1 in Clause 52.06-05, the use has now significantly changed, and therefore the Rate Column "A" now applies.

Considering the existing total approved patrons of 170 and based on the Column "A" Rate of 0.4 cars for each patron, then 68 car spaces would currently be required. If this permit application is approved for a total of 225 patrons, then the parking requirement based on Column "A" would then be for 90 cars for this venue. This is significantly greater than the original VCAT dispensation that was based on the internal area of SHOPS and not the patronage of a restaurant and wine bar.

As a result, the increase of internal patrons from 135 to 190 will further exacerbate the existing parking and traffic problems in Hampton St and also the surrounding residential streets.

Based on first-hand feedback from Restaurateurs in Hampton St, there are frequent no-shows following restaurant bookings as patrons cannot find a parking spot and consequently drive off to go elsewhere

Noise

The location of the rear open area will disturb the surrounding apartments, especially as the noise will bounce and echo off the building walls.

There will also be noise and disruption as patrons walk back to their cars parked in surrounding residential streets.

Hours of operation

Because of the extended hours of operation and the high number of proposed patrons, and as a matter of fact, even for the existing approved patronage, there would be increased alcohol related issues in Hampton St and the surrounding residential streets.

Other items

Has the fire safety plan included escape from the rear outdoor area as there is only one way to enter and exit this area?

Item 4.4
6 Acheron Court,
Hampton East

1. Mr Gordon Wong (O)

Council Statement - 6 Acheron Court Hampton East.
Permit App # 2020/6371

Date: 10th May 2021

I would like to make the following comments in regards to the proposed development above and Bayside Council Agenda- Planning and Amenity Delegate Committee, set out for 11th May 2021.

With regards to 4. Recommendation. Point 7. The walls on the boundary (garage).

a-What is the "acceptance criteria" of the terms "cleaned and finished to the satisfaction of the responsible Authority"?

b-As the owner of the property that joins the boundary wall, can we have an input into whether the wall finish is acceptable?

c-The current boundary between no 6 and no 4 Acheron Court is made up of two sections. A low brick wall with pillars and closed wooden fence. In order for the garage to be built, an existing brick pillar, in the wall, will need to be removed. Without this pillar, the rest of the brick wall will be weaken and possible in danger of falling over. Has this been considered? What steps have been taken to ensure the remaining boundary fence is safe?

d-I would like include the condition, that foundations for the garage wall, be kept 100% off our property, regardless of it's depth.

With regards to 6.2

Even with the proposed change to the set back, adjacent to the habitable room window, I do not agree with the comment that, "... there will be no undue impact to the neighbouring property with respect to daylight into their habitable room windows." The facts are,

1-height of proposed garage is higher that gutters of our house.

2-The garage is positioned north of habitable room window.

As the sun travels east to west, there is not doubt daylight will be blocked. The diagram shown on your figure 1 will have much different impacts, depend on whether North is at the Top or Bottom of the page.

Can the back of the garage be move closer towards the street, beyond the start of habitable room window and/or the height of garage reduced?

With regards to 6.8- Over looking.

With the current proposal, both our outdoor living spaces will be at the Southern part each property. I believe the privacy for both Parties would be greatly improved if the height of adjoining boundary fence is increased from 1.6m to a minimum of 1.9m.

Regards
Gordon Wong

Item 4.6
49 Montclair Avenue,
Brighton

1. Mrs Effie Tangalakis (A)

ASK Planning Services continues to act on behalf of the permit applicant in respect to the above. Thank you for the opportunity to provide a written submission.

We acknowledge the objections received to the application and thank the resident objectors in taking the time to attend the Consultation Meeting that was held on 3 February 2021 at 4:00pm along with two Council officers that were present.

Development summary:

- The application seeks the construction of a three storey building comprising 8 units and basement carparking.
- The basement will contain space for the parking of 9 vehicles, storage for the dwellings, service areas and the lift and stair access to the levels above.
- Three units are proposed at ground floor.
- Three units are proposed at first floor.
- Two units are proposed at second floor.

Objections

Council sent letters to adjoining and nearby properties and a sign was erected on the site. As a result, 4 objections were received.

Summary of objections

- Overlooking/Privacy
- Overshadowing to driveway at number 47 Montclair St
- Stormwater management
- Depth of basement and impact to adjoining properties.
- Intention of the construction of a 3 storey building at 51 Montclair Ave and ensuring equitable development rights/opportunities.
- Parking/traffic issues

Post Consultation meeting

Following on from the Consultation meeting, an amended landscape plan was submitted showing **additional mature tree planting** post construction.

At the consultation meeting much of the discussion revolved around the basement ramp construction and stormwater and it was requested that we provide a response. On 5 February 2021 we emailed the residents objectors and advised as follows:

“Basement construction will involve protection works to neighbouring properties including dilapidation reports, demolition and removal of the existing house, site excavation, soil removal and the construction of a basement wall and soil retention system. If the development is approved, the neighbours will be provided with detailed engineering documentation before construction commences.

The sewer is a matter for the water authority not Council”.

There were no further responses, no objections added or withdrawn as a result of the consultation meeting or the further advice regarding the basement construction.

Submissions

Height

The site is located within the **Martin Street Activity Centre** which allows a maximum building height of three storeys or 11m and a building setback of a minimum 3m from street frontages. The development complies with all the setback requirements and is much lower than the 11m that is allowed at only 9.6m.

The building will be well articulated, with a front setback of 3.4m at ground floor, increasing to 4.4m first floor, exceeding the zone requirements.

Landscaping

No boundary walls are proposed, maintaining a sense of space around the building and providing opportunities for landscaping.

The garden area proposed is at 30% which will also ensure the planting of advanced canopy trees. There are currently no high value trees on the site and the proposed planting is in line with Bayside's Landscape Guidelines.

An arbour over the lobby area with cascading landscaping (wisteria) has been proposed along with cascading landscaping over the balconies. Overall, the site will provide a very good landscaped outcome. The image below demonstrates this.



We respectfully request that Council take into consideration our submissions above and issue a Notice of Decision to Grant a Planning Permit in accordance with the advertised plans.

Thank you.

Effie Tangalakis

Senior Associate

askplanningservicesptyltd
Town Planning