

# Planning and Amenity Delegated Committee Meeting

Council Chamber  
Civic Centre – Boxshall Street Brighton

Tuesday 13 July 2021  
at 6:30pm



## Agenda

- Chair:** Cr Alex del Porto
- Councillors:** Cr Laurence Evans OAM (Mayor)  
Cr Sonia Castelli (Deputy Mayor)  
Cr Hanna El Mouallem  
Cr Clarke Martin  
Cr Jo Samuel-King MBBS  
Cr Fiona Stiffold

### **Planning and Amenity Delegated Committee Charter**

1. To exercise Council's powers, discretions and authorities and to perform Council's functions under the *Planning and Environment Act 1987*, and to do all things necessary or convenient to be done for or in connection with the exercise of those powers, discretions and authorities.
2. To determine upon any application made under clause 36 of the Neighbourhood Amenity Local Law or any like provision of a local law made by Council.
3. To determine any issue or thing or take any action in connection with any traffic or parking matter relating to the municipal district.

### **Membership of the Committee**

All Councillors

### **Important Notice**

In response to the ongoing COVID-19 pandemic, **Council and Planning and Amenity Delegated Committee meetings will be held without members of the public present**; however, meetings will continue to be live-streamed via Council's website:

#### **[Live-stream the meeting](#)**

This protocol will be reviewed in line with changing restrictions and government advice.

**Alternative arrangements** are in place for members of the community to **be heard** in relation to eligible items listed on the agenda via the following link:

#### **[Requests to be heard \(Provide a Written Statement\)](#)**

For further information, please speak with the Governance office on 9599 4444.

## Order of Business

1. Apologies
2. Declarations of Interest
3. Adoption and Confirmation of the minutes of previous meeting
4. Matters of Decision
  - 4.1 58 Martin Street, Brighton Local Law Tree Removal Appeal Application 2021/122..... 5
  - 4.2 1–2/9 North Road Brighton Notice of Decision to Grant a Permit Application 2020/224/1 Ward: Dendy ..... 27
  - 4.3 81 Ludstone Street, Hampton Notice of Decision to Grant a Permit Application 2020/633/1 Ward: Castlefield..... 109
  - 4.4 Royal Melbourne Golf Club Cheltenham Road, Black Rock Grant a Permit Application 2021/190/1 Ward: Ebdon..... 137
  - 4.5 26 William Street, Brighton Support the Grant of a Permit Application 2020/352/1 Ward: Dendy ..... 221
  - 4.6 4 Sunlit Court, Hampton East Support the Grant of an Amendment to a Permit (VCAT Consent Order) Application 2017/246/2 Ward: Ivison ..... 257
  - 4.7 Statutory Planning - Monthly Report (May 2021)..... 365
  - 4.8 66–70 Black Street, Brighton Support the Grant of a Permit (VCAT Consent Order) Application 2020/372/1 Ward: Bleazby ..... 365
5. Confidential Business

### Next Meetings 2021

Tuesday 10 August 2021  
Tuesday 7 September 2021

**1. Apologies**

**2. Declarations of Interest**

**3. Adoption and Confirmation of the minutes of previous meeting**

- 3.1 Confirmation of the Minutes of the Planning and Amenity Delegated Committee held on 8 June 2021.

## 4. Matters of Decision

### 4.1 58 MARTIN STREET, BRIGHTON LOCAL LAW TREE REMOVAL APPEAL APPLICATION 2021/122

City Planning and Amenity - Amenity Protection  
File No: PSF/15/8764 – Doc No: DOC/21/174685

#### 1. Application details

|   |  |
|---|--|
| <b>Date application received</b>                | 15 January, 2021   |
| <b>Location</b>                                 | 58 Martin Street, Brighton   |
| <b>Tree Species</b>                             | Lemon Scented Gum ( <i>Corymbia citriodora</i> ) tree  |
| <b>Tree protection policy</b>                   | Management of Tree Protection on Private Property Policy 2015 (the Policy)                   |
| <b>Does it meet policy criteria for removal</b> | General Criteria: No<br>Tree Structure & Health: No<br>Social Considerations: No<br>Risk: No |
| <b>Photographs</b>                              | Attachment 1   |

#### 2. Property Owner Reason for Removal

On 15 January 2021 the applicant lodged a Local Law application to remove a Lemon Scented Gum (*Corymbia citriodora*) tree from the rear yard of 58 Martin Street, Brighton. The applicant has previously applied for the removal of this tree. See attachment 1 - tree photos and location.

On 17 March 2021 the application to remove the Lemon Scented Gum (*Corymbia citriodora*) tree was refused.

On 24 May 2021 the applicant appealed Council's decision to refuse the removal of the Lemon Scented Gum (*Corymbia citriodora*) tree providing the following information in support of the appeal: (Officers comments in bold *italics*):

- Letter of reference from a Clinical Physiologist and Doctor stating that their son suffers from anxiety, panic attacks and sleep deprivation from the tree.
- Son has not slept in his own bedroom for months now and having to sleep on a trundle in his sibling's room.
- Anxiety is worse than an allergic reaction to the tree and is a real and dangerous medical condition.

***'The Policy' limits Medical conditions causing a specific allergenic problem.***

- Believe that the tree is being attacked by borers.

***Photo provided by applicant showed a borer on the tree; however, there was no visible evidence of borer damage when the tree was inspected by Council's Senior Investigations Arborist. The tree was assessed by Council's Arborist and an independent Arborist as being in good health, fair structure and having a sustainable life expectancy greater than 10 years.***

- The tree has outgrown its space and is dangerous to my family and neighbours.
- We are all living in fear and it is stopping my children from playing in their own backyard.

***A Quantified Tree Risk Assessment (QTRA) was conducted by Council's Arborist in January 2021 and by an independent Arborist in June 2021. Both assessments concluded that the tree had a 'tolerable' risk range. The latest risk was calculated as 1 in 500,000 for whole tree failure.***

- The tree has dropped huge limbs this summer and it is very dangerous for us to be outside.
- Daughter has been injured by a falling branch which I have provided photos in past applications.

***The tree can be managed by periodic inspection and maintenance by a suitably qualified Arborist to remove any suspect branches and/or dead wood. The tree owner could remove the lower north limb without compromising the tree. No permit is required to prune the tree by a suitably qualified Arborist with a minimum Certificate Level 3 in Arboriculture.***

- Will plant a more suitable tree but cannot continue to live in this property with this most unsuitable tree.

***A replacement tree is a requirement of a Local Law tree removal permit if one were to be issued.***

- The neighbour alleges the subject tree is a safety concern with a limb overhanging the dwelling and the tree being located within 2 metres of their dwelling.

***The tree is not located within 2 meters of the neighbours dwelling. Risk assessments concluded that the tree had a 'tolerable' risk range as outlined above. The neighbour could engage an Arborist to prune the tree. No permit is required to prune the tree by a suitably qualified Arborist with a minimum Certificate Level 3 in Arboriculture.***

3. Assessment of General Criteria (1 criteria to be met)

Assessment of General Criteria

In accordance with the Policy, only **one criteria** from the following list needs to be met to provide a tree removal permit. This application has been assessed as follows:

**General Criteria (1 criterion to be met)**

| Criteria   | Meets Criteria<br>Yes/No | Comments   |
|--|--------------------------|--|
| <b>Building Permits</b><br>Building permit issued and tree cannot be retained  | No                       | Not raised by applicant.   |
| <b>Medical Condition</b><br>Certificate from medical doctor/specialist indicating tree is causing a specific allergenic problem that is reducing the | No                       | Documentation provided by the applicant indicates the tree is causing anxiety to the applicant's son. 'The Policy' only considers a specific allergenic problem. |

|   |                        |   |
|---|------------------------|---|
| quality of life and there is no other way to manage the problem   |                        |   |
| <b>Tree location</b><br>Report from licensed and/or qualified person in their field providing evidence of structural damage to building, services or infrastructure or is a risk to people or property, which can only be overcome by implementing a remedy that is unreasonable or greatly disproportionate to the value of the tree or the risk posed by the tree (assessed by QTRA). | No                     | No report has been submitted by the applicant.  |
| <b>Tree location (table 2)</b>  | No<br><br>No<br><br>No | Not within 2 metres of the applicant's or the neighbour's dwelling.<br><br>Not within 1 metre of garage/carport.<br><br>No crossover approved within structural root zone.  |
| <b>Quantified Tree Risk Assessment (QTRA)</b><br>Risk calculated as 1 in 30,000 or less   | No                     | A QTRA was conducted by Council's Arborist in January 2021 and by an independent Arborist on 29 June 2021. Both assessments concluded that the tree had a 'tolerable' risk range.<br><br>The latest risk was calculated as 1 in 500,000 for whole tree failure. |
| <b>Other Considerations</b><br>Evidence provided by Council staff indicating the tree has a detrimental impact on surrounding environmental and public health.  | No                     | Not relevant to this application.   |

Assessment of tree health, structure (2 Criteria to be met)

In accordance with Council's Management of Tree Protection on Private Property Policy 2015, only **one criteria** from the following list needs to be met to provide a tree removal permit.

| Criteria    | Meets Criteria<br>Yes/No | Comments  |
|-------------|--------------------------|---|
| Poor Health | No                       | Assessed by Council's Arborist as being in good health. |

|  |    |   |
|--|----|---|
| Poor Structure   | No | Assessed by Council's Arborist as having fair structure.                                      |
| Sustainable life expectancy (less than 5 years)  | No | Assessed by Council's Arborist as having a sustainable life expectancy greater than 10 years. |
| The amenity value of the tree is moderate or low   | No | Amenity value assessed by Council's Arborist as high.   |
| There are at least two other trees on the property that are protected by Local Law, have a sustainable life expectancy of more than 10 years and are not subject to a current removal permit application or existing permit. | No | No other trees on property that meet the Local Law protection criteria.                       |
| Written letters of support provided by property owners/tenants (four) living adjacent or opposite the property   | No | One letter of support provided by a neighbour.  |
| Demonstrated financial hardship and inability to undertake routine maintenance – no source of income and receiving Centrelink payments   | No | Not raised by the applicant.  |

#### 4. Arborist Comments

Council's Arborist inspected the property in response to the concerns raised by the applicant. The inspection found that:

- the Lemon Scented Gum (*Corymbia citriodora*) tree was in good health, fair structure and provides a high level of amenity to the neighbourhood.
- the Lemon Scented Gum (*Corymbia citriodora*) tree has a trunk circumference of 205cm and is approximately 16m in height with a 12m canopy spread.
- specific arboriculture comments:
  - whole tree has good root flare, indicates healthy root development.
  - the tree owner could remove the lower north limb without compromising the tree.
  - low south branches showing decline but does warrant the whole tree removal.

#### Independent Arborist Review

- The tree report by Arbor Survey recommends the retention of the tree. The tree has a fair to good health, structure and life expectancy. Tree has a moderate to high amenity or streetscape value and a moderate to high environmental value. There was no unreasonable infrastructure damage or unreasonable nuisance noted.
- Anxiety related medical grounds are not considered in the Policy. Tree provides a high level of amenity to the area and there are no substantial grounds for removal. Tree can be maintained through normal arboricultural practices.

See attachment 2 for Arbor Survey report.

Accordingly, having regard to this assessment, removal of the tree is not supported.

## 5. Climate Change Emergency Action Plan

In December 2019, Bayside City Council declared a Climate Emergency. The Climate Emergency is considered in all Council and organisational decisions. Make decisions based on the best available evidence, to address the economic, social and environmental impacts of climate change. Draw on relevant expertise and local experience to develop advocacy positions.

Urban greening delivers a huge number of benefits. It helps to cool our City, creates habitat for the biodiversity essential for natural systems maintenance, reduces water runoff that contributes to flooding, purifies the air we breathe, supports food supply systems, delivers aesthetic benefits, provides space for recreation, and supports the physical and mental health of our community.

Seven Themes are outlined to reflect the aspirations of the Bayside community and the multi-faceted response required to address the Climate Emergency; these themes are relevant to tree canopy:

- transform to a climate responsive built environment: Ensure the built environment provides comfortable, liveable spaces for people and will withstand climate related shocks and stressors, such as extreme heat, flooding, and sea level rise
- protect and enhance our natural environment: Seamlessly integrate the natural environment into cityscape, strengthening land, water and ocean-based habitats.

## Recommendation

That Council Refuses to Grant a Permit for the removal of one Lemon Scented Gum (*Corymbia citriodora*) tree at 58 Martin Street, Brighton.

## Support Attachments

1. Tree Photos and Location ↓
2. Independent Arborist Report - Arbor Survey ↓



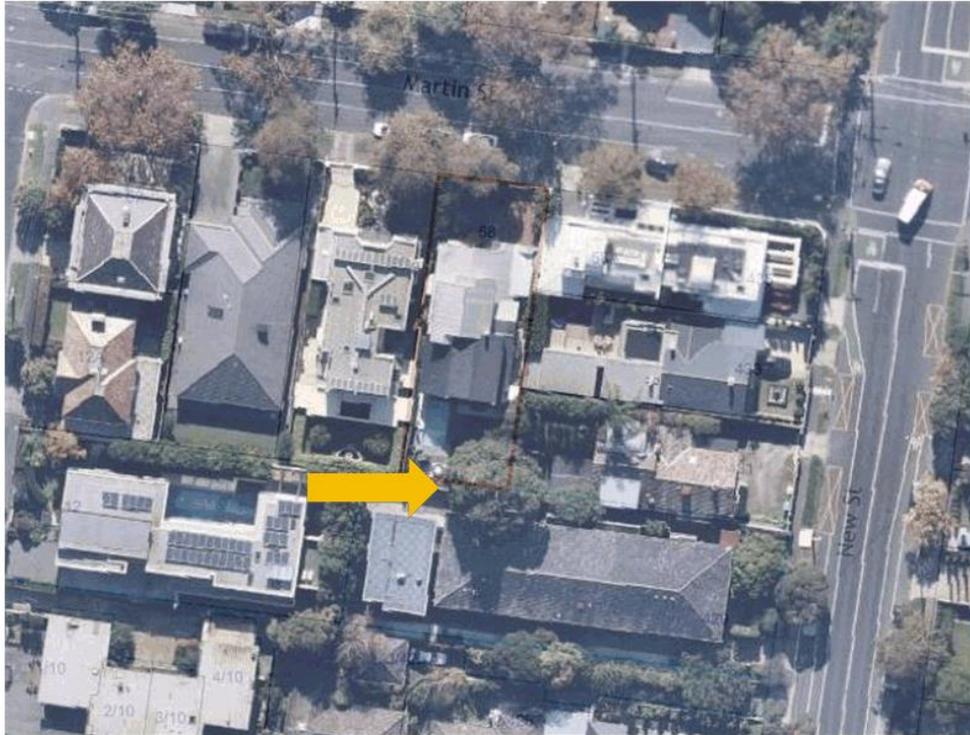
**Attachment 1**

Lemon Scented Gum (*Corymbia citriodora*) tree at 58 Martin Street Brighton.



Attachment 1

Location of the Lemon Scented Gum (*Corymbia citriodora*) tree at 58 Martin Street Brighton.





## Tree Protection Local Law Assessment Form

58 Martin Street, Brighton

|  |  |
|--|--|
| Site Address                                   | 58 Martin Street, Brighton   |
| Assessment Conducted on                        | 29th Jun, 2021 4:44 PM AEST  |
| Officer:                                       | Mark Reynolds  |
| Location                                       | 58 Martin Street, Brighton VIC 3186,<br>Australia<br>(-37.896564399999995,<br>144.9946307) |
| Owner or Person on Site?                       | Yes  |
| Person on site details                         | Nicholas Santalucia  |
| Site Risk and COVID Safe Assessment undertaken | Yes - Safe to Enter  |

## TREE ASSESSMENT

### Individual Tree Details 1

Tree Number 1

Location on site (Map)



Photo 1

Tree Location (add extra details if required)

Rear Private Open Space

Towards rear boundary, in raised garden bed area



Photo 2

|                             |                     |
|-----------------------------|---------------------|
| Tree Genus/ Species         | Corymbia citriodora |
| Tree Common Name            | Lemon Scented Gum   |
| Trunk Details               | Single Trunked      |
| Circumference at 1m         | 205cm               |
| Estimated Tree Height (m)   | 16                  |
| Estimated Canopy Spread (m) | 12                  |
| Origin                      | Aus Native          |
| Maturity/ Life Stage        | Mature              |
| Health Rating               | Fair                |

Dieback in branch towards house, minor deadwood. Based on Policy, the Health rating is:

(F) Fair

- Tree displays 51-70% live canopy mass
- Foliage may be stunted or discoloured
- Tree exhibits less than optimal extension growth
- Tree has moderate pest/pathogen infestation which may be retarding growth and impacting on health levels, it is expected that the tree can recover with or without intervention



Photo 3

**Structure Rating**

Fair

Minor past branch failures, minor deadwood, no significant load on lateral branches, could be pruned. Fused branches around main union, not a structural defect of major concern. NO indication of any possible root plate movement and or possibility of root plate failure.

Based on Policy, the Structure rating is:

(F) Fair

- Tree may have poor scaffold branch/stem taper
- Tree may have poor tertiary branch taper
- Tree may have minor structural root damage/severance
- Tree may exhibit structural defects to the trunk or scaffold branches
- Majority of structural defects may be managed through current recognised arboricultural practices

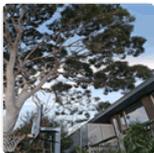


Photo 4



Photo 5

**Form Rating**

Good (Symmetrical)

**Life Expectancy**

>25 Years

**Streetscape Contribution**

High

Visible from 3 streets

**Amenity Value (Refer Policy)**

High

Visible from Martin Street, New Street and Foote Street. Based on Policy the Amenity Value is:

(H) High

- Tree has fair/good/excellent health
- Tree is highly visible from the street
- Tree is visible from other streets in the area



Photo 6 Photo 7 Photo 8 Photo 9

**Environmental (Canopy Coverage) Improvement** Medium

Tree canopy extends over at least 1 property

**Habitat Value** None

No signs of any habitat hollows or nests

**Is the proposed removal based on Risk?** Yes

**Select the Risk Assessment Methodology** QTRA

**Target Range** 1

Note: Target Range of 1 used as Highest Possible Target to determine the risk level

**Size** 3

Branch size 110mm - 250mm in diameter which is rating 3

**Probability of Failure** 5

Probability rating of 5 used primarily due to minor branch over extension

**Risk Assessment Rating** Low (1/500,001 - 1/1,000,000)

QTRA Risk Rating Score based on these components is 1/500,000 which is Tolerable based on Policy

**Risk Assessment of (Main Part of Concern)** Major Branch Failure

Branch over neighbouring property and open space of subject property



Photo 10 Photo 11

**Can the risk be reduced to as low as reasonably practical by pruning** Yes

Over extended branches could be pruned and deadwood could be managed. No recent maintenance of the tree canopy appears to have been undertaken

**Other tree notes:**

In raised planter box, restricted rooting environment, however, it does not seem to have impacted health and or structure based observations

**Application Type** Tree Removal

Reason for Application (Select all that apply)

- Tree Health / Structure / Condition
- Tree Safety /Risk
- Inappropriate for Location
- Other Reason (further detail in notes)

Other reason is Medical grounds for anxiety related stress which is not considered in Policy

Assessment Stream Used

- Stream A - Tree Condition / Risk Assessment
- Stream C - Other Considerations

Other considerations chosen due to information supplied with application

Is the tree considered to be a weed species in the municipality?

No

Is the tree causing unreasonable nuisance? (Refer Policy)

No

Can the tree be pruned to reduce nuisance?

Yes

Is the tree causing property/ infrastructure damage? (Refer Policy)

No

None evident

Is the tree considered to be in an inappropriate location for long term growth (Refer Policy)

No

Is the tree within 2 metres of a dwelling or 1 metre of a carport/ garage?

No

Is there a medical condition reason for tree removal?

Not Applicable

Policy does not cover a medical reason based on anxiety

Have the 'Social Considerations' been met as per the Policy?

No

No letters of support provided and based on High amenity value rating, this would not be considered under the Policy

Photos



Photo 12



Photo 13



Photo 14

**OUTCOME**

Decision

Refusal

Principal Refusal Reasons

Fair - Good Health and Structure and Life Expectancy

Moderate - High Amenity or Streetscape Value

Moderate - High Environmental Value

No unreasonable infrastructure damage

No unreasonable nuisance

Other (See notes)

Anxiety related medical grounds not considered in the Policy. Tree Provides a high level of amenity to the area and there are no substantial grounds for removal. Tree can be maintained through normal arboricultural practices.

Signed By



Mark Reynolds

2nd Jul, 2021 9:00 AM AEST

Appendix

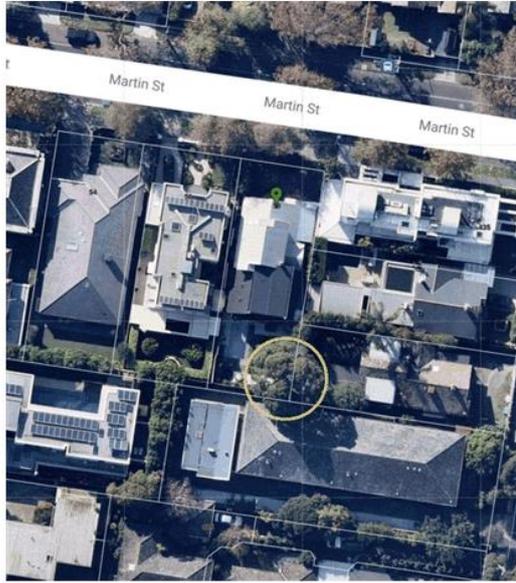


Photo 1



Photo 2

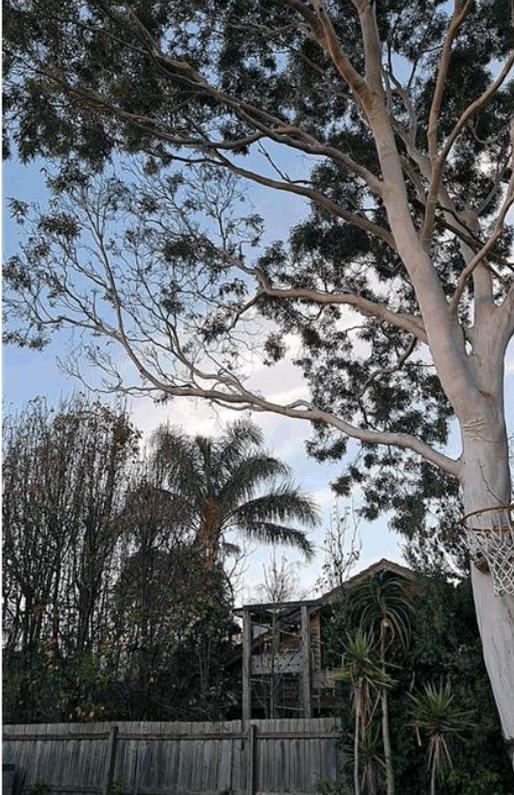


Photo 3

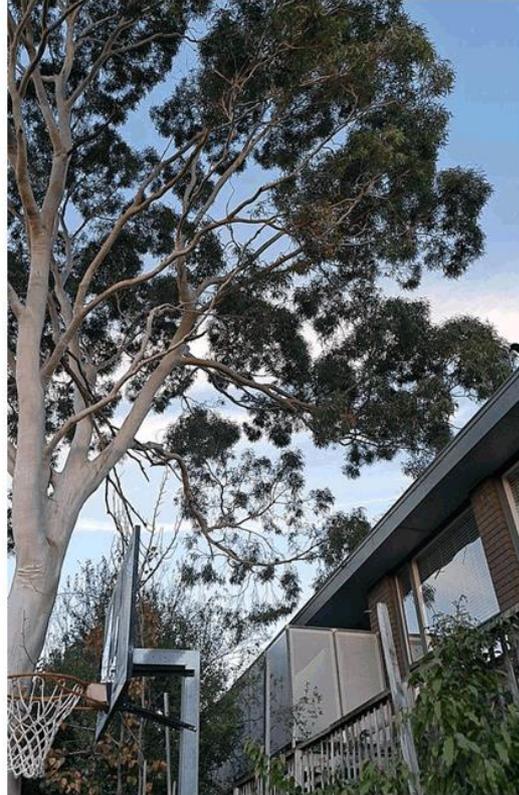


Photo 4



Photo 5



Photo 6



Photo 7

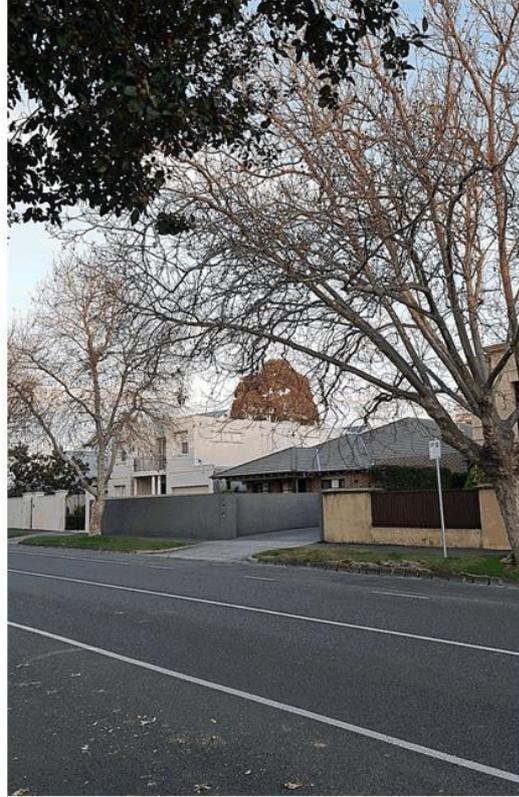


Photo 8



Photo 9



Photo 10



Photo 11



Photo 12



Photo 13

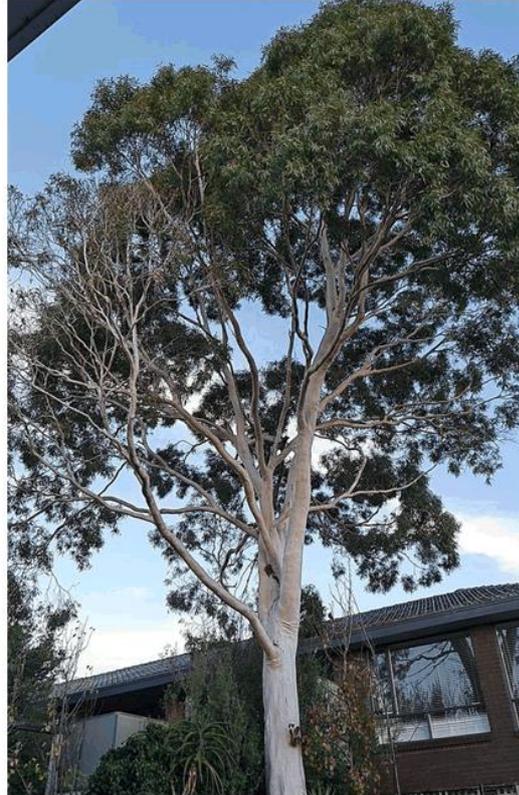


Photo 14



#### 4.2 1–2/9 NORTH ROAD BRIGHTON NOTICE OF DECISION TO GRANT A PERMIT APPLICATION 2020/224/1 WARD: DENDY

City Planning and Amenity - Development Services  
File No: PSF/21/28 – Doc No: DOC/21/181525

***Officers involved in the preparation of this report have no conflict of interest in this matter.***

##### 1. Application details

|   |   |
|---|---|
| <b>Recommendation</b>   | Notice of Decision to Grant a Permit  |
| <b>Applicant</b>  | Ratio Planning  |
| <b>Title/Covenant/S173 Agreement</b>  | The title is not subject to any restrictive covenants.  |
| <b>Date application received</b>  | 1 June 2020   |
| <b>Current statutory days</b>   | 35 days   |
| <b>Zoning</b>   | Neighbourhood Residential Zone (Schedule 3)   |
| <b>Overlays</b>   | Design and Development Overlay (Schedule 1)<br>Development Contribution Plan Overlay (Schedule 1) |
| <b>Site area</b>  | 1138.84m <sup>2</sup>   |
| <b>Number of outstanding objections</b>                                     | Eight objections and 41 letters of support  |
| <b>Is a Development Contribution Levy applicable?</b>                       | Yes – \$3,279 (three additional apartments)   |
| <b>Is the site located within an area of cultural heritage sensitivity?</b> | Yes – CHMP has been approved.   |

##### Proposal

The application seeks to construct a two storey multi-dwelling building over a basement car park including a front fence on a lot. Key details of the proposal are as follows:

- four dwellings in apartment format, with two apartments at ground floor and two apartments at first floor with two rooftop terraces
- maximum building height is 8.796m above natural ground level
- two storey building with one level of basement
- building comprises four three-bedroom apartments
- car parking is provided within the basement level, accessed from North Road
- laneway adjoining the western boundary of the site
- a total of 12 car parking spaces will be provided within the basement level which exceeds the required number by 4
- no visitor car parking space is required to be provided
- site coverage is 51.9%
- permeability is 28.5%
- garden area is 44.9%.

The application plans are provided at **Attachment 1**.

An aerial image and photographs of the site and surrounds are provided at **Attachment 2**.

#### History

There is no planning permit history relevant to this application.

### 2. Planning controls

#### Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 43.02-2 (Design and Development Overlay Schedule 1) – Construct a building or construct or carry out works.

#### Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

### 3. Stakeholder consultation

#### External referrals

There are no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

#### Internal referrals

The application was referred to the following Council departments for comment:

| <b>Internal Referral</b> | <b>Response</b>                     |
|--------------------------|-------------------------------------|
| Arborist                 | No objection, subject to conditions |
| Drainage Assets Engineer | No objection, subject to conditions |
| Open Space Arborist      | No objection, subject to conditions |
| Addressing               | No objection, subject to conditions |
| Traffic Engineer         | No objection, subject to conditions |

#### Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of *the Planning and Environment Act 1987* and eight objections were received.

Eight objections remain outstanding at the time of this report.

The following concerns were raised:

- neighbourhood character
- insufficient landscaping opportunities
- overlooking
- overshadowing
- tree removal
- non-compliant front setback
- exceeded height of the proposed front fence
- parking / traffic.

41 letters of support have also been received.

#### Consultation meeting

The applicant declined a consultation meeting.

However, the applicant had private meetings with objectors to discuss objections. As a result, the application has been amended to address some of the issues raised by objections. These changes were submitted to Council on 16 April 2021 and included the following:

- Site coverage reduced from 60% to 51.9%
- Garden area increased from 37.5% to 44.9%
- Front setback increased from 9m to 10m
- Rear setback increased from 7.377m to 8m
- Side setback increased to various degrees.

The amended plans were circulated 3 May 2021. No objection has been withdrawn since the Section 57A amendment.

#### 4. Recommendation

That Council resolves to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of planning application **2020/224/1** for the land known and described as **1–2/9 North Road, Brighton**, for the **construction of a two storey multi-dwelling building over a basement car park including a front fence and a roof deck** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (amended) prepared by Christopher Doyle Architects, referenced Job No.18-06, issue date 16/04/2021 and revision number A but modified to show:
  - a) west setback of roof terraces to be increased to a minimum of 2m from the roof below in accordance with the requirement of Design and Development Overlay Schedule 1
  - b) site coverage to be reduced to 50% in accordance with Standard B8 (Site Coverage) of the Bayside Planning Scheme
  - c) overall building height to be reduced by 200mm though the reduction of all external wall heights by 200mm
  - d) the proposed balconies associated with all first-floor apartments and pools at roof terraces to comply with Standard B22 (Overlooking) and Standard B23 (Internal Views) of the Bayside Planning Scheme
  - e) a NatHERS assessment confirming the proposal complies with the Standard B35 (Energy Efficiency) of Clause 55 of the Bayside Planning Scheme
  - f) the proposed water tank to be increased to 12,000L in accordance with the submitted Environmentally Sustainable Design Assessment, prepared by Low Impact Development Consulting, dated 15/07/2020 in accordance with Condition 24

- g) an acoustic report prepared by a qualified consultant demonstrating bedroom 2 of Apartments 1 and 3 comply with the Standard B40 (Noise Impact) of Clause 55 of the Bayside Planning Scheme
- h) an updated floor plan demonstrating the proposal complies with Standard B41 (Accessibility), Standard B46 (Functional Layout), and Standard B49 (Natural Ventilation) of Clause 55 of Bayside Planning Scheme
- i) location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the habitable rooms of adjoining properties
- j) the gradients annotated along the proposed driveway to basement as per Clause 52.06 of the Bayside Planning Scheme
- k) provision and maintenance of a suitable lighting system at the entry of the ramp to the basement car park to control access/egress to the basement
- l) a schedule of construction materials, external finishes and colours (incorporating for example paint samples)
- m) a Water Sensitive Urban Design measures in accordance with Condition 9 of this permit
- n) a revised Landscape Plan in accordance with Condition 11 of this permit.
- o) a Tree Management Plan in accordance with Condition 14
- p) payment of Drainage Contribution in accordance with Condition 16
- q) an Environmentally Sustainability Design Report in accordance with Condition 24

all to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.
7. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.
8. All basic services, including water, electricity, gas, sewerage, telephone, NBN and cable TV but excluding any substation, meters or hydrants must be

installed underground and located to the satisfaction of the relevant servicing authority and the Responsible Authority.

#### Water Sensitive Urban Design

9. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
- a) the type of water sensitive urban design stormwater treatment measures to be used
  - b) the location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas
  - c) design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

10. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

#### Landscaping

11. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Jack Merlo Design & Landscape, project number 18.107, Revision D, dated 30.10.20 and be drawn to scale with dimensions. The plan must show:
- a) a survey, including botanical names, of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009
  - b) a survey including botanical names of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site
  - c) a revised planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. All planting species must be selected from indigenous coastal species in accordance with the Bayside Landscape Guidelines
  - d) landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces
  - e) details of surface finishes of pathways and driveways
  - f) At least one tree in the front yard of Apartment 1 to be a minimum of 12m height at maturity
  - g) any modifications requested by Condition 1.

12. Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
13. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

#### Tree Protection Management Plan (TPMP) for Private & Public Open Space Trees

14. Before the development starts, including any related demolition or removal of vegetation, a TPMP, prepared by a suitably qualified arborist, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. This report must be made available to all relevant parties involved with the site.

The TPMP must include:

- a) details of Tree Protection Zones, as per AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties (including public open space trees) where any part of the Tree Protection Zone falls within the subject site
- b) protection measures to be utilised and at what stage of the development they will be implemented
- c) appointment of a project arborist detailing their role and responsibilities
- d) stages of development at which the project arborist will inspect tree protection measures
- e) monitoring and certification by the project arborist of implemented protection measures.

Before any works associated with the approved development, a project arborist must be appointed and the name and contact details of the project arborist responsible for implementing the endorsed TPMP must be submitted to the Responsible Authority.

Any modification to the TPMP must be approved by the project arborist. Such approval must be noted and provided to the Responsible Authority within seven days.

The TPMP must include a Tree Protection Plan (TPP) in accordance with AS4970-2009 Protection of Trees on Development Sites.

The TPP must include:

- a) be legible, accurate and drawn to scale
- b) show the location of all tree protection measures to be utilised
- c) include a key describing all tree protection measures to be utilised.

#### Street tree protection

15. Street trees must not be removed, lopped, damaged or pruned by any party other than Bayside City Council authorised contractors. There is to be no soil excavation within 4 metres of the Ulmus x Hollandica street tree asset measured from the edge of the trunk. Any installation of services and drainage within the TPZ must be undertaken using root-sensitive, non-destructive techniques.

Development Contribution

16. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Development Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

S173 Agreement

17. 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) At any time a dwelling allowed by this permit is sold, the vendor must make a tax deductible donation equal to 0.1% of the sale price of the dwelling to Homes for Homes Limited (CAN 143 151 544) or a social and/or affordable housing not-for-profit organisation approved by the Responsible Authority within 30 days of property settlement.
  - b) The agreement will remain registered on the certificate of title of the land in perpetuity and will apply to each and every sale of any dwelling allowed by this permit.
18. Before the development completes, an application must be made to the Register of Titles to register the Section 173 agreement on the certificate of title of the land under Section 181 of the Planning and Environment Act 1987 and the Section 173 agreement must be registered on the certificate of title of the land.
19. The owner must pay the Responsible Authority's reasonable costs to prepare, review, execute and register the Section 173 agreement.

Drainage

20. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
21. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's Infrastructure Assets Department.

For Subterranean and Basement Drainage

Council Stormwater drainage is for surface rainwater, no water below the Ground Water Table is accepted into the Council Stormwater system. Only occasional, clean, uncontaminated seepage water (associated with a rain event) is accepted to an appropriate Council underground drain OR this subterranean water must be suitably retained on-site.

22. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's City Assets and Presentation Department.
23. The surface of all balconies and terraces are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the

underground drainage system of the development to the satisfaction of the Responsible Authority.

#### Sustainability

24. Prior to the endorsement of plans, an updated Sustainability Report including any amendments included in Condition 1 to the satisfaction of the Responsible Authority must be submitted and endorsed by the Responsible Authority. The Sustainability Report must generally be in accordance with the Report prepared by Low Impact Development Consulting amended dated 15 July 2021.
25. The development must be carried out and maintained in accordance with the recommendations and requirements as described in the endorsed sustainability report to the satisfaction of the Responsible Authority.

#### Construction Management Plan

26. Prior to the commencement of development, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to, the following as applicable:
  - a) a detailed schedule of works including a full project timing
  - b) a traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams
  - c) the location for the parking of all construction vehicles and construction worker vehicles during construction
  - d) delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed
  - e) proposed traffic management signage indicating any inconvenience generated by construction
  - f) fully detailed plan indicating where construction hoardings would be located
  - g) a waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing
  - h) containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site
  - i) site security
  - j) public safety measures
  - k) construction times, noise and vibration controls
  - l) restoration of any Council assets removed and/or damaged during construction
  - m) protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site)

- n) remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site)
- o) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience
- p) traffic management measures to comply with provisions of AS 1742.3-2009 Manual of uniform traffic control devices – Part 3: Traffic control devices for works on roads
- q) all contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan
- r) details of crane activities, if any.

#### Permit Expiry

27. This permit will expire if one of the following circumstances applies:

- a) the development is not started within two years of the date of this permit.
- b) the development is not completed within four years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

#### Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours' notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.
- A 'Road Opening / Stormwater Tapping Permit' is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council drain / kerb / channel.
- Council records indicate that there is an adjacent carriageway and drainage/sewerage easement as indicated on the drawings provided. The plans indicate a use of carriageway, with no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the responsible Authority/Authorities and rights holders.

## 5. Council Policy

### Council Plan 2017–21

Relevant objectives of the Council plan include:

- where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place

- where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context
- where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- make discretionary planning controls stronger, by advocating for Council's planning and urban design objectives to state government.

#### Homes for Homes Initiative

Council has identified the need to act in relation to affordable housing through the Council Plan 2017–21 and the Bayside Housing Strategy 2019 and has implemented a range of initiatives to implement the Council Plan.

One of the initiatives aimed at supporting affordable housing was considered at the Ordinary Meeting of Council on 15 September 2020 where Council resolved to require all planning permits issued for multi dwelling developments to include a condition requiring the implementation of the Homes for Homes initiative via a Section 173 agreement, under the *Planning and Environment Act 1987*.

Accordingly, pursuant to Section 62 of the *Planning and Environment Act 1987*, a condition should be included on any planning permit issued to ensure the ongoing commitment to an initiative like Homes for Homes will be delivered.

#### Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy (Precinct C1)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
- Clause 53.18 Stormwater Management in Urban Development
- Clause 55 Two or more dwellings on a lot

- Clause 65 Decision Guidelines.

## 6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

### 6.1. Strategic Justification

The Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres. State and Local Planning Policy envisage an increase in housing density in well serviced areas. Clause 11 (State Planning Framework) of the Bayside Planning Scheme encourages higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport. This has been confirmed by a number of VCAT decisions including the recent case *Shangri-La Developments v Bayside CC [2020] VCAT 504*. The member states in the decision:

*“While there is clear direction in local policy to focus increased housing to Major Activity Centres and residential opportunity areas, there is no concurrent direction to avoid medium density housing in minimal residential growth areas. The NRZ3 specifically contemplates multiple housing on lots although limits building height to two storeys.”*

The increase in population and density at this site is considered an appropriate response to the underutilised state of the site and the proximity of the site to public transport (being approximately 1500m to Gardenvale Station and connected by bus route 630), shops and other services. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

The Victorian State Government has provided a clear policy imperative of urban consolidation which is heavily dependent on medium density housing development. Density of the development is determined from a quantitative assessment of a development’s compliance with a series of criteria set out in the Bayside Planning Scheme. This includes an assessment of the design’s ability to provide for the amenity of future residents, protect the amenity of existing residents and respond to the attributes and constraints of the site. The number of dwellings and associated pedestrian and vehicle movements account for the site’s accessibility and location.

State Government policy is to encourage medium density housing in well located sites with access to public transport, recreation, education and other convenience services. This site fulfils these locality requirements.

The proposal acceptably satisfies the substantive requirements of Clause 55 in respect to site coverage (via permit condition), permeability, car parking, and open space provisions and therefore the proposal is not considered to be an overdevelopment of the site. State Government Policy, as well as council policy supports higher densities in areas that are within proximity to services, or within areas with good access to public transport and other services.

### 6.2. Neighbourhood character

The site is located within Neighbourhood Character Precinct C1. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in **Attachment 3**.

It is noted that the existing dwellings within the immediate context are varied, ranging from multi-dwelling developments, new contemporary dwellings and original housing stock. Large and bulky building design is not an uncommon character in this neighbourhood.

The scale and mass of the proposed development is similar to the scale and mass of existing development in the immediate context, such as 14 North Road and 17 North Road. It is clearly evident that new large development within the area is emerging.

Whilst the proposal is for four apartment style dwellings, the form has been designed so as to have the appearance of a single double storey dwelling to the streetscape. The building design includes some sheer wall design, however the building is articulated by providing different windows forms and overhanging planter boxes to differentiate the ground and first floor façade - all of which add to provide visual interest to this building and minimise visual bulk to the streetscape.



*Figure 1 - Perspective as viewed from North Road*

This architectural interpretation is reflective of the grain size of the double storey forms within the streetscape, continuing to provide a human scale to the streetscape.

It is considered that the heights and setbacks proposed will result in a built form which will not be overbearing upon other buildings in the streetscape (which as previously stated are generally very large). The proposed built form is well articulated and the overall height and side setbacks are appropriate to the site's context. Further, it is considered that the inclusion of balconies with timber pergolas, will not only provide elements of depth on the façade but also encourage passive surveillance of the public realm.

Materials and finishes evident within the character area have also been utilised in this proposal by the use of brick and render finishes, to reflect the materiality of the area.

The proposed roof forms are common place in the immediate proximity, and the use of the hipped roof form in this proposal is considered appropriate to further reduce the prominence to the street of the upper level.

The use of setbacks to boundaries will allow for appropriate landscaping throughout the site, which will not only provide a natural frame to the proposed building but reflect an integral character feature of the residential precinct area.

Fencing styles in the street are varied in both height and style. The proposed front fence comprises brick piers with transparent wrought iron palisade and is reflective of the area

and therefore acceptable.

**6.3. Compliance with Clause 55 (ResCode)**

An assessment against the requirements of Clause 55 is provided at **Attachment 4**. Those non-compliant standards are discussed below:

Site coverage (Standard B8)

| Required | Proposed     | Variation |
|----------|--------------|-----------|
| 50%      | <u>51.9%</u> | 1.9%      |

The objective of this standard to ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site. The applicant has submitted a site coverage analysis based on aerial map, it shows there are several properties in this neighbourhood exceeding the required 50% site coverage.

However, the information provided is not accurate and considered a rough estimate when calculated using such method. For example, for 12 North Road, Council approved a development with a site coverage of 47.6% and not the 53% as submitted on the context plan. Objectors have also raised similar concerns in relation to the accuracies of the provided information.

Officers agreed that there are some properties in this neighbourhood that potentially have exceeded the required 50% site coverage, however they are often single dwellings, single storey or have been approved under differing planning controls.

Given the large site area and lack of site constraint and noting that the proposal seeks to include an apartment style building outside of the nominated higher density areas, full compliance with this standard can, and should be achieved. A condition will therefore be implemented to reduce the site coverage to no more than 50%.

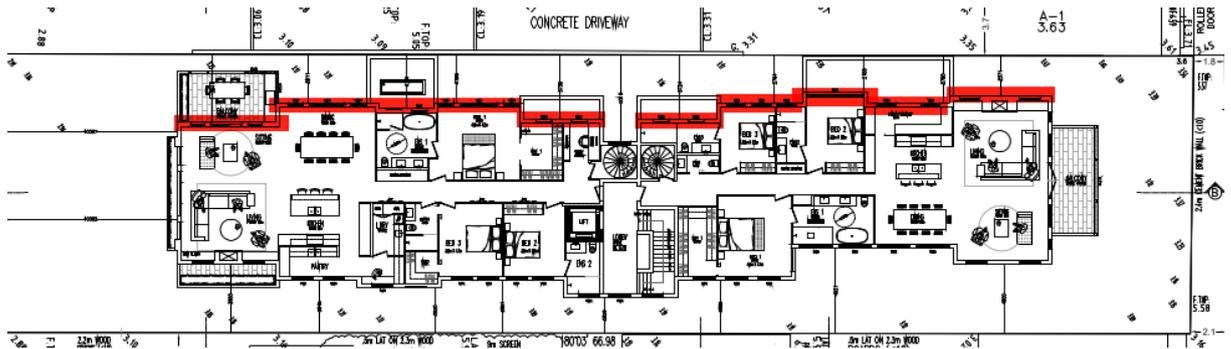
Side and rear setbacks (Standard B17)

|              | Ground floor |              | First Floor   |                      |
|--------------|--------------|--------------|---------------|----------------------|
|              | Requirement  | Proposed     | Requirement   | Proposed             |
| East (side)  | 0m or 2.0m   | 2.62m - 4.0m | 3.71m – 4.6m  | <u>2.06m</u> – 4.92m |
| West (Side)  | 0m or 2.0m   | 0m – 4.77m   | 3.84m – 4.46m | <u>2.16m</u> – 5.1m  |
| North (rear) | 3.57m        | 8.1m         | 4.8m          | 8.1m                 |

The proposed side setbacks do not comply with the required east and west setback standard. The objective of the standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

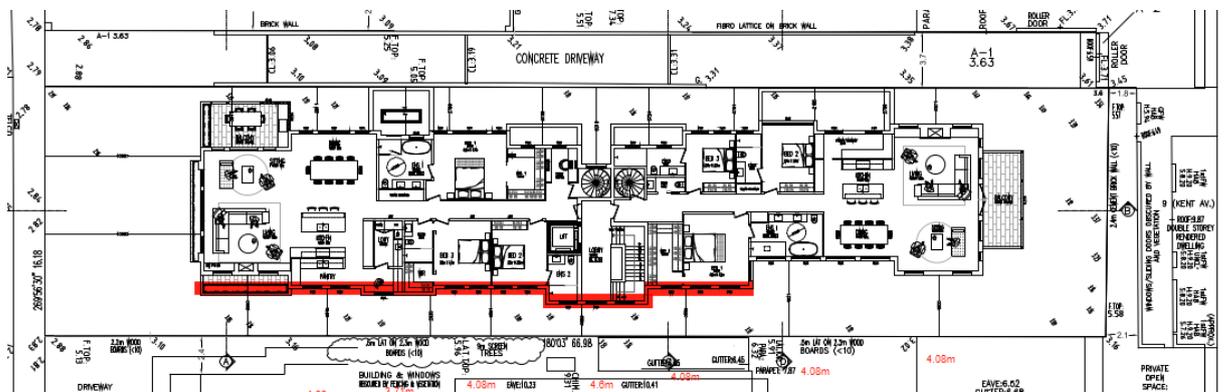
West

The proposed west side setback requires the west facing wall to be setback 3.84m to 4.46m where the proposal provides 2.16m to 5.1m. Refer below highlighted area:



Given the proposed variation is directly opposite to an existing driveway it will not offer any unreasonable amenity impact to adjoining properties at 7 North Road. More importantly, the existing driveway is a carriageway easement to provide access for the new development and will remain as a non-sensitive area, therefore the proposed amenity impacts to this area is considered reasonable and can be supported.

**East**



On the east side, the required setbacks are 3.71m - 4.61m where 2.06m – 4.92m are provided. Refer the above image which highlights the non-compliance areas.

As shown above, the building encroaches approximately 0.5m to 1.1m from the living room of Apartment 3 to bedroom 1 of Apartment 2. These encroachments face to a habitable room window. A concern also has been raised by the resident at 11 North Road stating the amenity is likely to be compromised by the proposed non-compliant setback. The applicant has therefore offered to drop the overall height by 200mm to address the amenity impact, which will bring the east side back closer to compliance (by approx. 300mm).

It is noted the proposed east side setbacks are still not in full compliance however the elevation design is well articulated with different material and window fenestration which will provide visual interests to offset the amenity impact on the adjoining property. Further to this, a dense vegetation spread exists on the neighbouring lot, which also contains a first floor with setbacks even further reduced that than proposed on the subject site. In light of all of these factors, the proposed variations can be supported.

**Overlooking (Standard B22)**

At ground floor level, boundary fencing will screen views from the proposed units to the neighbouring properties in accordance with the standard, however the details of the proposed western boundary fence need to be provided in accordance with the standard requirement.

At first floor level, most of habitable room windows are screened to limit views towards habitable windows and secluded private open space at neighbouring properties. However, the balconies in associated with Apartment 3 and Apartment 4 require further demonstration to confirm the design comply with the standard requirements.

The rooftop terraces are screened by the roof form which is higher than 1.7m, however, the proposed pools at the roof top need to demonstrate the overlooking standard compliance.

The above requirements have been included in the recommended conditions.

**6.4. Landscaping**

The application plans show the removal of 24 trees from the site including one tree which is protected under Local Law. The table below identifies those trees are not protected by any statutory mechanism and therefore they can be removed as of right. (refer **Attachment 5** for Arborist Report.)

| <b>Trees not protected</b>   |                        |
|--|------------------------|
| Proposed for removal   | Proposed for retention |
| 5,6,7,8,9 (X2), 10(X4),11 (x3), 12, 13, 14,15 (X6) 16, 17 (X2) 18, 19 ,20 (X2) | N/A                    |

The only tree protected by the local law is marked as Tree 15 in the below table.

| <b>Local Law protected trees</b> |                        |
|----------------------------------|------------------------|
| Proposed for removal             | Proposed for retention |
| 15 (X3)                          | N/A                    |

Council’s Arborist in their referral response has advised that the removal of Tree 15 (a group of three Hesperocyparis macrocarpa, Cypress hedge trees) are supported given they are exotic specimens located along the western boundary. The minimal Useful Life Expectancy (ULE) is 3-5 years. Their protection value is therefore limited and should be replaced with a coastal indigenous species that will provide for a far superior long term outcome. It will be conditioned in the recommendation.

Tree Nos. 2, 3, and 4 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. A condition to this effect is included in the recommendation.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable subject to a more indigenous planting selection. It is recommended to re-select all trees to be indigenous coastal species and at least one of trees in the front yard to be a minimum of 12m height at maturity to respect the existing landscape character of the neighbourhood.

**6.5. Street tree**

Tree 1 is located within the nature strip and is proposed for retention. Council’s Street Tree Arborist has advised that the design is supported given the proposed development will utilise the existing vehicle crossing location along the western boundary of the subject site and dimensions remain unchanged. It is further noted that given the trees along north road are part of a significant avenue of tree. A Tree Management Plan recommended in the Arborist report. This will be included in the recommended permit condition.

### 6.6. Car parking and traffic

Pursuant to the car parking requirements at Clause 52.06-5, Column B of *Table 1: Car Parking Requirement* applies given the subject site is located in the PPTN area. The table does not require the development to provide any visitor car parking spaces.

The parking requirements and allocations are shown below:

| Type                   | Number/size | Parking Rate          | Parking Requirement | Proposed parking |
|------------------------|-------------|-----------------------|---------------------|------------------|
| 1 or 2 bed dwelling    | 0           | 1 space per dwelling  | 0 spaces            | 0 spaces         |
| 3 or more bed dwelling | 4           | 2 spaces per dwelling | 8 spaces            | 12 spaces        |

The application was referred to Council's Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to vehicle access and driveway gradients. These are included as conditions of the permit.

Concerns have been raised in relation to increased car parking congestion however it is considered that the proposed development will not unreasonably impact on the car parking network in the street. In addition, car parking congestion was not raised as a concern by Council's Traffic Engineer.

### 6.7. Design and Development Overlay Schedule 1

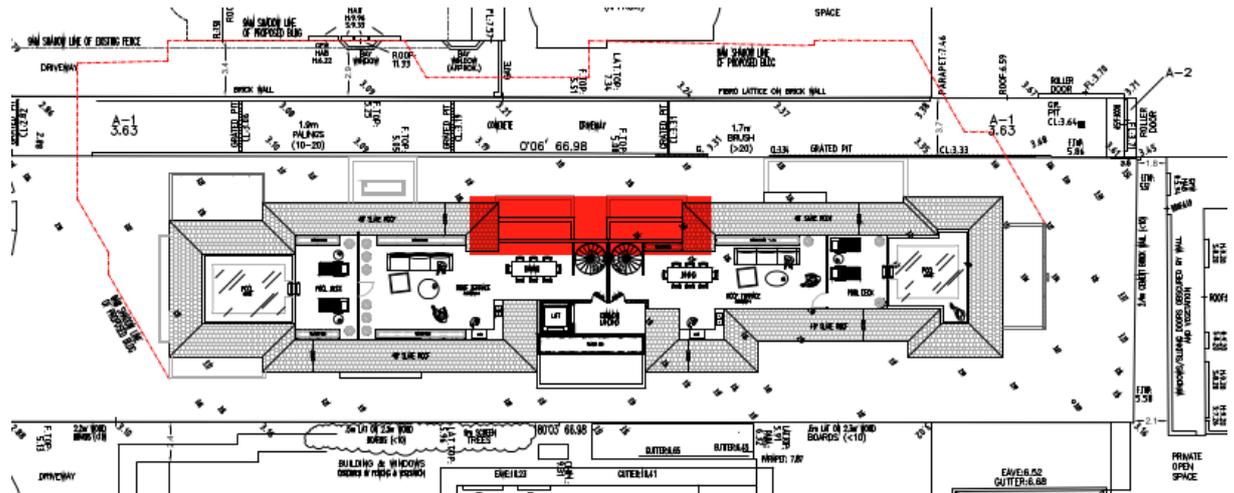
A permit is required to construct a roof deck above the second floor of a building. The proposal is to build two roof deck terraces for Apartment 3 and 4. The requirements for roof deck are as follows:

A roof deck must:

- be designed and constructed of materials that integrate with the architectural style and form of the building
- be set back at least 2 metres from the roof edge immediately below on all sides to minimise the visual impact on the street, coastal environs and adjoining properties
- be designed to limit views into secluded private open space and habitable room windows of adjacent dwellings
- not include any structures or elements that exceed a height of 1.7 metres, apart from an access structure
- be accessed by a structure that is designed and located to have minimal impact on the street and adjoining properties, does not enclose any useable floor space and does not exceed 2.4 metres in height (measured from floor level at the point of access onto the roof deck).

The proposed roof decks are generally designed in accordance with the design requirements.

The proposed roof deck is well integrated with the architectural style of the proposed building and contains no elements that exceed the nominated heights as mentioned above. The proposed roof decks are generally setback 2m from the roof edge immediately below on all sides apart from the corridors and landing areas (as hatched red in below) do not provide the required 2m setback. It will be conditioned in the recommendation to increase the setback to meet the standard requirements.



### 6.8. Cultural Heritage management plan

Based on the Aboriginal heritage planning tool questionnaire, a cultural heritage management plan is required and has been undertaken. The findings of this plan do not prohibit the granting of a planning permit.

### 6.9. Development contributions levy

The subject site is located within catchment area 2.

Based on the proposed application and the below recommendation, a payment of \$3,279 is required. The payment of the development contributions levy is included as a condition of permit.

### 6.10. Objector issues not already addressed

Concerns raised in objections have been discussed in the above sections.

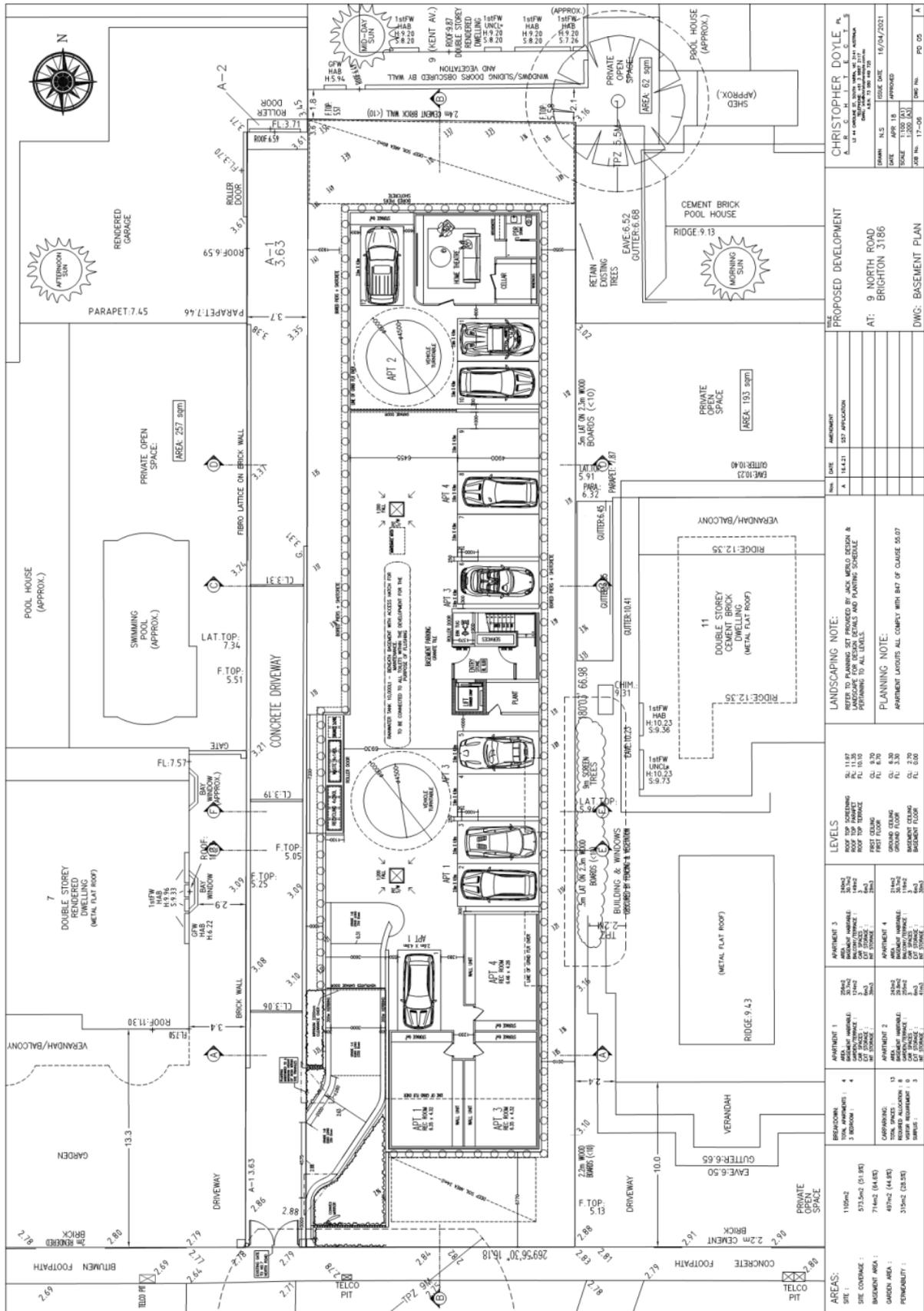
## Support Attachments

1. Development Plans ↓
2. Site and Surrounds ↓
3. Neighbourhood Character Precinct Assessment ↓
4. ResCode Assessment ↓
5. Consultant Arborist Report ↓









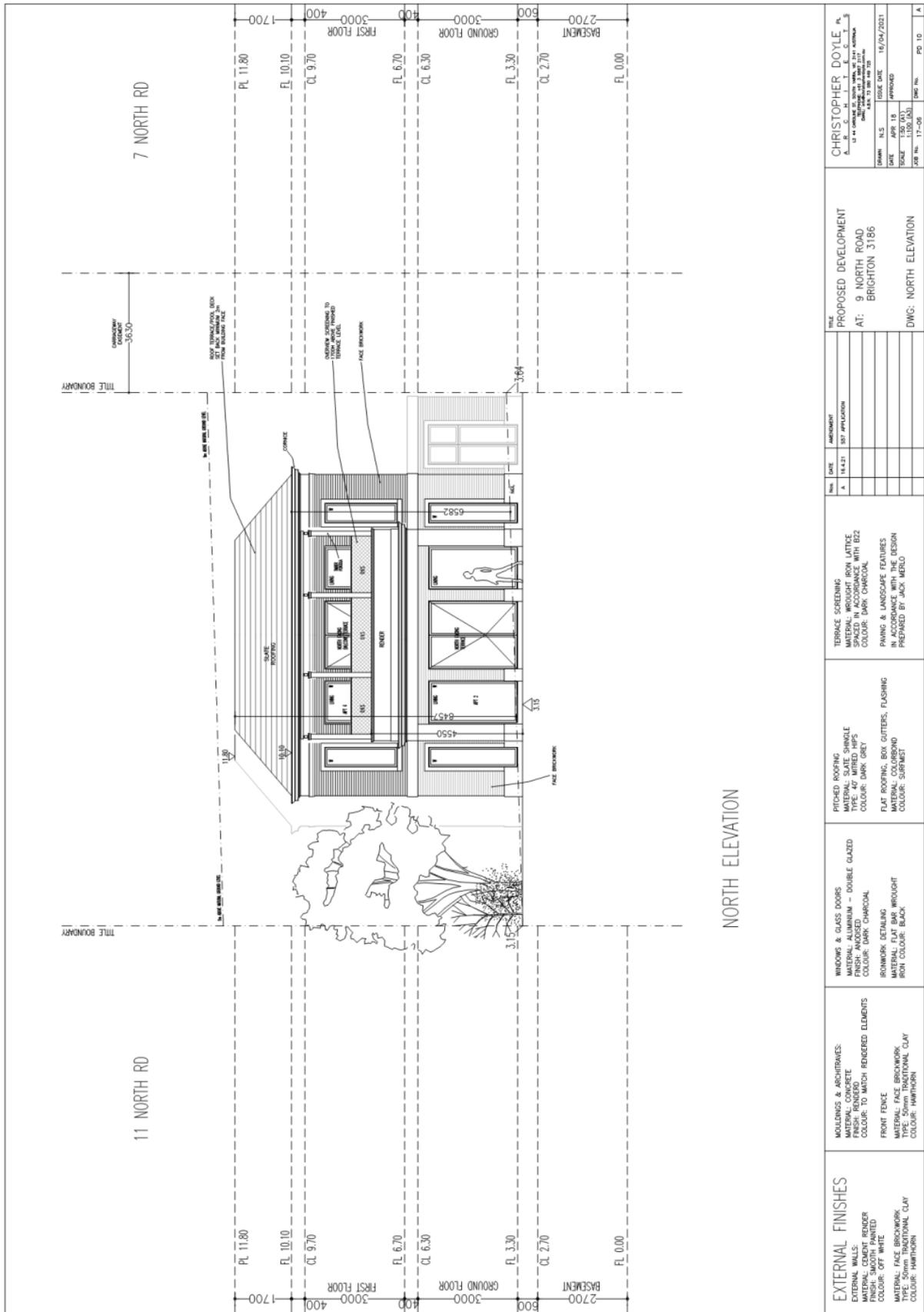
|  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|
| <b>AREAS:</b><br>SITE 1 : 1100m <sup>2</sup><br>SITE COVERAGE : 573.5m <sup>2</sup> (51.9%)<br>BACKSET AREA : 714m <sup>2</sup> (64.8%)<br>GARDEN AREA : 497m <sup>2</sup> (44.9%)<br>PERVIOUSNESS : 215m <sup>2</sup> (20.5%) |  | <b>LEVELS</b><br>2ND FLOOR: 11.55<br>1ST FLOOR: 10.10<br>GROUND FLOOR: 6.30<br>BASEMENT FLOOR: 0.00  |  | <b>LANDSCAPING NOTE:</b><br>ALL PLANTING TO BE SPECIFIED & INSTALLED BY CONTRACTOR IN ACCORDANCE WITH THE DEVELOPER'S LANDSCAPING PLAN.        |  | <b>PROPOSED DEVELOPMENT</b><br>AT: 9 NORTH ROAD<br>BRIGHTON 3186<br>DWG: BASEMENT PLAN   |  |
| <b>APARTMENT 1</b><br>2BDR<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)   |  | <b>APARTMENT 2</b><br>2BDR<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%) |  | <b>APARTMENT 3</b><br>2BDR<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%) |  | <b>APARTMENT 4</b><br>2BDR<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%) |  |
| <b>APARTMENT 1</b><br>2BDR<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)   |  | <b>APARTMENT 2</b><br>2BDR<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%) |  | <b>APARTMENT 3</b><br>2BDR<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%) |  | <b>APARTMENT 4</b><br>2BDR<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%)<br>1100m <sup>2</sup> (100%) |  |

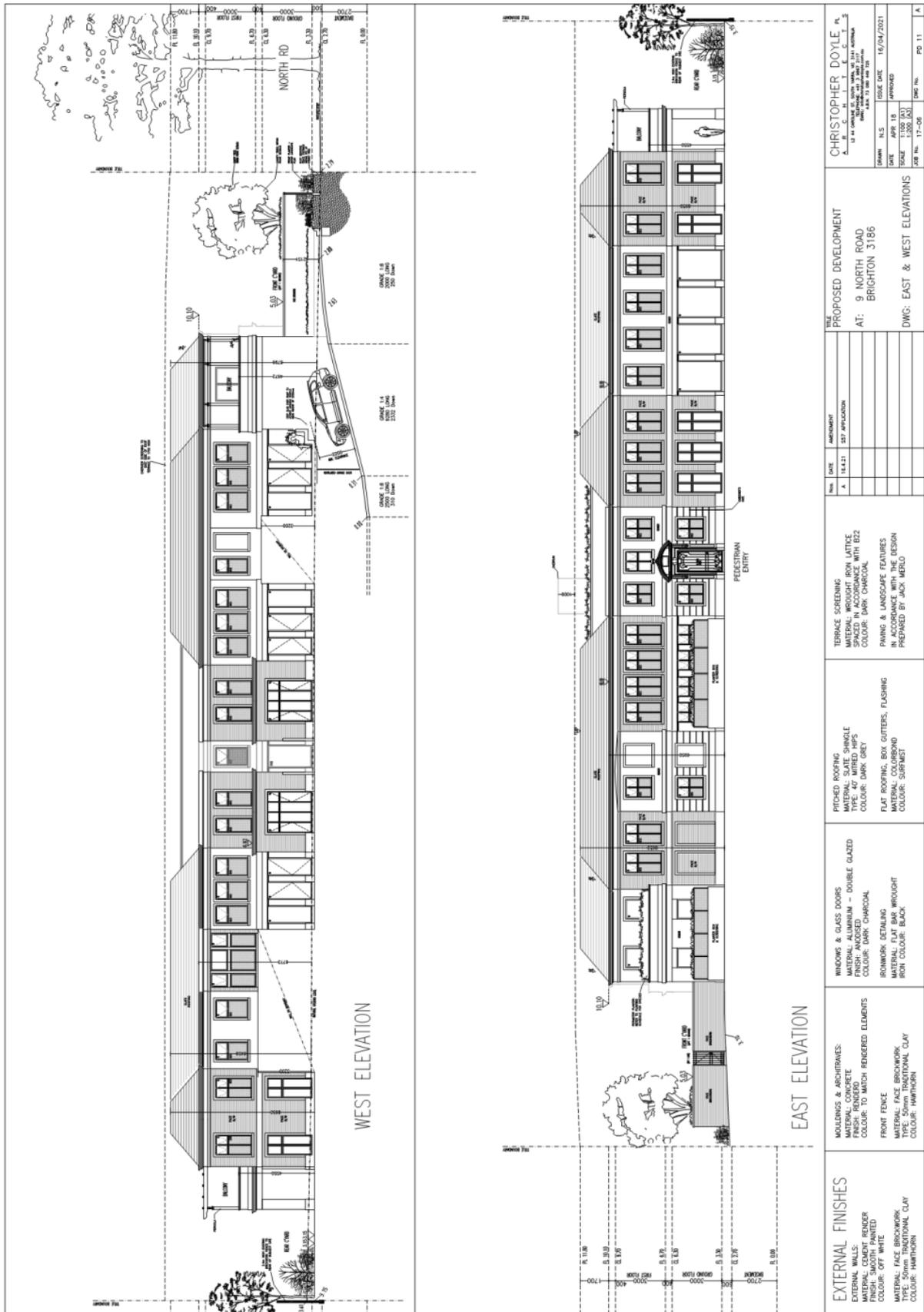


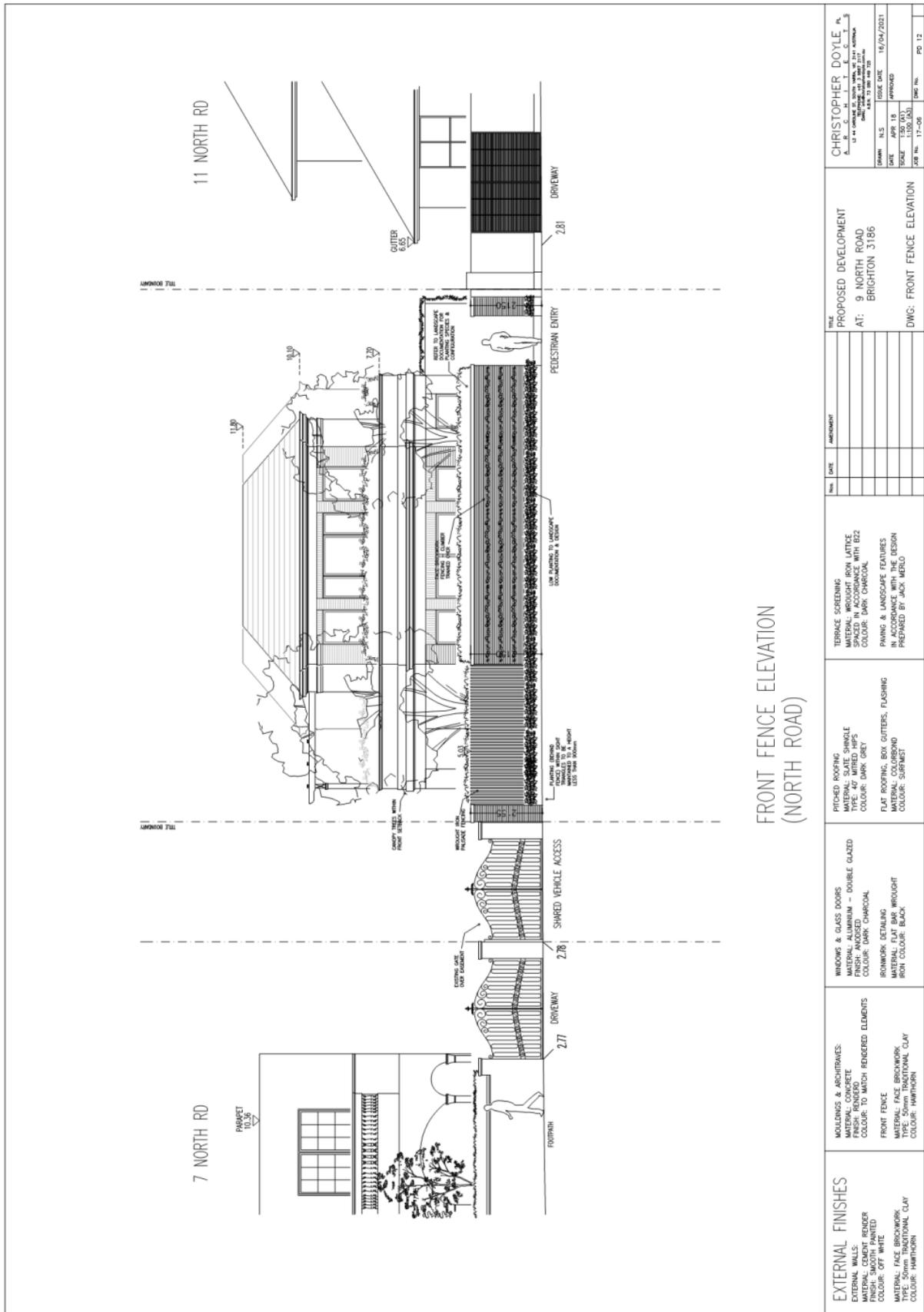




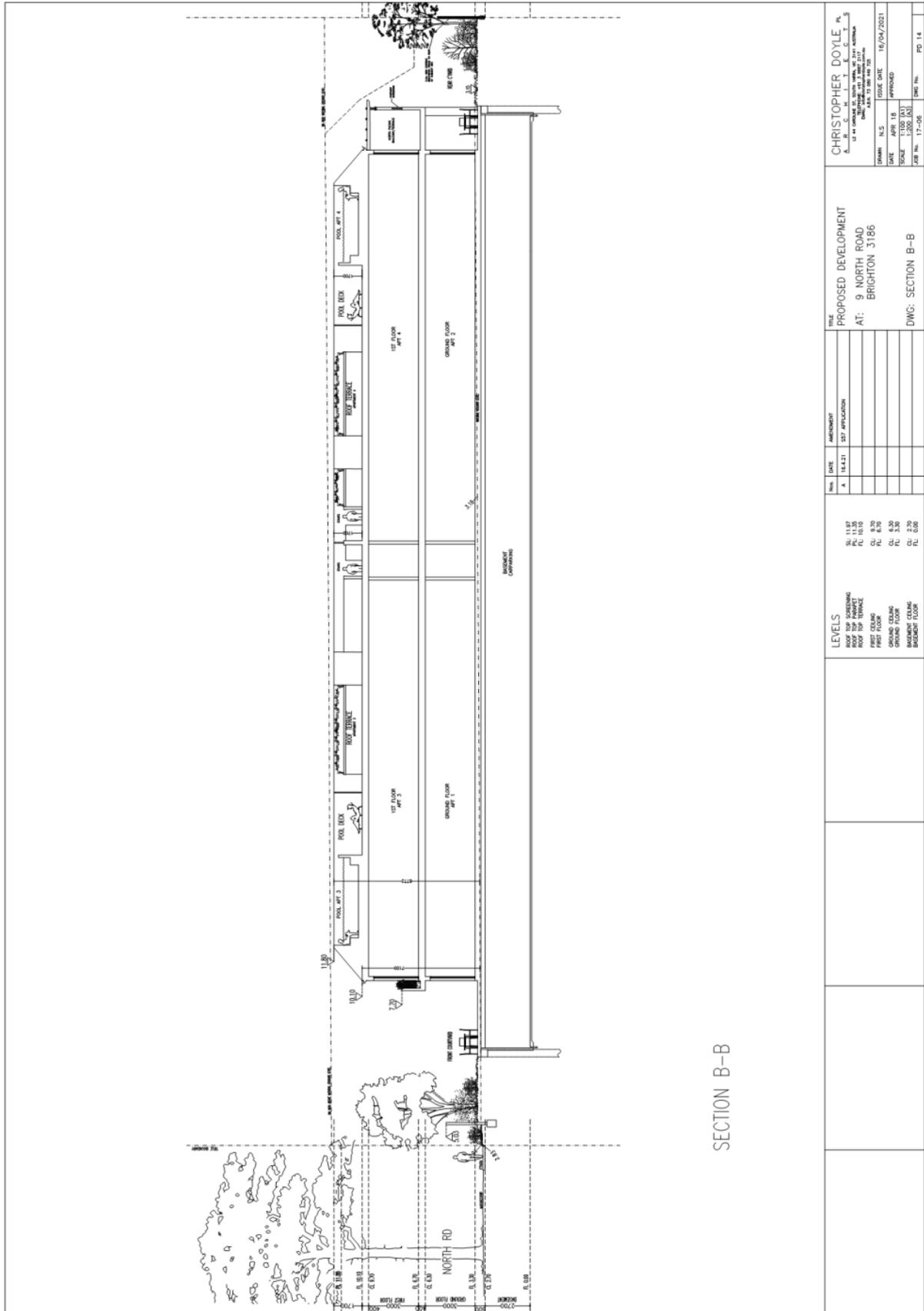




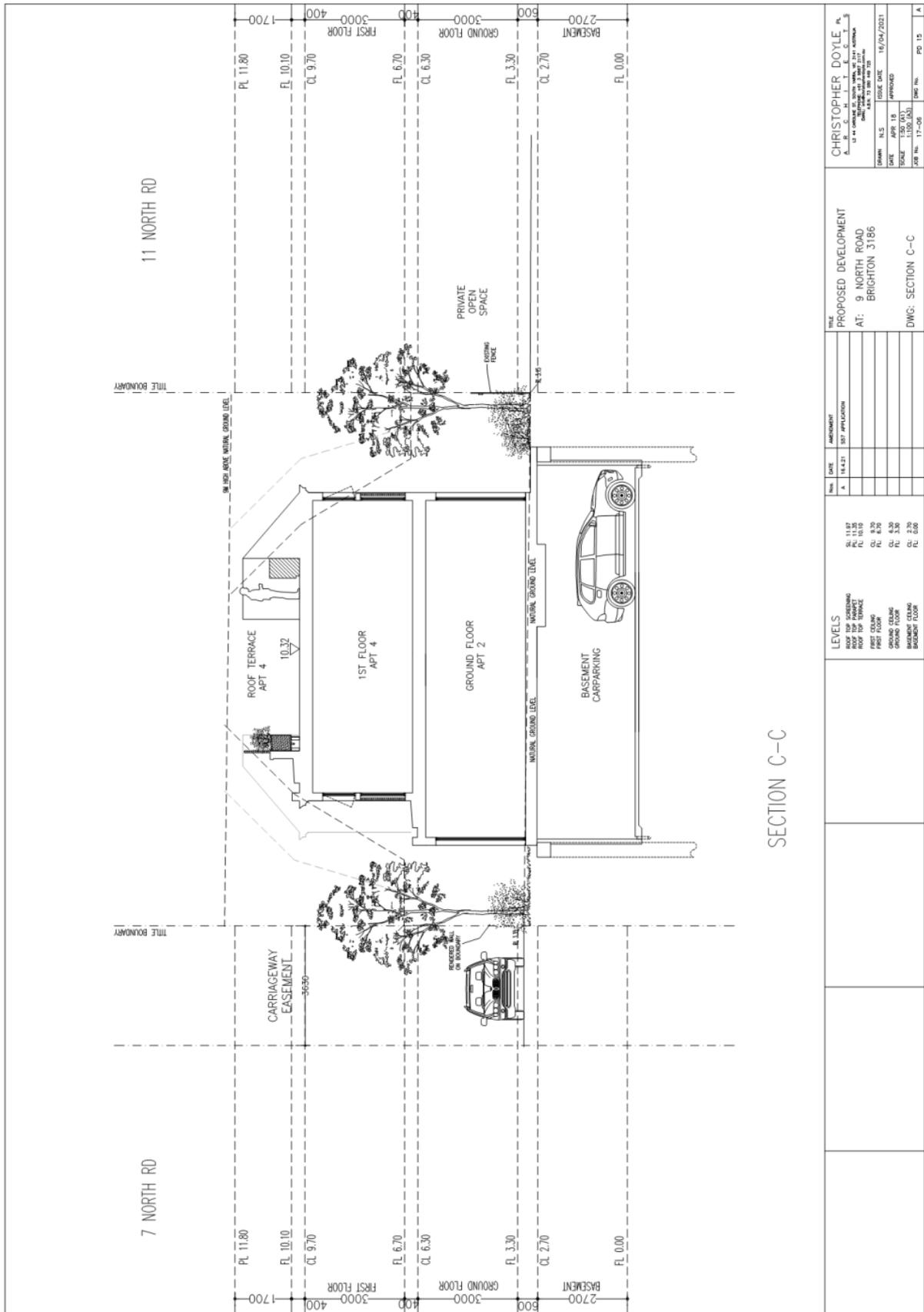


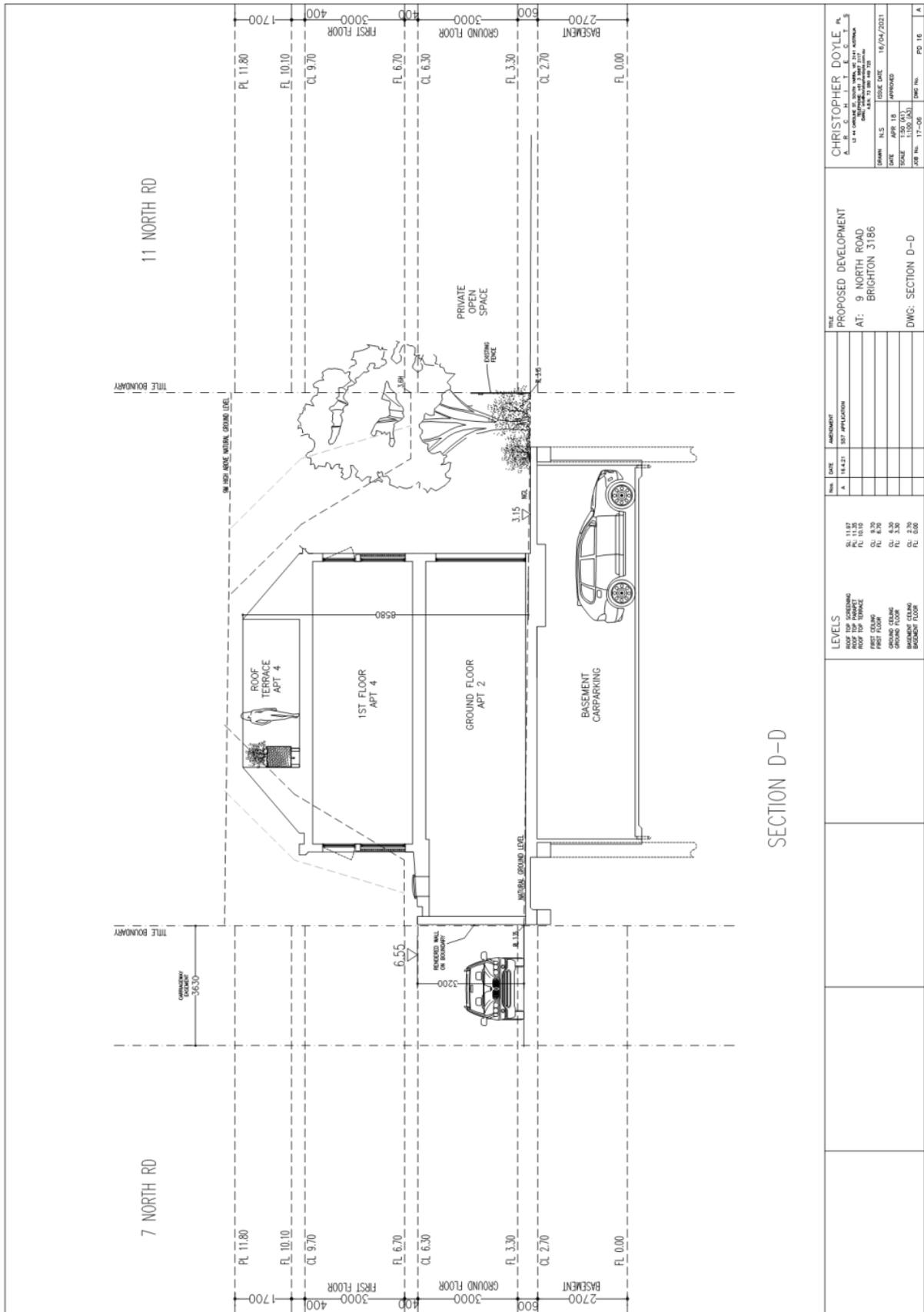






|  |  |   |  |  |  |   |  |
|--|--|---|--|--|--|---|--|
| <p><b>LEVELS</b></p> <p>ROOF TOP FINISH<br/>ROOF TOP TERRACE<br/>FIRST FLOOR<br/>GROUND CEILING<br/>GROUND FLOOR<br/>BASEMENT FLOOR</p> <p>RL 11.57<br/>FL 10.10<br/>FL 8.70<br/>FL 7.30<br/>CL 6.20<br/>FL 3.30<br/>FL 0.00</p> |  | <p><b>DATE</b>    <b>AMENDMENT</b></p> <p>A    14.4.21    507 APPLICATION</p> |  | <p><b>TITLE</b></p> <p>PROPOSED DEVELOPMENT<br/>AT: 9 NORTH ROAD<br/>BRIGHTON 3186</p> |  | <p><b>DESIGNER</b>    <b>DATE</b>    <b>ISSUE DATE</b></p> <p>CHRISTOPHER DOYLE    16/04/2021</p>             |  |
| <p>ROOF TOP FINISH<br/>ROOF TOP TERRACE<br/>FIRST FLOOR<br/>GROUND CEILING<br/>GROUND FLOOR<br/>BASEMENT FLOOR</p> <p>RL 11.57<br/>FL 10.10<br/>FL 8.70<br/>FL 7.30<br/>CL 6.20<br/>FL 3.30<br/>FL 0.00</p>                      |  | <p><b>DATE</b>    <b>AMENDMENT</b></p> <p>A    14.4.21    507 APPLICATION</p> |  | <p><b>TITLE</b></p> <p>PROPOSED DEVELOPMENT<br/>AT: 9 NORTH ROAD<br/>BRIGHTON 3186</p> |  | <p><b>DESIGNER</b>    <b>DATE</b>    <b>ISSUE DATE</b></p> <p>CHRISTOPHER DOYLE    16/04/2021</p>             |  |
|  |  |   |  | <p><b>DATE</b>    <b>ISSUE DATE</b></p> <p>16/04/2021</p>                              |  | <p><b>APPROVED</b></p> <p>DATE: 16/04/2021</p> <p>SCALE: 1:100 (A1)</p> <p>DWG No. 17-08    DWG No. PD 14</p> |  |





| NO. | DATE  | REVISION          |
|-----|-------|-------------------|
| 1   | 14.21 | ISSUE APPLICATION |

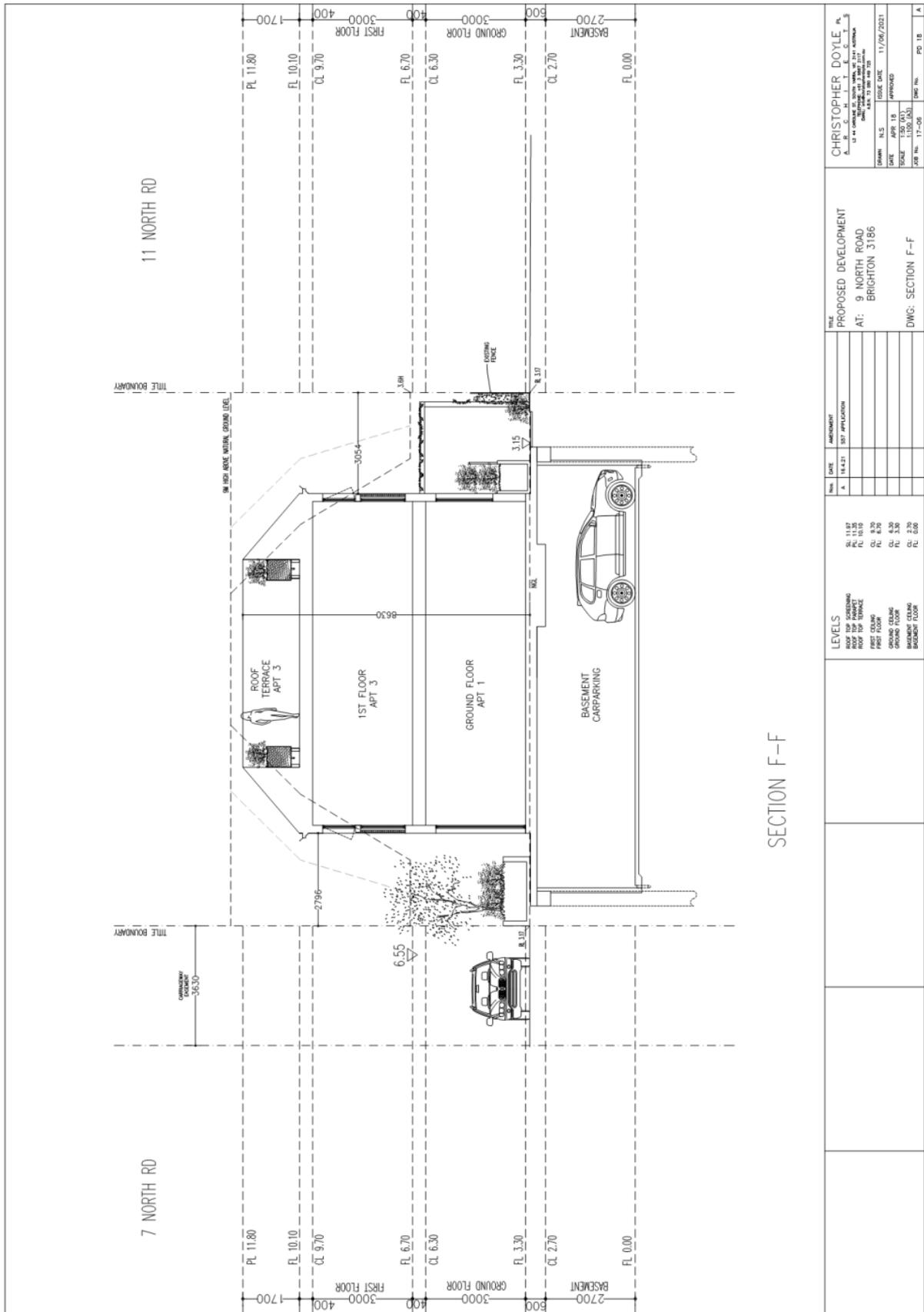
  

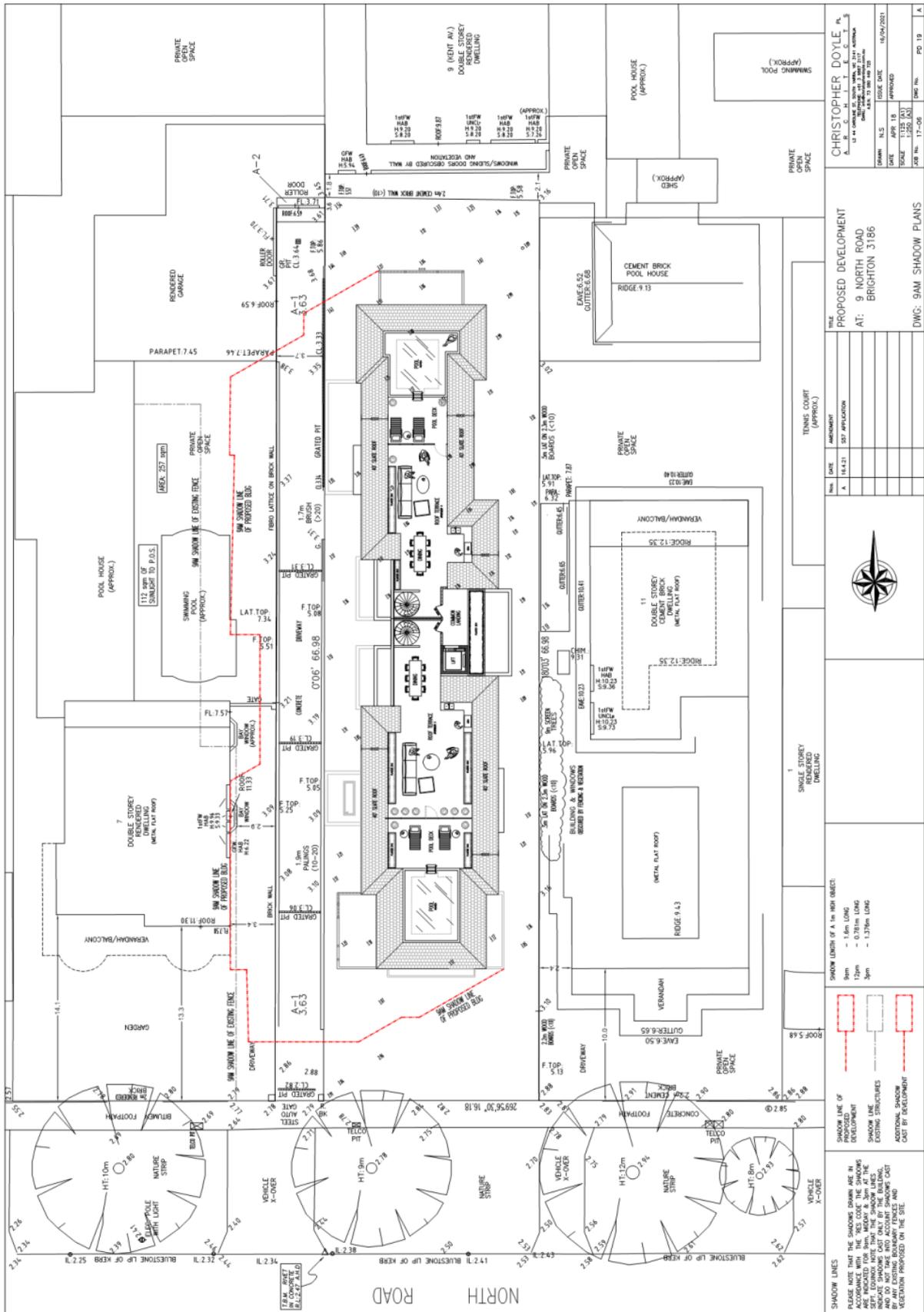
| LEVELS           | LEVEL    |
|------------------|----------|
| ROOF TOP FINISH  | FL 11.80 |
| ROOF TOP TERRACE | FL 10.10 |
| FIRST FLOOR      | FL 6.70  |
| GROUND FLOOR     | FL 3.30  |
| BASEMENT FLOOR   | FL 0.00  |

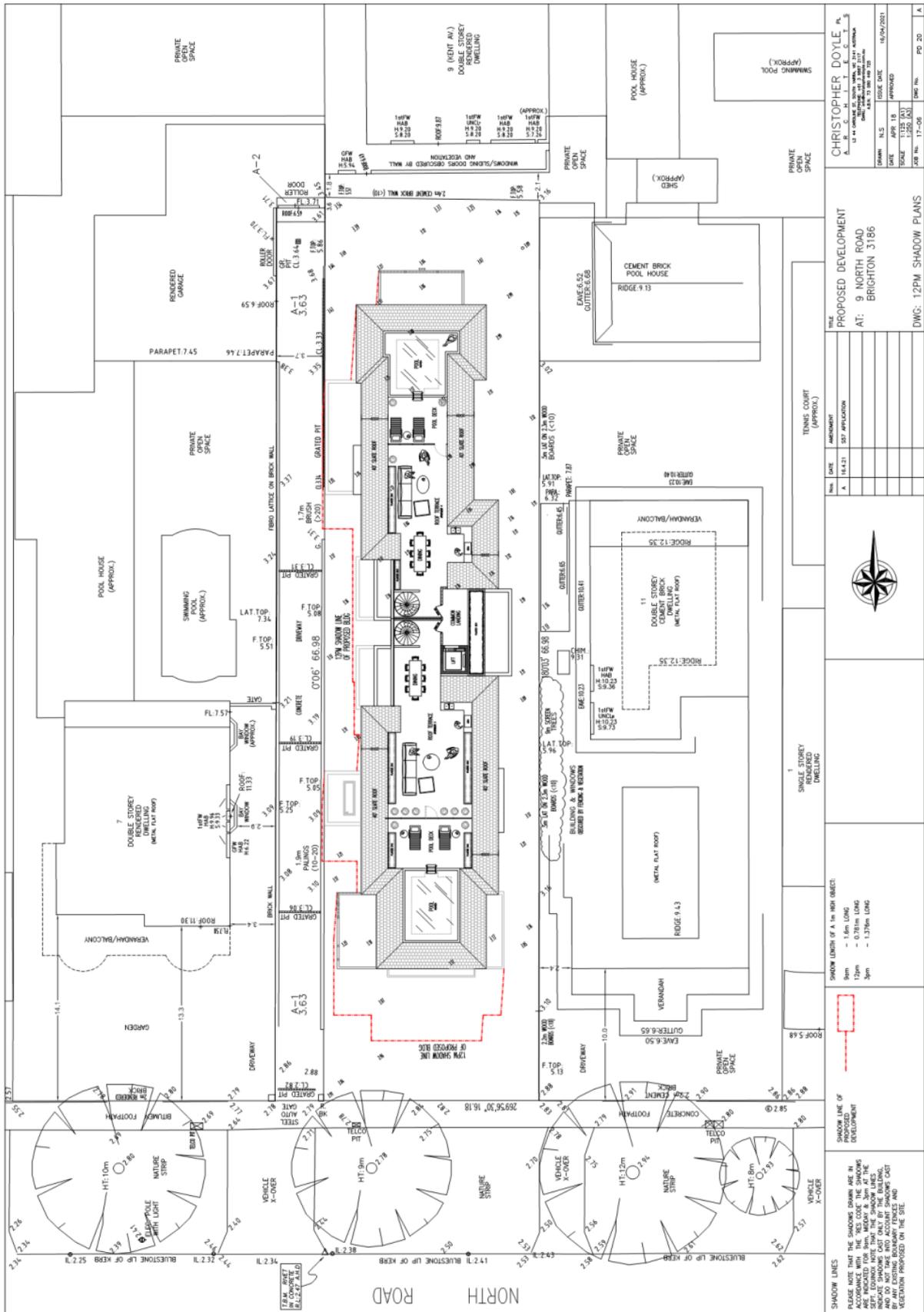
  

| DATE       | ISSUE DATE | APPROVED          | SCALE     | JOB NO.   | DWG. NO. | PD | A |
|------------|------------|-------------------|-----------|-----------|----------|----|---|
| 16/04/2021 | 16/04/2021 | CHRISTOPHER DOYLE | 1:50 (A1) | 1100 (A1) | 17-08    | 16 | A |









**SHADOW LINES**  
PLEASE NOTE THAT THE SHADOWS DRAWN ARE IN ACCORDANCE WITH THE SHADOW STUDY REPORT. LEADERS INDICATE THE SHADOW LINES. ANY DO NOT TAKE INTO ACCOUNT SHADOWS CAST BY MEDIUM PROPOSED ON THE SITE.

**SHADOW LENGTH OF A 1m TALL OBJECT:**  
1.5m LONG  
3m LONG  
4.5m LONG

**SHADOW LINE OF DEVELOPMENT**

**PROPOSED DEVELOPMENT**  
AT: 9 NORTH ROAD  
BRIGHTON 3186

**DWG: 12PM SHADOW PLANS**

| No. | DATE  | AMENDMENT       |
|-----|-------|-----------------|
| 1   | 14.02 | ISS APPLICATION |

**CHRISTOPHER DOYLE PL**  
A. 14.02.21 12PM APPLICATION  
16/04/2021

DATE: 14.02.21  
SCALE: 1:100 (A1)  
JOB No. 17-08  
DWG No. PD 20





**ATTACHMENT 2**  
**Site Surrounds and Imagery**



Figure 1 Aerial overview of the site and surrounds

| Legend       |   |
|--------------|---|
| Subject site | ★ |



Figure 2: view towards the subject site

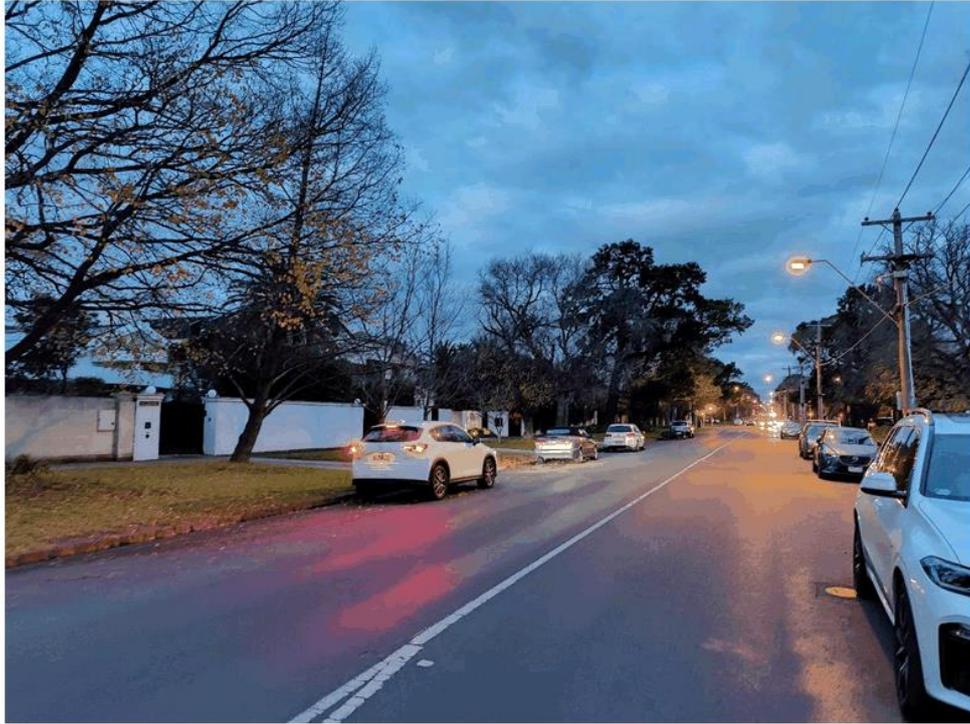


Figure 3: View from North Road towards east



*Figure 4: View towards subject site and its accessway.*

## Neighbourhood Character Policy (Precinct C1)

### Preferred Future Character Statement

The mix of dwelling styles, including a substantial presence of pre WW2 dwellings, sit within spacious gardens and do not dominate or overwhelm the streetscape. Garden plantings, and well-articulated façades and roof forms, assist in minimising the dominance of buildings from within the street space, as well as providing visual interest. Front setbacks allow planting of substantial trees and shrubs and side setbacks on both sides maintain a sense of spaciousness in the area. Trees are a mixture of exotic and natives, with an increasing frequency of traditional coastal and indigenous species, strengthening the visual connection of the area with the coast. Open style front fences retain an ability to view buildings from the street. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

### Precinct Guidelines

| Objectives  | Design Responses  | Avoid  | Comments   |
|---|---|--|--|
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | <ul style="list-style-type: none"> <li>Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in new development.</li> <li>Alterations and extensions should retain the front of these dwellings.</li> </ul> | Demolition of dwellings that contribute to the valued character of the Precinct.   | The existing dwellings do not contribute to the character of the Precinct. It is further noted that demolition of the existing dwellings does not require planning approval.   |
| To maintain and enhance the garden settings of the dwellings.   | <ul style="list-style-type: none"> <li>Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</li> </ul>  | Lack of landscaping and substantial vegetation.  | <p>The proposed site layout plan demonstrates there are sufficient areas of open space in which to include canopy plantings.</p> <p>The proposed setbacks to the basement will ensure sufficient opportunities for deep soil plantings.</p> <p>The proposed landscaping design response (subject to conditions) continues to maintain and enhance the landscape character of the area.</p> |
| To enhance the bayside vegetation character of the area.  | <ul style="list-style-type: none"> <li>Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible.</li> </ul>   | <ul style="list-style-type: none"> <li>Removal of large native and coastal trees.</li> <li>Planting of environmental weeds.</li> </ul> | The proposal seeks to remove all the existing canopy tree and provide for appropriate replacement planting throughout the site. Refer to 6.4 for detailed discussion.  |

| Objectives   | Design Responses  | Avoid   | Comments   |
|--|---|---|--|
| <i>To retain the sense of spaciousness in the area and provide adequate space for front gardens.</i> | <ul style="list-style-type: none"> <li><i>Buildings should be sited to allow space for the planting of trees and shrubs.</i></li> <li><i>Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</i></li> </ul>   |   | Adequate visual separation and space within the front setback is provided to promote landscaping opportunities across the site.  |
| <i>To minimise the dominance of car parking facilities, driveways and crossovers.</i>                | <ul style="list-style-type: none"> <li><i>Locate garages and car ports at or behind the line of the dwelling.</i></li> <li><i>Minimise hard paving in front yards.</i></li> <li><i>Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</i></li> </ul> | <ul style="list-style-type: none"> <li><i>Car parking facilities that dominate the facade or view of the dwelling.</i></li> <li><i>Loss of front garden space.</i></li> </ul> | <p>Basement level car parking is proposed with a basement access ramp offset from the boundaries.</p> <p>Basement car parking will remove all car parking from grade level and ensure that car parking structures do not dominate the site in favour of side setbacks and opportunities for landscaping. This is considered to be a positive design response to the site constraints while balancing the direction of State and Local Policies to utilise larger sites for medium density housing.</p> <p>The extent of proposed vegetation will assist in softening the presentation to the streetscape and ensuring the leafy character of the area is retained.</p> |
| <i>To ensure that new buildings and extensions do not dominate the streetscape.</i>                  | <ul style="list-style-type: none"> <li><i>Recess upper level elements from the front façade.</i></li> </ul>   | <ul style="list-style-type: none"> <li><i>High pitched roof forms with dormer windows.</i></li> </ul>   | Refer report.  |
| <i>To respect the identified heritage qualities of adjoining buildings.</i>                          | <ul style="list-style-type: none"> <li><i>Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design</i></li> </ul>   | <ul style="list-style-type: none"> <li><i>Buildings that dominate heritage buildings by height, siting or massing.</i></li> </ul>   | The proposal is located far away from any heritage properties. The nearest heritage property is 19 North Road which is approximately 60m east from the subject site.   |
| <i>To encourage the use of a variety of building materials,</i>                                      | <ul style="list-style-type: none"> <li><i>Use a mix of materials including timber or other</i></li> </ul>   | <ul style="list-style-type: none"> <li><i>Large, poorly articulated external wall</i></li> </ul>  | The proposal offers a contemporary form, responsive to the mix of  |

| Objectives   | Design Responses   | Avoid  | Comments   |
|--|--|--|--|
| <i>finishes and design detail that complement the coastal setting.</i>   | <p><i>non-masonry wall materials in building design.</i></p> <ul style="list-style-type: none"> <li><i>Use simple building details and articulate roof forms.</i></li> </ul>   | <p><i>surfaces of one material only.</i></p> <ul style="list-style-type: none"> <li><i>Heavy materials and design detailing (eg. large masonry columns and piers).</i></li> </ul>  | old and modern architectural styles featured in the area. The proposed brick finishes mixed with lighter tone render finishes will provide an acceptable variety of building materials and finishes to complement the coastal setting.   |
| <i>To encourage the openness of the streetscape.</i>   | <ul style="list-style-type: none"> <li><i>Provide open style fencing, other than along heavily trafficked roads.</i></li> </ul>  | <i>High, solid front fencing.</i>  | The proposed 2.155m high front fence with semi transparent wrought iron palisade fencing will maintain the openness of the streetscape as well as provide a noise barrier along North Road. However, the proposed height of fence is required to be reduced to a maximum height of 1.9m to respect the existing streetscape character. |
| <i>To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting the reserve and visible from the reserve.</i> | <ul style="list-style-type: none"> <li><i>Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building foreshore reserve, on form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.</i></li> <li><i>Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.</i></li> <li><i>Provide a fence or landscaping treatment to delineate the property boundary fronting the foreshore reserve.</i></li> <li><i>Provide articulated roof forms to create an interesting skyline when viewed from the beach.</i></li> </ul> | <p><i>Buildings that have no relationship to the foreshore setting.</i></p> <p><i>Poorly articulated roof and building forms.</i></p> <p><i>Lack of distinction between public and private spaces along the foreshore.</i></p> | n/a  |



## Attachment 4 – ResCode Assessment

## ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

| Application type  | Applicable clauses   |
|---|--|
| To construct or extend an apartment development;<br>or<br>To construct or extend a dwelling in or forming part of an apartment development. | All of Clause 55 except Clause 55.03-5, Clause 55.03-6, Clause 55.04-8, Clause 55.05-1, Clause 55.05-2 and Clause 55.05-6. |

| CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE   |                         |  |
|---|-------------------------|--|
| Title and Objective   | Complies with Standard? | Comments   |
| <p><b>B1 Neighbourhood Character</b></p> <p>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</p> <p>Development responds to features of the site and surrounding area.</p>   | Complies                | Refer to <b>Attachment 3</b> .   |
| <p><b>B2 Residential Policy</b></p> <p>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</p> <p>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</p> | Complies                | The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size.   |
| <p><b>B3 Dwelling Diversity</b></p> <p>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</p>   | N/A                     | The development includes 4 apartments.   |
| <p><b>B4 Infrastructure</b></p> <p>Provides appropriate utility services and infrastructure without overloading the capacity.</p>   | Complies                | The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development |

|  |          |  |
|--|----------|--|
|  |          | contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.   |
| <b>B5 Integration with the Street</b><br>Integrate the layout of development with the street | Complies | The development will integrate appropriately with the street as the building is orientated towards North Road and features an articulated front setback by the proposed overhanging planter box. |

| <b>CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING</b>  |                                |   |
|---|--------------------------------|---|
| <b>Title and Objective</b>  | <b>Complies with Standard?</b> | <b>Comments</b>   |
| <b>B6 Street Setback</b><br>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.   | Complies                       | <b>Requirement:</b> 9m to North Road<br><b>Proposed:</b> 10m to North Road.   |
| <b>B7 Building Height</b><br>Building height should respect the existing or preferred neighbourhood character.  | Complies                       | <b>Maximum:</b> 9m with 2 storey.<br><b>Proposed:</b> 8.796 metres with 2 storey<br>It is noted that the basement at no point rises above natural ground level. |
| <b>B8 Site Coverage</b><br>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.  | Does not Comply                | <b>Maximum:</b> 50%<br><b>Proposed:</b> 51.9%   |
| <b>B9 Permeability</b><br>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.  | Complies                       | <b>Minimum:</b> 20%<br><b>Proposed:</b> 28.5%   |
| <b>B10 Energy Efficiency</b><br>Achieve and protect energy efficient dwellings and residential buildings.<br>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | N/A                            | N/A to apartment application  |
| <b>B11 Open Space</b><br>Integrate layout of development with any public and communal open space provided in or adjacent to the development.  | N/A                            | N/A to apartment application  |

|  |                                 |  |
|--|---------------------------------|--|
| <p><b>B12 Safety</b><br/>Layout to provide safety and security for residents and property.</p>   | <p>Complies</p>                 | <p>The pedestrian entry points to the lobby and is clearly recognisable from the street.<br/><br/>The central lobby providing access to all apartments is located along its eastern boundary in the middle, accessed via a pathway connecting the existing footpath along North Road.</p>              |
| <p><b>B13 Landscaping</b><br/>To provide appropriate landscaping.<br/>To encourage:</p> <ul style="list-style-type: none"> <li>• Development that respects the landscape character of the neighbourhood.</li> <li>• Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</li> <li>• The retention of mature vegetation on the site.</li> </ul> | <p>Complies with conditions</p> | <p>The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions. A condition of permit will require an amended landscape plan to be submitted to the satisfaction of the Responsible Authority.<br/><br/>See the report for further discussion.</p> |
| <p><b>B14 Access</b><br/>Ensure the safe, manageable and convenient vehicle access to and from the development.<br/><br/>Ensure the number and design of vehicle crossovers respects neighbourhood character.</p>  | <p>Complies with conditions</p> | <p>The proposed development will utilise the existing crossover off North Road to access basement parking via carriageway easement arrangement with 11 North Road. Standard traffic conditions are included as permit conditions.<br/><br/>See the report for further discussion.</p>                  |
| <p><b>B15 Parking Location</b><br/>Provide resident and visitor vehicles with convenient parking.<br/><br/>Avoid parking and traffic difficulties in the development and the neighbourhood.<br/><br/>Protect residents from vehicular noise within developments.</p>   | <p>Complies</p>                 | <p>On site car parking is provided in the form of a basement carpark. Standard traffic conditions are included as permit conditions.<br/><br/>Refer to the report for further discussion.</p>  |

| <p><b>CLAUSE 55.04 AMENITY IMPACTS</b></p>  |                                       |  |
|---|---------------------------------------|--|
| <p><b>Title and Objective</b></p>   | <p><b>Complies with Standard?</b></p> | <p><b>Comments</b></p>   |
| <p><b>B17 Side and Rear Setbacks</b><br/>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</p> | <p>Does not Comply</p>                | <p>Areas of non-compliance are in bold and underlined in the table below.<br/><br/>Refer to the report for further discussion.</p> |

|   | Ground floor |                          | First Floor  |                      |
|---|--------------|--------------------------|--|----------------------|
|   | Requirement  | Proposed                 | Requirement  | Proposed             |
| East (side)   | 0m or 2.0m   | 2.62m - 4.0m             | 3.71m – 4.6m   | <u>2.06m</u> – 4.92m |
| West (Side)   | 0m or 2.0m   | 0m – 4.77m               | 3.84m – 4.46m  | <u>2.16m</u> – 5.1m  |
| North (rear)  | 3.57m        | 8.1m                     | 4.8m   | 8.1m                 |
| <b>B18 Walls on Boundaries</b>  |              |                          |  |                      |
| Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. |              | Complies                 | The proposed EnSuite of Unit 1 and Bedroom 2 of Unit 2 are proposed to be located along the west boundary. The proposed overall length is 12.84m which complies with the standard required 24.24m. |                      |
| <b>B19 Daylight to Existing Windows</b>   |              |                          |  |                      |
| Allow adequate daylight into existing habitable room windows.   |              | Complies                 | The development has been sufficiently setback from all habitable room windows of abutting properties in accordance with the standard.  |                      |
| <b>B20 North Facing Windows</b>   |              |                          |  |                      |
| Allow adequate solar access to existing north-facing habitable room windows.  |              | N/A                      | There are no north facing windows within 3m of the shared boundary.  |                      |
| <b>B21 Overshadowing Open Space</b>   |              |                          |  |                      |
| Ensure buildings do not significantly overshadow existing secluded private open space.  |              | Complies                 | Additional overshadowing will occur over the adjoining property to the west and east but the overshadowing extends marginally beyond the shadow cast by the existing fence line.                   |                      |
| <b>B22 Overlooking</b>  |              |                          |  |                      |
| Limit views into existing secluded private open space and habitable room windows.   |              | Complies with conditions | Refer report   |                      |
| <b>B23 Internal Views</b>   |              |                          |  |                      |
| Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.                            |              | Complies with conditions | The proposed roof top swimming pools are required to demonstrate they will not overlook into the SPOS of ground floor apartments.  |                      |
| <b>B24 Noise Impacts</b>  |              |                          |  |                      |
| Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.   |              | N/A                      | N/A to apartment application   |                      |

| CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES   |                         |   |
|---|-------------------------|---|
| Title and Objective   | Complies with Standard? | Comments  |
| <b>B25 Accessibility</b><br>Consider people with limited mobility in the design of developments.                              | N/A                     | N/A to apartment application  |
| <b>B26 Dwelling Entry</b><br>Provide a sense of identity to each dwelling/residential building.                               | N/A                     | N/A to apartment application  |
| <b>B27 Daylight to New Windows</b><br>Allow adequate daylight into new habitable room windows.                                | Complies                | All habitable windows will open out onto a space clear to the sky including the windows.  |
| <b>B28 Private Open Space</b><br>Provide reasonable recreation and service needs of residents by adequate private open space. | Complies                | <b>Minimum:</b><br>25m <sup>2</sup> secluded, 40m <sup>2</sup> overall with a minimum dimension of 3m;<br>A balcony of 8m <sup>2</sup> with a minimum width of 1.6m.<br><b>Proposed:</b><br>All apartments meet the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents. |
|   | Private Open Space      | Secluded Private Open Space   |
| Apartment 1   | 124m <sup>2</sup>       | 124m <sup>2</sup>   |
| Apartment 2   | 255m <sup>2</sup>       | 255m <sup>2</sup>   |
| <b>B29 Solar Access to Open Space</b><br>Allow solar access into the secluded private open space of new dwellings/buildings.  | Complies                | All ground floor apartments will have reasonable solar access to their private open space areas throughout the day to satisfy the standard.   |
| <b>B30 Storage</b><br>Provide adequate storage facilities for each dwelling.  | N/A                     | N/A to apartment application  |

| CLAUSE 55.06 DESIGN DETAIL |                         |          |
|----------------------------|-------------------------|----------|
| Title and Objective        | Complies with Standard? | Comments |

|   |          |   |
|---|----------|---|
| <p><b>B31 Design Detail</b></p> <p>Encourage design detail that respects the existing or preferred neighbourhood character.</p>   | Complies | Refer to report for further discussion.   |
| <p><b>B32 Front Fences</b></p> <p>Encourage front fence design that respects the existing or preferred neighbourhood character.</p>   | Complies | As the site fronts a Road Zone Category 1, a front fence up to 2m in height is as-of-right. The applicant proposed a 2.15 metre high fence which respects the adjacent fence height and therefore respects the existing neighbourhood character.                      |
| <p><b>B33 Common Property</b></p> <p>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.</p> <p>Avoid future management difficulties in common ownership areas.</p>        | Complies | All areas of common property have been designed to clearly delineate public, communal and private areas. Common property is functional and capable of efficient management.   |
| <p><b>B34 Site Services</b></p> <p>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</p> <p>Avoid future management difficulties in common ownership areas.</p> | Complies | All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entry with waste provisions being provided within the basement level. <p>Waste collection can be appropriately managed via a condition of permit.</p> |

#### CLAUSE 55.07 APARTMENT DEVELOPMENTS

| Title and Objective  | Complies with Standard?   | Comments   |
|--|---------------------------|--|
| <p><b>Standard B35 Energy efficiency objectives</b></p> <p>To achieve and protect energy efficient dwellings and buildings.</p> <p>To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy.</p> <p>To ensure dwellings achieve adequate thermal efficiency</p> | Complies with conditions. | <p>The site orientation does not unreasonably reduce energy efficiency and solar access to adjoining properties. Areas of open space facing north have been maximised where possible.</p> <p>An indicative NatHERS Assessment has been provided with the application confirming that the proposed development will provide an appropriate level of energy efficiency. This will be conditioned in the permit to provide demonstration.</p> |
| <p><b>Standard B36 Communal open space</b></p> <p>To ensure that communal open space is accessible, practical, attractive,</p>   | N/A                       | This standards relates to developments with 40 or more dwellings.  |

|  |                          |   |
|--|--------------------------|---|
| easily maintained and integrated with the layout of the development.<br><br>Developments with 40 or more dwellings should provide a minimum area of communal open space of 2.5 sq metres per dwelling or 250 sq metres, whichever is lesser.   |                          |   |
| <b>Standard B37 Solar access to communal outdoor open space</b><br><br>To allow solar access into communal outdoor open space.   | N/A                      | There is no communal outdoor open space provided within this development.   |
| <b>Standard B38 Deep soil areas and canopy trees objective</b><br><br>To promote climate responsive landscape design and water management in developments to support thermal comfort and reduce the urban heat island effect.  | Complies                 | <b>Required:</b> 7.5% of the site area with a minimum dimension of 3 metres.<br><br>1 medium tree (8-12 metres) per 50 square metres of deep soil<br>Or<br>1 large tree per 90 square metres of deep soil<br><br><b>Proposed:</b> the proposed deep soil area achieves 15.6% which complies with the standard. There are four medium size canopy trees are proposed which complies with the standard. |
| <b>Standard B39 Integrated water and stormwater management</b><br><br>To encourage the use of alternative water sources such as rainwater, stormwater and recycled water. To facilitate stormwater collection, utilisation and infiltration within the development. To encourage development that reduces the impact of stormwater run-off on the drainage system and filters sediment and waste from stormwater prior to discharge from the site. | Complies with conditions | The submitted ESD report suggested a minimum of 12,000L water tank is required to achieve 100% storm rating. The plan shows a water tank of 10,000L which is requires to be increased to 12,000L to meet the Storm report standard. It will be conditioned.   |
| <b>Standard B40 Noise impacts</b><br><br>To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources.   | Complies with conditions | Refer report.<br><br>The proposed communal lift adjacent to the bedroom 2 of front two apartments. An acoustic report is required to demonstrate these two bedrooms will not be unreasonably impacted by the proposed lift in accordance with the standard.   |
| <b>Standard B41 Accessibility</b><br><br>To ensure the design of dwellings meets the needs of people with limited mobility.  | Complies with conditions | <b>Requirement:</b> 50 per cent of dwellings should have:<br><br><ul style="list-style-type: none"> <li>• A clear opening width of at least 850mm at the entrance to the</li> </ul>   |

|  |                    |  |
|--|--------------------|--|
|  |                    | <p>dwelling and main bedroom.</p> <ul style="list-style-type: none"> <li>• A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.</li> <li>• A main bedroom with access to an adaptable bathroom.</li> <li>• At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table B7.</li> </ul> <p><b>Proposed:</b> given the size of each proposed dwelling, the proposal should comply with the standard. However, the development fails to demonstrate the compliance which will be conditioned in the recommendations to comply with Standard B41.</p> |
| <p><b>Standard B42 Building entry and circulation</b></p> <p>To provide each dwelling and building with its own sense of identity.</p> <p>To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents.</p> <p>To ensure internal communal areas provide adequate access to daylight and natural ventilation.</p> | <p>Complies</p>    | <p>The building entries and foyer areas provide clearly identifiable areas which are benefit from direct solar access and natural ventilation. Stair and lift access are provided internally within the foyers.</p>  |
| <p><b>Standard B43 Private open space above ground floor</b></p> <p>To provide adequate private open space for the reasonable recreation and service needs of residents.</p>   | <p>Complies</p>    | <p><b>Requirement:</b> An area of 15 square metres, with a minimum dimension of 3 metres at a podium <u>or</u> other similar base and convenient access from a living room, <u>or</u> 2 bedroom units should have a balcony with an area of 8m<sup>2</sup> with a minimum dimension of 2.4 metres and 3 bedroom units should have a balcony with an area of 12m<sup>2</sup> with a minimum dimension of 2.4 metres.</p> <p><b>Proposed:</b> All first floor apartments have private open space areas in accordance with the minimum area and dimension requirements outlined above as set out in the table below.</p>  |
|  | Private Open Space |  |

|   |  |   |
|---|--|---|
| Apartment 3 (3 beds)  | 149m <sup>2</sup> total, minimum dimension is more than 3m |   |
| Apartment 4 (3 beds)  | 116m <sup>2</sup> total, minimum dimension is more than 3m |   |
| <p><b>Standard B44 Storage</b></p> <p>To provide adequate storage facilities for each dwelling.</p>   | Complies   | <p><b>Required:</b> 2 bed apartments require 14m<sup>3</sup> total minimum storage volume and 9m<sup>3</sup> minimum storage volume within the dwelling. 3 bed apartments require 18m<sup>3</sup> total minimum storage volume and 12m<sup>3</sup> minimum storage volume within the dwelling.</p> <p><b>Provided:</b> All 3 bedroom apartments require to have a minimum of 12m<sup>3</sup> internal storage space in accordance with the Standard and all 3 bedroom apartments can achieve the standard requirement via permit condition.</p> |
| <p><b>Standard B45 Waste and recycling</b></p> <p>To ensure dwellings are designed to encourage waste recycling.</p> <p>To ensure that waste and recycling facilities are accessible, adequate and attractive.</p> <p>To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm.</p> | Complies with conditions                                   | <p>The proposal provides for appropriate and conveniently located areas for waste collection on site. A waste management Plan has been provided and will be enforced by a condition of permit requiring on-site waste collection services.</p>  |
| <p><b>Standard B46 Functional layout</b></p> <p>To ensure dwellings provide functional areas that meet the needs of residents.</p>  | Complies with conditions                                   | <p><b>Requirement:</b> Bedrooms should provide for a main bedroom with a minimum dimensions of 3m x 3.4m. All other bedrooms should have a minimum dimension of 3m x 3m.</p> <p>2 or more bedroom dwellings should have a minimum living area width of 3.6m with a minimum area of 12m<sup>2</sup>.</p> <p><b>Proposed:</b> All apartments comply with the minimum widths and areas easily, however it will be conditioned in the permit to show the internal dimensions..</p>  |
| <p><b>Standard B47 Room depth</b></p> <p>To allow adequate daylight into single aspect habitable rooms.</p>   | Complies   | <p><b>Requirement:</b> Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.</p> <p><b>Proposed:</b> Living areas have double aspects but all single aspect rooms comply with this standard.</p>  |
| <p><b>Standard B48 Windows</b></p> <p>To allow adequate daylight into new</p>   | Complies   | <p><b>Requirement:</b> Habitable rooms should have a window in an external wall of the building. A window may provide daylight</p>  |

|  |                                 |  |
|--|---------------------------------|--|
| <p>habitable room windows.</p>   |                                 | <p>to a bedroom from a smaller secondary area within the bedroom where the window is clear to the sky. The secondary area should be:</p> <ul style="list-style-type: none"> <li>• A minimum width of 1.2 metres.</li> <li>• A maximum depth of 1.5 times the width, measured from the external surface of the window.</li> </ul> <p><b>Proposed:</b> All rooms have a window in an external wall of the building.</p>  |
| <p><b>Standard B49 Natural ventilation</b><br/>                 To encourage natural ventilation of dwellings.<br/>                 To allow occupants to effectively manage natural ventilation of dwellings.</p> | <p>Complies with conditions</p> | <p><b>Requirement:</b> At least 40 per cent of dwellings should provide effective cross ventilation that has:</p> <ul style="list-style-type: none"> <li>• A maximum breeze path through the dwelling of 18 metres.</li> <li>• A minimum breeze path through the dwelling of 5 metres.</li> <li>• Ventilation openings with approximately the same area.</li> </ul> <p><b>Proposed:</b> Given the size of proposed rooms, all dwellings can be provided with natural ventilation. It will be achieved through permit conditions.</p> |



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## DEVELOPMENT IMPACT ASSESSMENT

Site Address:  
**9 North Road**  
**BRIGHTON**

Report Prepared for:  
**The X'Lingson Family Trust**

Prepared by:  
Blake Clancy

Amended By:  
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Prepared 30 July 2018  
Amended 16 February 2019 (Version 2)  
Amended 11 March 2020 (Version 3)

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1. SUMMARY

The objective of the Development Impact Assessment is to determine the impact to trees on or adjoining 9 North Road, Brighton that may be affected by the proposed development. This report includes an assessment of the arboricultural and protection values of the trees and determines the impact to any high or moderate protection value tree.

The protection value of the trees takes into account the arboricultural value, landscape and environmental significance, ownership and relevant legislative controls. Based on the arboricultural value and protection value criteria it has been determined that from the 20 trees or groups of trees assessed:

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- 4 trees are of high protection value
  - Tree 1 is located on the Council road reserve
  - Trees 2-4 are located on adjoining properties
- 5 trees are of moderate protection value
  - Trees 9 (2 palms), 10 (group) & 15 (group) are located within the subject site
- 13 trees have no protection value as they are of low arboricultural value. These trees are located within the project site.

The proposed development plans were viewed in the preparation of this Development Impact Assessment. Based on the proposed design:

**Trees that cannot be protected**

- 16 trees or part of groups of trees are within the proposed construction footprint
  - Trees 9 (2 palms), 10 (one tree only) & 15 (group) are of moderate protection value
  - Trees 5-8, 11-14 & 16-20 are of no protection value.

**Trees that will incur Major Encroachment (greater than 10%) into the Tree Protection Zone**

- 1 tree will incur an encroachment of >10% into the TPZ from the proposed development
  - Tree 1 will incur an approximate encroachment of 13% from works within the private property. As the works are within private property and the encroachment is marginally over 10%, Council is likely to have little concerns over this level of encroachment. Impact mitigation and protection measures are recommended in order to reduce impact. Mitigation includes the establishment of protection fencing & ground protection, supervision of works within the TPZ.

**Trees that will incur Minor (10% or less) or no Encroachment into the Tree Protection Zone**

- 4 trees or groups of trees will incur encroachment of <10% into the TPZ from the proposed development
  - Trees 2-4 and 10 (part of group) - mitigation and protection measures are recommended to further reduce impact.

Recommendations of the appropriate impact mitigation measures for trees that have been determined as having moderate and high protection value and can be retained based on the proposed development plans are provided in Section 6. The recommendations are based on the tree protection zones (TPZ) as calculated in accordance with the Australian Standard AS4970 - 2009 - Protection of Trees on Development Sites. The Tree Location Plan (Existing Conditions) and Development Impact Plans (Ground Floor and Basement) in Section 7.2 provide a visual representation of the protection values of the trees and indicates the tree protection zone (TPZ) and structural root zone (SRZ) of trees that have been determined as having a high or moderate protection value. The Development Impact Plans indicate the encroachment (where applicable) by the proposed development into the Tree Protection Zone (TPZ) of trees that have been determined as being of high or moderate protection value.

## 2. INTRODUCTION

Arbor Survey Pty Ltd has been engaged by The X'Lingson Family Trust to conduct a Development Impact Assessment for the trees on and adjoining 9 North Road, Brighton. This assessment is an analysis of twenty trees or groups of trees that are located within the site and on land adjacent to the site where the tree protection zones may extend into the subject site and may be affected by any proposed development.

This report provides an assessment of the condition of the trees, expressed as the arboricultural value and a determination of the protection value. The protection value of the trees takes into account the arboricultural value, landscape and environmental significance, ownership and relevant legislative controls including local municipal laws and relevant environmental/ landscape significance and cultural or heritage overlays.

The application of the trees of their overall condition has been made in accordance with the survey methodology in Appendix 8.1 and the descriptors as set out in Appendix 8.3. These must be referenced when reading this report.

Tree protection and impact mitigation measures have been recommended to reduce the impact on high and moderate protection value trees where possible.

## 3. REPORT OBJECTIVES AND RELEVANT DOCUMENTS

### 3.1. REPORT OBJECTIVES

The Development Impact Assessment has been prepared in accordance with relevant industry standards. The report objectives are:

- To comment on the health, structure and overall condition of the trees on the site, affected neighbouring properties and adjoining road reserves where relevant
- To assess tree condition based on the characteristics observed of the subject trees based on the Visual Tree Assessment Methodology (VTA)
- To provide a response to the relevant decision criteria of any local laws or planning controls that may be applicable to the site
- To investigate the suitability for retention/ protection of the trees
- To assess the impact from the proposed development where relevant (based upon the *Australian Standard AS 4970 - 2009 - Protection of Trees on Development Sites*).

The results of this assessment and a discussion of the relevant arboricultural characteristics are provided. The recommendations given are based on the condition of the trees and the sustainable life expectancy in relation to their current and future growing environment. Recommendations are not driven by the proposed development of the land and recommendations are provided regarding trees that are of moderate or high protection value where applicable.

**Trees that are considered to be worthy of protection are afforded general guidelines for tree protection measures. These guidelines do not constitute a Tree Management or Protection Plan (as per the *Australian Standard AS 4970 - 2009 - Protection of Trees on Development Sites*).**

3.2. DOCUMENTS VIEWED IN PREPARATION OF THIS REPORT

The following documents were viewed in preparation of this report:

- Bayside Planning Scheme
- Vic Plan – Department of Environment, Land, Water and Planning (DELWP) (<https://mapshare.vic.gov.au/vicplan/>)
- Plan of Survey from Land Dimensions (Ref: 18251, Date: 12/06/2018)
- Development Plans from Chris Doyle Architects (Ref: 18-06, Dwgs: SK01-17, Date: 04/2018)
- Development Plans from Chris Doyle Architects (Ref: 17-06, Dwgs: PD 05 & PD 06, Date: 06/03/2020)
- Aerial photograph of the site (Nearmaps™).

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 4.1. SITE AND VEGETATION ANALYSIS

4. SITE ANALYSIS AND PLANNING CONTROLS

4.1. SITE AND VEGETATION ANALYSIS

The subject site is located on the northern side of North Road, Brighton. The site is approximately 1080m<sup>2</sup> in size and contains a double storey dwelling and detached sheds and carport. The aerial photograph to the right shows the subject property and the outline of the property boundaries. The construction of a triple storey (including basement) building comprising four individual apartments is proposed for the site.

The collection of data was undertaken by Blake Clancy on Thursday 14 June 2018 with a review of the site undertaken by Mark Reynolds on 4 March 2020. A table of the data collected is documented in Section 7.1 The data has been used to develop a Tree Location Plan (Existing Conditions) and Development Impact Plans (Section 7.2) which indicate the protection value of the trees and shows the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) of the high and moderate value trees. Encroachment into the Tree Protection Zone (TPZ) is illustrated where relevant.

From the 20 trees or groups of trees assessed:

- 3 trees or groups of trees are located on adjoining properties
- 1 tree is located on the Council owned road reserve
- 16 trees or groups of trees are located within the subject property boundaries.



The majority of trees assessed are generally considered to be of moderate landscape significance in terms of their mass and contribution to the canopy coverage to the immediate local area. Tree 1 is a mature exotic specimen in good condition located on the Council road reserve which is part of a formal avenue. Tree groups 2 and 4 are semi-mature exotic specimens located on adjoining properties in fair to good overall condition which provide screening between the respective properties. Tree 3 is a moderate to large Palm located on the eastern adjoining property of good condition and is of landscape value. Of the trees on-site: Trees 5 and 10 (group) are commonly planted exotic specimens in fair to good condition which provide screening between properties, Tree group 9 are moderate sized Palms which are suitable

for transplanting, Tree 12 is a moderate sized Australian native specimen of fair condition (however, is an environmental weed species) and Tree group 15 (Cypress hedge) are exotic specimens located along the western boundary of fair-good condition. The remaining trees are small specimens, weeds and or in poor overall condition.

**4.2. PLANNING AND LOCAL LAW CONTROLS**

The subject site is located within Neighbourhood Residential Zone – Schedule 3 (NRZ3) of the Bayside Planning Scheme and is subject to the following overlays:

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- Design & Development Overlay – Schedule 1 (DDO1)
- Development Contributions Plan Overlay – Schedule 1 (DCPO1)

The land is not subject to any specific overlay which limits the removal of vegetation on residential land. However, as the vegetation will be assessed through the planning permit process, the quality of the vegetation on the site and neighbouring properties will be considered.

However, under Council’s Tree Protection Local Law, trees over a single or combined circumference of 155cm (50cm diameter) measured at 1.0 metre from natural ground level will require a permit for removal. Trees 8 and 15 within the subject site will require a Local Law permit for removal. It must be noted that a Local Law permit is not required for Tree group 9 as palms, ferns and non-woody plants do not meet the definition of a ‘tree’ in Council’s Local Law.

**5. ARBORICULTURAL AND PROTECTION VALUE ASSESSMENT**

**5.1. ARBORICULTURAL VALUE ASSESSMENT**

Arboricultural value is rated according to the overall health, structure, life expectancy and significance within the landscape. The arboricultural value only relates to the physical condition of the tree and does not take into account the environmental status or suitability of the tree in the landscape or the ownership of the tree (Refer to Appendix 8.3 for further information on the descriptors used).

Of the 20 trees or groups of trees on and adjoining the site:

- 2 trees are of high arboricultural value
- 6 trees or groups of trees are of medium arboricultural value
- 12 trees or groups of trees are of low arboricultural value

The following trees have been assessed as being of high, medium and low arboricultural value categories. The determination of the arboricultural value is discussed for each group.

**Table 1: High Arboricultural Value Trees**

| Tree No. | Botanical Name             | Common Name             | Origin | Health | Structure | Age Class |
|----------|----------------------------|-------------------------|--------|--------|-----------|-----------|
| 1        | <i>Ulmus x hollandica</i>  | Dutch Elm               | Exotic | Good   | Fair-Good | Mature    |
| 3        | <i>Phoenix canariensis</i> | Canary Island Date Palm | Exotic | Good   | Good      | Mature    |

The trees are mature exotic specimens of 12 metres height and 9-15 metres in canopy spread. They have been assigned a high arboricultural value given fair-good overall condition, long useful life expectancy and landscape/streetscape value.

**Table 2: Medium Arboricultural Value Trees**

| Tree No.    | Botanical Name                    | Common Name             | Origin | Health    | Structure | Age Class   |
|-------------|-----------------------------------|-------------------------|--------|-----------|-----------|-------------|
| 2 (GROUP)   | <i>Betula pendula</i>             | Silver Birch            | Exotic | Fair-Good | Fair-Good | Semi-Mature |
| 5           | <i>Pyrus calleryana</i>           | Callery Pear            | Exotic | Fair-Good | Fair-Good | Mature      |
| 9 (2 PALMS) | <i>Phoenix canariensis</i>        | Canary Island Date Palm | Exotic | Good      | Good      | Mature      |
| 10 (GROUP)  | <i>Pyrus calleryana</i> 'Capital' | Callery Pear            | Exotic | Good      | Fair-Good | Mature      |
| 11 (GROUP)  | <i>Sweet Pittosporum</i>          | Sweet Pittosporum       | Native | Fair      | Fair      | Mature      |
| 15 (GROUP)  | <i>Hesperocyparis macrocarpa</i>  | Monterey Cypress        | Exotic | Good      | Fair      | Mature      |

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The trees are mature exotic or Australian native of between 7-12 metres height and 3-9 metres in canopy spread. They have been assigned a medium arboricultural value given fair-good overall condition, reasonable useful life expectancy, and landscape/streetscape value.

**Table 3: Low Arboricultural Value Trees**

| Tree No.     | Botanical Name                    | Common Name       | Origin     | Health | Structure | Age Class   |
|--------------|-----------------------------------|-------------------|------------|--------|-----------|-------------|
| 4 (GROUP)    | <i>Olea europaea</i>              | European Olive    | Exotic     | Good   | Fair-Good | Semi-Mature |
| 6 (GROUP)    | <i>Salix humboldtiana</i>         | Humboldt's Willow | Exotic     | Poor   | Poor      | Mature      |
| 7            | <i>Viminaria juncea</i>           | Native Broom      | Native     | Fair   | Poor      | Mature      |
| 8            | <i>Fraxinus excelsior</i> 'Aurea' | Golden Ash        | Exotic     | Dead   | Poor      | Mature      |
| 11 (GROUP)   | <i>Euonymus sp.</i>               | Spindle Tree      | Exotic     | Fair   | Fair      | Mature      |
| 13           | <i>Acacia melanoxylon</i>         | Blackwood         | Indigenous | Good   | Poor      | Mature      |
| 14           | <i>Cotoneaster glaucophyllus</i>  | Cotoneaster       | Exotic     | Poor   | Poor      | Mature      |
| 16           | <i>Pittosporum undulatum</i>      | Sweet Pittosporum | Native     | Fair   | Fair      | Mature      |
| 17 (2 TREES) | <i>Ligustrum lucidum</i>          | Privet            | Exotic     | Poor   | Poor      | Mature      |
| 18           | <i>Camellia sasanqua</i>          | Sasanqua Camellia | Exotic     | Fair   | Fair      | Mature      |
| 19           | <i>Paraserianthes lophantha</i>   | Cape Wattle       | Exotic     | Good   | Fair-Poor | Semi-Mature |
| 20 (GROUP)   | <i>Ulmus x hollandica</i>         | Dutch Elm         | Exotic     | Good   | Fair-Good | Young       |

These trees are given this rating due to their overall condition in terms of health/structure and or their low landscape significance.

**5.2. PROTECTION VALUE ASSESSMENT**

The protection value of the trees has been determined by taking into consideration the arboricultural value, landscape significance environmental status, ownership and relevant legislative controls (including local municipal laws, vegetation protection and environmental/landscape significance overlays and cultural/heritage overlays). Only trees of high and moderate protection value should be considered for protection (Refer to Appendix 8.3 for further information).

Table 4 documents the trees that are worthy of protection and states the ideal tree protection zone (TPZ) distance (radius from the centre of the trunk). The TPZ10% shows the minimum encroachment distance from the tree **on one side of the tree only** without any further requirement for exploratory trenching.

This table should be viewed in conjunction with the Tree Location Plans located in Section 7.2. These maps have been drawn to scale however are not to print scale within this report. Trees that have been determined to have a high and moderate protection value are shown and have the Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) drawn.

**Table 4: High and Moderate Protection Value Trees - Tree Protection Distances**

| Tree No.    | Botanical Name                    | Ownership    | Protection Value | DBH (cm)   | Basal Dia (cm) | SRZ (m) | TPZ (m) | TPZ10% (m) |
|-------------|-----------------------------------|--------------|------------------|------------|----------------|---------|---------|------------|
| 1           | <i>Ulmus x hollandica</i>         | Council      | High             | 79         | 86             | 3.1     | 9.5     | 6.5        |
| 2 (GROUP)   | <i>Betula pendula</i>             | Neighbours   | High             | ~15        | 18             | 1.6     | 2.2     | 1.5        |
| 3 (GROUP)   | <i>Prunus laurocerasus</i>        | Neighbours   | High             | ~70        | ~90            | 1.5     | 5.5     | 3.8        |
| 4 (GROUP)   | <i>Olea europaea</i>              | Neighbours   | High             | Multi-stem | 10             | 1.5     | 2.0     | 1.5        |
| 9 (2 PALMS) | <i>Phoenix canariensis</i>        | Subject Site | Moderate         | 100        | 100            | 1.5     | 5.5     | 3.8        |
| 10 (GROUP)  | <i>Pyrus calleryana</i> 'Capital' | Subject Site | Moderate         | 19         | 22             | 1.8     | 2.3     | 1.6        |
| 15 (GROUP)  | <i>Hesperocyparis macrotarpa</i>  | Subject Site | Moderate         | Multi-stem | 50             | 2.6     | 6.6     | 4.5        |

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Note: DBH (cm) is the diameter at breast height (1.4m from natural ground level), Basal Dia (cm) is the diameter of the trunk above the root flare, SRZ (m) is the structural root zone in metres in a radius from the centre of the trunk, TPZ (m) is the tree protection zone in metres in a radius from the centre of the trunk. TPZ10%(m) identifies the 10% encroachment radial distance into the tree protection zone on one side of the tree only (Minor Encroachment). These measurements and distances are calculated from the Australian Standard AS4970 - 2009 - Protection of Trees on Development sites.

Trees 1-4 have been given a high protection value due to their location on the Council road reserve or adjoining property. Consideration must be given for their protection throughout any future proposed development on the site unless consent is given by the property owner and/or Responsible Authority for their removal.

Trees 9 (2 palms), 10 (group) and 15 (group) have been given a moderate protection value based on their good overall condition, long life expectancy and landscape/streetscape/screening value.

**6. DEVELOPMENT IMPACT ASSESSMENT**

Trees that have been determined to have no protection value should not be considered for long term retention and or protection as part of any future development on the subject site. Trees of no protection value are not provided impact mitigation recommendations in this development impact assessment.

Of the 7 moderate and high protection value trees:

- 4 trees or groups of trees will incur an encroachment of ≥10% into the TPZ from the proposed design which is deemed major encroachment under AS4970-2009
  - The impact to Tree 1 (street tree) can be reduced through recommended mitigation and protection measures. As the proposed works are within private property and the encroachment is marginally over 10%, Council is likely to have little concerns over this level of encroachment.
  - Trees 9 (2 palms) & 15 (group) are located within the proposed building footprint and cannot be protected
  - One tree of Tree group 10 will incur major encroachment into the SRZ and cannot be protected.
- 4 trees or groups of trees will incur minor (10% or less) or no encroachment from the proposed design
  - The impact to Trees 2, 3, 4 and 10 (if retained) can be further reduced through the recommended mitigation and protection measures

Table 5 provides a summary of TPZ % encroachment from the proposed design. Only trees that are of moderate or high protection value are listed below.

**Table 5: Impact Summary**

| Tree No.   | Botanical Name                    | Protection Value | Encroachment | Element                      | Comment / Mitigation                     |
|------------|-----------------------------------|------------------|--------------|------------------------------|--|
| 1          | <i>Ulmus x hollandica</i>         | High             | Approx. 13%  | Landscaping / Basement Ramp  | Supervise works in TPZ                   |
| 2          | <i>Betula pendula</i>             | High             | 8%           | Entry Path                   | Supervise works in TPZ                   |
| 3          | <i>Phoenix canariensis</i>        | High             | 0%           | -                            | Standard protection                      |
| 4          | <i>Olea europaea</i>              | High             | 0%           | -                            | TPZ at grade & permeable                 |
| 9 (GROUP)  | <i>Ficus v. densiflora</i>        | Moderate         | 100%         | Footprint                    | Transplant or Remove                     |
| 10 (GROUP) | <i>Pyrus calleryana</i> 'Capital' | Moderate         | 0/0/0/100%   | Landscaping (rear courtyard) | Establish protection fencing if retained |
| 15 (GROUP) | <i>Hesperocyparis macrocarpa</i>  | Moderate         | 100%         | Basement Ramp                | -  |

All retained trees must be protected in accordance with the *Australian Standard AS4970-2009 Protection of Trees on Development Sites*. For further information on general guidelines for tree protection see Appendix 8.4. The following impact mitigation measures are recommended in order to reduce the potential of direct and indirect impacts:

- All site preparation and construction works within TPZs are supervised by a qualified arborist. Any roots uncovered are pruned with sharp/sterile hand tools
- Tree protection fencing is established around Trees 1 & 10 (if retained) prior to any works on-site
- Ground protection is installed within the TPZ of Trees 1 & 2 immediately following site preparation works (between fencing and building footprint and over site access points)
- Remaining TPZ area of Trees 1, 2, 3, 4 & 10 (if retained) (outside the building/landscape footprint) remains at existing grade & permeable
- Any fences proposed within TPZs are of light timber construction with manually excavated post holes
- Any construction clearance pruning must be in accordance with *Australian Standard AS4373-2007 Pruning of Amenity Trees*

Dependant on the final design, it is recommended that a Tree Management and Protection Plan is created as a condition of permit that will specify the exact requirements for tree protection of all high and moderate protection value trees to be retained as part of the development and the timing of supervision and certification by the Project Arborist.

Suitable replacement specimens should be planted for those trees removed in conjunction with the development.

7. TREE DATA AND TREE LOCATION PLANS

7.1. TREE DATA

| Tree No. | Genus Species Name                | Common Name             | Origin     | DBH (cm)   | Basal Dia (cm) | Height (m) | Spread (m) | Health    | Structure | Age Class   | Arbor Value | Ownership    | Protection Value | SRZ (m) | TPZ (m) | TPZ10% (m) | Encroachment (%) | Notes  |
|----------|-----------------------------------|-------------------------|------------|------------|----------------|------------|------------|-----------|-----------|-------------|-------------|--------------|------------------|---------|---------|------------|------------------|--|
| 1        | <i>Ulmus hollandica</i>           | Dutch Elm               | Exotic     | 79         | 86             | 12         | 15         | Good      | Fair-Good | Mature      | High        | Council      | High             | 3.1     | 9.5     | 6.5        | Approx. 13%      | Street tree - part of formal avenue              |
| 2        | <i>Betula pendula</i>             | Weeping Birch           | Exotic     | ~90        | ~90            | 10         | 3          | Fair-Good | Fair-Good | Semi-Mature | Medium      | Neighbours   | High             | 1.6     | 2.2     | 1.5        | 8%               | x8 along boundary, existing path/paving to fence |
| 3        | <i>Phoenix canariensis</i>        | Canary Island Date Palm | Exotic     | 70         | ~90            | 12         | 9          | Good      | Good      | Mature      | High        | Neighbours   | High             | 1.5     | 5.5     | 3.8        | 0%               | Brick garage between properties                  |
| 4        | <i>Olea europaea</i>              | European Olive          | Exotic     | Multi-stem | 10             | 4.5        | 2          | Good      | Fair-Good | Semi-Mature | Low         | Neighbours   | High             | 1.5     | 2.0     | 1.5        | 0%               | x7 along boundary                                |
| 5        | <i>Pyrus calleryana</i>           | Callery Pear            | Exotic     | 19         | 22             | 9          | 5          | Fair-Good | Fair-Good | Mature      | Medium      | Subject Site | None             | 1.8     | 2.3     | 1.6        | 100%             |  |
| 6        | <i>Salix humboldtiana</i>         | Humboldt's Willow       | Exotic     | 20         | 22             | 9          | 1.5        | Poor      | Poor      | Mature      | Low         | Subject Site | None             | 1.8     | 2.4     | 1.7        | 100%             | x3   |
| 7        | <i>Viminaria juncea</i>           | Native Broom            | Native     | Multi-stem | 20             | 5          | 6          | Fair      | Poor      | Mature      | Low         | Subject Site | None             | 1.7     | 2.4     | 1.7        | 100%             |  |
| 8        | <i>Fraxinus excelsior 'Aurea'</i> | Golden Ash              | Exotic     | 29/50 (58) | 58             | 10         | 9          | Dead      | Poor      | Mature      | Low         | Subject Site | None             | 2.6     | 7.0     | 4.8        | 100%             |  |
| 9        | <i>Phoenix canariensis</i>        | Canary Island Date Palm | Exotic     | 100        | 100            | 7          | 9          | Good      | Good      | Mature      | Medium      | Subject Site | Moderate         | 1.5     | 5.5     | 3.8        | 100%             | x2 (side by side)                                |
| 10       | <i>Pyrus calleryana 'Capital'</i> | Callery Pear            | Exotic     | 19         | 22             | 7          | 4          | Good      | Fair-Good | Mature      | Medium      | Subject Site | Moderate         | 1.8     | 2.3     | 1.6        | 0/0/0/100%       | x4, screening value                              |
| 11       | <i>Euonymus sp.</i>               | Spindle Tree            | Exotic     | Multi-stem | 20             | 4          | 5          | Fair      | Fair      | Mature      | Low         | Subject Site | None             | 1.7     | 2.4     | 1.7        | 100%             | x3   |
| 12       | <i>Pittosporum undulatum</i>      | Sweet Pittosporum       | Native     | 18/22 (28) | 35             | 9          | 8          | Fair      | Fair      | Mature      | Medium      | Subject Site | None             | 2.1     | 3.4     | 2.3        | 100%             | Weed   |
| 13       | <i>Acacia melanoxylon</i>         | Blackwood               | Indigenous | 32         | 40             | 10         | 9          | Good      | Poor      | Mature      | Low         | Subject Site | None             | 2.3     | 3.8     | 2.6        | 100%             | Included, causing damage to roof                 |
| 14       | <i>Cotoneaster glaucophyllus</i>  | Cotoneaster             | Exotic     | Multi-stem | 25             | 6          | 5          | Poor      | Poor      | Mature      | Low         | Subject Site | None             | 1.8     | 3.0     | 2.1        | 100%             | Weed   |
| 15       | <i>Hesperocyparis macrocarpa</i>  | Monterey Cypress        | Exotic     | Multi-stem | 50             | 12         | 6          | Good      | Fair      | Mature      | Medium      | Subject Site | Moderate         | 2.5     | 6.0     | 4.1        | 100%             | Hedge x9   |
| 16       | <i>Pittosporum undulatum</i>      | Sweet Pittosporum       | Native     | 30         | 35             | 7          | 4          | Fair      | Fair      | Mature      | Low         | Subject Site | None             | 2.1     | 3.6     | 2.5        | 100%             | Ivy strangled, weed                              |
| 17       | <i>Ligustrum lucidum</i>          | Privet                  | Exotic     | Multi-stem | 18             | 5          | 4          | Poor      | Poor      | Mature      | Low         | Subject Site | None             | 1.6     | 2.2     | 1.5        | 100%             | Ivy strangled, weed                              |
| 18       | <i>Camellia sasanqua</i>          | Sasanqua Camellia       | Exotic     | Multi-stem | 20             | 5          | 4          | Fair      | Fair      | Mature      | Low         | Subject Site | None             | 1.7     | 2.4     | 1.7        | 100%             |  |
| 19       | <i>Parasartanthes lophantha</i>   | Cape Wattle             | Exotic     | 8          | 10             | 4          | 3          | Good      | Fair-Poor | Semi-Mature | Low         | Subject Site | None             | 1.5     | 2.0     | 1.5        | 100%             | Weed   |

7.1. TREE DATA  
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| Tree No. | Genus/Species             | Common Name | Origin | DBH (cm) | Basal Dia (cm) | Height (m) | Spread (m) | Health | Structure | Age Class | Arbor Value | Ownership    | Protection Value | SRZ (m) | TPZ (m) | TPZ10% (m) | Encroach (%) | Notes   |
|----------|---------------------------|-------------|--------|----------|----------------|------------|------------|--------|-----------|-----------|-------------|--------------|------------------|---------|---------|------------|--------------|---------|
| 20       | <i>Ulmus x hollandica</i> | Dutch Elm   | Exotic | 5        | 8              | 4          | 2          | Good   | Fair-Good | Young     | Low         | Subject Site | None             | 1.5     | 2.0     | 1.5        | 100%         | Suckers |

**Note:** DBH (cm) is the diameter at breast height (1.4m from natural ground level), Basal Dia (cm) is the diameter of the trunk above the root flare, SRZ (m) is the structural root zone in metres in a radius from the centre of the trunk, TPZ (m) is the tree protection zone in metres in a radius from the centre of the trunk. TPZ10%(m) identifies the 10% encroachment radial distance into the tree protection zone on one side of the tree. Minor Encroachment. The Encroach (%) is the level of encroachment into the tree protection zone of the tree from the excavation/ construction works. These measurements and distances are calculated from the Australian Standard AS4970 - 2009 - Protection of Trees on Development sites.

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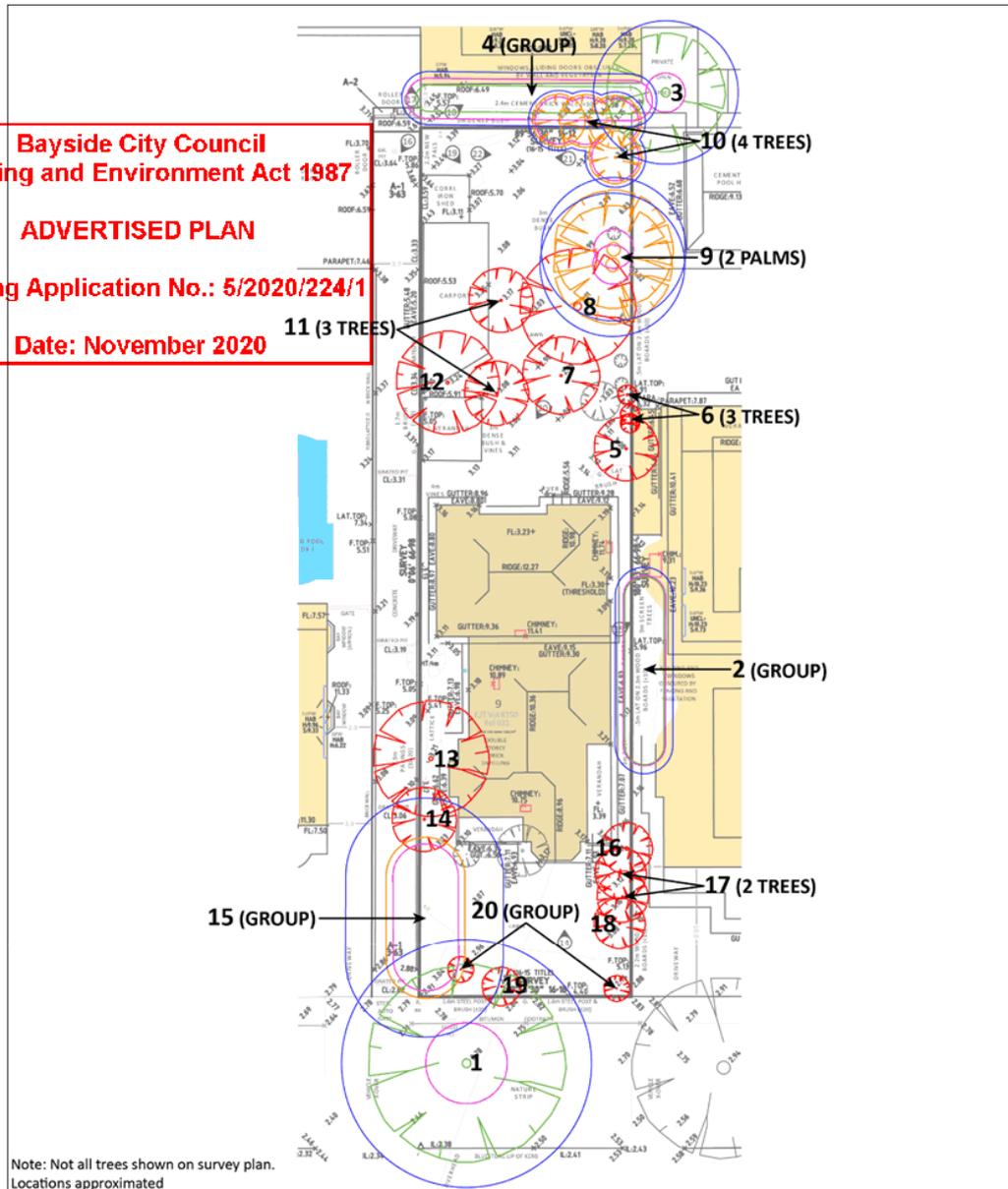
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7.2. TREE LOCATION PLANS

7.2.1. EXISTING CONDITIONS

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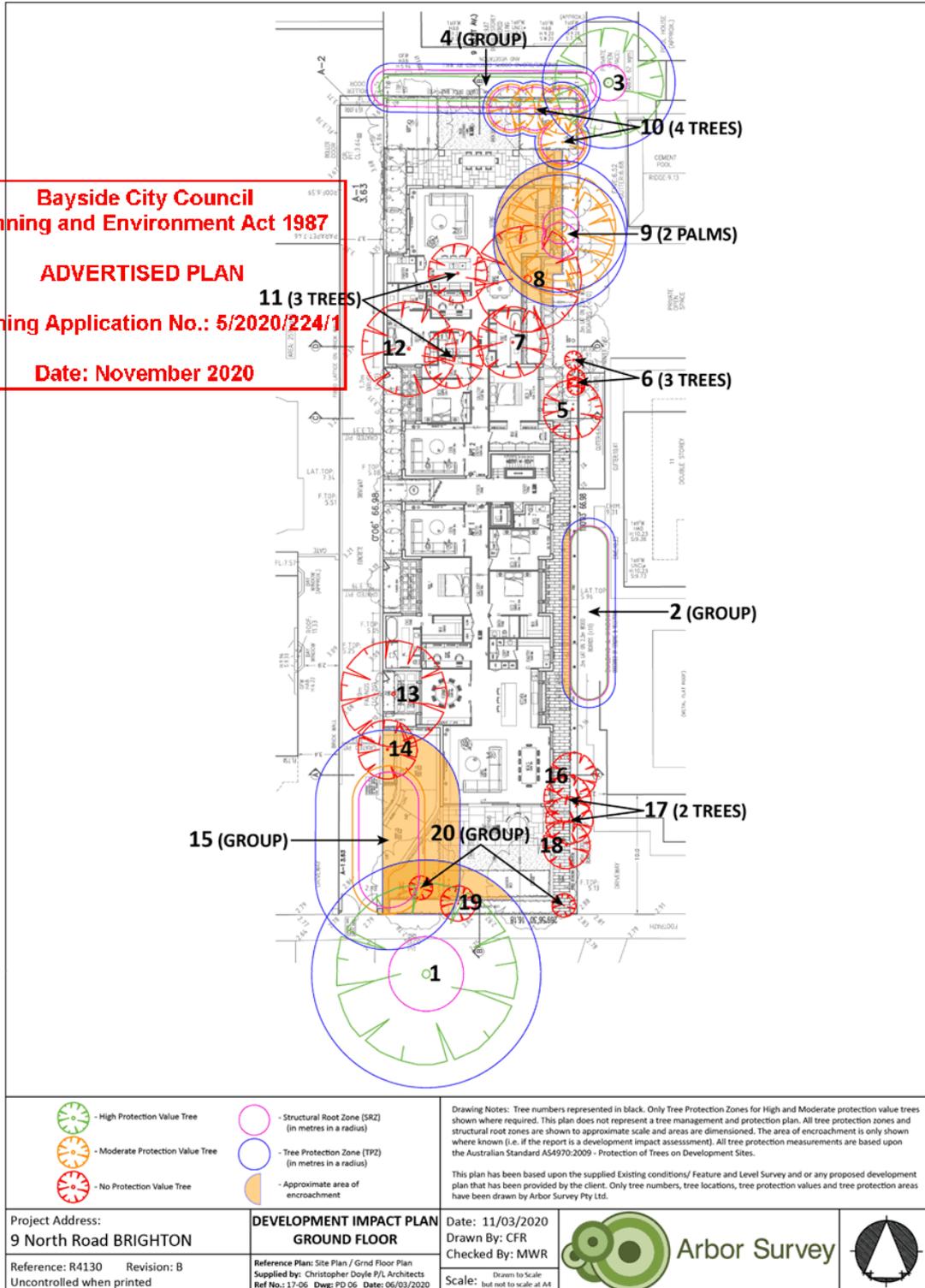


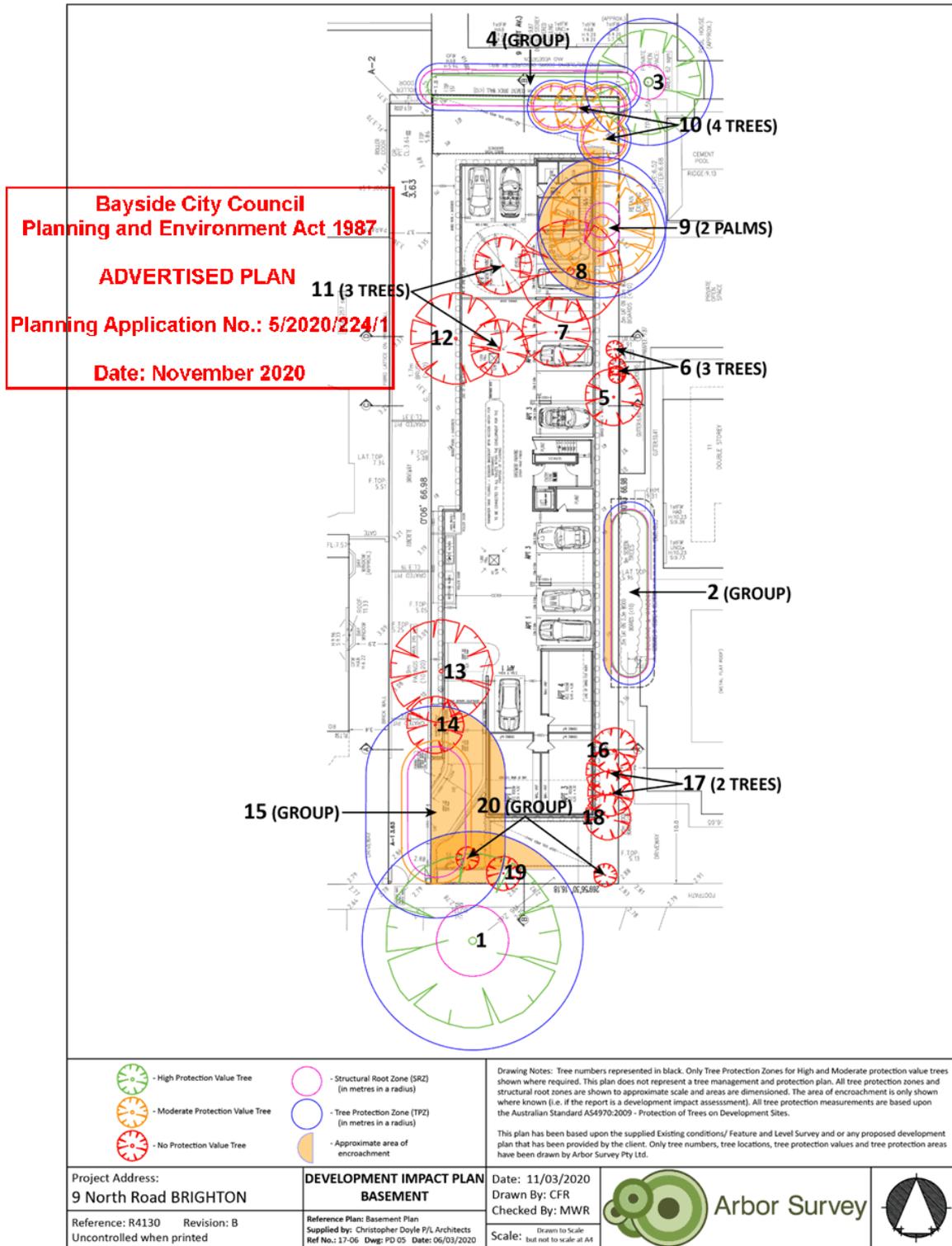
Note: Not all trees shown on survey plan.  
Locations approximated

|   |  |  |
|---|--|--|
| <ul style="list-style-type: none"> <li> - High Protection Value Tree</li> <li> - Moderate Protection Value Tree</li> <li> - No Protection Value Tree</li> <li> - Structural Root Zone (SRZ) (in metres in a radius)</li> <li> - Tree Protection Zone (TPZ) (in metres in a radius)</li> <li> - Not Assessed (&lt;3m in height / no impact)</li> </ul> | <p><b>TREE LOCATION PLAN<br/>EXISTING CONDITIONS</b></p> <p>Reference Plan: Feature &amp; Level Survey<br/>Supplied by: Land Dimensions<br/>Ref: 18251 Dwg: 18215FL Date: 12/06/2018</p> | <p>Drawing Notes: Tree numbers represented in black. Only Tree Protection Zones for High and Moderate protection value trees shown where required. This plan does not represent a tree management and protection plan. All tree protection zones and structural root zones are shown to approximate scale and areas are dimensioned. The area of encroachment is only shown where known (i.e. if the report is a development impact assessment). All tree protection measurements are based upon the Australian Standard AS4970:2009 - Protection of Trees on Development Sites.</p> <p>This plan has been based upon the supplied Existing conditions/ Feature and Level Survey and or any proposed development plan that has been provided by the client. Only tree numbers, tree locations, tree protection values and tree protection areas have been drawn by Arbor Survey Pty Ltd.</p> |
| <p>Project Address:<br/><b>9 North Road BRIGHTON</b></p> <p>Reference: R4130 Revision: B<br/>Uncontrolled when printed</p>  | <p>Date: 11/03/2020<br/>Drawn By: CFR<br/>Checked By: MWR</p> <p>Scale: Drawn to Scale<br/>but not to scale at A4</p>  |     |

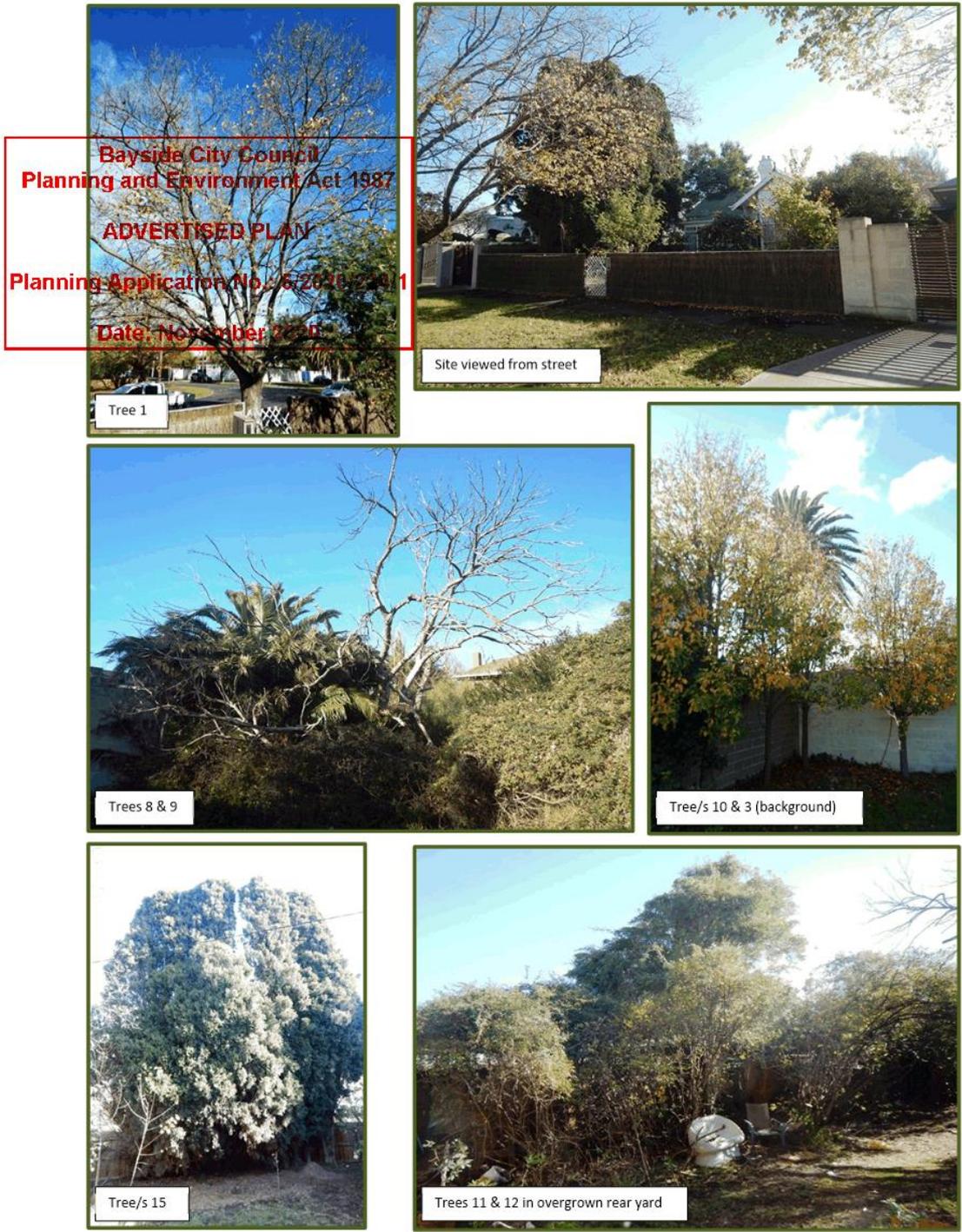
7.2.2. DEVELOPMENT IMPACT PLANS

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7.3. SITE PHOTOGRAPHS



## 8. APPENDICES

### 8.1. SURVEY METHODOLOGY

Data was recorded on site of the characteristics of each tree in accordance with the Visual Tree Assessment (VTA) methodology (Mattheck & Breloer, 1998). The data is included in this report in a detailed table, located in Section 7.1. Tree location plans are provided in Section 7.2. Site photographs (if relevant) are provided in Section 7.3.

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Each tree was assessed and the General species, estimated height and canopy width (Note: canopy width is provided as a single figure which is generally the largest canopy spread. Where the canopy spread may be an issue with any proposed development, it is specifically discussed within the report), diameter at breast height (DBH) and the characters of health and structure were recorded. These characteristics were used to determine the arboricultural value. Additionally, the protection value was assessed taking into consideration the site significance, sustainable life expectancy, landscape and or environmental contribution, and ownership of the trees. Descriptors used are found in the explanation of Terms in Appendix 8.3.

Data collected has been used to calculate the Structural Root Zone (SRZ) and the Tree Protection Zone (TPZ) and the total area of tree protection. These calculations form a basis to determine the level of intrusion onto the tree protection zone throughout any future development. These calculations are based upon the *Australian Standard AS 4970-2009 - Protection of Trees on Development Sites*.

The survey and assessment undertaken of all of the subject trees was made from a visual inspection from ground level only. No trees were climbed and no samples of soil, plant material or pest and disease infestation (if present) were taken for analysis. Species identification was carried out in the field and is considered as common; no samples have been taken to the National Herbarium of Victoria for accurate analysis and identification. Defects not apparent from this ground-based visual inspection are excluded from the discussion within this report. Additionally, this report is based upon the condition of the trees at the time of assessment only.

### 8.2. BIBLIOGRAPHY AND CITED REFERENCES

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- Harris, R.W. Clark, J.R. & Matheny, N.P., 1999**, *Arboriculture, Integrated Management of Landscape Trees, Shrubs and Vines*, 3<sup>rd</sup> Edn. Prentice-Hall, Inc, USA.
- Helliwell, D.R., 1985**, *Trees on Development Sites*, Arboricultural Association, Romsey, England
- Matheny, N.P. & Clark, J.R., 1994**, *Evaluation of Hazard Trees in Urban Areas*, 2<sup>nd</sup> Edn., ISA Publications
- Mattheck, C. & Breloer, H., 1998**, *The Body Language of Trees – A Handbook for Failure Analysis*, The Stationary Office, Norwich, London.
- Standards Australia 2007**, *Australian Standard AS4373-2007, Pruning of Amenity Trees*, 14 March 2007.
- Standards Australia 2009**, *Australian Standard AS4970-2009, Protection of Trees on Development Sites*, 31 July 2009.

8.3. EXPLANATION OF TERMS

8.3.1. GLOSSARY OF TERMS

Amenity

Although difficult to quantify, the term as used in this report relates to the contribution given to the landscape or streetscape in terms of visual aesthetics. It may also relate to the contribution in terms of shade or protection from the elements.

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Bud union

Point where two buds or branches meet. Used to describe a union point.

Branch Bark Ridge

Swelling of bark tissue on the upper side of the branch junction or union. Considered the normal pattern of development in trees (Matheny & Clark, 1994).

Branch collar

Trunk tissue that forms around the base of a branch between the main stem and the branch. As the branch decreases in vigour or begins to die, the branch collar becomes more pronounced (AS4373).

Structural Root Zone (SRZ)

The Structural Root Zone (SRZ) is the calculated distance based on DBH only. The SRZ identifies the minimum radius at which the root plate cannot be disturbed. This measure only relates to the trees' stability and does not take into account the implications of a decline in health. The measurement is given in metres in a radius from the tree trunk. (Coder, 1996). This area may also be referred to as the Root Plate Radius (RPR).

Chlorotic

Discolouration of the leaves, yellow in colour resulting from a lack of chlorophyll

Codominant

Generally relates to trunks/ stems (although it may relate to scaffold branches within the crown) of two or more and of equal or similar size and relative importance (Matheny & Clark, 1994).

Compartmentalisation

Physiological process which creates the chemical and mechanical boundaries that act to limit the spread of disease and decay organisms (Matheny & Clark, 1994).

Decay

Degeneration and de-lignification of plant tissue, including wood, by pathogens or micro-organisms (AS4373).

Diameter at Breast Height (DBH)

DBH is measured at 1.4m above ground level. In cases where the tree has up to three stems the diameter is calculated by taking the area of each stem at 1.4 metres and calculating the combined diameter. In trees with more than three stems the measurement is provided as 'Multi-stemmed', however in some cases the diameter will be taken at the point below the multi-stemmed union.

Epicormic Shoots

Shoots which arise from adventitious or latent buds (usually dormant). They are generally produced in response to environmental stress.

**Included Bark**

The pattern of development at a branch union where bark is turned inward rather than outward or pushed out. Relates to the branch bark ridge. (Matheny & Clark, 1994)

**Live Crown Ratio**

Relative proportion of healthy crown in proportion to overall tree height. Often not used in isolation due to the different natural forms of many species.

**Lateral**

A branch arising from another branch or stem (AS4373)

**Lopping**

Cutting back a limb or stem at any point with no regard to natural target pruning. Random cutting of branches or stems between branch unions or at internodes on young trees. Not considered an acceptable practice as part of the *Australian Standard AS4373-2007 - Pruning of Amenity Trees*.

**Tree Protection Zone (TPZ)**

The Tree Protection Zone (TPZ) (referenced from *Australian Standard AS4970-2009 - Protection of Trees on Development Sites*; is the calculated distance based on the DBH of the tree. The TPZ addresses the physiological implications by retaining enough area around the tree not only to minimise the potential for complete tree failure but for the tree to survive in the landscape on a long-term basis. The measurement is given in metres in a radius from the centre of the trunk.

**Senescence**

The organic process of age and the deterioration of tissue within the tree.

**Stem bark ridge**

The ridge of bark that forms in the union between two codominant stems (AS4373).

**Wound wood/ Reaction Wood**

Lignified, partially differentiated tissue which develops from the callus associated with wound or pruning cuts.

**8.3.2. ORIGIN**

Origin is given as Indigenous (the trees’ natural range is within the study area), Native (the trees natural range is within Australia) or Exotic (the tree originates from outside of Australia).

**8.3.3. HEALTH**

Health relates to the tree vigour, live crown ratio and canopy density.

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Health is rated according to the following categories:

| Category | Description  |
|----------|--|
| Good     | Crown has greater than 60% live crown ratio. Foliage density is greater than 70% at optimal growth. There is less than 10% canopy dieback present and foliage has no or very minor tip dieback. Tree may also have visible extension growth if it is in active growth and is showing no signs of nutrient deficiency or pest or disease (i.e. chlorosis). The tree may also have good wound wood development.  |
| Fair     | Crown has a live crown ratio of between 30-60%. Foliage density is between 50-70% at optimal growth for the species. There may be 10-30% canopy dieback present and foliage may have minor tip dieback. Tree maybe showing signs of normal growth but it is not consistent throughout the crown. Some foliage discoloration maybe present from possible nutrient deficiency or other cause (i.e. pest or disease).   |
| Poor     | The tree may have less than 30% live crown ratio and the canopy may be suppressed. There may be greater than 30% canopy dieback present and foliage density is below 50%. Stunted growth through leaf size or petiole extension and discoloration of the leaf may be present. Tree may be producing epicormic shoots as a stress response. Nutrient deficiency, lack of resources (water, light etc) or pathogens may be the causal agent in the tree’s decline. |

**8.3.4. STRUCTURE**

Structure relates to the physical form of the tree, including the trunk(s), main scaffold branches and roots. Structure includes the attributes that may influence the probability of major trunk, limb or root plate failure.

Structure is rated according to the following categories:

| Category | Description  |
|----------|--|
| Good     | The form of the tree is excurrent or decurrent and typical of the species characteristics and exhibits good symmetrical form. Major limbs are well formed with acceptable branch taper and unions appear to be strong with no signs of defects (bifurcations etc). The tree has minimal defects throughout the trunk and limbs. There is no sign of root plate heave or damage to the root system. The tree is unlikely to suffer major branch or trunk failure under normal environmental conditions. |
| Fair     | The form of the tree is excurrent or decurrent and typical of the species characteristics and has a fairly symmetrical form. Tree may exhibit minor structural defects that may be managed through formative pruning. Only minor wounds are present that do not affect the overall stability or structural integrity of the tree. Minor root damage may have occurred in the past. Defects present are likely to cause only minor branch failure under normal environmental conditions.                |
| Poor     | Tree has a poorly formed crown that is not symmetrical. Branch and or trunk taper may be unacceptable and scaffold limbs may be overextended. Branch unions may exhibit significant defects that cannot be managed through formative pruning. Major root damage may have occurred and there may be evidence of root plate heave. Defects that are present may result in catastrophic failure of branches or trunk under normal environmental conditions.   |

**8.3.5. AGE CLASS**

The age class is given as a guide to the current life stage of the tree. Ultimately, the level of maturity that a tree may reach is dependant on the growing environment.

Age Class is rated according to the following categories

| Category     | Description   |
|--------------|---|
| New Planting | Planted within approximately 2 years  |
| Juvenile     | Generally less than 5 years old   |
| Young        | Estimated as between 5 - 15 years old   |
| Semi-mature  | Estimated at between 15 – 25 years old, however, this may be species dependant                              |
| Mature       | Estimated at over 25 years old or in a life stage that is considered at the peak of growth for the species. |
| Senescent    | In the declining phase of the trees lifespan  |

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 8.3.6. ARBORICULTURAL VALUE  
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Arboricultural Value is rated according to the overall health, structure and life expectancy of the tree (ULE). Often the Useful Life Expectancy (ULE) of a tree may be difficult to quantify as there are too many variables. The arboricultural value takes into account the life expectancy of the tree whereas the protection value considers the ‘usefulness’ of the tree in the landscape. The arboricultural value only relates to the physical condition of the tree and does not take into account the status or suitability of the tree in the landscape.

The arboricultural value is rated based on the following categories:

| Category | Description  |
|----------|--|
| Low      | A tree of low arboricultural value may be considered to be in poor condition overall with a low life expectancy (less than 10 years). The tree may be showing signs of poor health and or structure. The tree may either have a poor health rating and it is unlikely to recover or a poor structure that cannot be remedied though normal arboricultural pruning practices. This tree may have a low landscape significance in terms of its height and mass within the landscape (I.e. generally less than 8 metres in height and spread)   |
| Medium   | A tree of medium arboricultural value may be considered to be in fair condition overall. This tree may be considered as an average tree that provides average benefits to the site and local area with an estimated longevity of between 10 – 20 years. The tree may have evidence of fair to poor health that may be improved through cultural practices. The tree may have some structural defects that can be remedied through normal arboricultural pruning practices. This tree may have a medium landscape significance in terms of its height and mass within the landscape (I.e. generally 8 - 12 metres in height and spread) |
| High     | A tree of high arboricultural value may be considered to be of good overall health and structure. The tree is considered to have a life expectancy of greater than 20 years. Under normal maintenance practices this tree is expected to perform well in the landscape in the long term. This tree may have a high landscape significance in terms of its height and mass within the landscape (I.e. generally greater than 12 metres in height and spread)  |

**8.3.7. PROTECTION VALUE**

The Protection Value is determined based on a combination of the Arboricultural Value, the ownership/ location of the tree, the landscape/ ecological and or cultural / heritage significance of the tree. The Protection Value also takes into account the suitability of the tree in the current and future landscape and the species status (i.e. identified weed species). The tree may also be protected under any relevant planning or local law legislation which is also taken into account under Protection Value.

Protection Value is rated according to the following categories:

| Category  | Description   |
|---|---|
| <p><b>Bayside City Council</b><br/> <b>Planning and Environment Act 1987</b><br/> <b>ADVERTISED PLAN</b><br/> <b>Planning Application No : 5/2020/224/1</b><br/> <b>Date: November 2020</b></p> | <p>'None' protection value may be considered to be in poor condition overall and is assigned a low arboricultural value and is within the subject site. The tree may be of medium or high arboricultural value, however, if it is a known weed species, is doing considerable infrastructure damage or is not suitable to the site (based on its physical characteristics) it is considered to be of no protection value. The tree may be a juvenile to young specimen that can easily be replaced with new tree planting that will provide a greater amenity in the next 5 – 10 years.</p>   |
| None  | <p>Only trees within the subject site may be given a rating of 'None'. Trees that are located on adjoining land are not given a rating of 'None' unless they are found to be dead or extremely hazardous. In such instances this will be defined within the report. This tree may or may not be subject to any local planning or other legislative control (i.e. Local Law).</p>  |
| Moderate  | <p>A tree of 'Moderate' protection value may be considered to be in fair to good condition overall and is located within the subject site. The tree may be of medium or high arboricultural value, however, it may or may not be suitable to the site in the long term (based on its physical characteristics) for greater than 20 years. The tree may provide a moderate level of landscape amenity and be of moderate individual significance. The tree may be in a semi mature to early mature life stage.</p> <p>Ideally any future development should consider a moderate protection value to be retained and incorporated into the design. However, if the retention and or adequate protection of this tree cannot be achieved with a reasonable design footprint then consideration should be given to the removal of the tree and replacement with a new tree suitable to the landscape and available space.</p> <p>Only trees within the subject site may be given a rating of 'Moderate'. Trees that are located on adjoining land are not given a rating of 'Moderate'. This tree may be subject to any local planning or other legislative control (i.e. Local Law).</p>   |
| High  | <p>A tree of 'High' protection value may be considered to be in good condition overall and is suitably located within the subject site (i.e. within the front setback). The tree (if within the subject site) will be of high arboricultural value and should have a life expectancy of greater than 20 years if protected and managed. The tree may provide a moderate to high level of landscape amenity and be of moderate to high individual significance. The tree will be in a mature life stage but not beginning senescence.</p> <p>Ideally any future development should consider a high protection value to be retained and incorporated into the design when the tree is located on the site. The design should have regard to the adequate protection of this tree throughout any development on the subject site.</p> <p>Trees located on adjoining lands, not of the ownership of the subject site, are given a high protection value, regardless of their overall condition (Arboricultural Value), the environmental / landscape significance and or cultural / heritage significance (i.e. historic or remnant old veteran trees). High protection value may also be assigned to known weed species, however this will be noted within the report. These trees are likely to be subject to any local planning or other legislative control (i.e. Local Law).</p> |

8.4. TREE PROTECTION GUIDELINES

8.4.1. BACKGROUND

Arbor Survey Pty Ltd assesses individual tree protection requirements based upon the Australian Standard AS4970-2009 - Protection of Trees on Development Sites. Tree protection requirements are calculated based upon trunk diameter of the tree at breast height. These calculations produce what is referred to in this report as the Tree Protection Zone (TPZ) and is provided as a measurement in metres in a radius from the centre of the trunk.

Bayside City Council  
 Planning and Environment Act 1987  
 Planning Application No.: 5/2020/24  
 Date: November 2020

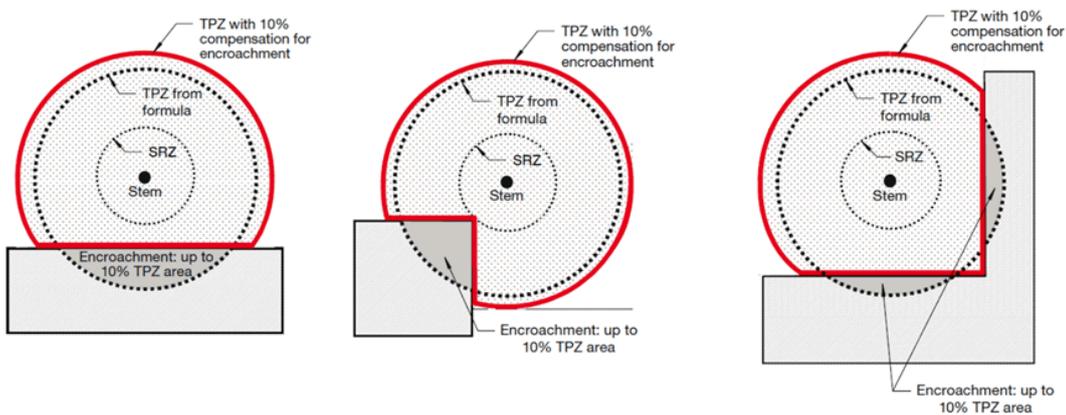
The TPZ is the zone in which protective measures should be applied in order to protect the tree(s) whilst maintaining the current levels of health and vigour.

**ADVERTISED PLAN**  
 Determination of the structural root zone or the zone of rapid taper is provided as the Structural Root Zone (SRZ). The structural root zone calculations may also be referred to as the Root Plate Radius (RPR) of the tree, based upon the Australian Standard AS4970-2009. The SRZ determines the minimum distance around the tree in which the structural stability of the tree should be maintained.

It is important to note that the SRZ only determines the root plate area or the zone of rapid taper. Excavation within this area will not only cause a decline in tree vigour but may also cause catastrophic tree failure (Coder, 1996).

Often it is difficult to protect the entire TPZ due to site constraints. In such events it is imperative that condition and species tolerance to disturbance are evaluated in conjunction with the site characteristics. Helliwell (1985) and Harris (1999) identified that a healthy tree may tolerate removal of up to one-third of its roots and possibly up to 50% in some cases, although stability may be compromised at this level.

In situations where the TPZ of a tree to be retained will be in close proximity to a proposed development or where there will be encroachment into the TPZ of a tree, a specific tree management plan should be developed. This plan provides prescriptive measures to protect trees on development sites



Extract from Australian Standard AS 4970:2009 Protection of trees on Development sites

8.4.2. GENERAL TREE PROTECTION REQUIREMENTS

The following requirements are only provided only for basic guidance, these guidelines do not constitute a specific tree management and protection plan.

- A tree protective fence should be installed at the recommended distance allocated for each tree to be retained. The fence should be located at the TPZ distance provided.

Bayside City Council  
 Planning and Environment Act 1987  
 ADVERTISED PLAN  
 Planning Application No.: 5/2020/224/1  
 Date: November 2020

- The protection fence should be rigid (chain link or similar) and should not be less than 1.8 metres in height. Fencing should be firmly attached to a removable concrete or similar base. Alternatively, star pickets (1.5 metre spacing) and para-webbing may be used to define the tree protection area. Fencing should be in accordance with *Australian Standard for Temporary Fencing AS4687*.

In cases where the TPZ cannot be entirely fenced, it is recommended that ground protection is used. Specific ground protection requirements will form part of a tree management and protection plan that should be developed for all trees to be retained.

- No soil levels must be altered within the fenced TPZ area, no heavy machinery should be allowed to pass within this area and no spoil, chemicals, building materials or refuse should be stored within this area. Nothing whatsoever should be attached to the tree (excluding tape to identify a tree to be protected).
- The area within the tree protection fence should be covered with a layer of organic mulch (mixed particle sized woodchip) to a depth of 100mm prior to the commencement of the project. Mulch material should comply with *Australian Standard AS4454*.
- The tree protective fencing should be installed prior to any works (including demolition) commencing on site and should remain in place until all site development work is completed. The protective fencing should be located at the prescribed TPZ distance where possible and clearly signed **TREE PROTECTION ZONE**. The sign should be similar to the following (as recommended by the *Australian Standard AS4970-2009*) and should be of a size no smaller than 400mm x 300mm:



- An area should be designated on site, which is at least 10 metres distance from any optimal tree protection zone of the trees to be retained, where all building materials, chemicals etc. can be stored throughout the proposed development.
- Open trenching for underground services located within the recommended tree protection zone (TPZ) must be avoided. Should there be no alternative for service location; the services must be bored underneath the area designated as the tree protection zone. No trenching whatsoever should be used to install services within the protected area.

**Bayside City Council**  
**Planning and Environment Act 1987**  
**ADVERTISED PLAN**  
**Planning Application No. 5/2020/2411**  
**Date: November 2020**

- Soil moisture during construction should be maintained at not less than 50% of field capacity (usually 10 litres of water per 10mm of each tree DBH per week). Irrigation may be applied by hand, automatic or manual irrigation system, or by fine spray from water tanker located outside the fenced area. Water is to be applied at a volume and frequency required so as to maintain turgor and leaf retention and encourage healthy root development. The consultant Arborist should discuss variations to the amount of water to be supplied with the site manager.

- Remedial pruning works recommended to be undertaken on the subject trees must be carried out to *Australian Standard AS4373-2007 – Pruning of Amenity Trees*, by a qualified Arborist. If pruning works are to be undertaken, then these works should be carried out prior to any construction works beginning on site.
- Documentation should be provided to the site manager by the consultant Arborist for each inspection during the development process which details the consultant Arborist name, date and time of inspection, the stage of development, and provides comments of what actions are required.

**8.5. COMPANY PROFILE AND QUALIFICATIONS**

**8.5.1. COMPANY PROFILE**

Arbor Survey Pty Ltd is an Arboricultural Consulting company based in Victoria, Australia. The principal consultants, Mark Reynolds and Blake Clancy have been involved within the Arboricultural Industry for a combined period of over 25 years, working for both private sector clients and within the public sector at numerous Victorian Local Government Authorities.

Our consultants have vast experience in providing Arboricultural referral within local councils in relation to planning applications and Strategic Planning advice relating to planning scheme amendments. We have extensive experience in quantified tree risk assessment (QTRA and TRAQ), health and structural condition assessments, tree valuations, development impact assessments and tree management and protection plans. We also have provided Expert Evidence statements and represented numerous private and public sector clients at the Victorian Civil and Administrative Tribunal (VCAT) and Magistrates Court.

Arbor Survey Pty Ltd is dedicated to best practice within the industry and are committed to ongoing professional development.

**Professional Memberships**

- Member of the International Society of Arboriculture (ISA)
- Member of Arboriculture Australia
- Member of the Victorian Tree Industry Association (VTIO)
- Member of the Victorian Environment and Planning Law Association (VEPLA)

**8.5.2. MARK REYNOLDS**

**Qualifications**  
 Bayside City Council  
 Planning and Environment Act 1987  
**ADVERTISED PLAN**  
**Experience**  
 Planning Application No.: 52020/2241  
 Date: November 2020

- Bachelor of Applied Science (Horticulture) - University of Melbourne (Burnley Campus)
- Registered Quantified Tree Risk Assessment (QTRA)

ISA TRAQ Register User

**Experience**

- Senior Arborist – Bayside City Council
- Open Space Coordinator – Cardinia Shire Council
- Senior Arborist of Kingston
- Private arboricultural and vegetation consulting under Tri-dimensional Consulting
- Treescape Consulting Pty Ltd – Arboricultural Consultant
- Bayside City Council – Vegetation Planner/ Senior Investigations Arborist

**8.5.3. BLAKE CLANCY**

**Qualifications**

- Bachelor of Applied Science (Horticulture) - University of Melbourne (Burnley Campus)
- Advanced Diploma of Horticulture (Arboriculture) – University of Melbourne (Burnley Campus)
- Registered Quantified Tree Risk Assessment (QTRA)
- ISA TRAQ Register User

**Experience**

- Senior Consulting Arborist – Homewood Consulting Pty Ltd
- Consulting Arborist – Greenwood Consulting Pty Ltd

**8.5.4. CLAUDINE REYNOLDS**

**Qualifications**

- Graduate Certificate in Arboriculture - University of Melbourne (Burnley Campus)
- Diploma of Horticulture – Holmesglen Institute (Waverley Campus)
- Bachelor of Science / Commerce – Monash University (Clayton Campus)
- Registered Quantified Tree Risk Assessment (QTRA)
- ISA TRAQ Register User

8.6. TERMS AND CONDITIONS

1. Arbor Survey Pty Ltd contracts with you on the basis that you promise that all legal information which you provide, including land title and ownership of other property, are correct. The author is not responsible for verifying or ascertaining any of these issues.

2. Arbor Survey Pty Ltd contracts with you on the basis that your promise that all affected property complies with all applicable statutes and legislation.

**Bayside City Council**  
**Planning and Environment Act 1987**  
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**Date: November 2020**

3. Arbor Survey Pty Ltd has taken reasonable care to obtain necessary information from reliable sources and to verify data. However the author neither guarantees nor is responsible for the accuracy of information provided by others.

4. If, after delivery of this report, you later require a representative to attend court to give evidence or to assist in the preparation for a hearing because of this report, you must pay an additional fee at the current rate for expert evidence.

5. Alteration of this report invalidates the entire report.

6. Arbor Survey Pty Ltd retains the copyright in this report. Possession of the original or a copy of this report does not give you or anyone else any right of reproduction, publication or use without the written permission of Arbor Survey Pty Ltd.

7. The contents of this report represent the professional opinion of the consultant. The consultancy fee for the preparation of this report is in no way contingent upon the consultant reporting a particular conclusion of fact, nor upon the occurrence of a subsequent event.

8. Sketches, diagrams, graphs and photographs in this report are intended as visual aids, are not to scale unless stated to be so, and must not be construed as engineering or architectural reports or as surveys.

9. Unless expressly stated otherwise:

(a) The information in this report covers only those items which were examined and reflects the condition of those items at the time of the inspection only.

(b) The inspection is limited to visual examination of accessible components without dissection, excavation or probing. There is no warranty or guarantee, expressed or implied, that even if they were not present during our inspection, problems or defects in plants or property examined may not arise in the future.

10. This agreement supersedes all prior discussions and representations between Arbor Survey Pty Ltd and the client on the subject, and is the entire agreement and understanding between the two parties.

**4.3 81 LUDSTONE STREET, HAMPTON  
NOTICE OF DECISION TO GRANT A PERMIT  
APPLICATION 2020/633/1 WARD: CASTLEFIELD**

City Planning and Amenity - Development Services  
File No: PSF/21/28 – Doc No: DOC/21/190517

*Officers involved in the preparation of this report have no conflict of interest in this matter.*

1. Application details

|   |   |
|---|---|
| <b>Recommendation</b>   | Notice of Decision to Grant a Permit  |
| <b>Applicant</b>  | Town Planning & Co.   |
| <b>Title/Covenant/S173 Agreement</b>  | The title is not subject to any restrictive covenants.  |
| <b>Date application received</b>  | 11 December 2020 (amended on 11/06/2021)  |
| <b>Current statutory days</b>   | 32 days (as of 13 July 2021)  |
| <b>Zoning</b>   | Commercial 1 Zone   |
| <b>Overlays</b>   | Design and Development Overlay (Schedule 13)<br>Development Contributions Plan Overlay (Schedule 1) |
| <b>Site area</b>  | 202m <sup>2</sup>   |
| <b>Number of outstanding objections</b>                                     | 8   |
| <b>Is a Development Contribution Levy applicable?</b>                       | No  |
| <b>Is the site located within an area of cultural heritage sensitivity?</b> | No  |

Proposal

The application seeks buildings and works and to construct and display signage within a Commercial 1 Zone and Design and Development Overlay Schedule 13, and a reduction of the standard car parking requirements (associated with a Medical Centre).

Key details of the proposal are as follows:

- the construction of a two storey building to be used as a medical and dental centre
- the proposed medical centre contains the following:

Ground floor

- reception and waiting room
- two consulting rooms and treatment room
- toilet and store
- covered car parking for four cars

First floor

- staff room
- reception and waiting room
- two consulting rooms

- opg room
- sterilisation room and lab
- toilet
- storage
- practice manager's office
- the proposed use as a medical centre is as of right and therefore no permit is required
- the proposed medical centre will only have four (4) practitioners at any one time, with 2-3 support staff
- four (4) on-site car parking spaces are provided to the rear of the site and accessed by the rear laneway
- the proposal seeks a reduction of 10 car parking spaces against the standard car parking requirements.

The application plans are provided at **Attachment 1**.

An aerial image and photographs of the site and surrounds are provided at **Attachment 2**.

#### History

There is no planning permit history relevant to this application.

## 2. Planning controls

#### Planning Permit requirements

A planning permit is required pursuant to:

- Clause 34.01-4 (Commercial 1 Zone) – Construct a building or construct or carry out works
- Clause 43.02-2 (Design and Development Overlay) – Construct a building or construct or carry out works
- Clause 52.05 (Signs) - Construct and display internally illuminated signage within a Commercial 1 Zone
- Clause 52.06-3 (Car Parking) – Reduction of standard carparking requirements.

#### Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

## 3. Stakeholder consultation

#### External referrals

There are no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

#### Internal referrals

The application was referred to the following Council departments for comment:

| Internal Referral | Response                             |
|-------------------|--------------------------------------|
| Traffic Engineer  | No objection, subject to conditions. |

### Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of *the Planning and Environment Act 1987* and eight (8) objections were received.

Eight (8) objections remain outstanding at the time of this report.

The following concerns were raised:

- car parking / traffic
- the use as a Medical Centre
- construction upon party walls
- covenant
- loss of the existing on-site use (Convenience Store).

### Consultation meeting

No consultation meeting was held. However, upon review of the objections received and Council's Traffic Engineers comments the applicant formally submitted amended plans to Council.

The amendment sought to reduce the proposed number of practitioners from six (6) to four (4) reducing the extent of the required car parking reduction from 16 to 10 spaces as per the advice from Council's Traffic Engineer. Plans were also amended to reduce the number of consulting rooms accordingly.

Due to time constraints the amended plans were not re-advertised and therefore no objections have been withdrawn. The plans were informally circulated to all objectors prior to the Planning and Amenity Committee meeting.

## 4. Recommendation

That Council resolves to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of planning application **2020/633/1** for the land known and described as **81 Ludstone Street, Hampton**, for **buildings and works and to construct and display signage within a Commercial 1 Zone and Design and Development Overlay Schedule 13, and reduction of the standard carparking requirements (associated with a Medical Centre)** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans amended prepared by Graham Jones Design, date November 2020 and revision number P but modified to show:
  - a) Water Sensitive Urban Design measures in accordance with Condition 9 of this permit
  - b) provision of the development contributions fee in accordance with Condition 17all to the satisfaction of the Responsible Authority.
2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required)

without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
6. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.
7. All basic services, including water, electricity, gas, sewerage, telephone, NBN and cable TV but excluding any substation, meters or hydrants must be installed underground and located to the satisfaction of the relevant servicing authority and the Responsible Authority.
8. Not more than four medical practitioners may be present on the premises at any one time without the prior written consent of the Responsible Authority.

#### Water Sensitive Urban Design

9. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
  - a) the type of water sensitive urban design stormwater treatment measures to be used
  - b) the location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas
  - c) design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

10. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

#### Signs

11. The location and details of the sign/s, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
12. All signs must be located wholly within the boundaries of the land.
13. The sign/s must not contain any flashing light.
14. The sign lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

15. The sign/s may only be illuminated between the hours of 7.30am and 8.30pm.
16. The sign/s must be constructed and maintained to the satisfaction of the Responsible Authority.

#### Development Contribution

17. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.
18. The levy payment shall be submitted to Council with the Bayside Drainage Development Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

#### Drainage

19. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
20. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's City Assets and Presentation Department.

#### Permit Expiry

21. This permit will expire if one of the following circumstances applies:
  - a) the development is not started within two years of the date of this permit.
  - b) the development is not completed within four years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

#### Signage Expiry

22. This permit expires 15 years from the date of issue.

#### Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.
- A 'Road Opening / Stormwater Tapping Permit' is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council drain / kerb / channel.

## 5. Council Policy

### Council Plan 2017–21

Relevant objectives of the Council plan include:

- where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space
- where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place
- where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

- make discretionary planning controls stronger, by advocating for Council's planning and urban design objectives to state government
- ensure new development responds to preferred neighbourhood character in activity centres.

### Bayside Planning Scheme

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 17 Economic Development
- Clause 17.02-1S Business
- Clause 19.02-1S Health Facilities
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.11 Local Areas (Ludstone Street)
- Clause 34.01 Commercial 1 Zone
- Clause 43.02 Design and Development Overlay (Schedule 13)
- Clause 52.05 Signs
- Clause 52.06 Car Parking
- Clause 52.34 Bicycle Facilities
- Clause 53.18 Stormwater Management
- Clause 65 Decision Guidelines

## 6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

### 6.1. Commercial 1 Zone

The application proposes the construction of a two storey Medical Centre within the Ludstone Street Small Neighbourhood Activity Centre. The medical centre will comprise of four (4) consulting rooms, four (4) practitioners with 2-3 support staff, (4) four car parking spaces and will provide medical, dental, and allied health services.

The use of land as a medical centre within a Commercial 1 Zone is an as of right use and does not require a planning permit.

Under the Commercial 1 Zone a planning permit is required to construct a building or construct or carry out works. The form and scale of the proposed building is appropriate with regard to the site context and surrounding area. The overall building height of 8.85 metres is well within the preferred maximum building height of 9 metres and two (2) storeys of the Design and Development Overlay – Schedule 13. The proposal will provide a two storey street wall with verandah canopy. The front façade of the building will incorporate timber batten cladding but will primarily be glazed at ground floor maintaining an active street frontage.

The proposed works will result in no adverse amenity impacts upon the adjoining properties or any third parties. Council considers the proposed medical centre building as acceptable.

### 6.2. Design and Development Overlay

The subject site is covered by Design and Development Overlay – Schedule 13 (DDO13) and is situated within the Ludstone Street Small Neighbourhood Activity Centre. The purpose of DDO13 is to set built form standards for Small Neighbourhood Activity Centres.

DDO13 has a preferred maximum building height of 9 metres (two (2) storeys). The proposed building has a maximum building height of 8.85 metres comprising of two storeys, well within the preferred height controls of DDO13.

DDO13 also stipulates that the primary street frontage should achieve a two storey street wall with a zero setback and where adjacent to land in a residential zone, side and rear setbacks should be provided in accordance with Standard B17 (Side and rear setbacks) of Clause 55. The development proposes a two storey street wall with a zero setback from the Ludstone Street front boundary. To the rear the development is set back from the adjoining residential property 16.8 metres at ground floor and 5 metres at first floor, inclusive of the rear laneway. This exceeds the required 1 metre setback at ground floor and the 3.59 metre setback at first floor.

Overall, it is considered that the proposed medical centre building as discussed is compliant with the built form requirements and decision guidelines of the DDO13.

### 6.3. Car parking and traffic

Pursuant to the car parking requirements of Clause 52.06, a medical centre not situated within the Principle Public Transport Network area requires the following car parking rate:

- a. 5 spaces to the first person providing health services plus
- b. 3 spaces to every other person providing health services.

The application proposes four (4) practitioners, requiring a total of 14 car park spaces. The proposal includes the provision of four (4) car parking spaces located to the rear of subject site and accessed by the rear lane way. A reduction of 10 spaces against the standard car parking requirements is sought.

The Traffic Impact Assessment Report provided suggests that the medical centre will generate a demand for 12 parking spaces inclusive of the four practitioners, three support staff and patients. Taking into account the provision of the four (4) on-site spaces and the car parking credit of three (3) spaces of the existing use, it is anticipated that the

expected net increase in on-street parking demand will be five (5) spaces. It is also likely that some procedures will require patients to be dropped off and picked up, further reducing the demand upon on-street parking.

The Traffic Report submitted with the application identified a supply of 72 parking spaces within the immediate area (map below), 22 of which are located within the Ludstone Street shopping strip.



Figure 1 – Public parking areas assessment

A parking survey of the area was also undertaken which detailed the following parking vacancy rates:

| Date / Time                       | Spaces Unoccupied                |                                   |                                 |                                |                                 |
|-----------------------------------|----------------------------------|-----------------------------------|---------------------------------|--------------------------------|---------------------------------|
|                                   | Thursday<br>24/10/19<br>09:04 am | Wednesday<br>11/09/19<br>11:49 am | Thursday<br>27/06/19<br>11:43am | Friday<br>12/04/19<br>10:36 am | Saturday<br>25/11/17<br>09:25am |
| <b>Total No. of vacant spaces</b> | 40                               | 51                                | 39                              | 50                             | 24                              |
| <b>% of spaces vacant</b>         | 56%                              | 71%                               | 54%                             | 69%                            | 33%                             |

The above parking survey was undertaken via analysing aerial photographs of the surrounding area because of the Covid-19 restrictions and lockdowns impacting upon typical car parking patterns. In addition to this Council officers undertook several site visits across various days and times and found sufficient supply of parking available and the above data to be an accurate representation of parking supply. The Traffic Report details a parking supply of between 24-51 spaces across the dates analysed, therefore indicating sufficient supply to fulfil the shortfall in parking provided by the development.

Therefore, it is anticipated that the combination of the proposed on-site car parking and on-street parking will adequately accommodate the carparking demands of the proposed medical centre. Whilst there is a reliance on the street parking network this is considered appropriate and not unusual in what is a commercial zone. Furthermore, the narrow width and total area of the subject site is limited and limits any real practical opportunity to provide the 10 required car parking spaces. Additionally, the reduced parking provision assists with the desired reduction in private vehicle usage and is in accordance with the Climate Emergency declared by Council, which encourages travel sustainability. It is also considered that the proposed development will increase activity and footfall to the shopping strip, livening up the strip to the benefit of the other tenancies.

The application was referred internally to Council's Traffic Engineers who initially raised concerns with the number of practitioners proposed and required the number to be reduced from six (6) to four (4) to ensure there were no significant parking impacts upon the surrounding area. Upon the submission of amended plans with reduced practitioner numbers, Council's Traffic Department are supportive of the proposal.

#### 6.4. Bicycle facilities

Clause 52.34 states that a new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities and associated signage has been provided on the land. The development of a medical centre requires the following bicycle spaces: 1 to each 8 practitioners for staff and one to each 4 practitioners for visitors.

Given that the maximum number of practitioners proposed is 4, the maximum amount of bicycle parking required for this application is 2 spaces. Two spaces are located to the front of the subject site across the public footpath.

#### 6.5. Signs

Pursuant to Clause 52.05-13 (Advertising Signs) a planning permit is required for the construction and display of an illuminated business identification sign, as the site is in a Category 1 – Commercial Area.

The subject site is located within the Ludstone Street Small Activity Centre which has a primarily commercial character, although the primary street frontages of the activity centre do interface with land in a residential zone, a more sensitive interface. There is a variety of business identification signs which are commonly not illuminated and are located across the verandah frontage.

The application proposes three (3) illuminated signs one below the verandah and two above the verandah. An assessment against the Decision Guidelines in Clause 52.05-8, is as follows.

##### The character of the area:

The application proposes three (3) signs, all of which are located on the front façade of the medical centre building. The details of each sign are as follows:

- Sign 1 – Located below the verandah and reads 'Medical & Dental Centre'. The sign will be lit by spotlights and will be 1.74m<sup>2</sup> in area.
- Sign 2 – Located above the verandah and also reads 'Medical & Dental Centre'. The sign will be internal illuminated and will be 2.87m<sup>2</sup> in area.
- Sign 3 – Located above the verandah and read '81'. The sign will also be internal illuminated and will be 0.61m<sup>2</sup> in area.

The total area of the proposed signage is 5.23m<sup>2</sup>.

The proposed signs are considered appropriate and compatible with its surroundings. All three signs are incorporated into the timber batten cladding of the building façade and do not create visual disorder or clutter. Currently there are no existing above verandah

signs or illuminated signs within the small activity centre. However, DDO13 anticipates double storey built form and it is likely that future developments within the area will incorporate similar advertising signage.

Conditions have been included with regard to the illumination of the signs to protect the amenity of the nearby residents. This is further discussed below.

*Impacts on views and vistas:*

All three signs will be erected directly onto the façade of the proposed building. It is considered that the signs will not impede or impact views and vistas nor dominate the skyline.

*The relationship to the streetscape, setting or landscape:*

It is considered that the size of the signs, which have a combined area of 5.23m<sup>2</sup> are suitable considering its location within the Ludstone Street Small Activity Centre. All signs are incorporated within the proposed building façade, do not include protruding elements, and will likely have minimal visual impact upon the streetscape.

*The relationship to the site and building:*

The proposed signs are appropriate to the site and to the scale of the proposed building. The signs have a combined area of 5.23m<sup>2</sup> and are considered acceptable in relation to the host building. No vegetation removal is proposed or required.

*The impact of structures associated with the sign:*

It is considered that the proposed signs will not impact any important or significant features of the site, streetscape or landscape as the sign will be mounted directly onto the proposed façade of the building and will not include elements that protrude from the site.

*The impact of any illumination:*

All three signs are proposed to be illuminated. The two above verandah signs will be internally illuminated, and the below verandah sign will be lit by spotlights. The proposed signage and illumination is suitable within the context of its immediate surroundings, a small strip of commercial uses. Across Ludstone Street is residential land and it is considered unlikely that the proposed illumination will impact upon the amenity of nearby residents, as the signs do not contain flashing lights or colours. However, to protect the amenity of the nearby dwelling's, conditions have been included in the above recommendation controlling brightness levels and requiring the signs to only be illuminated during operating hours.

*The impact of any logo box associated with the sign:*

No logo box has been proposed.

*The need for identification and the opportunities for adequate identification on the site or locality:*

The proposed signs will provide appropriate identification to the medical centre.

*The impact on road safety:*

It is considered that the sign will not detrimentally impact on road safety as it does not contain flashing lights or colours which may distract drivers and is not located in a position where they may obstruct a driver's line of sight or view of traffic lights or signs.

## **6.6. Development contributions levy**

The subject site is located within catchment area 15A.

Based on the proposed application and the below recommendation, a payment of \$238.56 is required. The payment of the development contributions levy is included as

a condition of permit.

**6.7. Objector issues not already addressed**

The use as a medical centre

The site is located within a Commercial 1 Zone and the Ludstone Street Small Activity Centre. The use of the land is 'as of right' under the zone provisions and therefore no permit is required for the use of a medical centre.

Construction upon party walls

The proposed construction of the medical centre building will not impact upon the party walls of adjoining properties with all works located within title boundaries and party walls of 81 Ludstone Street.

Covenant

The title is not subject to any restrictive covenants. Any covenant that may have existed on the site would have been removed legally through the correct processes.

Loss of existing use (Convenience Store)

It is not at Council's discretion to require that the landowner retain the existing commercial tenancies.

**Support Attachments**

1. Assessment Plans ↓
2. Site and Surrounds ↓



# GRAHAM JONES DESIGN

## LUDSTONE MEDICAL

### proposed medical/dental clinic

**81 LUDSTONE STREET  
HAMPTON, VICTORIA**

Job No. 19072

**PLANNING PERMIT ISSUE**

**TOWN PLANNING**

| DWG NO. | TITLE                       | Revision |
|---------|-----------------------------|----------|
| A000    | Cover Sheet                 | P        |
| A100    | Existing Neighbourhood Plan | O        |
| A101    | Existing / Demo Site Plan   | M        |
| A102    | Existing / Demo Ground Plan | L        |
| A103    | Existing Elevations         | L        |
| A200    | Proposed Site Plan          | P        |
| A201    | Proposed Floor Plans        | P        |
| A501    | Proposed Elevations         | P        |
| A502    | Proposed Elevations         | P        |
| A701    | Proposed Sections           | P        |
| A703    | Car Parking - Swept Paths   | M        |
| A801    | Proposed 3D Views           | N        |

**81** MEDICAL CENTRE & DENTAL CLINIC

81 MEDICAL CENTRE & DENTAL CLINIC

81 MEDICAL CENTRE & DENTAL CLINIC

81 MEDICAL CENTRE & DENTAL CLINIC

81 MEDICAL CENTRE & DENTAL CLINIC

81 MEDICAL CENTRE & DENTAL CLINIC

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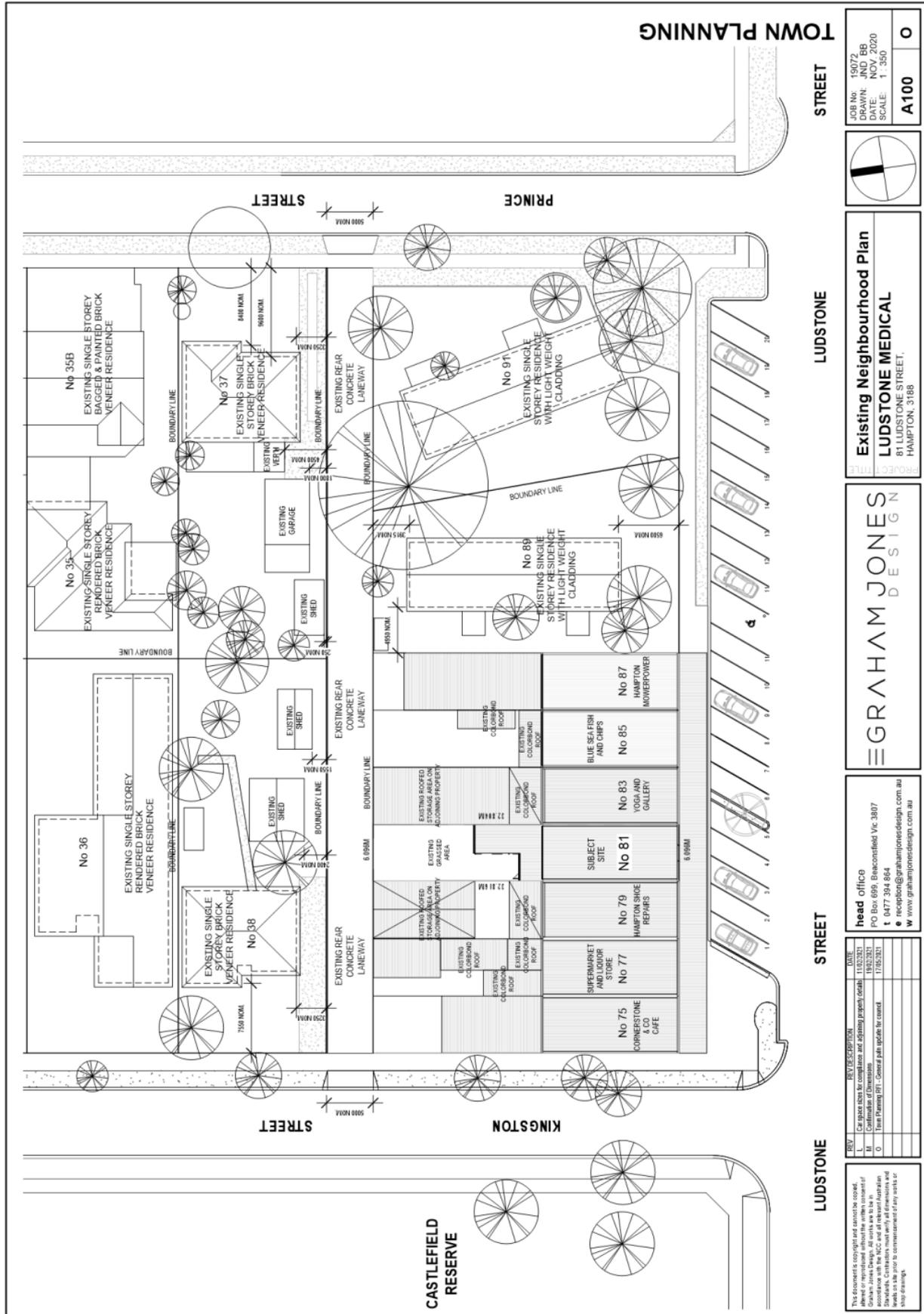
**Cover Sheet**  
**LUDSTONE MEDICAL**  
81 LUDSTONE STREET,  
HAMPTON, 3188

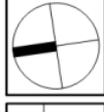
| REV | REV DESCRIPTION  | DATE       |
|-----|--|------------|
| I   | Title & exponent details & cover sheet added                   | 18/12/2019 |
| J   | Floor plan changes as requested by client                      | 20/02/2021 |
| K   | Car parking layout changes                                     | 20/02/2021 |
| L   | Car park signs for compliance and additional parking details   | 11/03/2021 |
| M   | Confirmation of dimensions                                     | 18/02/2021 |
| N   | Bicycle spaces added from 7 to 2                               | 15/04/2021 |
| P   | Inclusion of specifications to 4, per amended upper floor plan | 22/06/2021 |

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|        |          |
|--------|----------|
| JOB No | 19372    |
| DRAWN  | JND, BB  |
| DATE   | NOV 2020 |
| SCALE  | 1:350    |
| A100   | 0        |



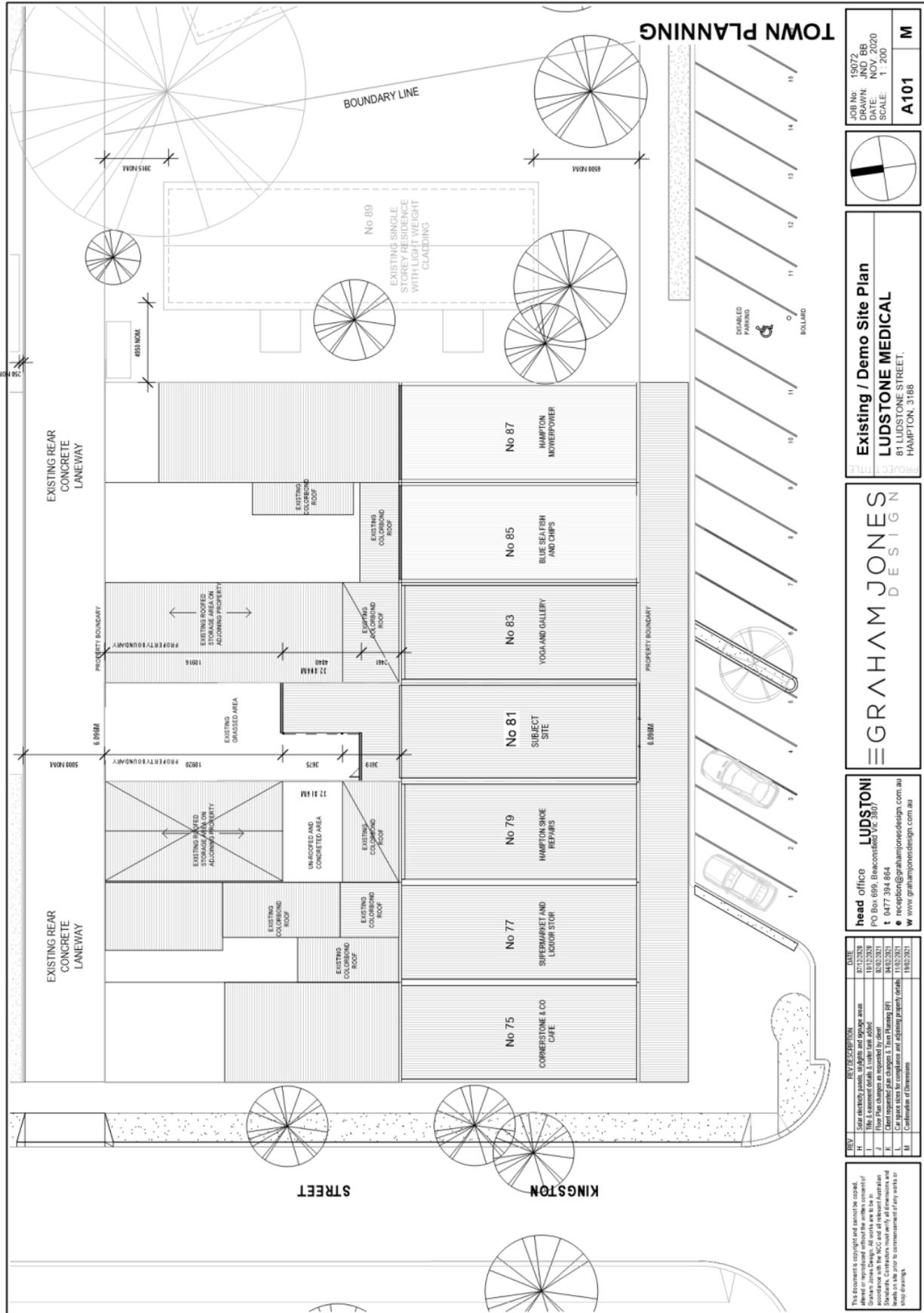
**Existing Neighbourhood Plan**  
**LUDSTONE MEDICAL**  
 81 LUDSTONE STREET,  
 HAMPTON, 3188

**GRAHAM JONES DESIGN**

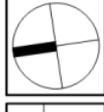
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 t 0477 394 884  
 e reception@grahamjonesdesign.com.au  
 w www.grahamjonesdesign.com.au

| REV | REV DESCRIPTION   | DATE       |
|-----|---|------------|
| L   | Car space sheet for completion and adjusting property details | 11/02/2021 |
| M   | Confirmation of Dimensions                                    | 18/02/2021 |
| O   | Final Particulars 201 - General plan update for council       | 17/02/2021 |

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|             |          |
|-------------|----------|
| JOB No      | 19072    |
| DRAWN       | JND BB   |
| DATE        | NOV 2020 |
| SCALE       | 1 : 200  |
| <b>A101</b> | <b>M</b> |



**Existing / Demo Site Plan**  
**LUDSTONE MEDICAL**  
 81 LUDSTONE STREET,  
 HAMPTON, 3188

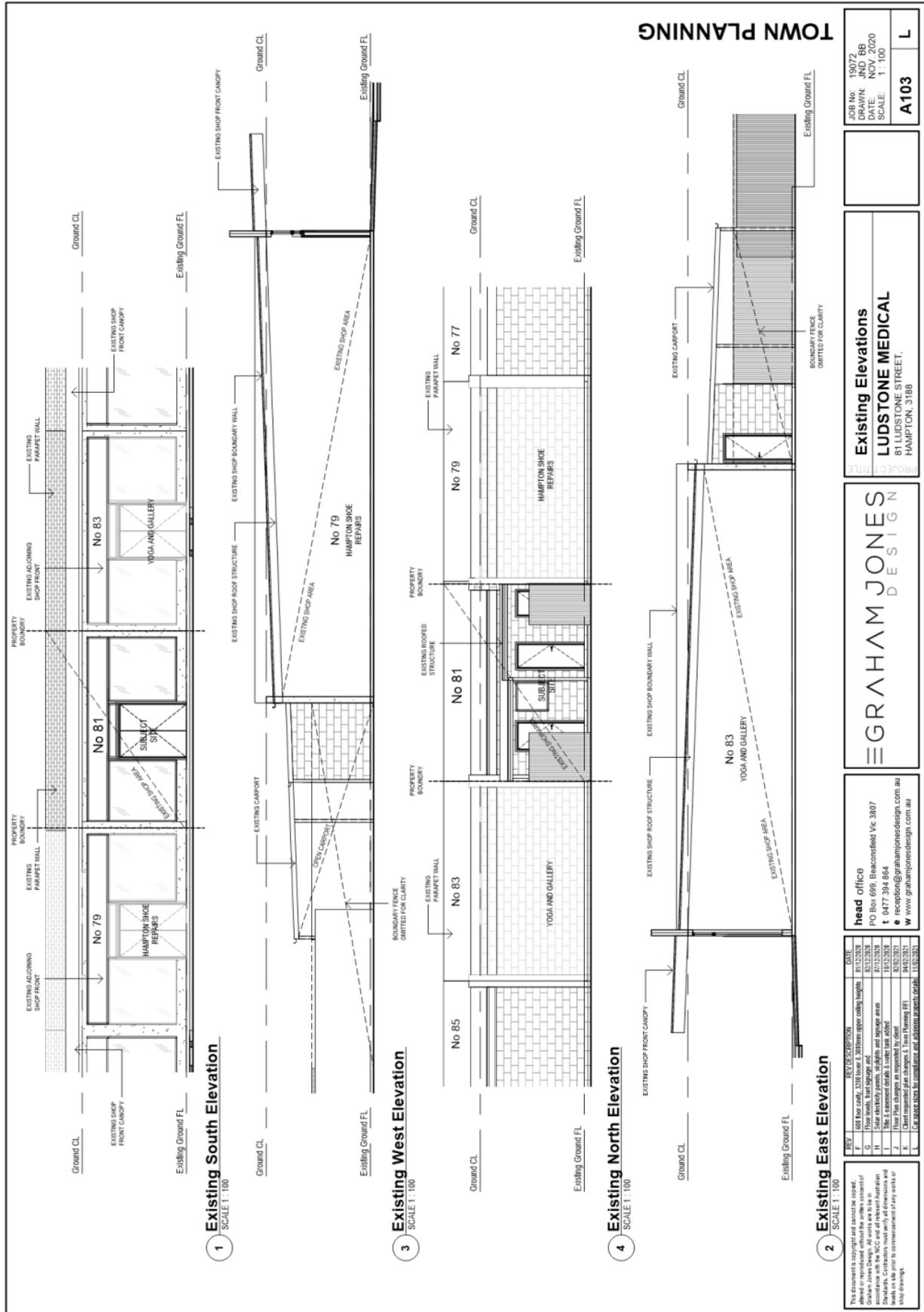
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 e reception@grahamjonesdesign.com.au  
 w www.grahamjonesdesign.com.au

| REV | REV DESCRIPTION                                    | DATE       |
|-----|--|------------|
| H   | Start electrical plan, landscape and signage areas | 07/12/2019 |
| I   | Final electrical plan, signage and signage areas   | 18/12/2019 |
| J   | Final electrical plan, signage and signage areas   | 18/12/2019 |
| K   | Clear concrete for signage, 1.1m x 1.1m x 1.1m     | 04/05/2021 |
| L   | Clear space for signage, 1.1m x 1.1m x 1.1m        | 11/05/2021 |
| M   | Continuation of Dimensions                         | 18/07/2021 |

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|             |          |
|-------------|----------|
| JOB No      | 190772   |
| DRAWN       | JND BB   |
| DATE        | NOV 2020 |
| SCALE       | 1:100    |
| <b>A103</b> | <b>L</b> |

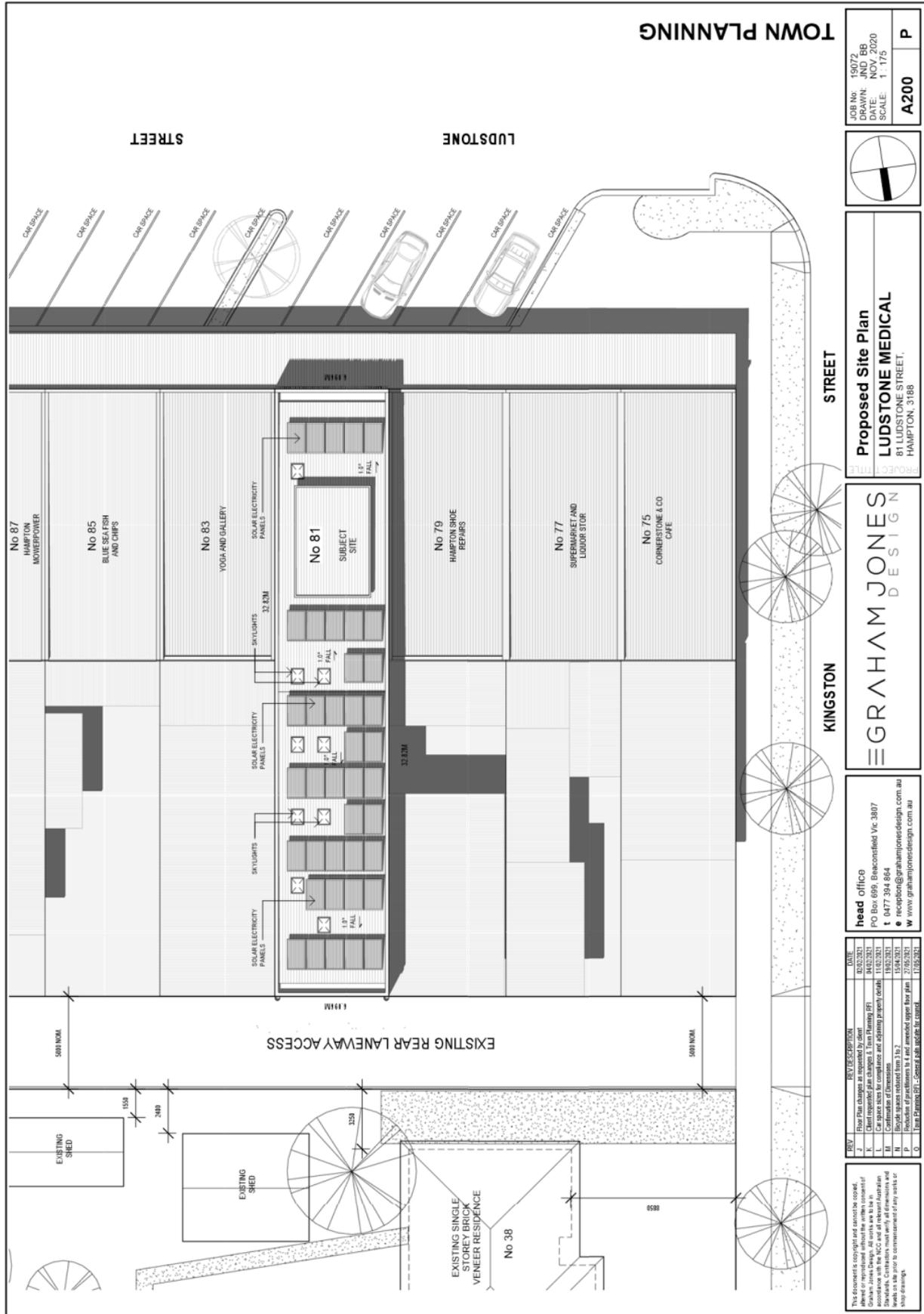
**Existing Elevations**  
**LUDSTONE MEDICAL**  
81 LUDSTONE STREET,  
HAMPTON, 3188

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e reception@grahamjonesdesign.com.au  
w www.grahamjonesdesign.com.au

| REV | REV DESCRIPTION   | DATE       |
|-----|---|------------|
| F   | 001 floor canopy, 3200 tower & 300mm upper canopy height      | 01/12/2019 |
| G   | Floor levels, final parapet and                               | 02/12/2019 |
| H   | Final floor levels, final parapet and                         | 03/12/2019 |
| I   | Final floor levels, final parapet and                         | 04/12/2019 |
| J   | Final floor levels, final parapet and                         | 05/12/2019 |
| K   | Client requested plan changes & town planning                 | 06/12/2021 |
| L   | For state check for compliance and additional project details | 11/02/2021 |

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JOB No: 19072  
 DRAWN: JND BB  
 DATE: NOV 2020  
 SCALE: 1:175  
**A200**  
**P**

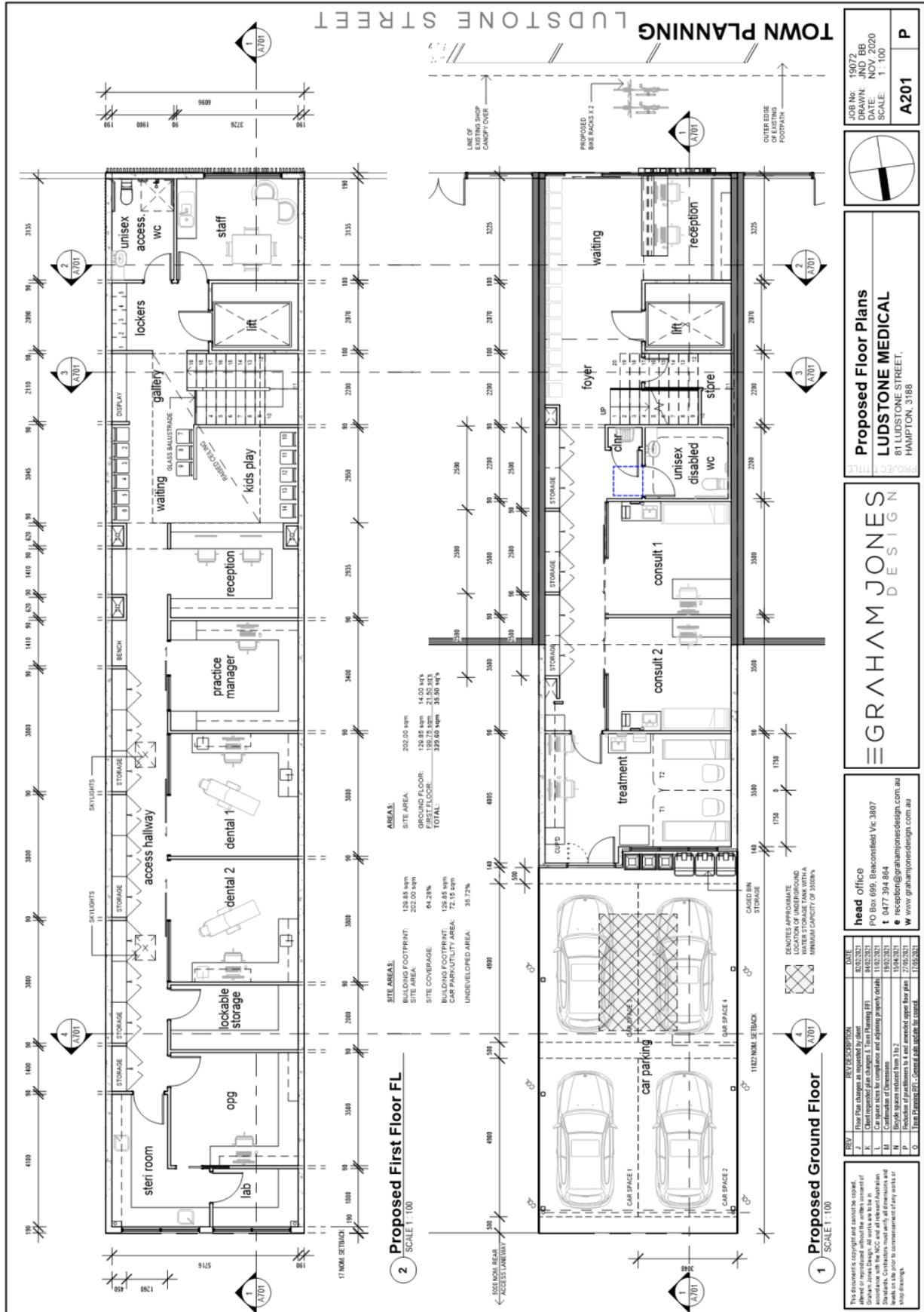
**Proposed Site Plan**  
**LUDSTONE MEDICAL**  
 81 LUDSTONE STREET,  
 HAMPTON, 3188

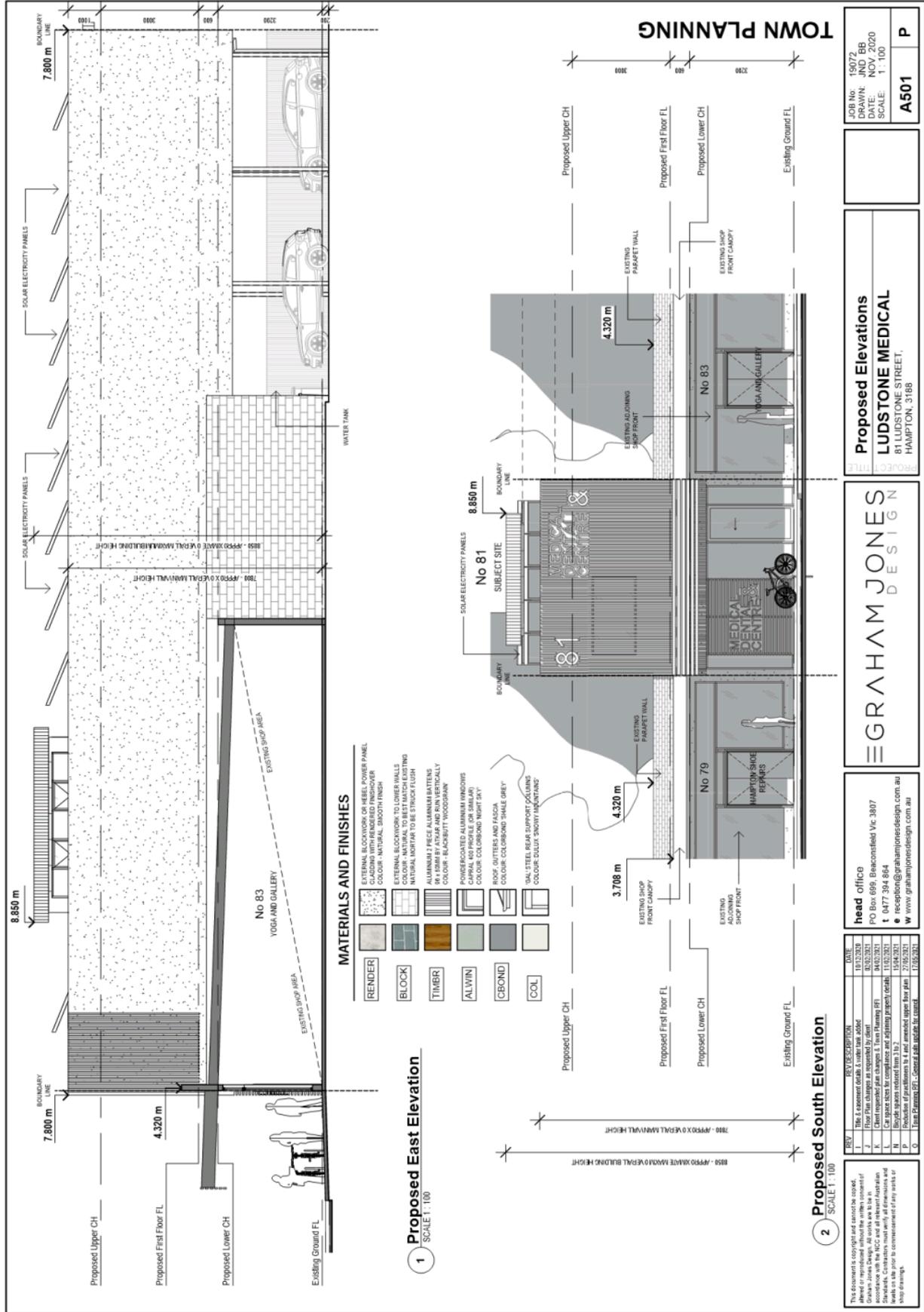
**GRAHAM JONES**  
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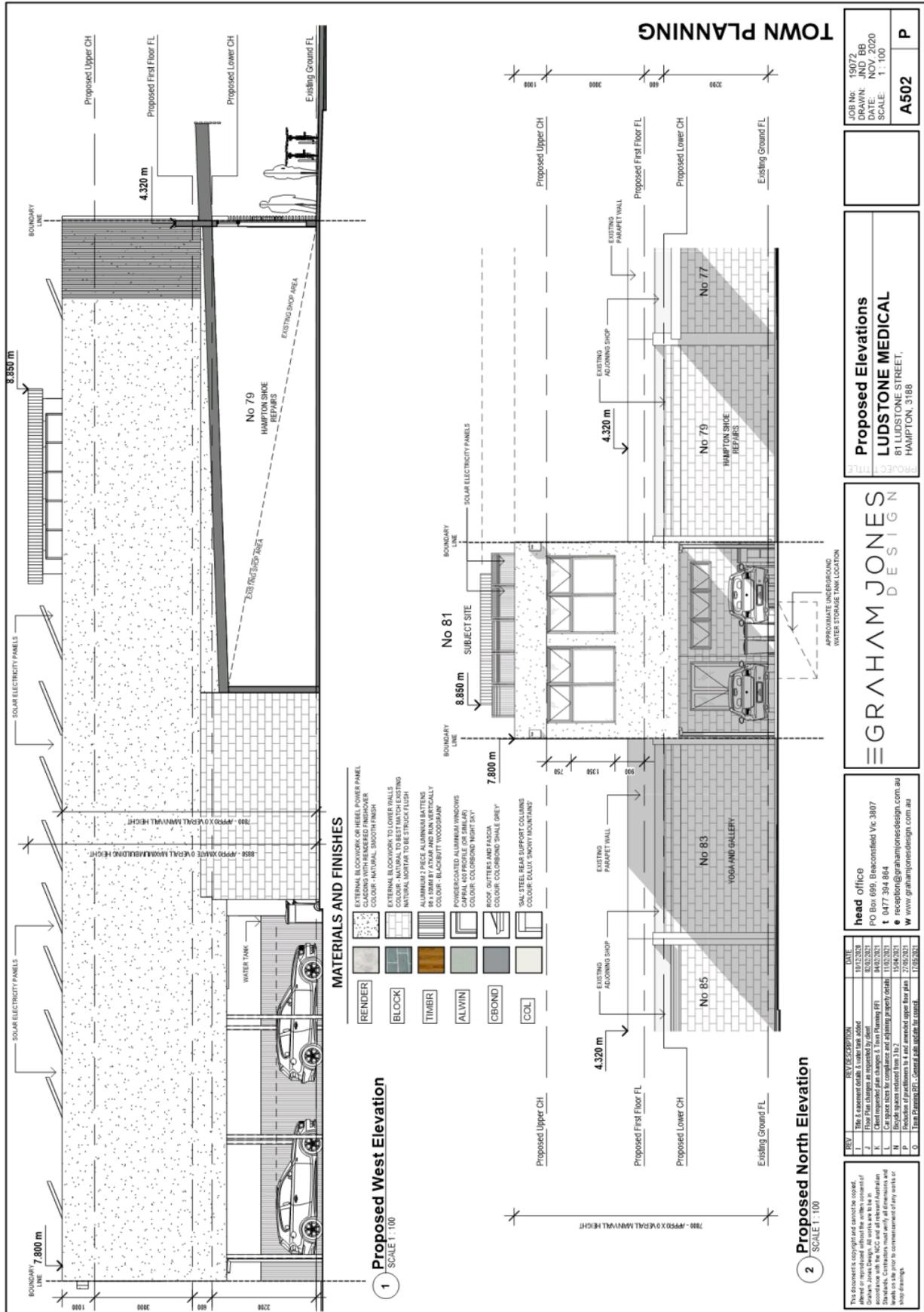
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 e reception@grahamjonesdesign.com.au  
 w www.grahamjonesdesign.com.au

| REV | DESCRIPTION  | DATE       |
|-----|--|------------|
| J   | Floor Plan changes as requested by client            | 06/10/2021 |
| K   | Client requested plan changes to 1st Floor Plan (P1) | 04/10/2021 |
| L   | Client requested plan changes to 2nd Floor Plan (P2) | 04/10/2021 |
| M   | Client requested plan changes to 3rd Floor Plan (P3) | 04/10/2021 |
| N   | Client requested plan changes to 4th Floor Plan (P4) | 04/10/2021 |
| O   | Client requested plan changes to 5th Floor Plan (P5) | 04/10/2021 |

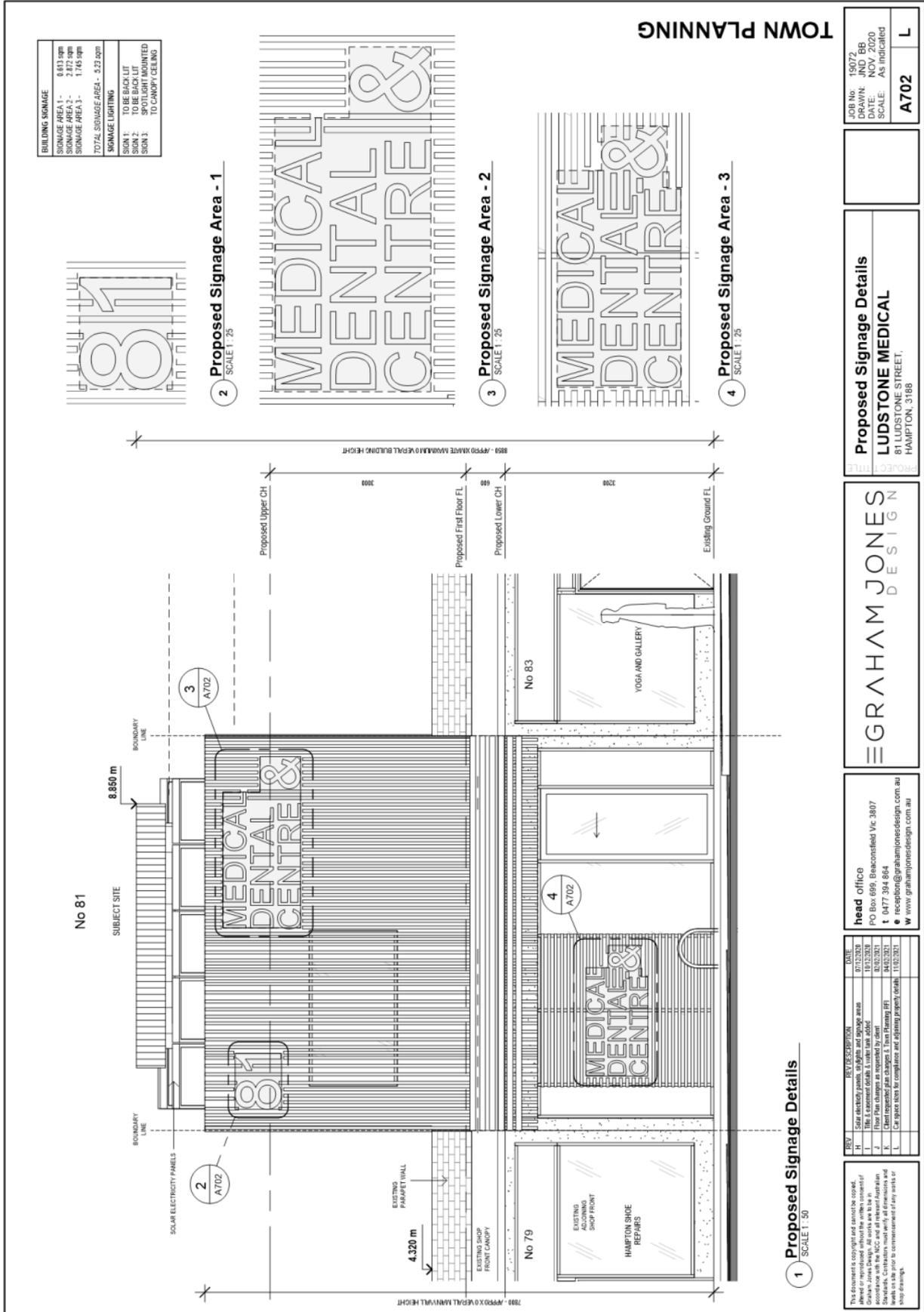
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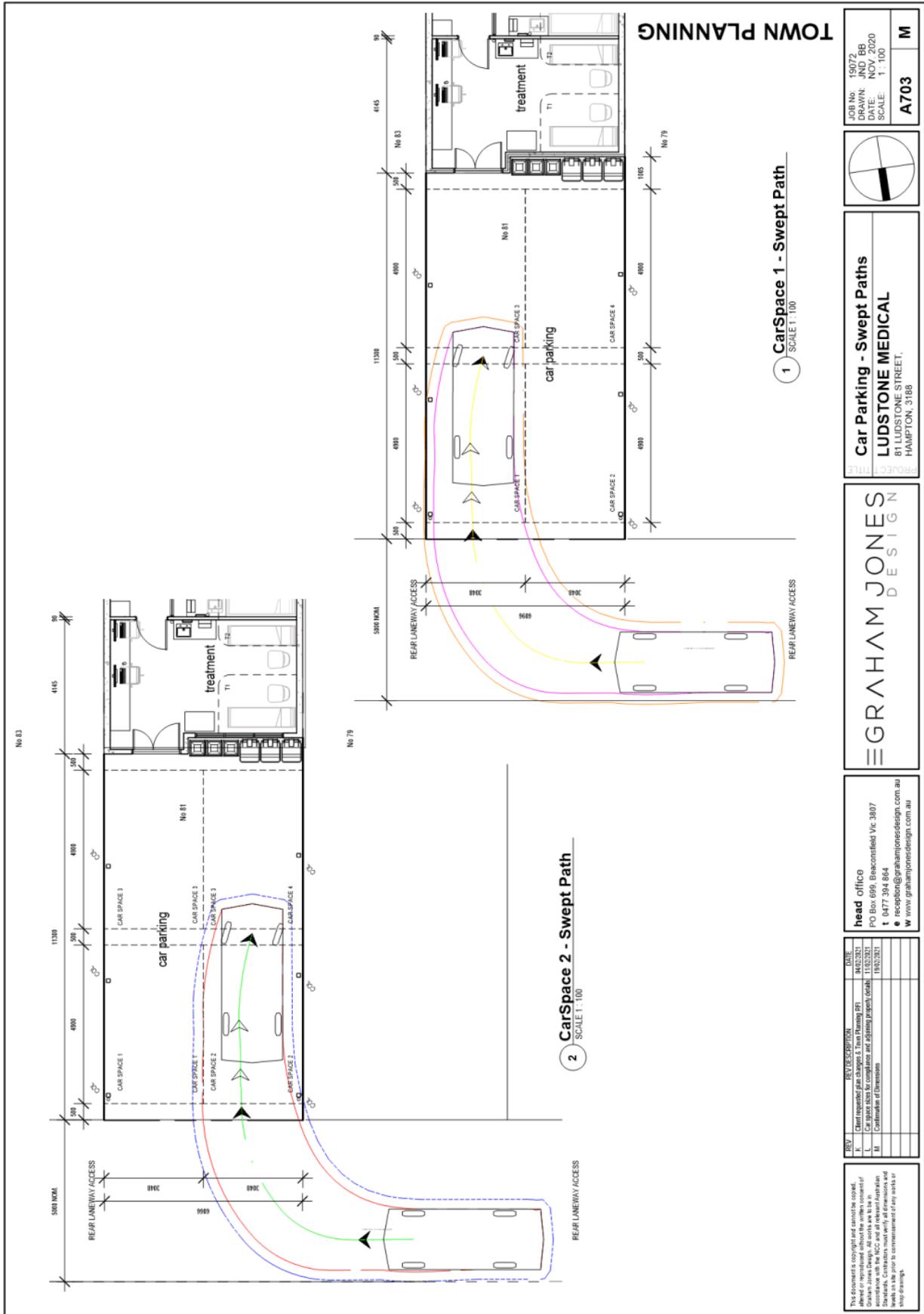


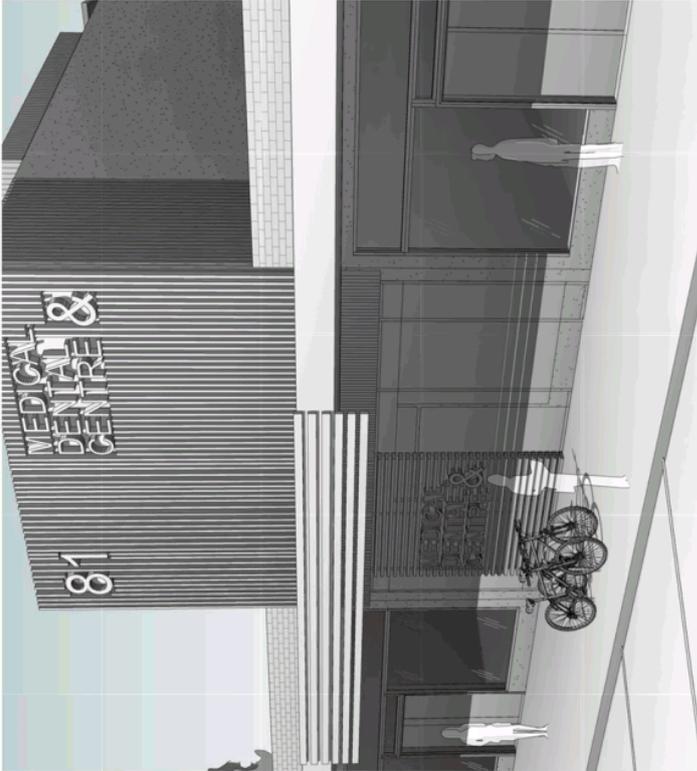




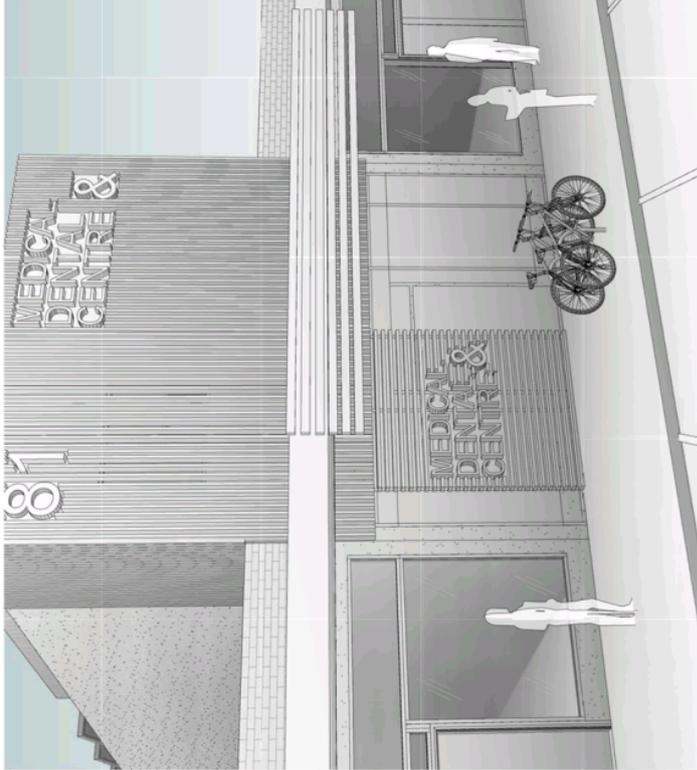






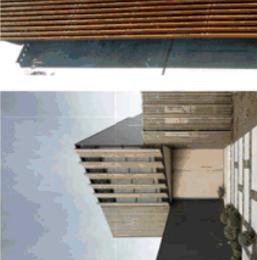


**1** 3D View 1  
SCALE



**2** 3D View 2  
SCALE






**TOWN PLANNING**

**GRAHAM JONES DESIGN**

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**Proposed 3D Views**  
**LUDSTONE MEDICAL**  
81 LUDSTONE STREET,  
HAMPTON, 3188

| REV | REV DESCRIPTION  | DATE       |
|-----|--|------------|
| G   | Floor levels, level signage and                              | 02/12/2019 |
| H   | Site electrical panels, signage and signage areas            | 27/12/2019 |
| I   | Site electrical panels, signage and signage areas            | 02/01/2020 |
| J   | Floor slab changes as requested by client                    | 02/02/2020 |
| K   | Client requested plan changes, 5, from Planning 01           | 04/02/2021 |
| L   | Car space sizes for compliance and adjusting parking details | 11/02/2021 |
| N   | Block aspect reduced from 3 to 2                             | 15/04/2021 |

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JOB No: 19072  
DRAWN: JND BB  
DATE: NOV 2020  
SCALE:

**A901**      **N**



Site and Surrounds

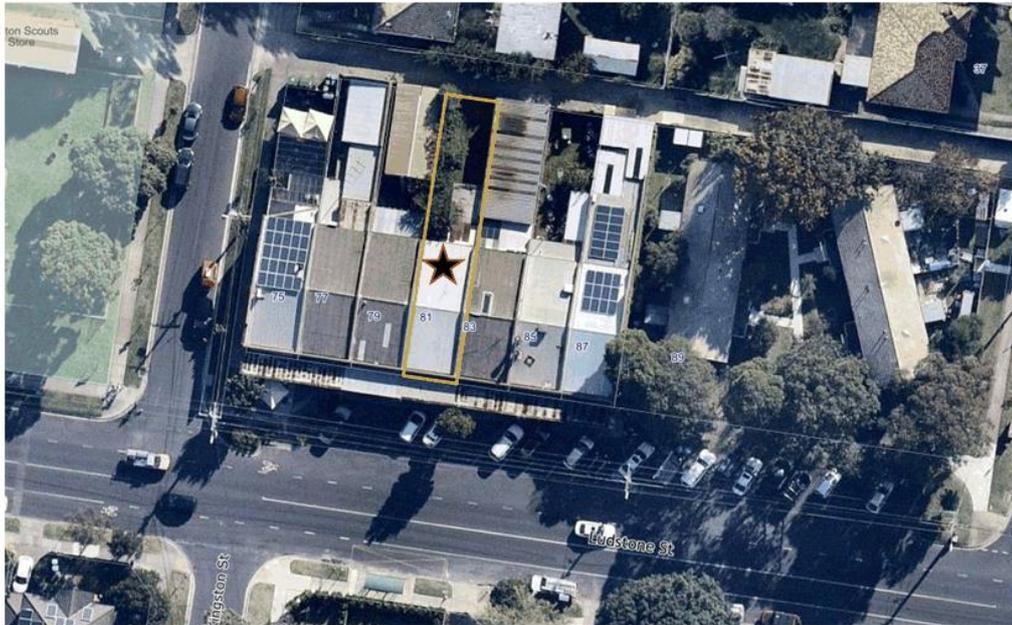


Figure 1 Aerial overview of the site and surrounds

| Legend       |   |
|--------------|---|
| Subject site | ★ |



Figure 2 View from Ludstone Street



**4.4 ROYAL MELBOURNE GOLF CLUB  
CHELTENHAM ROAD, BLACK ROCK  
GRANT A PERMIT  
APPLICATION 2021/190/1 WARD: EBDEN**

City Planning and Amenity - Development Services  
File No: PSF/21/28 – Doc No: DOC/21/211385

*This matter has been reported to the Planning and Amenity Delegated Committee for a decision because there are 2 or more trees to be removed in the Vegetation Protection Overlay Schedule 3 (VPO3).*

*Officers involved in the preparation of this report have no conflict of interest in this matter.*

1. Application details

|   |   |
|---|---|
| <b>Recommendation</b>   | Grant a Permit  |
| <b>Applicant</b>  | Royal Melbourne Golf Club Inc.  |
| <b>Title/Covenant/S173 Agreement</b>  | The title is not subject to any restrictive covenants.  |
| <b>Date application received</b>  | 21 April 2021   |
| <b>Current statutory days</b>   | 76 days   |
| <b>Zoning</b>   | General Residential Zone (Schedule 8)   |
| <b>Overlays</b>   | Vegetation Protection Overlay (Schedule 3)<br>Design and Development Overlay (Schedule 2)<br>Heritage Overlay (Schedule 710)<br>Development Contributions Plan Overlay (Schedule 1) |
| <b>Site area</b>  | 598,376sqm (59.8 hectares)  |
| <b>Number of outstanding objections</b>                                     | 0   |
| <b>Is a Development Contribution Levy applicable?</b>                       | No  |
| <b>Is the site located within an area of cultural heritage sensitivity?</b> | Yes, however a CHMP is not required.  |

Purpose

Planning Permit application 2021/190/1 was previously reported to the Planning and Amenity Delegated Committee meeting on 8 June 2021. A copy of the report and associated attachments to that meeting is included at **Attachment 1**.

At the meeting, it was resolved (that Council):

*‘defer consideration of planning application 2021/190/1 to enable further engagement with the Royal Melbourne Golf Club to discuss a redesign of the car parking to protect some of the VPO trees, in particular, trees 3 and 17’.*

A copy of this resolution is provided at **Attachment 2**.

The purpose of this report is to supplement the previous report presented at the 8 June 2021 meeting and outline the processes and procedures undertaken to give effect to the decision of the Planning and Amenity Delegated Committee, to defer the item to a future

meeting, subsequent to engagement with the Royal Melbourne Golf Club to discuss the possibility of redesigning the car parking to protect the VPO trees being trees 3 and trees 17.

### Proposal

The application seeks Partial demolition of buildings, buildings and works associated with an existing Outdoor Recreation Facility in a Heritage Overlay, removal of native vegetation in a Vegetation Protection Overlay.

Key details of the proposal are as follows:

- Buildings and works to the existing golf club to include:
  - construction of basement car park comprising 192 car parking spaces, pedestrian walkways to lift lobby and buggy, cart and other storage areas
  - extension and internal alterations to bowls pavilion including addition of golf foyer facing driving range with ball dispenser, green keepers and bowlers stores, WC's, covered terrace areas and pedestrian lift and stair access to basement
  - extension to pro-shop building and construction of canopy walkway and buggy park area
  - layout alterations to at grade car parking spaces to accommodate vehicle and pedestrian/ buggy access ramps to basement
  - landscaping works including the addition of putting green, pedestrian footpaths and shrubs and trees
- total of 96 additional parking spaces and 2 additional drop-off spaces
- removal of thirteen (13) trees protected by the Vegetation Protection Overlay.

## 2. Planning controls

### Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.08-8 (General Residential Zone) – Carrying out buildings and works associated with a Section 2 use.
- Clause 42.02-2 (Vegetation Protection Overlay) – Removal of native vegetation.
- Clause 43.01-1 (Heritage Overlay) – Demolition of a building and construction of buildings and works.

### Planning Scheme Amendments

Planning Scheme Amendment C180 was gazetted on 18 June 2021 and forms part of the reforms and restructuring of Victoria's planning systems to make planning schemes more efficient, accessible and transparent. The amendment replaces the Local Planning Policy Framework at Clauses 21 and 22 of the Bayside Planning Scheme with a new Municipal Planning Strategy at Clause 02, local policies within the Planning Policy Framework at Clauses 11-19 and a selected number of local schedules to overlays, particular provisions and operational provisions.

The amendment is generally policy neutral and does not alter the planning assessment of this application set out in the report presented to the Planning and Amenity Committee on 8 June 2021.

### 3. Stakeholder consultation

#### External referrals

There are no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

#### Internal referrals

The application was referred to the following Council departments for comment:

| Internal Referral | Response                             |
|-------------------|--------------------------------------|
| Arborist          | No objection, subject to conditions. |
| Traffic Engineer  | No objection, subject to conditions. |
| Drainage Engineer | No objection, subject to conditions. |

#### Public notification

The application was not required to be advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* as it was considered that the proposal would not cause any material detriment to any persons.

One (1) objection was received after the agenda for the 8 June 2021 Planning and Amenity Committee meeting was published on Council's website. This objection was subsequently withdrawn after discussions between the Objector and Permit Applicant.

There are no objections outstanding.

### 4. Recommendation

That Council resolves to **Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of planning application **2021/190/1** for the land known and described as, **Cheltenham Road, Black Rock** for the **partial demolition of buildings, buildings and works associated with an existing outdoor recreation facility in a Heritage Overlay, removal of native vegetation in a Vegetation Protection Overlay** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application) prepared by Demaine referenced TP001- TP400, revision TP-A dated 19 March 2021 but modified to show:
  - a) any design and construction methods required as a result of the findings from the Arboricultural Impact Assessment required in accordance with Condition 12 of this permit
  - b) any design measures required as a result of the findings from the ESD report required in accordance with Condition 14 of this permit
  - c) all column locations within the basement to comply with the AS2890.1
  - d) a minimum 2.2m headroom clearance to be provided at the entrance (measured perpendicularly to the ramp) and throughout the car park in accordance with AS2890.1
  - e) all relevant intermediate levels to the basement ramp

- f) 'No Right Turn' signage where the basement ramp connects with the main aisle at ground floor
  - g) additional traffic directional line-marking/s (arrows) where the basement ramp connects with the main aisle at ground floor
  - h) Water Sensitive Urban Design measures in accordance with Condition 5 of this permit
  - i) a Landscaping Plan in accordance with Condition 9 of this permit
  - j) an Arboricultural Impact Assessment Report in accordance with Condition 12 of this permit
  - k) a Tree Protection Management Plan in accordance with Condition 13 of this permit
  - l) an ESD report in accordance with Condition 14 of this permit
- all to the satisfaction of the Responsible Authority.
2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
  3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
  4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

#### Water Sensitive Urban Design

5. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
  - a) the type of water sensitive urban design stormwater treatment measures to be used
  - b) the location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas
  - c) design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.
6. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

### Drainage

7. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
8. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's City Assets and Presentation Department.

Council Stormwater drainage is for surface rainwater, no water below the Ground Water Table is accepted into the Council Stormwater system. Only occasional, clean, uncontaminated seepage water (associated with a rain event) is accepted to an appropriate Council underground drain OR this subterranean water must be suitably retained on-site.

### Landscaping

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plans drawn by memLa, reference LC00, LC01, LC02, LC03 and LC04 dated 9 April 2021 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
  - a) a survey including botanical names of all existing trees on the site where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the development area
  - b) a planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count
  - c) 6 indigenous canopy trees with the capacity to grow to 20 metres in height
  - d) 20 indigenous canopy trees with the capacity to grow to at least 8 metres in height
  - e) Details of surface finishes of pathways, accessways and ramps.
10. Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

### Arboricultural Impact Assessment Report

12. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, an Arboricultural impact assessment report in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites must be provided to Council's Satisfaction. The report will explain design and construction methods proposed to minimize impacts on trees to be retained on the site where there is encroachment into the calculated Tree Protection Zone (TPZ).

Tree Protection Management Plan (TPMP)

13. Before the development starts, including any related demolition or removal of vegetation, a TPMP, prepared by a suitably qualified arborist, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. This report must be made available to all relevant parties involved with the site.

The TPMP must include:

- a) details of Tree Protection Zones, as per AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties (including public open space trees) where any part of the Tree Protection Zone falls within the subject site
- b) protection measures to be utilised and at what stage of the development they will be implemented
- c) appointment of a project arborist detailing their role and responsibilities
- d) stages of development at which the project arborist will inspect tree protection measures
- e) monitoring and certification by the project arborist of implemented protection measures.

Before any works associated with the approved development, a project arborist must be appointed and the name and contact details of the project arborist responsible for implementing the endorsed TPMP must be submitted to the Responsible Authority.

Any modification to the TPMP must be approved by the project arborist. Such approval must be noted and provided to the Responsible Authority within seven days.

The TPMP must include a Tree Protection Plan (TPP) in accordance with AS4970-2009 Protection of Trees on Development Sites.

The TPP must include:

- f) Be legible, accurate and drawn to scale
- g) Show the location of all tree protection measures to be utilised
- h) Include a key describing all tree protection measures to be utilised.

Environmentally Sustainable Design Report

14. Prior to the endorsement of plans pursuant to Condition 1, an Environmentally Sustainable Design Report must be submitted to and approved by the Responsible Authority. The report should include:
- a) a BESS report with a minimum 50% score overall as well as in Water, Energy, Stormwater and IEQ category
  - b) water efficient plumbing fixtures and appliances where appropriate
  - c) provisions for bicycle parking
  - d) provisions for infrastructure to accommodate for charging electric vehicles
  - e) double glazing to all windows
  - f) appropriate shading to windows

- g) measures to recycle construction and demolition waste
- h) measures to reduce urban heat island impact such as light or medium coloured rooves and accessways
- i) commitment to using low VOC paints for the internal walls
- j) commitment to timber used in the development bring Forest Stewardship Council (FSC) or Program for the Endorsement of Forest Certification (PEFC) certified or recycled / reused
- k) provisions for renewable energy systems such as Solar PV where appropriate.

#### Permit Expiry

15. This permit will expire if one of the following circumstances applies:

- a) the development is not started within two years of the date of this permit.
- b) the development is not completed within four years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

#### Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council's Policy for "Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

## 5. Council Policy

### Council Plan 2017–21

Relevant objectives of the Council plan include:

- where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

- make discretionary planning controls stronger, by advocating for Council's planning and urban design objectives to state government.

### Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 13 Environmental Risks and Amenity
- Clause 15 Built Environment and Heritage
- Clause 18 Transport
- Clause 19 Infrastructure

- Clause 32.08 General Residential Zone (Schedule 8)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.01 Heritage Overlay (Schedule 710)
- Clause 43.02 Design and Development Overlay (Schedule 2)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 53.18 Stormwater Management in Urban Development
- Clause 65 Decision Guidelines

## 6. Considerations

As requested by the Planning and Amenity Committee at its meeting on 8 June 2021, the Applicant held a site meeting with Councillors and Council Officers on Tuesday 29 June 2021 at the Royal Melbourne Golf Club.

Since the site meeting, the Applicant has advised Council Officers that their Architect and Arborist have investigated alternative design options to retain Tree 3, the lemon scented gum, and Tree Group 17, a group of Coastal tea-tree, but that ultimately the design as submitted as part of the planning application was deemed the best and most efficient design to manage the land by providing a functional site layout whilst also limiting the impacts on existing vegetation on the site.

The Applicant has advised that attempting to retain Tree 3 would fundamentally alter the design and construction methodology for the proposed basement car park. Tree 3 has a Tree Protection Zone (TPZ) of 11.5 metre radius. Allowing for this TPZ and modified construction methodology would require retention of an area of around 500m<sup>2</sup> in the centre of the area of proposed works. The Applicant has advised that this extent of change is not feasible and has commented that even in a circumstance of redesign, Tree 3 would potentially still be put at risk given its root system to the East is already compromised.

With respect to Tree Group 17, the Applicant has commented that altering the alignment of the basement and egress ramp associated with the maintenance vehicles and golf carts is not feasible to retain these trees which they say are immature and of limited significance.

Whilst the Applicant does not propose any changes to the built form, they have proposed the following measures to offset the native vegetation sought to be removed:

- a commitment to 80 percent of proposed landscaping associated with the project to be indigenous
- a commitment for the planting of 6 indigenous canopy trees with the capacity to grow to 20m in height
- a commitment for the planting of 20 indigenous canopy trees with the capacity to grow to 8m in height
- a commitment to sourcing these trees from the Bayside Community Nursery
- a commitment to establishing a five-year plan for the involvement of the Royal Melbourne Golf Club in sponsoring activities and initiatives associated with the Bayside Community Nursery.

Condition 9 (Landscaping) within the Officer recommendation previously included requirements for 80% of the replacement planting to be indigenous as well as a smaller number of replacement canopy trees to be provided.

The previous recommendation has been updated within paragraph 4 of this report, to

require an amended landscape plan to be submitted to Council's satisfaction to reflect the additional canopy trees proposed by the Applicant which will include:

- 6 indigenous trees with the capacity to grow to 20 metres in height
- 20 indigenous trees with the capacity to grow to 8 metres in height.

This will result in a significant increase in the total number of indigenous canopy trees on the development site when compared to those sought to be removed under this application. Notably, there will be 6 additional indigenous trees which will grow to 20 metres in height.

Whilst it is recognised that there are other commitments proposed by the Applicant to support the Bayside Community Nursery, it is not considered to be appropriate to require this commitment to be secured by permit condition.

In line with the recent planning amendment, Clause 15.02-1L of the Bayside Planning Scheme (Energy and resource efficiency), seeks to promote sustainable development measures such a water efficient design, use of landscaping to assist with passive solar heating and cooling, allowance for adaptation for the future, use of building materials with minimal environmental impact, recycled materials and re-use of existing buildings.

Council Officers therefore recommend that an Environmentally Sustainable Design report should be provided to demonstrate sustainable design measures to be taken in the design and construction of the proposed development. A condition has been included in the recommendation to this effect.

## 7. Conclusion

In considering the additional planting and landscaping contributions proposed by the Applicant, this is considered to be an improved response to the requirements of the Vegetation Protection Overlay and the provisions of the Bayside Planning Scheme.

It is therefore recommended that the application be supported subject to the conditions contained within the recommendation section of this report.

## Support Attachments

1. Report and associated attachments - (Agenda) 8 June 2021 Planning and Amenity Delegated Committee ↓
2. Resolution - (Minutes) 8 June 2021 Planning and Amenity Delegated Committee ↓



Bayside City Council

Planning and Amenity Delegated Committee - 8 June 2021

**4.9 ROYAL MELBOURNE GOLF CLUB  
CHELTENHAM ROAD, BLACK ROCK  
GRANT A PERMIT  
APPLICATION 2021/190/1 WARD: EBDEN**

City Planning and Amenity - Development Services  
File No: PSF/21/28 – Doc No: DOC/21/159432

*This matter has been reported to the Planning and Amenity Committee for a decision because there are 2 or more trees to be removed in the Vegetation Protection Overlay Schedule 3 (VPO3).*

*Officers involved in the preparation of this report have no conflict of interest in this matter.*

1. Application details

|   |   |
|---|---|
| <b>Recommendation</b>   | Grant a Permit  |
| <b>Applicant</b>  | Royal Melbourne Golf Club Inc.  |
| <b>Title/Covenant/S173 Agreement</b>  | The title is not subject to any restrictive covenants.  |
| <b>Date application received</b>  | 21 April 2021   |
| <b>Current statutory days</b>   | 49 days   |
| <b>Zoning</b>   | General Residential Zone (Schedule 8)   |
| <b>Overlays</b>   | Vegetation Protection Overlay (Schedule 3)<br>Design and Development Overlay (Schedule 2)<br>Heritage Overlay (Schedule 710)<br>Development Contributions Plan Overlay (Schedule 1) |
| <b>Site area</b>  | 598,376sqm (59.8 hectares)  |
| <b>Number of outstanding objections</b>                                     | 0   |
| <b>Is a Development Contribution Levy applicable?</b>                       | No  |
| <b>Is the site located within an area of cultural heritage sensitivity?</b> | Yes, however a CHMP is not required.  |

Proposal

The application seeks Partial demolition of buildings, buildings and works associated with an existing Outdoor Recreation Facility in a Heritage Overlay, removal of native vegetation in a Vegetation Protection Overlay.

Key details of the proposal are as follows:

- Buildings and works to the existing golf club to include:
  - construction of basement car park comprising 192 car parking spaces, pedestrian walkways to lift lobby and buggy, cart and other storage areas
  - extension and internal alterations to bowls pavilion including addition of golf foyer facing driving range with ball dispenser, green keepers and bowlers stores, WC's, covered terrace areas and pedestrian lift and stair

access to basement.

- extension to pro-shop building and construction of canopy walkway and buggy park area
- layout alterations to at grade car parking spaces to accommodate vehicle and pedestrian/ buggy access ramps to basement
- landscaping works including the addition of putting green, pedestrian footpaths and shrubs and trees.
- total of 96 additional parking spaces and 2 additional drop off spaces
- removal of thirteen (13) trees protected by the Vegetation Protection Overlay.

The application plans are provided at **Attachment 1**.

An aerial image and photographs of the site and surrounds are provided at **Attachment 2**.

#### History

Planning permit 2018/554/1 was granted on 5 October 2018 for Buildings and works to an existing clubhouse in a General Residential Zone (Schedule 8) and a Heritage Overlay (Schedule 710). These most recent works comprise:

- two sets of double doors providing access to the north facing ground floor terrace
- new pergolas to the south, east and west facing ground floor terraces
- enclosure of first floor members terrace to provide extension to first floor members' bar.

Planning Permit 2015/332/1 was granted on 4 November 2015 for Demolition of existing buildings, removal of vegetation and buildings and works associated with the upgrade of the existing maintenance facilities.

Planning permit 2013/185/1 was granted on 21 May 2013 for Buildings and works associated with a section 2 use in the Residential 1 Zone, buildings and works in a Heritage Overlay (HO710) and removal of native vegetation in a Vegetation Overlay 3.

Planning permit 2013/259/1 was granted on 3 July 2013 for the removal of native vegetation within Vegetation Protection Overlay 3.

## 2. Planning controls

### Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.08-8 (General Residential Zone) – Carrying out buildings and works associated with a Section 2 use.
- Clause 42.02-2 (Vegetation Protection Overlay) – Removal of native vegetation.
- Clause 43.01-1 (Heritage Overlay) – Demolition of a building and construction of buildings and works.

### Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

## 3. Stakeholder consultation

### External referrals

There are no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

Internal referrals

The application was referred to the following Council departments for comment:

| Internal Referral | Response                             |
|-------------------|--------------------------------------|
| Arborist          | No objection, subject to conditions. |
| Traffic Engineer  | No objection, subject to conditions. |
| Drainage Engineer | No objection, subject to conditions. |

Public notification

The application was not required to be advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* as it was considered that the proposal would not cause any material detriment to any persons.

## 4. Recommendation

That Council resolves to **Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of planning application **2021/190/1** for the land known and described as, **Cheltenham Road, Black Rock** for the **partial demolition of buildings, buildings and works associated with an existing outdoor recreation facility in a Heritage Overlay, removal of native vegetation in a Vegetation Protection Overlay** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application) prepared by Demaine referenced TP001- TP400, revision TP-A dated 19 March 2021 but modified to show:
  - a) any design and construction methods required as a result of the findings from the Arboricultural Impact Assessment required in accordance with Condition 12 of this permit
  - b) all column locations within the basement to comply with the AS2890.1
  - c) a minimum 2.2m headroom clearance to be provided at the entrance (measured perpendicularly to the ramp) and throughout the car park in accordance with AS2890.1
  - d) all relevant intermediate levels to the basement ramp
  - e) 'No Right Turn' signage where the basement ramp connects with the main aisle at ground floor
  - f) additional traffic directional line-marking/s (arrows) where the basement ramp connects with the main aisle at ground floor
  - g) Water Sensitive Urban Design measures in accordance with Condition 5 of this permit
  - h) a Landscaping Plan in accordance with Condition 9 of this permit
  - i) an Arboricultural Impact Assessment Report in accordance with Condition 12 of this permit
  - j) a Tree Protection Management Plan in accordance with Condition 13 of this permit

all to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

#### Water Sensitive Urban Design

5. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
  - a) the type of water sensitive urban design stormwater treatment measures to be used
  - b) the location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas
  - c) design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

6. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

#### Drainage

7. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
8. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's City Assets and Presentation Department.

Council Stormwater drainage is for surface rainwater, no water below the Ground Water Table is accepted into the Council Stormwater system. Only occasional, clean, uncontaminated seepage water (associated with a rain event) is accepted to an appropriate Council underground drain OR this subterranean water must be suitably retained on-site.

#### Landscaping

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be

generally in accordance with the landscape plans drawn by memLa, reference LC00, LC01, LC02, LC03 and LC04 dated 9 April 2021 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

- a) a survey including botanical names of all existing trees on the site where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the development area
  - b) a planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count
  - c) 3 indigenous canopy trees with the capacity to grow to 20 metres in height
  - d) 10 indigenous canopy trees with the capacity to grow to at least 8 metres in height
  - e) Details of surface finishes of pathways, accessways and ramps.
10. Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
  11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

#### Arboricultural Impact Assessment Report

12. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, an Arboricultural impact assessment report in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites must be provided to Council's Satisfaction. The report will explain design and construction methods proposed to minimize impacts on trees to be retained on the site where there is encroachment into the calculated Tree Protection Zone (TPZ).

#### Tree Protection Management Plan (TPMP)

13. Before the development starts, including any related demolition or removal of vegetation, a TPMP, prepared by a suitably qualified arborist, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. This report must be made available to all relevant parties involved with the site.

The TPMP must include:

- a) details of Tree Protection Zones, as per AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties (including public open space trees) where any part of the Tree Protection Zone falls within the subject site
- b) protection measures to be utilised and at what stage of the development they will be implemented
- c) appointment of a project arborist detailing their role and responsibilities
- d) stages of development at which the project arborist will inspect tree protection measures
- e) monitoring and certification by the project arborist of implemented protection measures.

Before any works associated with the approved development, a project arborist must be appointed and the name and contact details of the project arborist responsible for implementing the endorsed TPMP must be submitted to the Responsible Authority.

Any modification to the TPMP must be approved by the project arborist. Such approval must be noted and provided to the Responsible Authority within seven days.

The TPMP must include a Tree Protection Plan (TPP) in accordance with AS4970-2009 Protection of Trees on Development Sites.

The TPP must include:

- f) Be legible, accurate and drawn to scale
- g) Show the location of all tree protection measures to be utilised
- h) Include a key describing all tree protection measures to be utilised.

#### Permit Expiry

14. This permit will expire if one of the following circumstances applies:

- a) The development is not started within two years of the date of this permit.
- b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

#### Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council's Policy for "Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

#### 5. Council Policy

##### Council Plan 2017-2021

Relevant objectives of the Council plan include:

- where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

- make discretionary planning controls stronger, by advocating for Council's planning and urban design objectives to state government.

##### Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 13 Environmental Risks

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- Clause 15 Built Environment and Heritage
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.04 Environmental and Landscape Values
- Clause 21.05 Environmental Risks
- Clause 21.06 Built Environment and Heritage
- Clause 21.09 Transport and Access
- Clause 22.05 Heritage Policy
- Clause 32.08 General Residential Zone (Schedule 8)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.01 Heritage Overlay (Schedule 710)
- Clause 43.02 Design and Development Overlay (Schedule 2)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 53.18 Stormwater Management in Urban Development
- Clause 65 Decision Guidelines

**6. Considerations**

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme and the individual merits of the application.

**6.1. Buildings and works**

Pursuant to Clause 32.08-9, a permit is required for buildings and works associated with the existing Section 2 use of the site for an Outdoor Recreation Facility.

All of the buildings and works are proposed to be located within close proximity to the existing buildings on the site around the existing clubhouse, pro-shop and bowls pavilion.

The proposed basement car park would be predominantly obscured from view due to its location underground. The main vehicle access ramp to the basement car park will be located to the south of the existing bowls pavilion and pedestrian and buggy ramps will be located further south. Low stone coloured rendered walls are proposed around the ramps. These will not be visible from the street or surrounds.

The primary above ground buildings and works will be set back between 53 metres and 148 metres from the front site boundary adjacent to Cheltenham Road.

Proposed buildings and works to the bowling pavilion include a 43sqm extension of the pavilion to the north and east and internal alterations to include improved WC facilities and green keepers and bowlers store. A 103sqm extension to the pavilion to the west, adjacent to the golf driving range includes the addition of a lobby providing stair and lift access to the basement and golf ball dispenser. Covered terrace areas to the north and south and pergolas to the west are also incorporated into this extension. The extensions will be low in profile with wall heights of approximately 3.9 metres and a traditional pitched roof form to the new golf lobby will have a maximum overall height of 7.3 metres.

The additions to the golf pro-shop comprise a pergola, covered walkway and parking for 48 buggies. These additions will be located to the south of the existing pro-shop building, and with a height of 3.6 metres and location over 100 metres from Cheltenham Road will be obscured from view from Cheltenham Road.

The form and materials of all of the additions will integrate with the existing main clubhouse building which has a traditional architectural style. Large areas of glazing and large openings to the terraces ensure the additions to not dominate the appearance of the built form within the site. Stone coloured render and dark metal fenestration to match the existing buildings, slate tiles and sandstone paving proposed also ensure that the buildings link together cohesively as shown in **Figure 1** below.



*Figure 1: Extract from Application plan TP302 Revision A – View of golf and bowls pavilions at car park ramp.*

The proposed buildings and works will be in keeping with the purposes of the zone to respect the neighbourhood character of the area. By virtue of the low building profiles, integration with the existing buildings on the site and being set back significantly from the street, the proposed new built form will be primarily obscured from view behind the existing boundary fence and landscaping on Cheltenham Road. As such, there will be no detrimental impact on the neighbourhood character of the site or surrounds.

#### 6.2. Heritage Overlay

The site is located within the Heritage Precinct (HO710). Clause 43.01 of the Bayside Planning Scheme sets out that HO710 relates to trees within Royal Melbourne Golf Course and notably, Southern Mahogany Gums. This application does not propose to remove any Southern Mahogany Gums.

The existing clubhouse buildings on the site are not listed as contributory. The proposed additions to the bowling pavilion and pre-shop would preserve the character, appearance and significance of the heritage place by virtue of their minor nature.

#### 6.3. Design and Development Overlay, Schedule 2.

The site is located within Design and Development Overlay (Schedule 2). Pursuant to Clause 43.02 of the Bayside Planning Scheme, a permit is required for buildings and works exceeding 9 metres in height. The maximum overall building height of the proposed development is approximately 7.3 metres and therefore no permit is required in accordance with the DDO2.

#### 6.4. Car parking and traffic

Pursuant to the car parking requirements at Clause 52.06, as there is no increase to the patron numbers proposed at the golf club, there is no statutory requirement for additional car parking to be provided on site. Nevertheless, this application proposes a number of

changes which result in a net increase of 96 parking spaces and 2 drop off spaces. A summary of the existing and proposed on site parking is included below:

|                   | Existing                                   | Proposed                                   |
|-------------------|--|--|
| At grade (public) | 188 standard spaces<br>5 accessible spaces | 95 standard spaces<br>2 accessible spaces  |
| At grade (staff)  | 31 standard spaces                         | 31 standard spaces                         |
| Basement          | -  | 190 standard spaces<br>2 accessible spaces |
| Drop off          | -  | 2 spaces                                   |
| <b>TOTAL</b>      | 224 spaces                                 | 320 spaces (+ 2 drop off)                  |

The application proposes to retain the existing vehicle access to the site from Cheltenham Road via the internal accessway to the at grade public car park within the site. The existing access to the separate staff car park, located to the north of the clubhouse, is also proposed to be retained and no changes are proposed to this part of the site. It is also noted that no changes are proposed to the existing loading arrangements which are also carried out within this area.

The application proposes to construct a basement ramp approximately in the centre of the existing at grade public car park. To accommodate the siting of the basement ramp within the centre of the existing at grade car park, a number of at grade parking spaces will be removed and replaced with landscaping.

The applicant, in their traffic report states that there is an existing informal 'overflow' car park located on an area of grass to the east of the clubhouse. During busy periods, when the existing 193 public spaces at the site are full, up to 100 vehicles are directed out of the main car park, back onto Cheltenham Road and into the overflow car parking area which is accessed via a separate gate from Cheltenham Road. This results in up to 100 additional vehicle movements on Cheltenham Road. The provision of additional, formalised car parking spaces accessed directly from the existing car parking area within the site will therefore reduce the number of vehicle movements on Cheltenham Road.

The traffic report submitted with the application also includes an assessment against the relevant design standards for car parking accessways, gradients and spaces at Clause 52.06 of the Bayside Planning Scheme as well as swept path drawings demonstrating safe access and egress to the basement car park.

The application was referred to Council's Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to headroom clearance within the basement and basement ramp, column locations, ramp gradients, and in relation to the addition of 'no right turn' signage and directional line markings. These are included as conditions within the recommendation.

The application plans demonstrate the locations of pedestrian walkways within both the basement car park and within the new at grade car park and landscaped area. Dedicated pedestrian pathways between the bowls pavilion and driving range pavilion and the pro-shop and club house will reduce potential conflicts between pedestrians and vehicles within the application site.

Subject to the previously mentioned conditions suggested by Council's Traffic Engineers, it is recommended that the proposed amendments to on-site parking would improve the transport provisions on site in accordance with the purpose of Clause 52.06. The consolidation of car parking facilities will promote the efficient use of the parking spaces for patrons within the site, as well as improving the amenity of the locality by reducing the number of vehicle movements on Cheltenham Road. In addition, the high standard of the design of the new parking spaces and pedestrian routes will enhance the safety and

efficiency of the site for users.

#### 6.5. Landscaping

The objectives of the VPO3 are to retain the amenity, aesthetic character and habitat value of native vegetation by preventing the loss of native (particularly indigenous) vegetation and promoting the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.

The application plans show the removal of 13 trees protected by the VPO3 as set out in the table below. It is noted that there are also a number of other trees to be removed which are not protected by and statutory mechanism and can be removed without any permit required.

| VPO3 protected vegetation           |                        | Local Law protected trees |                        | Vegetation not protected                          |                        |
|-------------------------------------|------------------------|---------------------------|------------------------|---|------------------------|
| Proposed for removal                | Proposed for retention | Proposed for removal      | Proposed for retention | Proposed for removal                              | Proposed for retention |
| Tree No's 1, 2, 3 and Tree group 17 | -                      | -                         | -                      | Tree No's 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 16 | Tree No's 14, 15, 18   |

The VPO protected trees sought for removal are native to Australia but are not indigenous to this part of the country. Tree No's 1 and 2 are Marri trees with heights of 8 – 10 metres, Tree 3 is a Lemon Scented Gum with a height of 20 metres, and Tree group 17 is identified as a group of Tea Trees with varying heights of up to 4 metres. A copy of the Applicants Arborist report and response to Council's Arborist referral comments is included at **Attachment 3**.

From an arboricultural perspective, Council's Arborist has reviewed the application and advises that Trees 1, 2, 3 and tree group 17 are considered to have low or moderate amenity value. Trees 1, 2 and tree group 17 have fair or poor health and structure whilst Tree 3 has good health and structure. Further detail of trees 1, 2 and 3 is provided in **Attachment 4**.

Council's Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable subject to the species selection revised so as to consist of at least 80% native vegetation by count and type. The landscape plan will also need to demonstrate that at least 13 indigenous replacement canopy trees are included within the replacement planting. 3 of these indigenous trees should have mature heights of 20 metres. A condition has been included in the recommendation requiring an amended landscape plan to be submitted to Council's satisfaction.

The proposed extent of vegetation removal is considered to be acceptable when assessed against the decision guidelines of the VPO3. An assessment against the decision guidelines of the VPO3 is provided at **Attachment 5**. The character of the area, including the extent of indigenous vegetation present, will be improved once replacement plantings are undertaken. The majority of the vegetation sought to be removed is low scale and is not visible from Cheltenham Road. Whilst it is recognised that Tree 3 is taller and its canopy is visible from Cheltenham Road, the retention of this tree would preclude the development and, subject to the replacement planting of 3 indigenous trees of a similar size, its removal is supported. The proposed vegetation removal will also not impact on the overall quality of habitat within the broader area and the extent of removal is justified when considered against the level of development proposed. The proposed vegetation removal is considered to comply with the objectives of the VPO3.

Council's Arborist has advised that there are a number of trees on the application site to the north and south of the proposed basement with their Tree Protection Zones (TPZ) extending into the subject site. Consideration should be given to the impact of the development upon these trees. Council's Arborist has recommended that an Arboricultural Impact Assessment Report should be provided, explaining any relevant design and construction methods to minimize impacts on trees to be retained. A condition has been included to this effect within the recommendation. A condition has also been included requiring the application plans to be amended to detail any design and construction methods recommended within the Impact Assessment report.

To ensure that the trees on the site to the north and south of the proposed basement will need to be protected during construction and remain viable post construction. A Tree Management Plan and Tree Protection Plan will be required to be submitted to Council's satisfaction. A condition to this effect has been included in the recommendation.

There are no street trees or neighbouring trees within the proximity of the development area which would be impacted by the proposal.

#### 6.6. Water Sensitive Urban Design

Clause 53.18 of the Bayside Planning Scheme, seeks to reduce the impact of stormwater on the drainage system and filter sediment and waste from stormwater, maximise the retention and reuse of stormwater and encourage stormwater management that contributes to cooling, local habitat improvements and provision of attractive and enjoyable spaces.

The planning report submitted with the application states that stormwater detention systems are proposed for the additional rainwater runoff from the new roofed areas, landscaped area built above the proposed basement and new at grade hard and soft landscaped areas outside of the basement extent.

Conditions have been included in the recommendation requiring details of the location and specifications of the proposed stormwater management systems to be provided to Council's satisfaction.

#### 6.7. Cultural Heritage management plan

The application site is located within an area of cultural heritage sensitivity. The construction of a basement car park is a high impact activity and therefore consideration as to whether a Cultural Heritage Management Plan (CHMP) is required must be made.

A significant ground disturbance assessment prepared by a Heritage Advisor has been submitted with the application. This assessment sets out that significance ground disturbance has occurred within the activity area. Under regulation 41(2) of the Aboriginal Heritage Regulations, that part of the site is not an area of cultural heritage sensitivity. As a result of these findings, a CHMP is not required. This does not prohibit the granting of a planning permit.

#### 6.8. Development contributions levy

Based on the proposed application and below recommendation, no development contributions levy is applicable.

### Support Attachments

1. Application plans ↴
2. Site and surrounds ↴
3. Applicant's Arborist Report and Response to Referral comments ↴
4. Tree Profiles ↴
5. Vegetation Protection Overlay Assessment ↴

**ROYAL MELBOURNE GOLF CLUB**  
CHELTENHAM ROAD, BLACK ROCK VICTORIA

**3PS PROJECT**

**DRAWINGS LIST**

| DRAWING NO. | DESCRIPTION                           |
|-------------|---------------------------------------|
| TP001       | COVERSHEET                            |
| TP002       | EXISTING CONDITIONS - SURVEY          |
| TP003       | SITE ANALYSIS                         |
| TP004       | DEMOLITION PLAN                       |
| TP100       | SITE PLAN                             |
| TP101       | BASEMENT PLAN                         |
| TP102       | PROPOSED PAVILION FLOOR PLAN          |
| TP103       | PROPOSED PROSHOP EXTENSION            |
| TP104       | PROPOSED PAVILION ROOF PLAN           |
| TP105       | PROPOSED PROSHOP EXTENSION ROOF PLAN  |
| TP200       | OPTION 2 - TYPICAL SECTIONS           |
| TP201       | OPTION 2 - TYPICAL SECTIONS           |
| TP202       | PROPOSED PAVILION ELEVATION           |
| TP203       | PROPOSED PROSHOP EXTENSION ELEVATIONS |
| TP300       | VIEW FROM PROSHOP                     |
| TP301       | RANGE PAVILION FROM SW                |
| TP302       | VIEW AT CARPARK RAMP                  |
| TP303       | VIEW FROM NORTH WEST                  |
| TP304       | PAVILIONS FROM SOUTH                  |
| TP305       | PROSHOP EXTENSION FROM SW             |
| TP400       | FINISHES & MATERIAL SCHEDULES         |

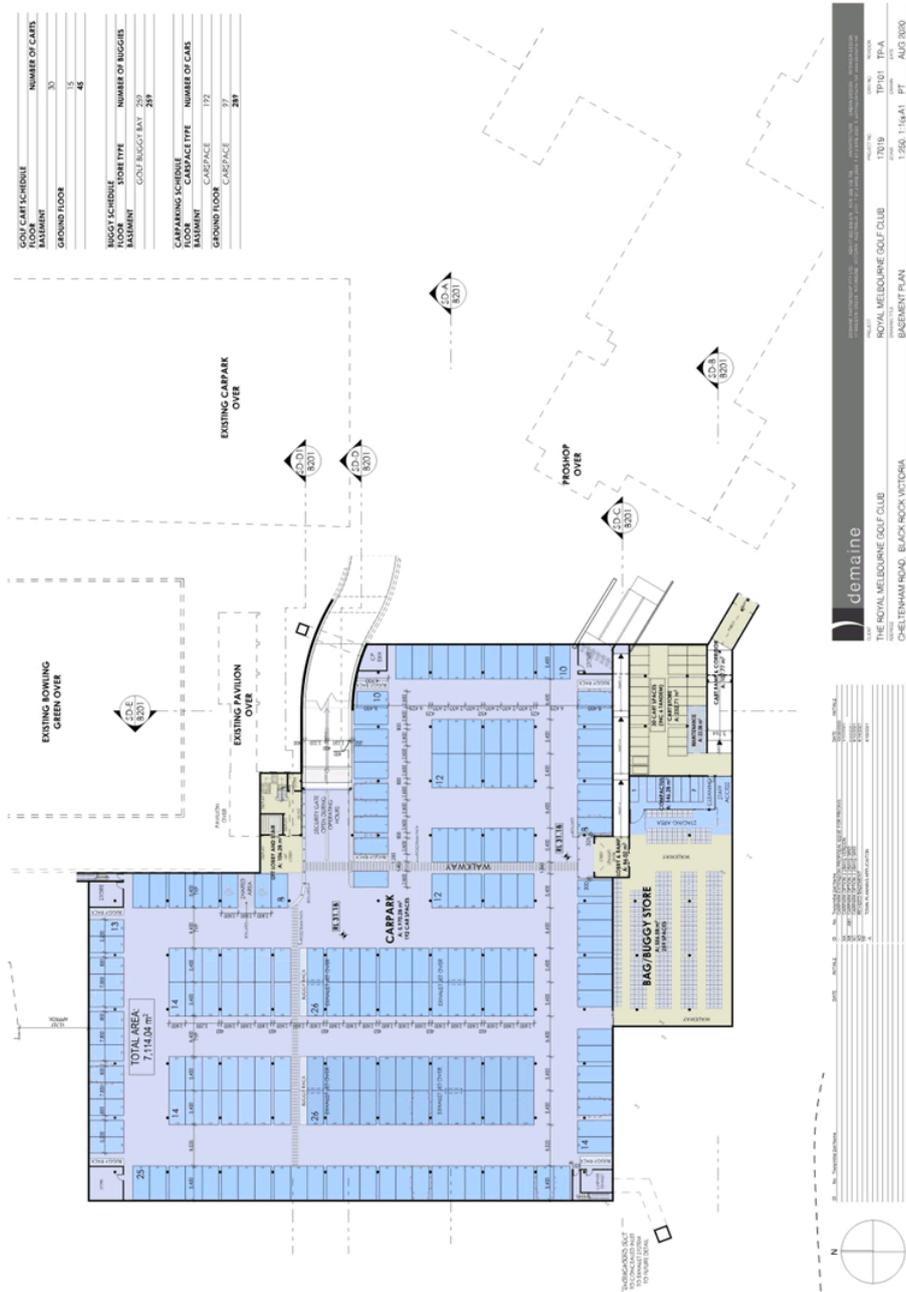






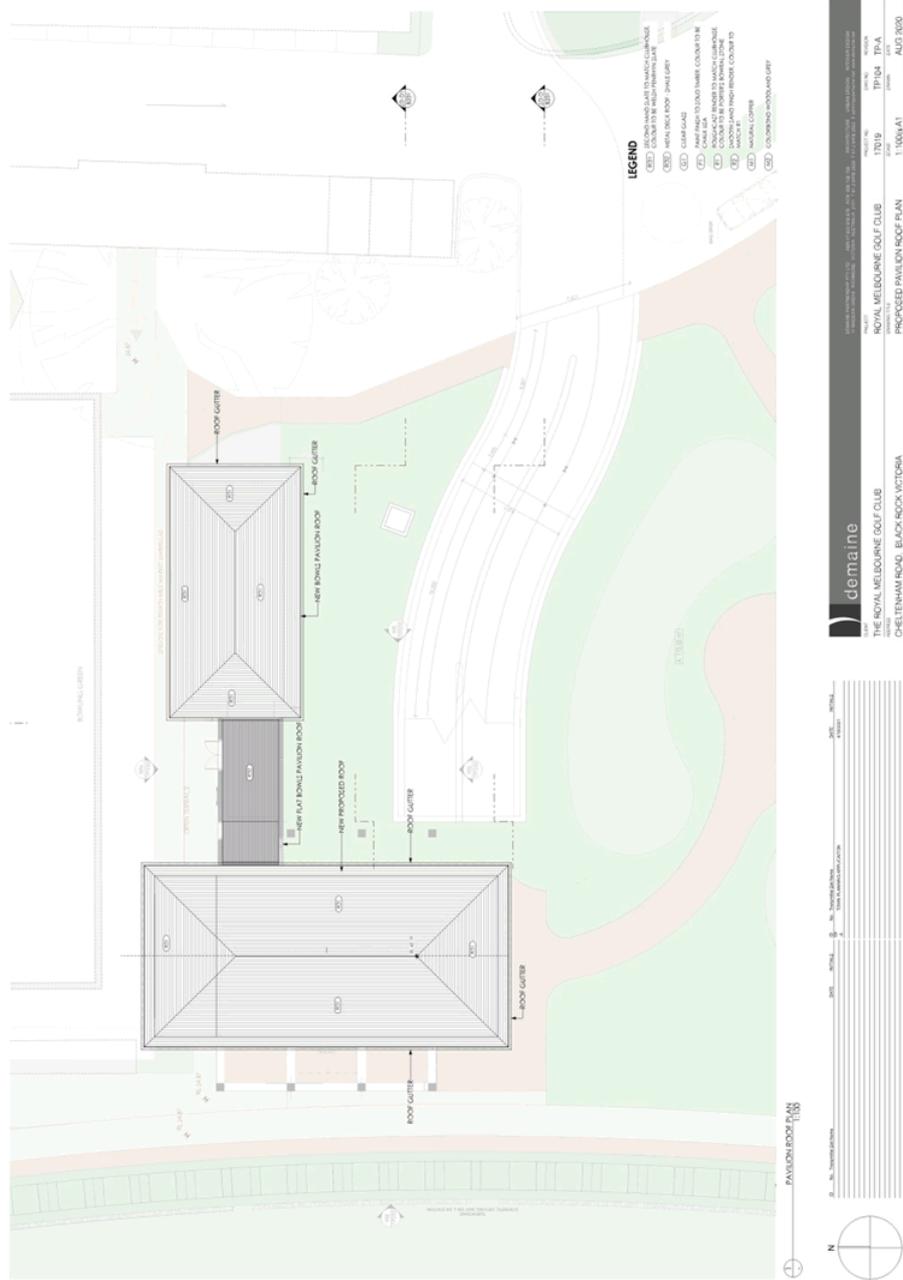


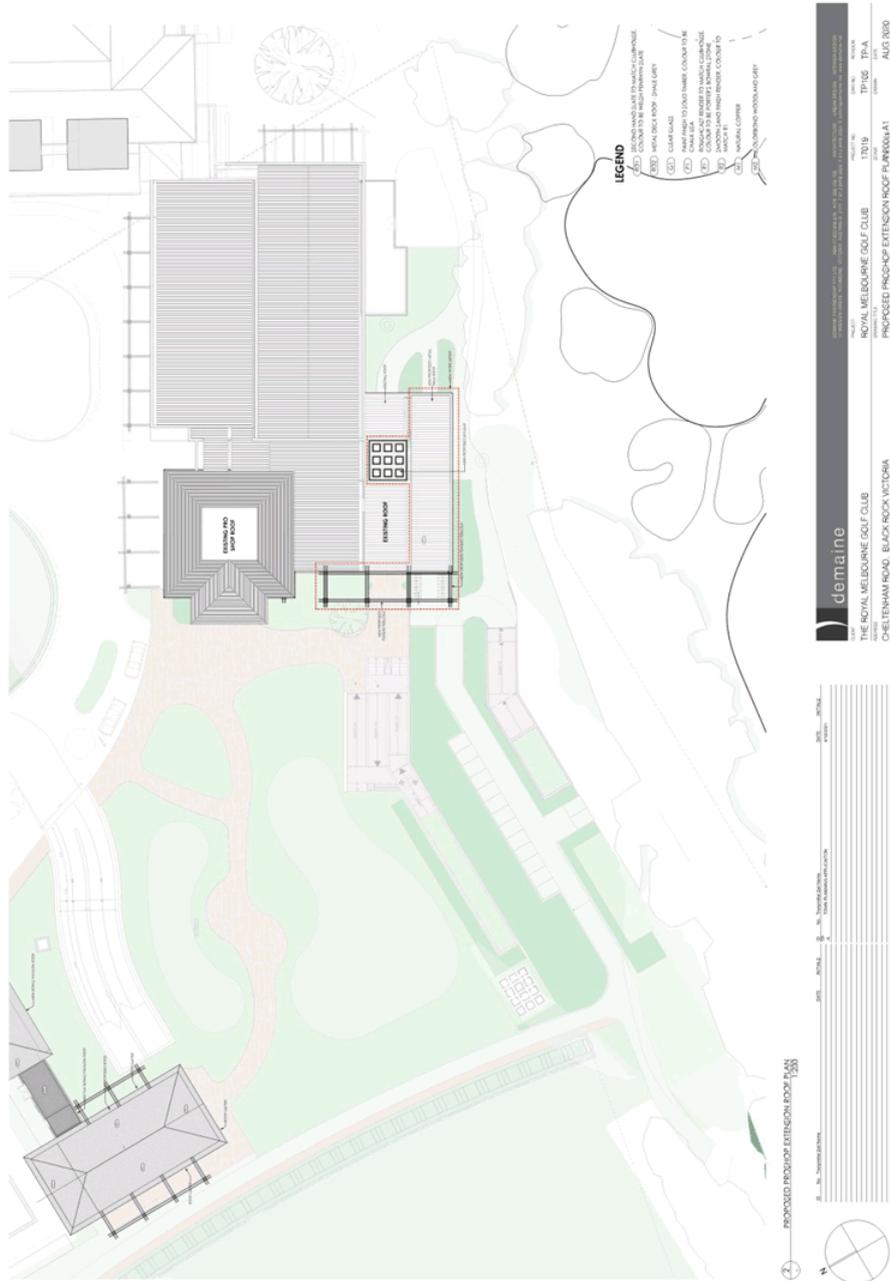


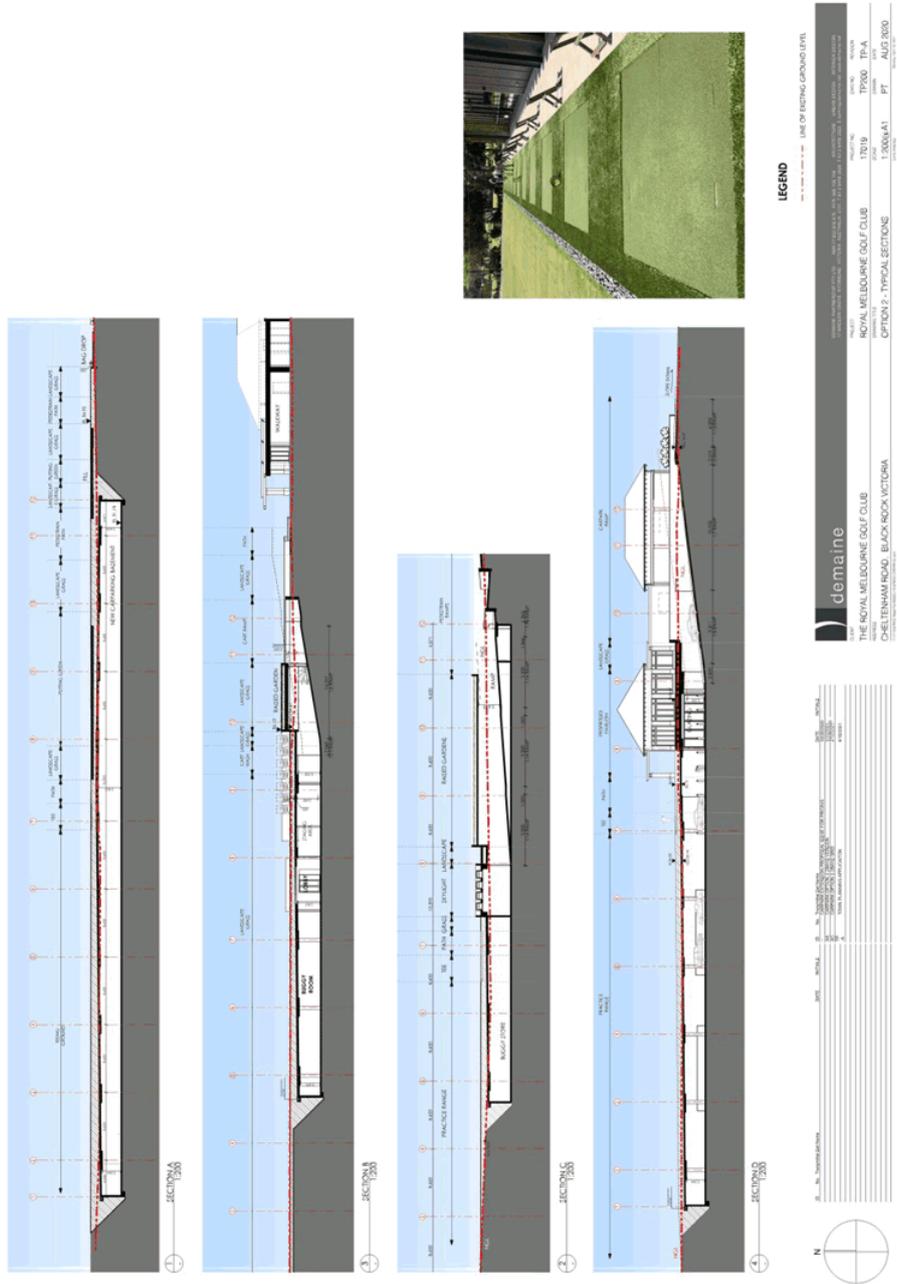












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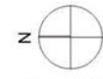
Item 4.9 – Matters of Decision





1 VIEW FROM PROSHOP

|        |           |
|--------|-----------|
| ####   |           |
| NO. ID | REVISIONS |
| 01     | 4/12/2021 |
| TP     | 4/19/2021 |
| A      |           |
|        |           |
|        |           |
|        |           |



**demaine**

CLUB  
THE ROYAL WELBOURNE GOLF CLUB  
CHILTERNHAM ROAD, BLACK ROCK VICTORIA  
10/100 DUNDAS STREET, BLACK ROCK VICTORIA 3193

PROJECT  
ROYAL WELBOURNE GOLF CLUB  
VIEW FROM PROSHOP

PROJECTING: BETHAN WOOD  
DATE: 17/09/2021  
DRAWN: WJ  
DATE: 17/09/2021



1. VIEW OF RANGE PAVILION FROM SW

| NO | ID | REVISIONS | DATE      | INITIALS |
|----|----|-----------|-----------|----------|
| 1  |    |           | 4/12/2021 |          |
|    |    |           | 4/19/2021 |          |



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PROJECT  
 ROYAL WELBOURNE GOLF CLUB  
 RANGE PAVILION FROM SW

DATE  
 4/19/21

PROJECTING ENGINEER  
 17/19

DATE  
 4/19/21

PROJECTING ENGINEER  
 17/19

DATE  
 4/19/21

PROJECTING ENGINEER  
 17/19

DATE  
 4/19/21



VIEW AT CARPARK RAMP



|     |    |           |           |          |
|-----|----|-----------|-----------|----------|
| NO. | ID | REVISIONS | DATE      | INITIALS |
| 01  |    |           | 4/12/2021 |          |
| TP  |    |           | 4/19/2021 |          |
| A   |    |           |           |          |
|     |    |           |           |          |
|     |    |           |           |          |

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PROJECT: ROYAL MELBOURNE GOLF CLUB  
 VIEW AT CARPARK RAMP

DATE: 4/12/2021  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]





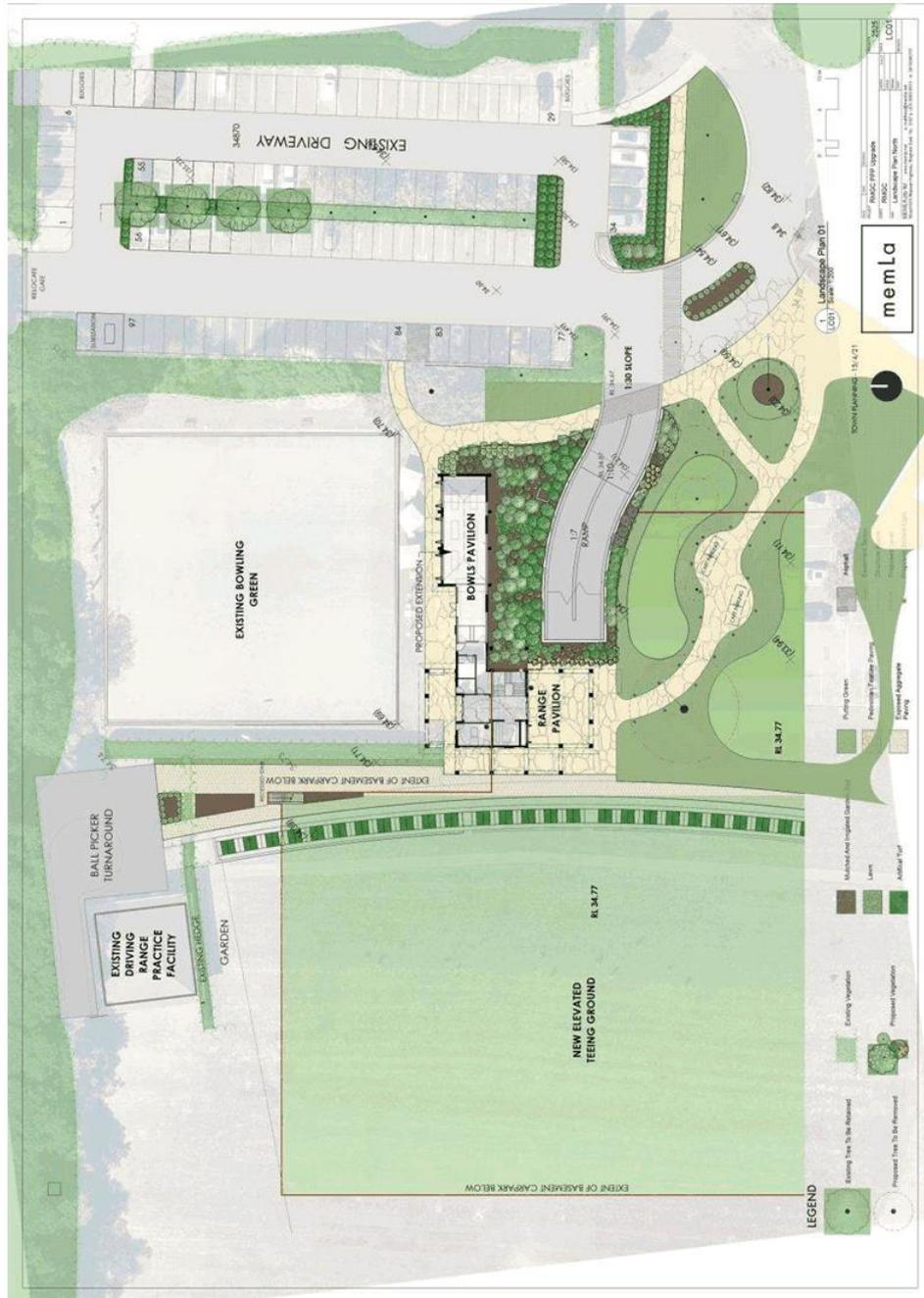


|  |  |
|--|--|
| <p>1301</p>  <p>NEW CASTLEMAINE SANDSTONE<br/>RANDOM PAVING</p>                               | <p>R1</p> <p>ROUGHCAST RENDER TO MATCH<br/>CLUBHOUSE.<br/>COLOUR: PORTERS BOWWAL STONE</p>  |
| <p>1701</p> <p>RUBBERWAY "RUBBER MULCH"<br/>COLOUR: TIC</p>                                   | <p>R2</p> <p>SMOOTH SAND FINISH RENDER<br/>COLOUR: PORTERS BOWWAL STONE</p>                 |
| <p>CONC.</p> <p>WASHED AGGREGATE CONCRETE<br/>FINISH</p>                                      | <p>M1</p> <p>METAL GUTTER<br/>COLOUR: TO MATCH CLUBHOUSE<br/>GUTTER</p>                     |
| <p>1801</p> <p>SECOND HAND SLATE TO MATCH<br/>CLUBHOUSE.<br/>COLOUR: WELSH FENRHYN SLATE</p>  | <p>M2</p> <p>COLOUR: COLOMBOND<br/>WOODLAND GREY</p>                                        |
| <p>1802</p> <p>METAL DECK ROOF<br/>COLOUR: SHAL GREY</p>                                      |  |
| <p>G1</p> <p>CLEAR GLASS</p>    |  |
| <p>P1</p> <p>PAINT FINISH TO SOUD IMBER.<br/>COLOUR: BURN CHALK USA</p>                     |  |




THE ROYAL MELBOURNE GOLF CLUB  
1701/9 TP-A  
CHELTENHAM ROAD, BLACK ROCK VICTORIA 3181  
FINISHES & MATERIAL SCHEDULES  
01/21  
AUG 2020





Item 4.9 – Matters of Decision



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Site and Surrounds



Figure 1 Aerial overview of the site and surrounds.

| Legend       |   |
|--------------|---|
| Subject site | ★ |



Figure 2 View towards the existing main vehicle entry to the site on Cheltenham Road.



Figure 3 View towards the existing main vehicle exit from the site to Cheltenham Road.



Figure 4 View towards the existing staff vehicle car park from Cheltenham Road.



Figure 5 View towards existing access to 'overflow' car park from Cheltenham Road.



*Figure 6 View looking north from car park towards Spotted Gum Tree No. 3 and existing bowls pavilion.*



*Figure 7 View looking west towards existing bowls pavilion and Marri Tree No's 1 and 2 approximately in location of proposed basement ramp.*



Figure 8 View looking south towards Tree Group 17 in foreground (small tea trees).



Figure 9 View looking south-east towards existing clubhouse and pro-shop from car park.



Figure 10 View looking west towards existing bowls pavilion.



Figure 11 View to north-east towards existing bowls pavilion.



*Figure 102 View to existing 'overflow' car park area from site.*



Date of Report: 27 May 2021  
Report Prepared By: Glenn Waters  
Author Qualifications: [Glenn Waters](#) | Arboriculture  
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Diploma of Horticulture  
Advanced Certificate of  
Arboriculture  
Certificate of Tree Surgery  
AQF - Level 9  
Registered QTRA Assessor  
Report ID: 21\_RMGC / Version 3

ARBORICULTURAL ASSESSMENT &  
TREE MANAGEMENT PLAN

**3PS Basement Carpark  
Royal Melbourne Golf Club**

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3PS Basement Carpark - Royal Melbourne Golf Club

27 May 2021

Arboricultural Assessment & Tree Management Plan

3PS Basement Carpark - Royal Melbourne Golf Club

Introduction

Glenn Waters has been engaged to undertake an inspection and report for the trees and property at 3PS Basement Carpark for the Royal Melbourne Golf Club, Black Rock.

This report is considered to be a 'Preliminary Tree Assessment' under the Australian Standard AS 4970-2009 *Protection of trees on development sites* and the purpose of this assessment is to provide quantitative and qualitative information on the trees and is the basis for deciding which trees are suitable for retention.

This report will provide comment on the individual site, neighbouring property and street trees in question and provide advice regarding the species, condition and suitability for retention of the existing site trees and also provide advice regarding the future management of the trees.

Objectives

- To inspect the site and existing trees located within site at 3PS Basement Carpark at the Royal Melbourne Golf Club including any trees that may be impacted by the proposed development of the subject site.
- To collect data on the individual site trees and provide a tree number plan that correspond to the report tree data.
- To provide an arboricultural report that provides advice and solutions for the future management of the site trees (as required).

Observations

The site is the current car parking and driving range and practice facility at the Royal Melbourne Golf Club and the site inspection and assessment captured data on eighteen (18) individual trees and including four (4) tree groups (#4, #5, #6 & #17).

Trees or shrubs under 3.0 metres in height were not assessed as they do not meet the criteria for a 'tree' under the Australian Standard AS 4970-2009 *Protection of trees on development sites*.

Of the 18 trees assessed, 15 will need to be removed for the proposed construction and 3 will be retained.

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27 May 2021

Discussion

General Tree Retention Discussion:

The Australian Standard AS 4970-2009 Protection of trees on development sites has been used to calculate the TPZ for the neighbouring property and street trees.

The TPZ is calculated based on trunk (stem) diameter (DBH), measured at approximately 1.4 metres up from ground level. The radius of the TPZ is calculated by multiplying the trees DBH by 12. The method provides a TPZ that addresses both the stability and growing requirements of a tree. TPZ distances are measured as a radius from the centre of the trunk at (or near) ground level.

Encroachment into the TPZ is permissible under certain circumstances though is dependent on both site conditions and tree characteristics. Minor encroachment, up to 10% of the TPZ, is generally permissible provided encroachment is compensated for by recruitment of an equal area contiguous with the TPZ.

Appendix 1 lists the standard tree protection works that should be considered as part of the management of trees to be retained during development and these works should be seen as a minimum standard to apply.

Retained Trees:

| No | Common Name | dbh (cm) | Age         | Value        | TPZs | SRZs |
|----|-------------|----------|-------------|--------------|------|------|
| 14 | Arizona Ash | 20       | Semi-mature | Low-Moderate | 2.4m | 1.9m |
| 15 | Arizona Ash | 20       | Semi-mature | Low-Moderate | 2.4m | 1.9m |
| 18 | Liquidambar | 80       | Maturing    | Moderate     | 9.6m | 3.2m |

Removed Trees:

| No | Common Name       | dbh (cm) | Age         | Value         |
|----|-------------------|----------|-------------|---------------|
| 1  | Marri             | 40/30    | Young       | Low-Moderate  |
| 2  | Marri             | 50/40/30 | Young       | Low           |
| 3  | Lemon Scented Gum | 95       | Maturing    | Moderate-High |
| 4  | Chinese Elm Row   | 18       | Young       | Low           |
| 5  | Chinese Elm Row   | 18       | Young       | Low           |
| 6  | Chinese Elm Row   | 18       | Young       | Low           |
| 7  | Crepe Myrtle      | m        | Semi-mature | Low           |

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| No | Common Name                | dbh (cm) | Age         | Value |
|----|----------------------------|----------|-------------|-------|
| 8  | October Glory Norway Maple | 15       | Young       | Low   |
| 9  | October Glory Norway Maple | 15       | Young       | Low   |
| 10 | October Glory Norway Maple | 15       | Young       | Low   |
| 11 | October Glory Norway Maple | 15       | Young       | Low   |
| 12 | October Glory Norway Maple | 15       | Young       | Low   |
| 13 | October Glory Norway Maple | 15       | Young       | Low   |
| 16 | Arizona Ash                | 18       | Semi-mature | Low   |
| 17 | Coast Tea-tree             | multi    | Maturing    | Low   |

To mitigate for the loss of the existing site vegetation and in particular, tree #3 (Lemon Scented Gum), the planting of ten (10) new local native trees is proposed.

The species mix will include *Banksia integrifolia* (Coast Banksia); *Banksia marginata* (Silver banksia) and *Eucalyptus pryoriana* (Coast Manna Gum).

Given that only three (3) Australian Native (non-Victorian) tree are proposed to be removed. This number of replacement trees is a favourable increase in local native tree numbers.

The retained trees will require tree protection fencing prior to demolition and during construction.

Group #17



All of the vegetation shown in the photograph will need to be removed. It would appear that there are approximately 10 stems existing in this area.

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3PS Basement Carpark - Royal Melbourne Golf Club

27 May 2021

Tree Management Plan:

Retained Trees:

| No | Common Name | dbh (cm) | Age         | Value        | TPZs | SRZs |
|----|-------------|----------|-------------|--------------|------|------|
| 14 | Arizona Ash | 20       | Semi-mature | Low-Moderate | 2.4m | 1.9m |
| 15 | Arizona Ash | 20       | Semi-mature | Low-Moderate | 2.4m | 1.9m |
| 18 | Liquidambar | 80       | Maturing    | Moderate     | 9.6m | 3.2m |

Tree Protection Plan Requirements

| No | Common Name | TPP Requirements        |
|----|-------------|-------------------------|
| 14 | Arizona Ash | Tree Protection Fencing |
| 15 | Arizona Ash | Tree Protection Fencing |
| 18 | Liquidambar | Tree Protection Fencing |

Non-Destructive Root Investigation:

No tree root investigation was undertaken for any tree.

Tree Pruning Requirements:

No pruning is required for any tree.

Over-excavation Allowance

No over-excavation is expected and no allowances have been made.

Scaffolding Clearance

No scaffolding requirement is expected and no pruning will be required.

Project Arborist Appointment:

A Project Arborist must be pointed prior to construction to ensure that the objectives and actions of this Tree Management Plan are carried out.

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Tree Protection Fencing Plan



Red Circles - Tree Protection Zones  
Blue Boxes - Tree Protection Fencing

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General Tree Management Plan Timetable.

| Development Phase                       | Task  | Tree requirements  | Performed by                    |
|---|---|--|---------------------------------|
| <b>Pre-demolition &amp; Demolition:</b> |   |  |                                 |
| <b>Pre demolition and development</b>   | Site induction                              | To educate contractors of the project requirements for tree retention and protection   | Project team                    |
| <b>Pre demolition</b>                   | Erection of Tree Protection Zone fencing    | Irrigation of Tree Protection Zone during warmer months. Mulching as required  | Site Manager / Project Arborist |
| <b>Construction:</b>                    |   |  |                                 |
| <b>Construction</b>                     | Supply irrigation to trees in warmer months | Supplying water is the most important maintenance task. Irrigation to be supplied on regular basis throughout spring and summer.                                     | Site Manager / Project Arborist |
| <b>Post Construction:</b>               |   |  |                                 |
| <b>Post Construction</b>                | Removal of protection fencing               | This should only be done when all site works are complete.   | Site Manager / Project Arborist |
| <b>Post Construction</b>                | Landscape Planting                          | Root disturbance within the TPZ is to be kept to a minimum. All planting holes within the TPZ are to be hand dug and relocated if roots over 30mm ø are encountered. | Landscape contractor            |
| <b>Post Construction</b>                | Final Certification Report                  | At the completion of construction. Recommend remedial works if applicable.   | Project Arborist                |

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**Tree Management Plan Recommendations:**

The following are guidelines that must be implemented to minimise the impact of the proposed construction works on the existing site trees.

- Tree protection fencing must conform to the Australian Standard (AS 4970-2009) and must remain in place and in good condition at all times. Shade cloth or similar should be attached to reduce the transport of dust, other particulate matter and liquids into the protected area. Appropriate signage must be displayed on any tree protection fencing prohibiting access excavation, changes in soil levels or any storage in accordance with AS4970-200 and be visible from all sides.
- Where fencing cannot adequately protect the TPZ, and access is required for construction purposes, ground protection using a permeable membrane beneath a layer of mulch or crushed rock below rumble boards, must be laid down within the TPZ of retained trees. Rumble boards (or similar) should be of a suitable thickness to prevent soil compaction and root damage. Ground protection must only be removed once all buildings and works have been completed.
- The Project Arborist must supervise any excavation works within the tree protection zones on the subject land and any instance where trees on adjoining properties may be impacted.
- No filling, trenching or excavation is to occur within Tree Protection Zones except for buildings and footings as approved by the applicable Planning Permit from the Responsible Authority.
- No persons, vehicles or machinery are to enter the Tree Protection Zone without the consent of the Project Arborist or Site Manager.
- No underground service installations are to be sited within any Tree Protection Zone.
- No fuel, oil dumps or chemicals will be allowed in or stored on the Tree Protection Zone and the servicing and re-fuelling of equipment and vehicles must be carried out away from the root zones. No storage of material, equipment or temporary building will take place over the Tree Protection Zone.
- Nothing whatsoever must be attached to any tree including temporary services wires, nails, screws or any other fixing device.
- No residual herbicides are to be used within the Tree Protection Zones.
- Supplementary watering must be provided for the fenced Tree Protection Zone through any dry periods during and after the construction process (Project Arborist will advise amounts).
- Any pruning of the canopies required for building or vehicle clearance, or other reasons, is to be done by a qualified arborist to Australian Standards for pruning of Amenity Trees 4373 – 2007.
- The tree protection zone must be mulched (where advised by the Project Arborist) with a 100mm layer of coarse (30mm dia) organic woodchip mulch.
- All excavation within the Tree Protection Zone must be carried out by hand digging or with the use of 'NDD-Excavation' techniques and only when supervised by the Project Arborist. Where the Project Arborist identifies roots to be pruned within the TPZ, they should be pruned with a final cut to undamaged wood. Pruning cuts should be made with sharp tools such as secateurs, pruners, handsaws or chainsaws. It is not acceptable for roots within the TPZ to be 'pruned' with machinery such as backhoes or excavators.

3PS Basement Carpark - Royal Melbourne Golf Club

27 May 2021

**Timetable for the Project Arborist Attendance on-Site.**

The Project Arborist shall be contacted and available for attendance on the site for the following key milestones:

- Prior to demolition during or immediately after the setup of the Tree Protection Zone fencing. The Project Arborist must check and confirm the alignments and access points.
- During construction when any works enter the Tree Protection Zones.
- During or immediately after the removal of the Tree Protection Zone fencing. The Project Arborist must check and confirm the condition of the two street trees. A final overview report on the construction process and the tree protection issues should be prepared at this time and a timeframe for ongoing tree monitoring set.

Should damage occur to any retained tree, the Project Arborist must be contacted within 24 hours and a site inspection be arranged. Any works arising out of any damage inspection must be carried out as soon as practical.

Should any construction works require alteration to protection measures outlined in report the Project Arborist must provide written advice as to the requirements and the new tree protection measures.

Glenn Waters

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### Appendix 1: Tree Protection During Development

The following are guidelines that must be implemented to minimise the impact of the proposed construction works on the retained trees.

- The Tree Protection Zone (TPZ) is fenced and clearly marked at all times. This fence should deter the placement of building materials, entry of heavy equipment and vehicles and also the entry of workers and/or the public into the TPZ. Australian Standard AS 4687 - 2007 *Temporary fencing and hoardings*, specifies appropriate fencing requirements. Existing perimeter fencing can be incorporated into the protective fencing. Shade cloth should be attached to reduce the movement of dust and other particulates into the TPZ. Signs identifying the TPZ are to be placed on the fencing.
- If the area within the TPZ is to be accessed during the construction phase then the area will need ground protection. Measures may include a permeable membrane, such as a geotextile, to cover the TPZ area beneath a 100 mm layer of crushed rock below rumble boards.
- Contractors and site workers should receive written and verbal instruction as to the importance of tree protection and preservation within the site. Successful tree preservation occurs when there is a commitment from all relevant parties involved in designing, constructing and managing a development project.
- The Project Arborist is on-site to supervise excavation works around the existing trees where the TPZ will be encroached.
- There is no immediate requirement for mulching within the TPZ. There is benefit to maintaining existing site conditions within the TPZ and is more analogous to proposed completion conditions. Monitoring of the trees in-line with prevailing weather conditions will indicate if mulching will be required. The same approach is to be used in providing supplemental irrigation.
- No persons, vehicles or machinery to enter the TPZ without the consent of the consulting arborist or site manager.
- Any underground service installations within the allocated TPZ should be bored and utility authorities should common trench where possible.
- No fuel, oil dumps or chemicals shall be allowed in or stored on the TPZ and the servicing and refuelling of equipment and vehicles should be carried out away from the root zones. No storage of material, equipment or temporary building should take place over the root zone of the tree. Nothing whatsoever should be attached to the tree including temporary services wires, nails, screws or any other fixing device.
- Any pruning that is required must be carried out by trained and competent arborist who has a thorough knowledge of tree physiology and pruning methods and carry out pruning to the Australian Standard – AS 4373 – 2007 *Pruning of Amenity Trees*.
- All excavation within the Tree Protection Zone must be carried out by hand digging or with the use of 'NDD-Excavation' techniques and only when supervised by the Project Arborist. Where the Project Arborist identifies roots to be pruned within the TPZ, they should be pruned with a final cut to undamaged wood. Pruning cuts should be made with sharp tools such as secateurs, pruners, handsaws or chainsaws. It is not acceptable for roots within the TPZ to be 'pruned' with machinery such as backhoes or excavators.

## GLENN WATERS | ARBORICULTURE

P.O. Box 94,  
Oakleigh South, VIC. 3167.

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To the writer's knowledge all facts, matter and all assumptions upon which the report proceeds have been stated within the body of the report and all opinion contained within the report will be fully researched and referenced and any such opinion not duly researched is based upon the writers experience and observations.

28 May 2021

Ms Rosie Nolan  
Statutory Planning Department  
Bayside City Council  
76 Royal Avenue  
Sandringham  
VIC 3191

Dear Rosie,

**PLANNING PERMIT APPLICATION 5/2021/190/1**  
**ROYAL MELBOURNE GOLF CLUB – CHELTENHAM ROAD & 1 LINKS STREET, BLACK ROCK**

We continue to act for Royal Melbourne Golf Club Inc. ('RMGC') in relation to the above planning permit application and provide the following response to the referral comments received from Council's Arborist, Ronan Hamill dated 21 May 2021.

**Background**

The Royal Melbourne Golf Club and the courses of which they are custodian, are the beneficiaries of one of the largest areas of native and indigenous flora and fauna in the Municipality of Bayside. With this, RMGC are committed and proactive in their stewardship of these assets.

They do so not only to preserve the established vegetation community on Site but in the interests of nurturing and enhancing indigenous vegetation species that support natural habitat for native and indigenous wildlife within the area and which collectively, is an intrinsic part of the character and landscape setting of this part of Black Rock and the surrounding community.

**Arborist Referral Comments**

The Arboricultural Assessment & Report ('AAR') prepared by Glenn Waters identifies a number of trees to be removed from the Site to facilitate the proposed development. The trees identified as Trees 1-18 on page 5 of the AAR are an accurate catalogue of the trees to be affected by the proposed development and include those to be removed and those identified for retention. An updated AAR is provided in accompaniment to this response and updates the tree schedules on pages 2 and 3.

Following site inspection and desktop assessment Council's Arborist has confirmed support for the removal of two protected trees on Site, namely the two 'Marrri' trees located adjacent to the existing bowling pavilion, 'Tree 1' and 'Tree 2' within the AAR. Support has also been extended to vegetation that is not protected by any municipal or statutory mechanism comprising a total of 11 trees, Trees 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 16 within the AAR, noting these trees can be removed 'as of right'.

A Lemon Scented Gum, native to Queensland, (Tree 3) has been identified as being capable of retention, noting it is considered by Council's Arborist as being a mature Australian Native with moderate amenity and habitat value and high retention value.

**Landscape Character**

The Royal Melbourne Golf Course is host to 'small patches of open Heathland, Manna Gum woodland, Swamp Gum and Red Gum Woodland' and are some of the most significant remnants of the once widespread flora of the 'sand belt'<sup>1</sup> that exist today. This existing remnant heathland is important to RMGC given the interaction of the complex plant communities that once dominated the 'sandbelt' area and the Club has been successful in regenerating the original Heathland throughout major sections of the courses. RMGC are now custodians and managers of the main remaining area of these plant communities within the City of Bayside, to the benefit of the whole community.

<sup>1</sup> Daintree Landscapes Indigenous Flora Survey 1989



The golf course is comprised of the East and West courses, two 18-hole courses with significant differences in their vegetated characteristics and soil composition.

The West Course was predominated by a Coastal Heathland vegetation community and this vegetation type remains prevalent today. Large areas of Tea- tree scrub and regenerated Heath give this course its unique landscape character and it is the largest area of Coastal Heathland vegetation surviving in the local area.

The East Course however was built on different soil types with areas of swampy ground and was historically in agricultural use. This course is now host to River Red Gum Woodland areas and high number of specimen Eucalypt plantings.

#### **Tree Management**

Being the custodian of a significant land holding with a unique landscape character, RMGC have for many years developed and maintained a Tree Management Plan, with this having been in place since 2003. This has seen the extensive tree population being maintained by a very high level of arboricultural works undertaken by RMGC's in-house Arboricultural Team.

The course is the number 1 ranked golf course in Australia and it is testament to the outstanding course design and high quality grounds management that this rating is maintained.

RMGC are committed to supporting and contributing to the indigenous vegetation community across its courses, with this being an objective of the Clubs Charter. They therefore do not seek to needlessly remove trees from the course but instead take great care to retain existing trees wherever possible.

The Lemon Scented Gum to be removed to facilitate the proposed development is located within the existing car park to the northwest of the Clubhouse and in this, has a different contextual setting to the larger vegetation community that predominates and is characteristic of the golf course. It forms part of the lower order vegetated setting of the car park, where a number of low amenity trees are to be removed. In the wider context of the heath and woodland that predominates across the courses, the Lemon Scented Gum makes a limited contribution to this established indigenous character.

The Site in forming part of the Vegetation Protection Overlay Schedule 3 (VPO3), it is acknowledged that Australian native species complement the visual amenity of the Beaumaris and Black Rock Native Vegetation Areas. However, the Lemon Scented Gum is siloed in its amenity value by virtue of its immediate and contained setting and is not considered to make a significant amenity contribution in the whole.

An objective of VPO3 is to promote the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area. This is a fulfilled and on-going objective of RMGC and in the interests of supporting the indigenous community that populates the Site and surrounds. It is therefore proposed that the removal of Lemon Scented Gum be off-set by indigenous species that *'form a valuable link to and reminder of the historic vegetation of the area.'*<sup>2</sup>

It is therefore the commitment of RMGC to provide an updated landscape strategy comprising a minimum 80 percent indigenous plantings by species type and count and that this include 10 trees indigenous to Bayside in place of the Lemon Scented Gum to be removed.

RMGC have a long-standing relationship with the Bayside Nursery with them sourcing seed and cuttings from the golf course and RMGC purchasing their replanting stock each year from the Nursery. Off-set planting specimens including indigenous shrub and heathland landscape plantings will therefore be sourced from the Bayside Nursery and RMGC would welcome engagement with Council representatives to determine the most suitable species for offset planting, as appropriate.

The replanting strategy is consistent with the objectives of the RMGC Charter and is an appropriate response to the objectives and decision guidelines of the Vegetation Protection Overlay that applies to

<sup>2</sup> Schedule 3 to Clause 42.02 Vegetation Protection Overlay – Bayside Planning Scheme

the land. RMGC are content that the updated landscape strategy and provision of the proposed off-set be controlled by conditions of any future planning permit issued by Council.

With regard the requirement to provide a Tree Protection Management Plan and Tree Protection Plan, this is now included in the AAR prepared by Glenn Waters and can be found at pages 4-8 of the document.

Please contact Kirsty Slater on tel. 8626 9000 (email: [slater@pppartners.com.au](mailto:slater@pppartners.com.au)) or the undersigned should Council have any queries regarding this correspondence.

Yours sincerely,



**Paul Little**  
**Planning & Property Partners Pty Ltd**

|                             |                            |                    |                   |             |
|-----------------------------|----------------------------|--------------------|-------------------|-------------|
| <b>Address</b>              |                            |                    |                   |             |
| <b>Tree No</b>              | 1                          |                    |                   |             |
| <b>Botanical Name:</b>      | <i>Corymbia calophylla</i> |                    |                   |             |
| <b>Common Name:</b>         | Marri                      |                    |                   |             |
| <b>Height / Canopy:</b>     | 8 x 6                      |                    |                   |             |
| <b>Trunk Circ.@1m:</b>      | 135cmcm                    |                    |                   |             |
| <b>Trunk DBH.@1.4m:</b>     | 49cm                       |                    |                   |             |
| <b>Trunk DAB@0m:</b>        | 74cm                       |                    |                   |             |
| <b>Location 1</b>           | n/a                        |                    |                   |             |
| <b>Location 2</b>           | n/a                        |                    |                   |             |
| <b>Date of assessment</b>   | 18/5/21                    |                    |                   |             |
| <b>Origin:</b>              | Indigenous                 | Victorian          | <b>Australian</b> | Exotic      |
| <b>Age:</b>                 | Young                      | Semi-mature        | <b>Mature</b>     | Over-mature |
| <b>Health:</b>              | Good                       | <b>Fair</b>        | Poor              | Dead        |
| <b>Structure:</b>           | <b>Good</b>                | Fair               | Poor              | Hazardous   |
| <b>Amenity Value:</b>       | High                       | <b>Moderate</b>    | Low               | None        |
| <b>Life Expectancy:</b>     | 20 years +                 | <b>10-19 years</b> | 4-9 years         | 0 - 3 years |
| <b>Retention Value:</b>     | High                       | <b>Medium</b>      | Low               | None        |
| <b>Habitat value:</b>       | High                       | <b>Moderate</b>    | Low               |             |
| <b>Align with NCP</b>       | Yes                        | No                 | <b>n/a</b>        |             |
| <b>Support for removal:</b> | <b>Yes</b>                 | No                 |                   |             |



Tree Habitat Value Assessment Matrix

| Criteria                   | Category   |   |   |
|----------------------------|--|---|---|
| Origin                     | Indigenous<br>3 points   | Victorian<br>2 points   | Australian/Exotic<br>0 points   |
| Occupation by native fauna | Occupied by native fauna<br>5 points   | Signs of use by fauna<br>2 points   | No signs of use by fauna<br>0 points  |
| Diameter of tree trunk     | >80cm<br>Living canopy<br>5 points   | <80 – 50cm<br>Living canopy<br>3 points   | <50cm<br>Living canopy<br>1 point   |
|                            | Dead canopy<br>2 points  | Dead canopy<br>1 point  | Dead canopy<br>0 points   |
| Hollow bearing tree        | Trees bearing a natural hollow. Low to moderate level of maintenance<br>5 points | No natural hollow, artificial habitat hollow can be installed. Low to moderate level of maintenance<br>2 points | No natural hollow and unsuitable for installation of artificial habitat hollow. High level of maintenance<br>0 points |
| Useful life expectancy     | >10 years<br>5 points  | 4 – 9 years<br>3 points   | 0 – 3 years<br>0 points   |
| Wildlife corridors         | Within 50 m of a green space, park or reserve<br>5 points                        | Within 0.5 km of a green space, park or reserve<br>3 points   | Greater than 0.5 km from a green space, park or reserve<br>0 points   |
| Impacts on adjacent flora  | Removal will have negative impacts on indigenous flora<br>3 points               | Removal will have negative impacts on native flora<br>2 points  | Removal will have no negative impacts on indigenous or native flora<br>0 points                                       |
| <b>Total</b>               | <b>13 points</b>   |   |   |

|                             |                            |                    |                   |             |
|-----------------------------|----------------------------|--------------------|-------------------|-------------|
| <b>Address</b>              |                            |                    |                   |             |
| <b>Tree No</b>              | 2                          |                    |                   |             |
| <b>Botanical Name:</b>      | <i>Corymbia calophylla</i> |                    |                   |             |
| <b>Common Name:</b>         | Marri                      |                    |                   |             |
| <b>Height / Canopy:</b>     | 10 x 5                     |                    |                   |             |
| <b>Trunk Circ.@1m:</b>      | 253cm                      |                    |                   |             |
| <b>Trunk DBH.@1.4m:</b>     | 70cm                       |                    |                   |             |
| <b>Trunk DAB@0m:</b>        | 75cm                       |                    |                   |             |
| <b>Location 1</b>           | n/a                        |                    |                   |             |
| <b>Location 2</b>           | n/a                        |                    |                   |             |
| <b>Date of assessment</b>   | 18/5/21                    |                    |                   |             |
| <b>Origin:</b>              | Indigenous                 | Victorian          | <b>Australian</b> | Exotic      |
| <b>Age:</b>                 | Young                      | Semi-mature        | <b>Mature</b>     | Over-mature |
| <b>Health:</b>              | Good                       | Fair               | <b>Poor</b>       | Dead        |
| <b>Structure:</b>           | Good                       | <b>Fair</b>        | Poor              | Hazardous   |
| <b>Amenity Value:</b>       | High                       | <b>Moderate</b>    | <b>Low</b>        | None        |
| <b>Life Expectancy:</b>     | 20 years +                 | <b>10-19 years</b> | <b>4-9 years</b>  | 0 - 3 years |
| <b>Retention Value:</b>     | High                       | <b>Medium</b>      | <b>Low</b>        | None        |
| <b>Habitat value:</b>       | High                       | Moderate           | <b>Low</b>        |             |
| <b>Align with NCP</b>       | Yes                        | No                 | <b>n/a</b>        |             |
| <b>Support for removal:</b> | <b>Yes</b>                 | No                 |                   |             |



Tree Habitat Value Assessment Matrix

| Criteria                   | Category  |   |   |
|----------------------------|---|---|---|
| Origin                     | Indigenous<br>3 points  | Victorian<br>2 points   | Australian/Exotic<br>0 points   |
| Occupation by native fauna | Occupied by native fauna<br>5 points  | Signs of use by fauna<br>2 points   | No signs of use by fauna<br>0 points  |
| Diameter of tree trunk     | >100cm<br>Living canopy<br>5 points   | ~80 – 100cm<br>Living canopy<br>3 points  | <50cm<br>Living canopy<br>1 point   |
|                            | Dead canopy<br>2 points   | Dead canopy<br>1 point  | Dead canopy<br>0 points   |
| Hollow bearing tree        | Tree bearing a natural hollow. Low to moderate level of maintenance<br>5 points | No natural hollow, artificial habitat hollow can be installed. Low to moderate level of maintenance<br>2 points | No natural hollow and unsuitable for installation of artificial habitat hollow. High level of maintenance<br>0 points |
| Useful life expectancy     | >10 years<br>5 points   | 4 – 5 years<br>3 points   | 0 – 3 years<br>0 points   |
| Wildlife corridors         | Within 50 m of a green space, park, or reserve<br>5 points                      | Within 0.5 km of a green space, park, or reserve<br>3 points  | Greater than 0.5 km from a green space, park, or reserve<br>0 points  |
| Impacts on adjacent flora  | Removal will have negative impacts on indigenous flora<br>3 points              | Removal will have negative impacts on native flora<br>2 points  | Removal will have no negative impacts on indigenous or native flora<br>0 points                                       |
| <b>Total</b>               | <b>8 points</b>   |   |   |

|                             |                            |  |                              |                   |
|-----------------------------|----------------------------|--|------------------------------|-------------------|
| <b>Address</b>              |                            |  |                              |                   |
| <b>Tree No.</b>             | 3                          |  |                              |                   |
| <b>Botanical Name:</b>      | <i>Corymbia citriodora</i> |  |                              |                   |
| <b>Common Name:</b>         | Lemon scented gum          |  |                              |                   |
| <b>Height</b>               | /                          |  |                              |                   |
| <b>Canopy:</b>              | 20 x 14                    |  |                              |                   |
| <b>Trunk Circ.@1m:</b>      | 280cm                      |  |                              |                   |
| <b>Trunk DBH.@1.4m:</b>     | 94cm                       |  |                              |                   |
| <b>Trunk DAB@0m:</b>        | 95cm                       |  |                              |                   |
| <b>Location 1</b>           | n/a                        |  |                              |                   |
| <b>Location 2</b>           | n/a                        |  |                              |                   |
| <b>Date of assessment</b>   | 18/5/21                    |  |                              |                   |
| <b>Origin:</b>              | Indigenou<br>s             |  | Victorian<br>Semi-<br>mature | <b>Australian</b> |
| <b>Age:</b>                 | Young                      | Semi-<br>mature  | <b>Mature</b>                | Over-mature       |
| <b>Health:</b>              | <b>Good</b>                | Fair   | Poor                         | Dead              |
| <b>Structure:</b>           | <b>Good</b>                | Fair   | Poor                         | Hazardous         |
| <b>Amenity Value:</b>       | High                       | <b>Moderate</b>  | Low                          | None              |
| <b>Life Expectancy:</b>     | <b>20 years +</b>          | 10-19 years  | 4-9 years                    | 0 - 3 years       |
| <b>Retention Value:</b>     | <b>High</b>                | Medium   | Low                          | None              |
| <b>Habitat value:</b>       | High                       | <b>Moderate</b>  | Low                          |                   |
| <b>Align with NCP</b>       | Yes                        | No   | <b>n/a</b>                   |                   |
| <b>Support for removal:</b> | Yes                        | <b>No</b>  |                              |                   |

Tree Habitat Value Assessment Matrix

| Criteria                   | Category  |   |   |
|----------------------------|---|---|---|
| Origin                     | Indigenous<br>3 points  | Victorian<br>2 points   | Australian/Exotic<br>0 points   |
| Occupation by native fauna | Occupied by native fauna<br>5 points  | Signs of use by fauna<br>2 points   | No signs of use by fauna<br>0 points  |
| Diameter of tree trunk     | >80cm<br>Living canopy<br>5 points  | <80 – 50cm<br>Living canopy<br>3 points   | <50cm<br>Living canopy<br>1 point   |
|                            | Dead canopy<br>2 points   | Dead canopy<br>1 point  | Dead canopy<br>0 points   |
| Hollow bearing tree        | Tree bearing a natural hollow. Low to moderate level of maintenance<br>5 points | No natural hollow, artificial habitat hollow can be installed. Low to moderate level of maintenance<br>2 points | No natural hollow and unsuitable for installation of artificial habitat hollow. High level of maintenance<br>0 points |
| Useful life expectancy     | >10 years<br>5 points   | 4 – 9 years<br>3 points   | 0 – 3 years<br>0 points   |
| Wildlife corridors         | Within 50 m of a green space, park or reserve<br>5 points                       | Within 0.5 km of a green space, park or reserve<br>3 points   | Greater than 0.5 km from a green space, park or reserve<br>0 points   |
| Impacts on adjacent flora  | Removal will have negative impacts on indigenous flora<br>3 points              | Removal will have negative impacts on native flora<br>2 points  | Removal will have no negative impacts on indigenous or native flora<br>0 points                                       |
| <b>Total</b>               | <b>19 points</b>  |   |   |

| <b>Decision Guideline</b>   | <b>Response</b>   |
|---|---|
| <i>The impact the vegetation removal would have on the character of the area</i>  | Three individual trees proposed for removal trigger a permit under the VPO and one group of ten trees triggers a permit under the VPO. It is recommended that the removal of these trees should be supported. Trees 1, 2 and 17 are not highly (if at all) visible from the street or surrounding area. The tree canopy of tree 3 is visible from Cheltenham Road due to its height. Nevertheless, given that there is a significant amount of vegetation on the large application site, the removal of these trees is not considered to be detrimental to the character of the area. |
| <i>The impact the vegetation removal would have on the presence of indigenous species in the locality</i>   | The trees being removed are native to Australia but are not indigenous to Victoria. They will be required to be replaced by canopy trees which will meet or exceed the height of the existing trees and will be indigenous in nature. This will ensure that there would not be an unreasonable impact on the indigenous species in the locality, in fact, the proposed replacement planting would increase the number of indigenous canopy trees on the site and will significantly increase the number of large trees within the area.   |
| <i>The impact the vegetation removal would have on the appearance of development.</i>   | The vegetation removal would not have any impact on the appearance of the development within the Cheltenham Road Streetscape given that the trees sought to be removed are set back significantly from the street and behind the existing bowls pavilion. The proposed extensions would be located closer to the street than the trees sought to be removed. However, subject to appropriately sited replacement planting, new, large indigenous species will be visible from the surrounding neighbourhood.  |
| <i>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</i> | Whilst the trees are suitable for nesting and feeding, Council's Arborist did not raise any concerns about existing nests in the trees. The trees to be removed will be replaced with indigenous species subject to condition. This would ensure that quality habitats for fauna as well as food and shelter for wildlife are offered. As a result, the development would not have an undue adverse impact on wildlife corridors.   |
| <i>Any proposal to regenerate or plant indigenous vegetation on the site.</i>   | The landscape plan submitted with the application will be required to be amended subject to the recommended conditions to ensure that at least 80% of the proposed trees, plants and shrubs are indigenous both by type and count. It is noted that 10 of the 13 trees sought for removal are less than 4 metres in height, 2 trees are between 8 and 10 metres in height and 1 tree is 20 metres in height.  |

|  |  |
|--|--|
|  | <p>The recommended landscape plan condition requires replacement canopy trees to include at least 3 indigenous trees with mature heights of 20 metres and at least 10 indigenous trees of at least 8 metres in height at maturity. This will provide a significant improvement in terms of the level of indigenous canopy tree coverage on the site which due to their heights will be visible from the surrounding area enhancing the amenity of the neighbourhood as well as the application site.</p> |
|--|--|



Bayside City Council

Planning and Amenity Delegated Committee - 8 June 2021

**4.9 ROYAL MELBOURNE GOLF CLUB  
CHELTENHAM ROAD, BLACK ROCK  
GRANT A PERMIT  
APPLICATION 2021/190/1 WARD: EBDEN**

City Planning and Amenity - Development Services  
File No: PSF/21/28 – Doc No: DOC/21/159432

*It is recorded that Mr Ian Urquhart (on behalf of Beaumaris Conservation Society), and Mr Paul Little each submitted a written statement in relation to this item.*

**Moved: Cr Evans OAM (Mayor)**

**Seconded: Cr Martin**

That Council resolves to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of planning application 2021/190/1 for the land known and described as, Cheltenham Road, Black Rock for the partial demolition of buildings, buildings and works associated with an existing outdoor recreation facility in a Heritage Overlay, removal of native vegetation in a Vegetation Protection Overlay in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application) prepared by Demaine referenced TP001-TP400, revision TP-A dated 19 March 2021 but modified to show:
  - a) any design and construction methods required as a result of the findings from the Arboricultural Impact Assessment required in accordance with Condition 12 of this permit
  - b) all column locations within the basement to comply with the AS2890.1
  - c) a minimum 2.2m headroom clearance to be provided at the entrance (measured perpendicularly to the ramp) and throughout the car park in accordance with AS2890.1
  - d) all relevant intermediate levels to the basement ramp
  - e) 'No Right Turn' signage where the basement ramp connects with the main aisle at ground floor
  - f) additional traffic directional line-marking/s (arrows) where the basement ramp connects with the main aisle at ground floor
  - g) Water Sensitive Urban Design measures in accordance with Condition 5 of this permit
  - h) a Landscaping Plan in accordance with Condition 9 of this permit
  - i) an Arboricultural Impact Assessment Report in accordance with Condition 12 of this permit
  - j) a Tree Protection Management Plan in accordance with Condition 13 of this permit

all to the satisfaction of the Responsible Authority.

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2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

Water Sensitive Urban Design

5. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
  - a) the type of water sensitive urban design stormwater treatment measures to be used
  - b) the location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas
  - c) design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.
6. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

Drainage

7. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
8. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's City Assets and Presentation Department.

Council Stormwater drainage is for surface rainwater, no water below the Ground Water Table is accepted into the Council Stormwater system. Only occasional, clean, uncontaminated seepage water (associated with a rain event) is accepted to an appropriate Council underground drain OR this subterranean water must be suitably retained on-site.

Landscaping

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plans drawn by memLa, reference LC00, LC01,

LC02, LC03 and LC04 dated 9 April 2021 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

- a) a survey including botanical names of all existing trees on the site where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the development area
  - b) a planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count
  - c) 6 indigenous canopy trees with the capacity to grow to 20 metres in height
  - d) 20 indigenous canopy trees with the capacity to grow to at least 8 metres in height all purchased from the Bayside Community Plant Nursery and to include the species, but not limited to, Yellow Box, Coastal Banksias, Silver Banksias and Coastal Manna Gums to complement the existing indigenous species prevalent to Royal Melbourne Golf Course
  - e) details of surface finishes of pathways, accessways and ramps.
10. Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
  11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

#### Arboricultural Impact Assessment Report

12. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, an Arboricultural impact assessment report in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites must be provided to Council's Satisfaction. The report will explain design and construction methods proposed to minimize impacts on trees to be retained on the site where there is encroachment into the calculated Tree Protection Zone (TPZ).

#### Tree Protection Management Plan (TPMP)

13. Before the development starts, including any related demolition or removal of vegetation, a TPMP, prepared by a suitably qualified arborist, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. This report must be made available to all relevant parties involved with the site.

The TPMP must include:

- a) details of Tree Protection Zones, as per AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties (including public open space trees) where any part of the Tree Protection Zone falls within the subject site
- b) protection measures to be utilised and at what stage of the development they will be implemented
- c) appointment of a project arborist detailing their role and responsibilities
- d) stages of development at which the project arborist will inspect tree protection measures

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- e) monitoring and certification by the project arborist of implemented protection measures.

Before any works associated with the approved development, a project arborist must be appointed and the name and contact details of the project arborist responsible for implementing the endorsed TPMP must be submitted to the Responsible Authority.

Any modification to the TPMP must be approved by the project arborist. Such approval must be noted and provided to the Responsible Authority within seven days.

The TPMP must include a Tree Protection Plan (TPP) in accordance with AS4970-2009 Protection of Trees on Development Sites.

The TPP must include:

- f) Be legible, accurate and drawn to scale  
 g) Show the location of all tree protection measures to be utilised  
 h) Include a key describing all tree protection measures to be utilised.

#### Permit Expiry

14. This permit will expire if one of the following circumstances applies:

- a) The development is not started within two years of the date of this permit.  
 b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

#### Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council's Policy for "Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures."

The Motion was PUT and a **DIVISION** was called:

**DIVISION:**   **FOR:**           Crs Laurence Evans OAM (Mayor), Clarke Martin and Hanna El Mouallem (3)  
                           **AGAINST:**       Crs Alex del Porto, Sonia Castelli (Deputy Mayor), Jo Samuel-King MBBS and Fiona Stitfold (4)

**LOST**

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**Moved: Cr Samuel-King****Lapsed for want of a Seconder**

That Council resolves to issue a Notice of Decision to Refuse to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of planning application 2020/500/1 for the land known and described as Cheltenham Road, Black Rock for the partial demolition of buildings, buildings and works associated with an existing Outdoor Recreation Facility in a Heritage Overlay, removal of native vegetation in a Vegetation Protection Overlay for the following reasons:

- 1) The proposal fails to respond to the purpose and decision guidelines of the General Residential Zone set out in Clause 32.08 of the Bayside Planning Scheme for the following reasons:
  - a) The proposal fails to respect the neighbourhood character of the area.
  - b) The proposal fails to demonstrate that there will be no unreasonable impacts by way of safety, efficiency and amenity effects of traffic to be generated by the proposal.
- 2) The proposed removal of vegetation native to Australia fails to meet the relevant objectives and decision guidelines of the Vegetation Protection Overlay Schedule 3 (VPO3) of the Bayside Planning Scheme.

**LAPSED****Moved: Cr Castelli (Deputy Mayor)****Seconded: Cr El Moullem**

That Council resolves to defer consideration of planning application 2021/190/1 to enable further engagement with the Royal Melbourne Golf Club to discuss a redesign of the car parking to protect some of the VPO trees, in particular trees 3 and 17.

The Motion was PUT and a **DIVISION** was called:

**DIVISION:**   **FOR:**       Crs Alex del Porto, Laurence Evans OAM (Mayor), Clarke Martin, Sonia Castelli (Deputy Mayor), Hanna El Moullem, Jo Samuel-King MBBS and Fiona Stiffold (7)  
**AGAINST:** Nil (0)

**CARRIED**



#### 4.5 26 WILLIAM STREET, BRIGHTON SUPPORT THE GRANT OF A PERMIT APPLICATION 2020/352/1 WARD: DENDY

City Planning and Amenity - Development Services  
File No: PSF/21/28 – Doc No: DOC/21/168294

**Officers involved in the preparation of this report have no conflict of interest in this matter.**

##### 1. Application details

|   |   |
|---|---|
| <b>Recommendation</b>   | Support the Grant of a Permit   |
| <b>Applicant</b>  | Ms A L Gavalakis  |
| <b>Title/Covenant/S173 Agreement</b>  | The title is not subject to any restrictive covenants.  |
| <b>Date application received</b>  | 31 July 2020  |
| <b>Current statutory days</b>   | N/A   |
| <b>Zoning</b>   | Neighbourhood Residential Zone (Schedule 3)   |
| <b>Overlays</b>   | Design and Development Overlay (Schedule 3)<br>Heritage Overlay (Schedule 393)<br>Development Contributions Plan Overlay (Schedule 1) |
| <b>Site area</b>  | 1,663sqm  |
| <b>Number of outstanding objections</b>                                     | 68 objections, 2 letters of support   |
| <b>Is a Development Contribution Levy applicable?</b>                       | No  |
| <b>Is the site located within an area of cultural heritage sensitivity?</b> | No  |

##### Purpose

To report a planning permit application which is the subject of an appeal to the Victorian Civil and Administrative Tribunal (VCAT) pursuant to Section 79 (failure to determine) of the *Planning and Environment Act 1987*.

VCAT have listed the matter for a two (2) day hearing on 9 and 10 August 2021. The purpose of this report is to establish Council's position on the application for the VCAT appeal.

##### Proposal

The application seeks partial demolition and buildings and works to the existing dwelling on the lot in a Heritage Overlay. Key details of the proposal are as follows:

- partial demolition of the rear of the dwelling including one rear chimney and internal elements of the dwelling
- construction of part single-storey, part double-storey addition to rear of dwelling
- external alterations to the building including painting of external surfaces.

An aerial image and photographs of the site and surrounds are provided at **Attachment 1**.

History

Planning Permit application 2020/352/1 was submitted to Council on 31 July 2020. The application was advertised from 25 January 2021 until 11 February 2021.

68 objections were received. Council officers contacted the Applicant and offered to hold a community consultation meeting.

Council was notified by VCAT on 17 May 2021 that the Applicant had submitted an appeal to VCAT pursuant to Section 79 (failure to determine) of the *Planning and Environment Act 1987*.

On 17 June 2021, the Applicant circulated amended plans to Council, neighbouring properties and the objectors to be relied upon at the hearing. The Applicant advised that the amended plans showed the following changes:

- reduction of the overall height of the double-storey addition by 700mm through a combination of reduced heights of the upper floor parapet and internal finished floor levels
- alterations to first floor window glazing to accord with building requirements.
- external alterations to pool
- alteration to ground floor en-suite window
- internal layout alterations.

The application plans are provided at **Attachment 2**.

## 2. Planning controls

### Planning Permit requirements

A planning permit is required pursuant to:

- Clause 43.01-1 (Heritage Overlay) – Demolition of a building and construction of buildings and works.

### Planning Scheme Amendments

Planning Scheme Amendment C180 was gazetted on 18 June 2021 and forms part of the reforms and restructuring of Victoria's planning systems to make planning schemes more efficient, accessible and transparent. The amendment replaces the Local Planning Policy Framework at Clauses 21 and 22 of the Bayside Planning Scheme with a new Municipal Planning Strategy at Clause 02, local policies within the Planning Policy Framework at Clauses 11-19 and a selected number of local schedules to overlays, particular provisions and operational provisions.

Of particular relevance for this application, heritage policy previously located at Clause 22.05 has been relocated such that policy guidelines and strategies are now sited within Clause 15.03-1L (Heritage Conservation) and application requirements are now located within the Schedule to Clause 43.01 (Heritage Overlay).

## 3. Stakeholder consultation

### External referrals

There are no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

### Internal referrals

The application was referred to the following Council departments for comment:

| Internal Referral | Response                             |
|-------------------|--------------------------------------|
| Heritage Officer  | No objection, subject to conditions. |

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of *the Planning and Environment Act 1987* and 68 objections were received.

68 objections remain outstanding at the time of this report.

The following concerns were raised:

- impact of demolition on heritage place
- impact of alterations and additions on heritage place
- impact on neighbouring solar energy facilities
- visual bulk
- overlooking
- overshadowing
- precedent
- noise
- loss of views
- property values.

It should be noted that 2 letters of support were also received.

Consultation meeting

The applicant declined a consultation meeting.

#### 4. Recommendation

That Council resolves to determine to **Support the Grant of a Permit** under the provisions of the Bayside Planning Scheme in respect of planning application **2020/352/1** for the land known and described as **26 William Street, Brighton** for the **partial demolition and buildings and works to a dwelling in a Heritage Overlay** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (VCAT amended) prepared by Biasol referenced TP03, 1201, 1202, 2000, 2100, 2101, 2102, 3100, 3101, 3150, dated 16.06.2021 but modified to show:
  - a) a 400mm reduction to the overall height of the first floor of the rear addition such that the top of the parapet is not to exceed 23.65m AHD
  - b) light grey cladding to the upper floor
  - c) details of the type of corrugated material on the verandah roofs and annotation confirming the existing material is to be retained and made good as necessary
  - d) the replacement roof gutters to be in a material matching the corrugated roofing and is to be in Ogee profile carried on Scotia under-moulds matching the existing

- e) the cast iron verandah frieze and post brackets to be either retained or replaced with components matching (or similar to) those at the adjacent property at No 22 William Street
- f) a comprehensive colour scheme with Australian Standard (AS 2700 S references or manufacturers samples of each colour)
- g) the material location of all plant and equipment, including hot water services, air conditioners, pool plant. Plant equipment is to be located away from habitable room windows of dwellings and the habitable rooms of adjoining properties
- h) a Tree Management and Tree Protection Plan in accordance with Condition 7 of this permit

all to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
6. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

#### Tree Management and Protection Plan

7. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified Arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

- a) the Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site
  - b) the location of tree protection measures to be utilised.
8. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

Drainage

9. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
10. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's City Assets and Presentation Department.

Permit Expiry

11. This permit will expire if one of the following circumstances applies:
  - a) the development is not started within two years of the date of this permit
  - b) the development is not completed within four years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- This permit application was not assessed against the provisions of Clause 54 – One Dwelling on a Lot (ResCode) of the Bayside Planning Scheme. It is the responsibility of the applicant/owner to appoint a Registered Building Surveyor to determine compliance of the endorsed plans associated with the issue of this Planning Permit against Part 5 of the Building Regulations 2018. Non-compliance with any regulation will require dispensation from Council's Building Department.

## 5. Council Policy

Council Plan 2017–21

Relevant objectives of the Council plan include:

- where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place
- where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

- make discretionary planning controls stronger, by advocating for Council's planning and urban design objectives to state government.

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 15.03-1S Heritage conservation
- Clause 15.03-1L Heritage conservation

- Clause 16 Housing
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 43.01 Heritage Overlay (Schedule 393)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 65 Decision Guidelines

## 6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

### 6.1. Heritage Overlay (Schedule 393)

Heritage Overlay Schedule 393 applies to the application site at 26 William Street and the building known as 'Florence Court'. The Schedule to the Overlay sets out that the site has external paint controls. The building citation for the site lists the property as locally significant within Bayside, however the place would not qualify for state level significance such that it would warrant inclusion on the Victorian Heritage register.

The building citation describes the site as follows:

*'Florence Court is a large asymmetrical late Victorian rendered brick villa with a hipped slate roof. The main wing of the house is elongated, terminating in a canted bay at one end. A verandah with a bluestone base extends along this façade, and has a concave corrugated iron roof supported on iron columns with a narrow frieze of cast iron lacework. The villa is highly ornamented: there are paired consoles along the eaves line with festoons and rosettes between, and the corners of the house have vermiculated quoining. The areas of wall between the windows are incised with arabesques, while the windows themselves contain timber-framed double-hung sashes, flanked by barley-twist colonettes and narrow sidelights.'*

The building citation describes the significance of the site as follows:

*'Florence Court, at 26 William Street is of outstanding aesthetic and historical significance. It is a fine example of a large Boom style residence, with particularly ornate decorative detail including the unusual incised arabesques. The house is also important for its association with the Wilson family, major local landowners who had occupied this site as early as 1865.'*

Pursuant to Clause 43.01-2 of the Bayside Planning Scheme, a permit is required for demolition of a building in a heritage overlay.

This application proposes to demolish the rear portion of the existing house which predominantly comprises later additions, obscured behind the original parts of the dwelling facing William and Carpenter Streets. The proposed demolition also includes part of the rear roofline and one of the original chimneys, the swimming pool and a number of internal doors, walls and features.

It is noted that there are no internal alteration controls on this property and therefore, the proposed internal demolition works are exempt from requiring a planning permit.

Clause 15.03-1L of the Bayside Planning Scheme (Heritage conservation) sets out demolition strategies which seek to:

*'allow the partial demolition of significant and contributory heritage buildings where the fabric to be demolished is of no significance or where the demolition helps to reveal the original fabric of the building; and*

*allow the partial demolition of significant and contributory heritage buildings for the purpose of additions, only if the additions will not affect the heritage significance of the building and the proposed addition is sympathetic to its scale and form.'*

Council's Heritage Advisor has commented that the proposed demolition of the rear part of the dwelling, including the one chimney sought to be removed, is acceptable. Council's Heritage Advisor has also commented that the majority of the elements to be demolished will be out view from William and Carpenter Streets and, whilst the one original chimney to be removed matches the others on the dwelling, it is a rear chimney which is of low visibility. Its removal would not unreasonably impact on the heritage significance of the building.

On balance, the proposed fabric to be demolished is either considered to be of no significance or would not affect the heritage significance of the building. The extent of demolition is recommended to be supported.

Pursuant to Clause 43.01-2 of the Bayside Planning Scheme, a permit is required to construct buildings and works in a heritage overlay.

This application proposes part single-storey, part double-storey additions to the rear of the dwelling as well as new pool and spa and associated pool equipment and landscaping to the rear of the dwelling.

Clause 15.03-1L sets out a number of strategies for alterations and additions including:

- Conceal alterations and additions to significant and contributory heritage buildings from adjoining streets, where possible.
- Design alterations and additions to a significant or contributory heritage buildings, where it is impossible to conceal them to have a low visual impact and not detract from the significance of the heritage place.
- Maintain the spatial qualities (such as setbacks, areas for landscaping) and consistency of styles and materials in the heritage precinct.
- Design alterations, additions and works to be complementary and not overwhelm significant and contributory heritage buildings.
- Retain as much of the original fabric and layout as possible when designing alterations and additions to significant and contributory buildings.
- Design alterations and additions to significant and contributory heritage buildings to be compatible in terms of historical character, materials, size, proportions, mass, height, setback, texture, colour, plan configuration, solid to void ratio and other features of the building and, where relevant, the heritage precinct.
- Avoid the replication of historic detail in alterations and additions.
- Support the use of new materials and design details in alterations and additions provided that they are complementary to the significance of the heritage place.
- Distinguish the fabric of alterations and additions from the original fabric of a significant or contributory heritage building.
- Design alterations and additions to preserve principal view lines to significant and contributory heritage buildings.
- Retain the profile of visible sections of the roofline of significant and contributory heritage buildings without altering them.

Policy guidelines within Clause 15.03-1L set out that Council should consider whether a proposal has located alterations and additions to significant and contributory heritage buildings behind the front façade and in particular:

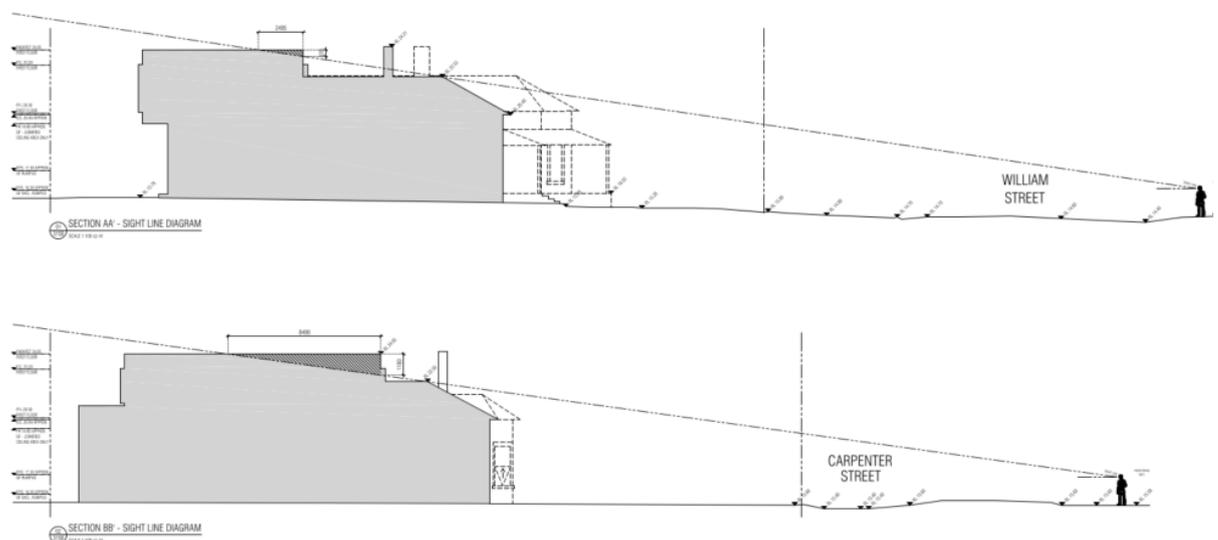
*'For first floor alterations and additions on sites of average or greater width, a setback behind the principal façade of greater than eight metres may be required. In the case of inter-War and late Federation houses, low roof pitches and broad frontages combine to make it difficult for first floor additions to be fully obscured. Some degree of visibility may*

*be permissible depending upon the integrity of the building, the surrounding streetscape and the compatibility of proposed new forms.'*

The proposed single-storey additions to the master en-suite, bedroom 2 and en-suite, outdoor seating area, dining area and kitchen will all be concealed behind the dwelling and will not be visible from William Street or Carpenter Street.

The proposed first-floor addition has been positioned appropriately towards the rear of the site and comprises two bedrooms, two en-suite bathrooms and a living room. It is set back approximately 11 metres from the façade of the dwelling facing William Street and between 5.3 metres and 11.8 metres from the façade facing Carpenter Street.

It is recognised that the proposed first floor addition as shown on the VCAT amended plans, will still be partly visible from both William Street and Carpenter Street as seen in **Figure 1** below. Clause 15.03-1L of the Bayside Planning Scheme sets out that where it is impossible for additions to be concealed, they should have a low visual impact and not detract from the significance of the heritage place.



**Figure 1: Extract from VCAT Amended plan TP03 3150**

The amended VCAT plans include a footprint which has a generous 11 metre setback from William Street, (greater than 8 metres in accordance with the policy guideline for wide sites), ensuring that it does not overwhelm the principal view of the building. Council's Heritage Advisor has commented that the relatively narrow width of the first floor facing towards Carpenter Street also contributes to ensuring that it has a low visual impact to this secondary streetscape.

Council's Heritage Advisor has commented that the height of the first floor addition could still be further reduced, subject to additional reductions to the internal height of the addition. Council's Heritage Advisor has commented that a combination of further reductions to the internal ceiling heights and parapet height to a total of 400mm would ensure that the first floor addition would generally be concealed from view from William Street where it is located behind the existing dwelling and will be even further reduced from view from Carpenter Street.

This additional height reduction would reduce the impact of the appearance of the first floor from the streets and subsequently from the neighbouring properties and ensure that it has minimal visibility within the William and Carpenter Street streetscapes. A condition requiring an overall reduction in height of 400mm to the first floor addition has been included in the recommendation.

Council's Heritage Advisor has commented that the contemporary design of the additions, and particularly the first floor element is encouraged and responds

appropriately with the strategies set out in 15.03-1L of the Bayside Planning Scheme. Council's Heritage advisor has recommended that the first floor element should be clad in a lighter grey material as opposed to the med-grey colour shown on the VCAT plans. This would provide an appropriate contrast with the existing darker slate roof of the dwelling and distinguish the addition from the original fabric of heritage building. A condition to this effect has been included in the recommendation.

Subject to the aforementioned conditions, it is recommended that the proposed additions to the dwelling would not adversely affect the significance, character or appearance of the heritage place and should be supported.

Pursuant to Clause 43.01-2 of the Bayside Planning Scheme, a permit is required to externally paint a building if the schedule to the Overlay specifies the heritage place as one where external paint controls apply. External paint controls apply to the dwelling.

This application proposes to externally alter the dwelling by way of numerous replacement windows and doors, restoration of the verandah, roof, façade and fence, extension to the existing balcony above the basement ramp facing Carpenter Street and new pool and spa.

Clause 15.03-1L sets out restoration strategies to encourage the restoration and reconstruction of the original or early appearance of contributory fabric, particularly when seen from the street and discourage the painting of unpainted surfaces.

The proposed painting is generally limited to areas of the façade which are already painted. Council's Heritage Advisor has advised that the colours should be specified in accordance with the Australian Standard. A condition has been included in the recommendation to this effect which requires references or manufacturers samples of each colour to be provided to Council's satisfaction.

Council's Heritage Advisor has raised no objections to the remaining external restoration and minor alterations proposed to the heritage dwelling subject to conditions requiring additional details to be provided of the proposed corrugated material to the verandah, replacement roof gutters and verandah frieze and post brackets. These matters can be secured by condition which have been included within the recommendation.

Generally, the proposed restoration and minor alteration works to the dwelling will respect the historical character, materials and, subject to the recommended condition, colours of the heritage building. The changes would ensure that much of the original fabric of the dwelling is retained and where new material is proposed, this would be complementary to and would not overwhelm the significant place.

The proposed partial demolition, restoration and alterations are considered to be appropriate in this instance to maintain the architectural character of the building and it is recommended that the changes should be supported.

## **6.2. Landscaping**

The application does not propose to remove any trees protected by the Local Law. The proposed extensions will be located close to trees on neighbouring properties with their Tree Protection Zones (TPZ) extending into the subject site.

As such, consideration must be given to the impact of the development upon these trees. A Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. A condition to this effect is included in the recommendation.

The proposed development would not impact on any street trees located within the nature strip on William Street or Carpenter Street adjacent to the site.

## **6.3. Cultural Heritage management plan**

The site is not located within an area of cultural heritage sensitivity and therefore a

cultural heritage management plan is not required.

#### 6.4. Development contributions levy

Based on the proposed application and below recommendation, no development contributions levy is applicable.

#### 6.5. Objector issues not already addressed

##### Impact on neighbouring solar energy facilities

The VCAT amended plans include shadow diagrams demonstrating that there will be no overshadowing of any of the existing solar energy facilities located at the neighbouring property between the hours of 9am and 3pm on September 22.

##### Overshadowing

Concerns around overshadowing of neighbouring windows and private open space (POS) areas fall outside the scope for consideration for this planning permit application. The assessment of this application is limited to the considerations around the Heritage Overlay as the only permit trigger. The relevant Building Regulations require overshadowing of neighbouring POS and windows to be limited. Nevertheless, the shadow diagrams submitted with the application demonstrate that there will be no unreasonable impacts on the neighbouring POS. Additional overshadowing to the neighbouring POS to the south west of the site will occur in the morning hours, however, more than 40sqm of the POS will remain unshadowed from 10am until 3pm. This level of overshadowing meets the relevant requirements.

##### Overlooking

Concerns around overlooking fall outside the scope for consideration for this planning permit application. The assessment of this application is limited to the considerations around the Heritage Overlay as the only permit trigger. The relevant Building Regulations require overlooking towards neighbouring properties to be limited. Nevertheless, the amended plans show that there would be no unreasonable overlooking impacts to neighbouring habitable windows or secluded private open space due to boundary fencing restricting views at ground floor level and obscure/ reeded glazing to first floor windows restricting views at the upper floor level.

##### Precedent

Future planning permit applications on this site or neighbouring and nearby land will be assessed against relevant planning policy and site conditions, based on their own merits at the time of assessment. The possibility of setting an undesirable precedent cannot be substantiated and is not a relevant planning consideration.

##### Noise

The noise levels generated by the residential additions to the dwelling will not be significantly above that of the surrounding area. Residential noise associated with a dwelling is considered normal and reasonable in an urban setting. Any associated plant and machinery will not exceed Environmental Protection Authority (EPA) guidelines.

##### Loss of view

Whilst it is recognised that views may form part of residential amenity, the Victorian Civil and Administrative Tribunal has consistently held that there is no legal entitlement to a view.

##### Property values

The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the *Planning and Environment Act 1987*, or the Bayside Planning Scheme.

### **Support Attachments**

1. Site and Surrounds ↓
2. VCAT Amended Plans ↓



**Site and Surrounds**



*Figure 1 Aerial overview of the site and surrounds.*

| Legend       |   |
|--------------|---|
| Subject site | ★ |



Figure 2 View towards the site from William Street.



Figure 3 View to the site and neighbouring property on William Street.



Figure 4 View to site from Carpenter Street.



Figure 5 View to the site and neighbouring property from Carpenter Street.



R075 Gavalakis Residence  
26 William Street  
Brighton VIC 3186  
Alicia & Terry Gavalakis  
Town Planning  
16 June 2021  
TP03

**Biasol**

Drawing Index

| Drawing no. | Drawing Title  |
|-------------|--|
| 1100        | Existing Site Location                                       |
| 1120        | Existing Site Plan   |
| 1130        | Existing Elevations  |
| 1140        | Existing Site Images   |
| 1200        | Existing Basement Plan                                       |
| 1201        | Existing & Demolition Ground Floor Plan                      |
| 1202        | Existing & Demolition Roof Plan                              |
| 2000        | Proposed Site Plan   |
| 2100        | Proposed Ground Floor Plan                                   |
| 2101        | Proposed First Floor Plan                                    |
| 2102        | Proposed Roof Plan   |
| 2200        | Proposed Shadow Diagrams - 9am, 10am & 11am                  |
| 2201        | Proposed Shadow Diagrams - 12pm & 1pm                        |
| 2202        | Proposed Shadow Diagrams - 2pm & 3pm                         |
| 3100        | Proposed Finishes and Elevations A & B                       |
| 3101        | Proposed Finishes and Elevations C & D                       |
| 3120        | Proposed Streetscape Elevations - William & Carpenter Street |
| 3150        | Proposed Sight Line Diagrams                                 |





**GENERAL NOTES:**

- 1. ALL WORK TO BE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2011.
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- 11. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL FIRE RESISTANCE REGULATIONS 2017.
- 12. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL DISASTER RESISTANCE REGULATIONS 2017.
- 13. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL ACCESSIBILITY REGULATIONS 2017.
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- 15. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL ENERGY EFFICIENCY REGULATIONS 2017.
- 16. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL SUSTAINABILITY REGULATIONS 2017.
- 17. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL RESILIENCE REGULATIONS 2017.
- 18. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL SECURITY REGULATIONS 2017.
- 19. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL HEALTH REGULATIONS 2017.
- 20. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL WELLBEING REGULATIONS 2017.

**REVISIONS:**

| NO. | DESCRIPTION       | DATE     |
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| 2   | ISSUED FOR PERMIT | 15/06/21 |
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| 20  | ISSUED FOR PERMIT | 15/06/21 |

**PROJECT INFORMATION:**

PROJECT NO: 15/06/21  
DATE: 15/06/21  
SCALE: 1:50  
SHEET NO: 110

**Blasol**

ARCHITECTS  
100/101 WILSON STREET  
BAYVIEW VIC 3185  
PH: 03 9594 1111  
WWW.BLASOL.COM.AU

**GENERAL NOTES:**

1. ALL WORK TO BE IN ACCORDANCE WITH THE BUILDING REGULATIONS 2011.

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19. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL HEALTH REGULATIONS 2017.

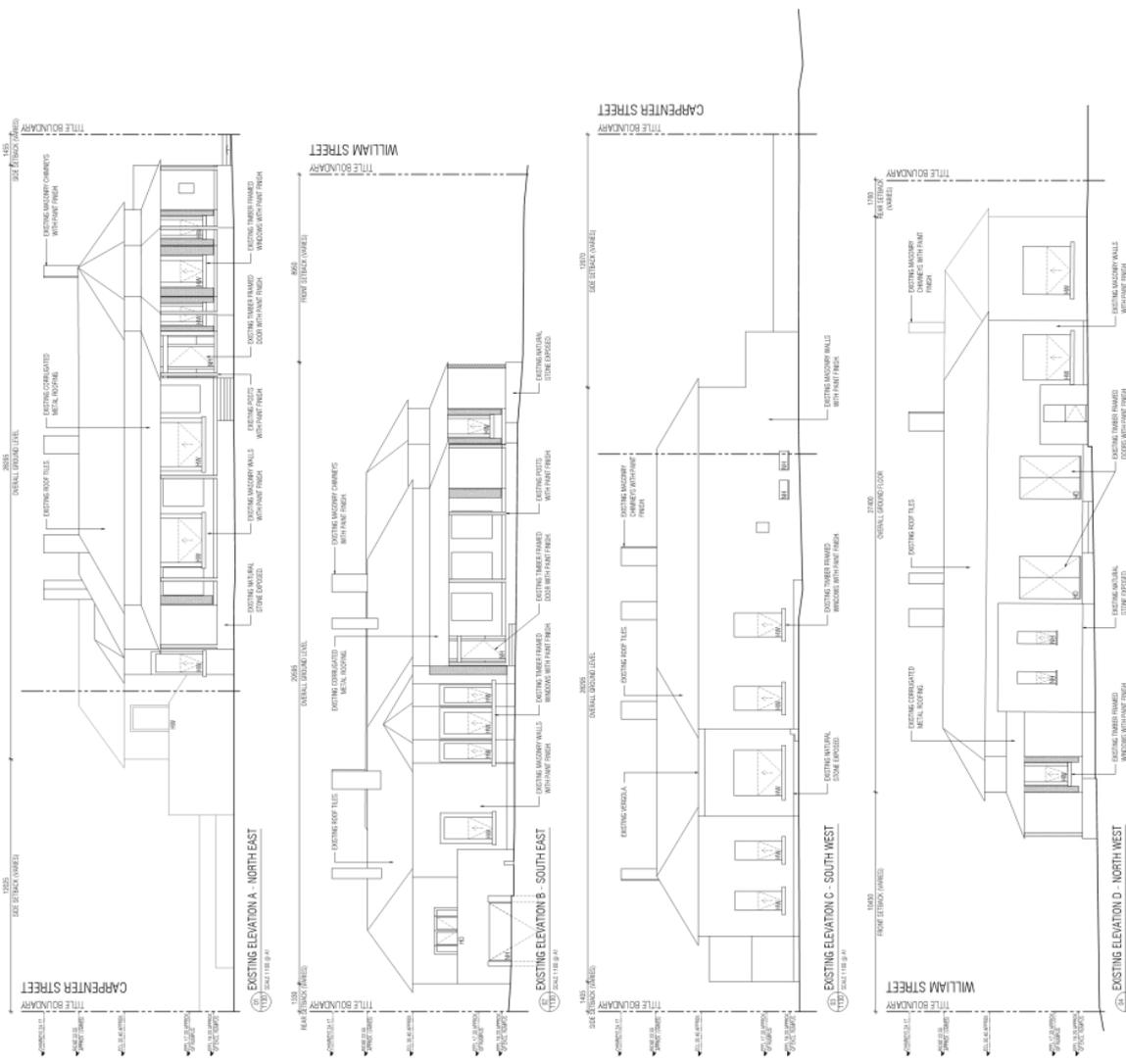
20. ALL WORK TO BE IN ACCORDANCE WITH THE NATIONAL WELLBEING REGULATIONS 2017.

**RDF7 Gavahiki Residence**  
Alicia & Terry Gavahiki  
28 William Street  
Brighton VIC 3186

**Town Planning**  
for Information  
As Shown  
At Sheet

**Existing Elevations**  
Elevations A, B, C & D

DATE: 15/06/21  
DRAWN: TP03  
CHECKED: [Signature]  
APPROVED: [Signature]



11/06/2021

11/06/2021

11/06/2021

**Biasol**  
28 William Street  
Burlington VIC 3086  
Australia  
Phone: +61 3 9594 1000  
Fax: +61 3 9594 1001  
Email: [info@biasol.com.au](mailto:info@biasol.com.au)  
Website: [www.biasol.com.au](http://www.biasol.com.au)  
Biasol is a leading provider of solar energy solutions for residential and commercial customers. We offer a range of solar panels, inverters, and monitoring systems, all designed to maximize energy production and reduce your carbon footprint. Our experienced team will assist you every step of the way, from initial consultation to installation and ongoing maintenance. Contact us today to learn more about our services and how we can help you achieve your solar goals.

**R075 Cavallak's Residence**  
Alice & Terry Cavallak's  
28 William Street  
Burlington VIC 3086  
Australia  
Phone: +61 3 9594 1000  
Fax: +61 3 9594 1001  
Email: [info@biasol.com.au](mailto:info@biasol.com.au)  
Website: [www.biasol.com.au](http://www.biasol.com.au)

Town Planning  
As Shown  
for information  
At School

Existing Site Conditions  
Site Images

11/06/21 11:03 1140



IMAGE 02



IMAGE 04



IMAGE 06



IMAGE 01

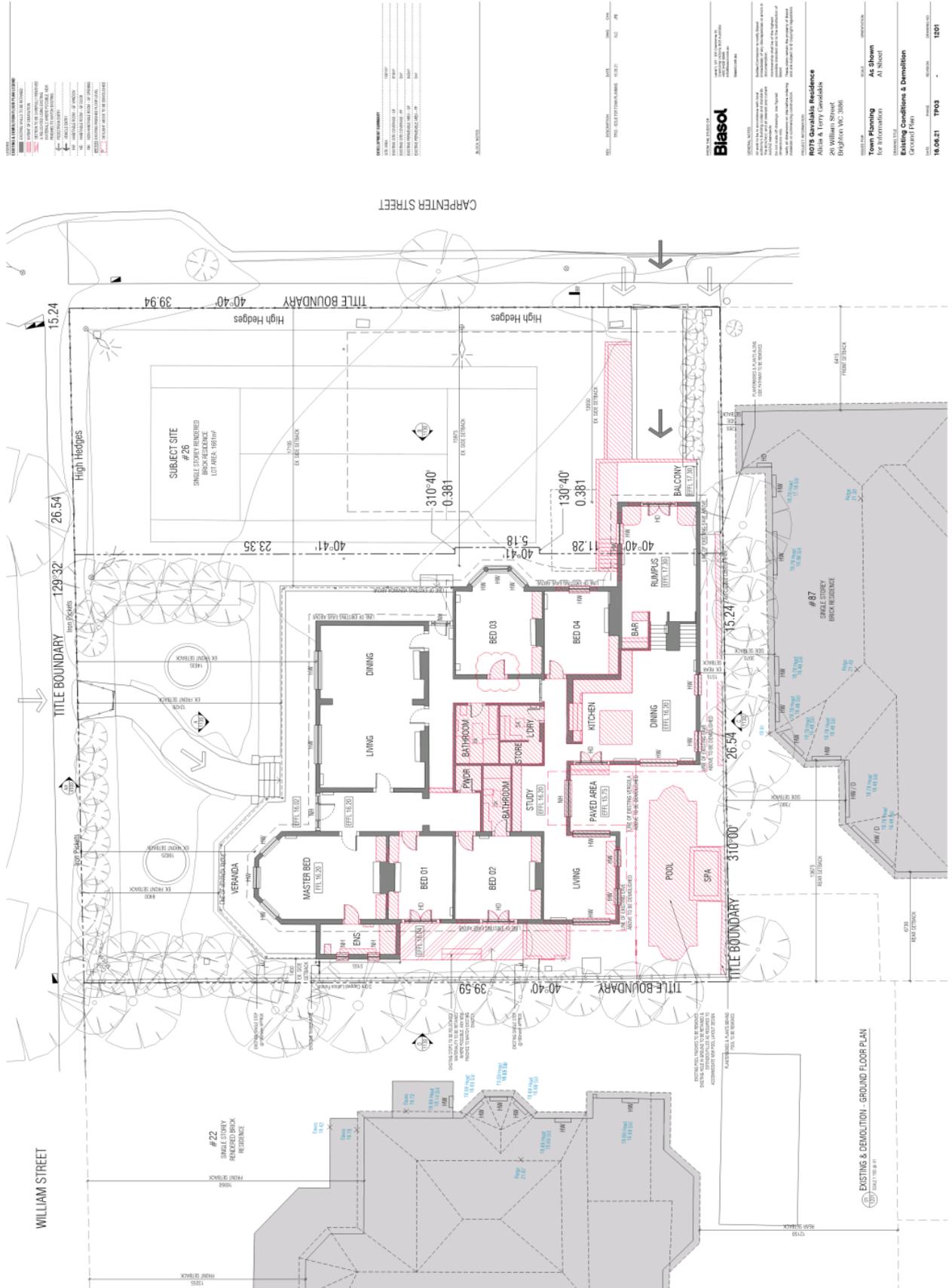


IMAGE 03



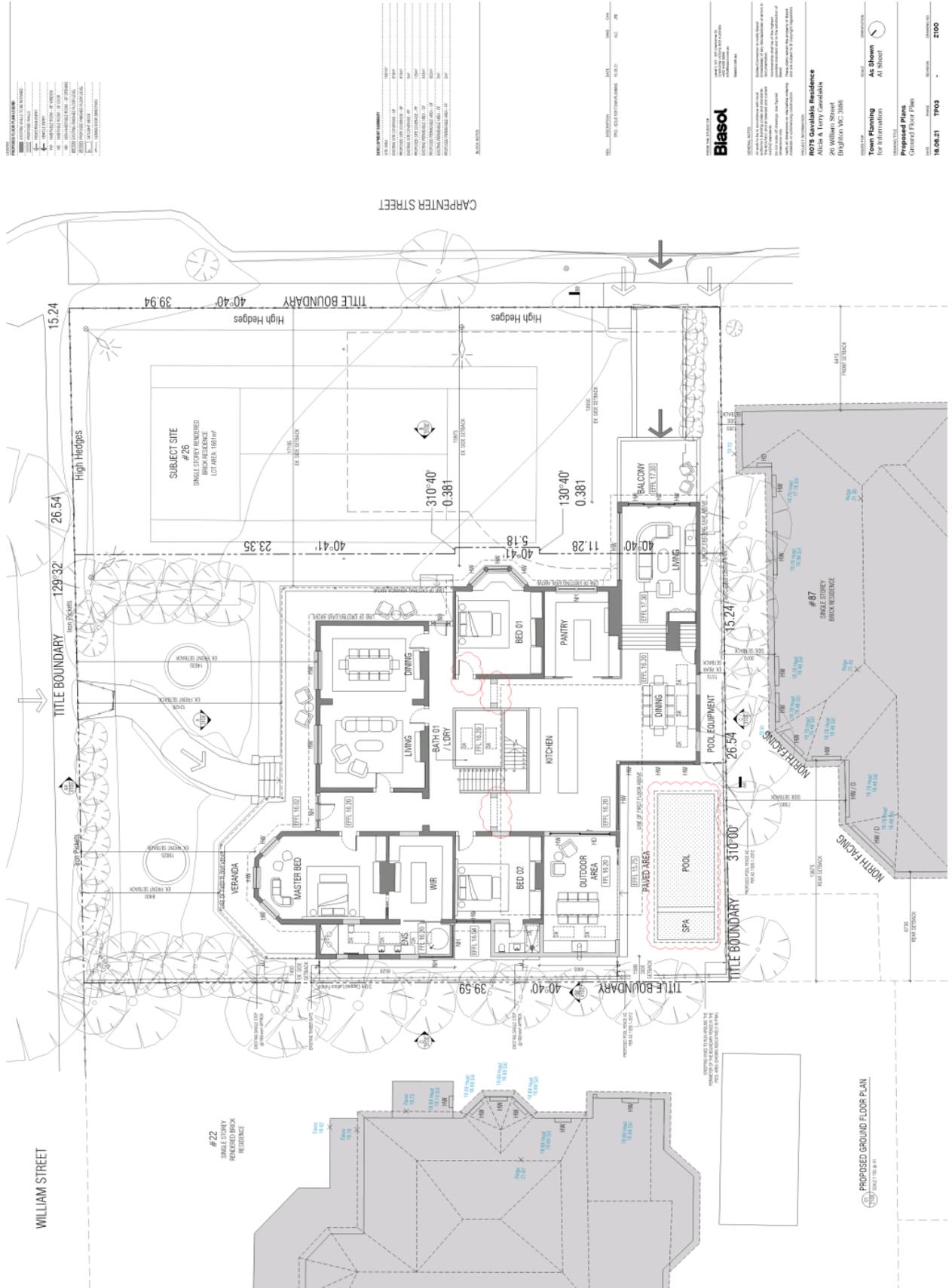
IMAGE 05

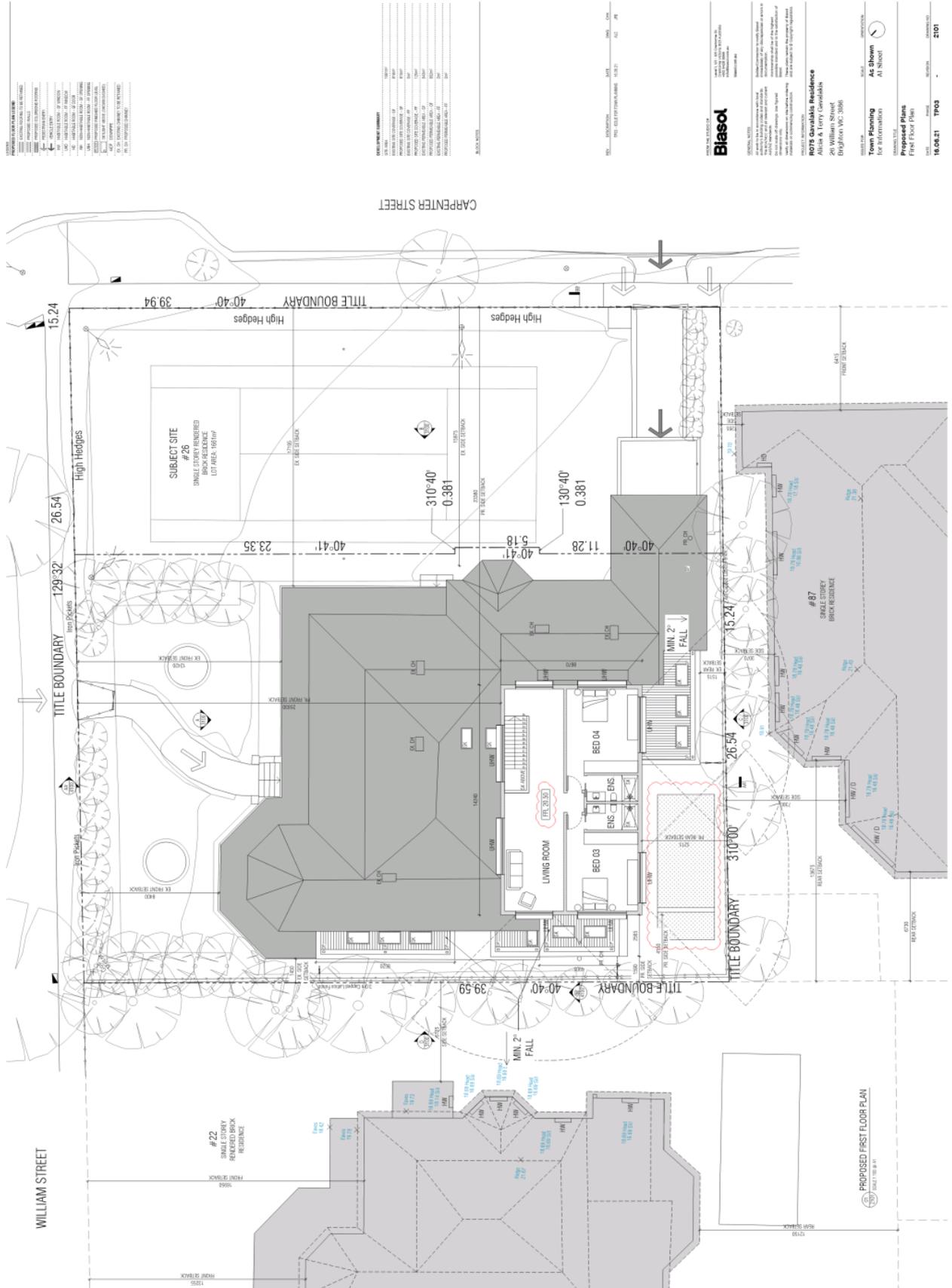




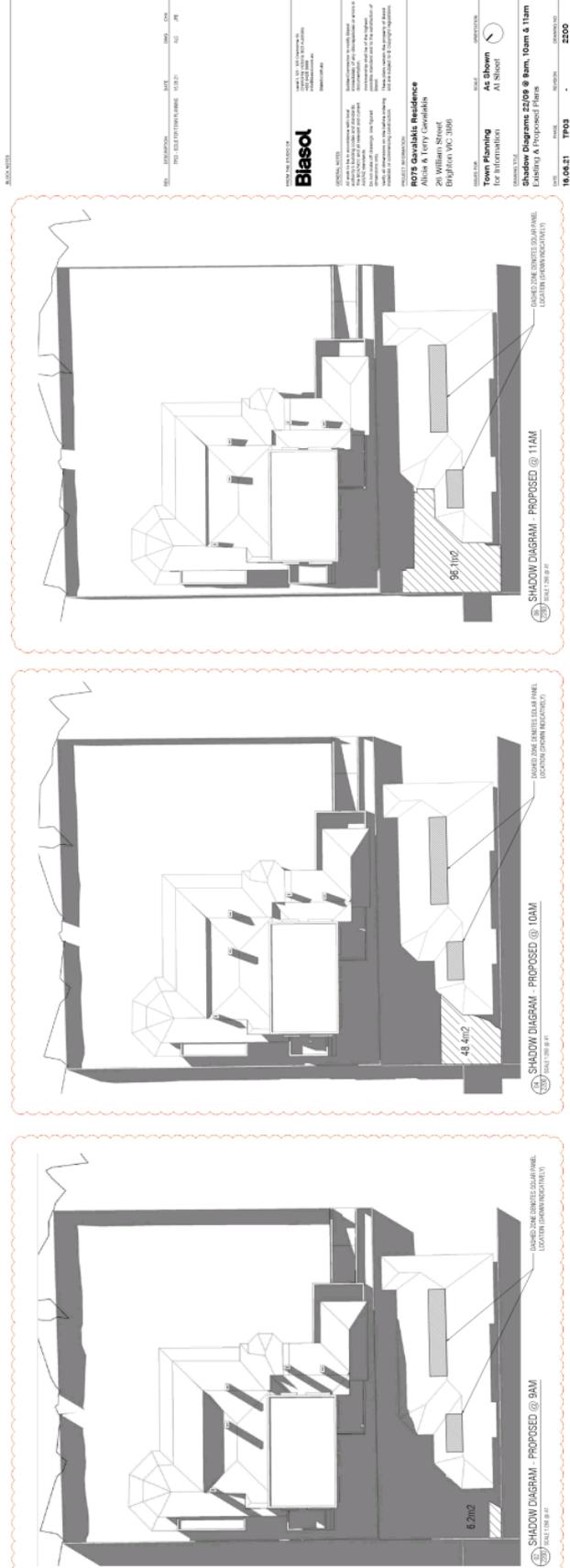
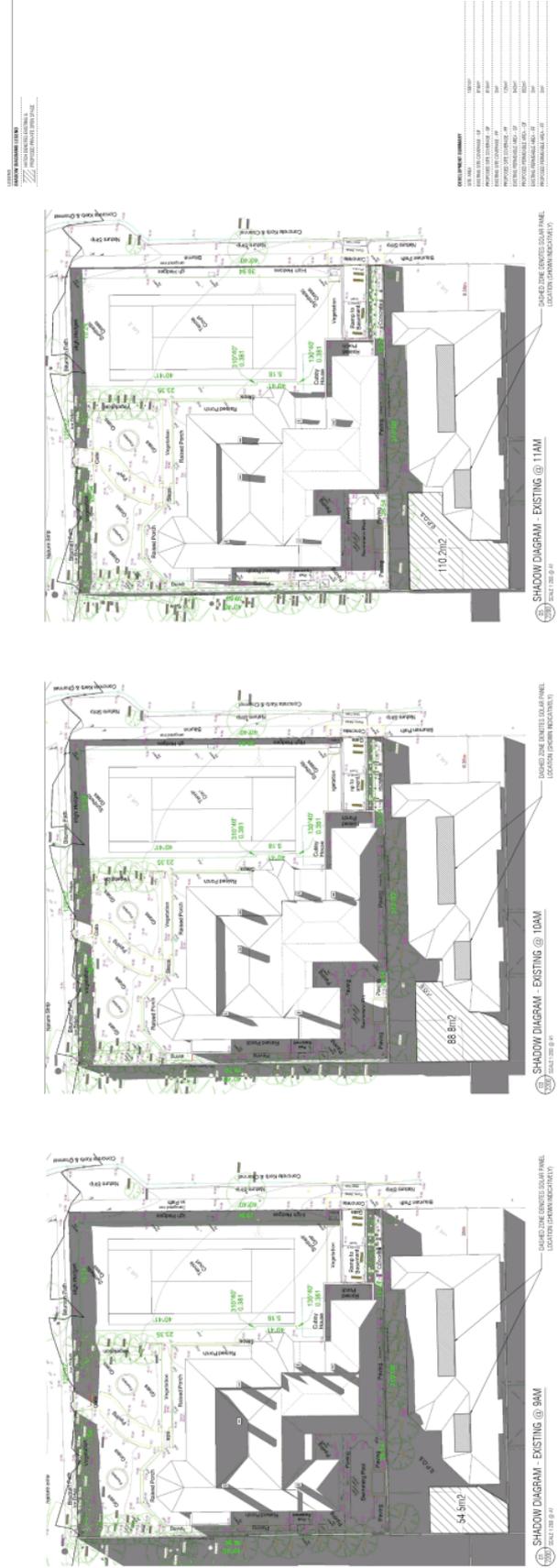












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| 29  | 15/07/21 | ISSUED FOR PERMIT |
| 30  | 15/07/21 | ISSUED FOR PERMIT |

**Blasol**

1075 Cavallotti Residence  
Alice & Terry Cavallotti  
20 William Street  
Duffield VIC 3081

Town Planning  
As Shown  
At Sheet

Shadow Diagrams 22/09 @ 9am, 10am & 11am  
Labeling & Proposed Plans  
for Information

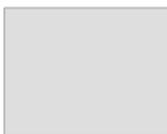
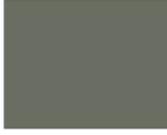
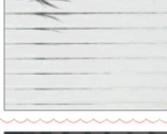
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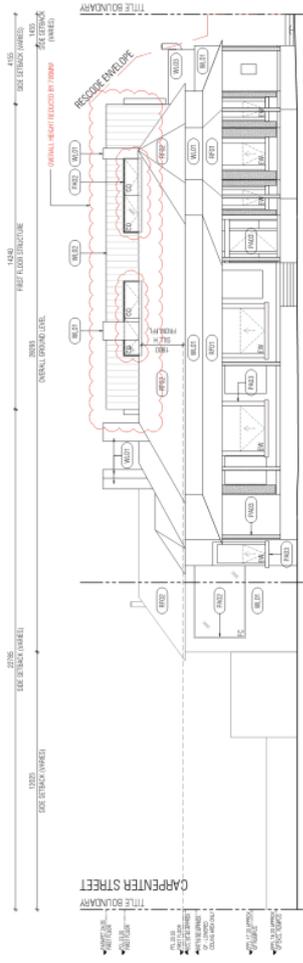
**GENERAL EXISTING FINISHES**

- 1. EXISTING CONCRETE
- 2. EXISTING BRICK
- 3. EXISTING PLASTER
- 4. EXISTING GYPSONUM
- 5. EXISTING TERRAZZO
- 6. EXISTING MARBLE
- 7. EXISTING GRANITE
- 8. EXISTING SLATE
- 9. EXISTING TERRAZZO
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- 17. EXISTING TERRAZZO
- 18. EXISTING MARBLE
- 19. EXISTING GRANITE
- 20. EXISTING SLATE

|   |   |
|---|---|
|  | <b>CODE: WL01</b><br>FINISH: LIGHT GREY PAINT<br>LOCATION: UNDERSIDE OF EAVES, FINISH HERITAGE WALLS & CHIMNEYS   |
|  | <b>CODE: PA03</b><br>FINISH: DARK GREEN GREY PAINT<br>LOCATION: VERANDAH FRAMING, FASCIAS, GUTTERS, EXISTING WINDOW & DOOR FRAMING, DOORS.                          |
|  | <b>CODE: PA02</b><br>FINISH: BLACK POWDERCOAT WITH CLEAR GLAZING<br>LOCATION: NEW WINDOW & DOOR FRAMING   |
|  | <b>CODE: PR02</b><br>FINISH: BROWN WELSH TILES<br>LOCATION: EXISTING ROOF<br>TILES TO BE RETAINED & MADE GOOD. ANY REQUIRED REPLACEMENTS TO MATCH EXISTING EXACTLY. |
|  | <b>CODE: PR01</b><br>FINISH: COLOURBOND CORRUGATED ROOFING<br>TO BE RETAINED & MADE GOOD. ANY REQUIRED REPLACEMENTS TO MATCH EXISTING EXACTLY.                      |
|   | <b>CODE: GL02</b><br>FINISH: REEDED GLAZING<br>LOCATION: SELECTED BEDROOM WINDOWS   |
|    | <b>CODE: WL02</b><br>FINISH: MID GREY ZINC CLADDING<br>LOCATION: FF WALLS   |
|    | <b>CODE: WL03</b><br>FINISH: CONCRETE RENDER<br>LOCATION: REAR MODERN SECTION OF THE EXTENSION ONLY   |

**PROPOSED FINISHES**

- 1. PROPOSED CONCRETE
- 2. PROPOSED BRICK
- 3. PROPOSED PLASTER
- 4. PROPOSED GYPSONUM
- 5. PROPOSED TERRAZZO
- 6. PROPOSED MARBLE
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**GENERAL NOTES**

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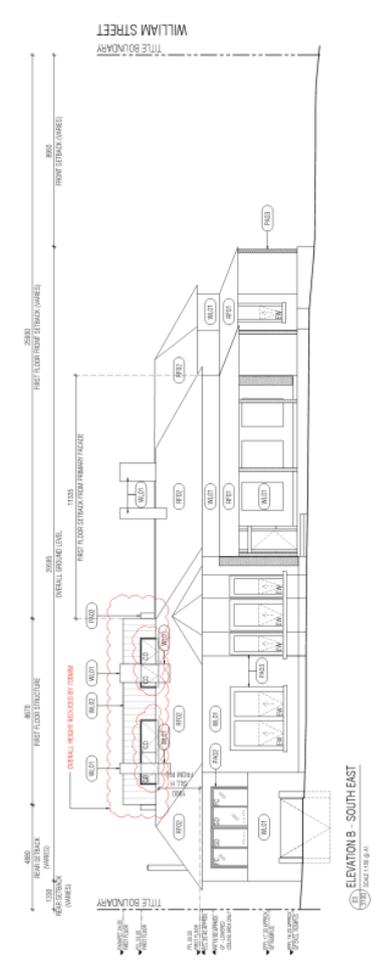
**Biasol**  
ARCHITECTS  
100/102 BAYVIEW DRIVE  
BAYVIEW VIC 3185  
PH: 03 9450 1000  
WWW.BIASOL.COM.AU

**R075 Gavallak Residence**  
Alicia & Terry Gavallak  
28 William Street  
Brighton VIC 3186

**Town Planning**  
As Shown  
At Sheet

**Proposed Finishes & Elevations**  
A & B

16.06.21 TP03 3100









**4.6 4 SUNLIT COURT, HAMPTON EAST  
SUPPORT THE GRANT OF AN AMENDMENT TO A PERMIT (VCAT  
CONSENT ORDER)  
APPLICATION 2017/246/2 WARD: IVISON**

City Planning and Amenity - Development Services  
File No: PSF/21/28 – Doc No: DOC/21/192254

*In accordance with Chapter 2, Section 61(b) of Council's Governance Rules, a person is not permitted to present to this item as it is a report summarising decisions already made by another body. In addition, the Consent Order is an outcome subsequent from the VCAT Compulsory Conference where parties established an agreed position.*

*Officers involved in the preparation of this report have no conflict of interest in this matter.*

1. Application details

|   |  |
|---|--|
| <b>Recommendation</b>   | Support the Grant of a Permit  |
| <b>Applicant</b>  | Shangri-La Construction Pty Ltd  |
| <b>Title/Covenant/S173 Agreement</b>  | The title is not subject to any restrictive covenants.   |
| <b>Date application received</b>  | 1 June 2020  |
| <b>Zoning</b>   | Neighbourhood Residential Zone (Schedule 3)  |
| <b>Overlays</b>   | Special Building Overlay<br>Design and Development Overlay (Schedule3)<br>Development Contributions Plan Overlay |
| <b>Site area</b>  | 1,658m <sup>2</sup>  |
| <b>Number of objections</b>   | 10 original objections<br>0 parties to the appeal  |
| <b>Statements of grounds lodged</b>   | 0  |
| <b>Parties to the appeal</b>  | 0  |
| <b>Tribunal Hearing Date</b>  | 9 August 2021 (2 days)   |
| <b>Is a Development Contribution Levy applicable?</b>                       | Yes<br>\$15,400  |
| <b>Is the site located within an area of cultural heritage sensitivity?</b> | Yes<br>A CHMP has been prepared.   |

Purpose

The purpose of this report is to endorse a consent position reached by all parties on 2 July 2021 following the circulation of amended plans, prior to a merits hearing.

The consent order signed by the Applicant is provided at **Attachment 1**.

The amended plans are provided at **Attachment 2**.

An aerial images and photographs of the site and surrounds are provided at **Attachment 3**.

### History

This application relates to a Section 72 Amendment which was sought to planning permit 2017/246/1.

Planning Permit 2017/246/1 for the construction of six double storey dwellings on a lot located within a Special Building Overlay was refused by Council officers under delegation on 28 June 2018.

The refusal was based on Melbourne Water's objection to the proposal pursuant to Section 55 of the *Planning and Environment Act 1987* as a determining referral authority.

The applicant lodged an appeal pursuant to Section 77 of the *Planning and Environment Act 1987* with the Victorian Civil and Administrative Tribunal (VCAT) against Council's decision to refuse to grant a planning permit. One objector lodged a Statement of Grounds in association with the Application for Review.

Prior to the Compulsory Conference scheduled for 31 January 2019, Melbourne Water confirmed that amended plans prepared by the Applicant addressed the concerns raised by Melbourne Water.

At the Compulsory Conference an in-principle agreement, subject to conditions, was reached between the Applicant and Council officers. It is noted that the objector failed to attend the Compulsory Conference and was subsequently struck out as a party to the proceeding by the Tribunal.

The Consent position agreed by the Applicant and Council officers was agreed by Councillors at the Planning and Amenity Committee at its meeting on 26 February 2019.

Planning Permit 2017/246/1 was subsequently granted at the direction of VCAT on 14 March 2019. Plans were endorsed by Council on 24 October 2019.

An extension of time request was submitted on 30 September 2020 and a two (2) year extension of time was granted on 19 October 2020.

The Section 72 Amendment application sought the following changes to the planning permit:

- site layout alterations increasing number of dwellings proposed from 6 two-storey dwellings to 9 two-storey dwellings
- reduce permeability from 35% to 26% (46% site coverage and 35% garden area is maintained)
- increase overall building height from approximately 8.3 metres to 8.6 metres
- increase number of parking spaces on site from 12 to 15 spaces, inclusive of one visitor space (no reduction sought)
- alterations to built form siting, building facades, materials, landscaping and common driveway associated with new site layout
- amend permit pre-amble to read as follows: Construction of 9 double storey dwellings on a lot located in a Special Building Overlay on a lot.

The amendments were advertised and 10 objections were received. A community consultation meeting was held online on 19 November 2020 attended by the Applicant, 5 objectors and Council officers.

The application was previously presented to the Planning and Amenity Delegated Committee on 28 January 2021. The report and recommendation can be found at **Attachment 4**. The Planning and Amenity Delegated Committee determined to refuse the application on the following grounds:

1. The proposed amendments fail to respect the existing neighbourhood character of the area and fail to respond to the objectives of Clause 22.06 (Neighbourhood Character, Precinct G1) of Bayside Planning Scheme, on the following grounds: the area by failing to:
  - a) ensure that the garden setting is maintained and enhanced
  - b) ensure the development maintains an appropriate rhythm of visual separation between buildings.
2. The proposed amendments fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
  - a) Standard B1: Neighbourhood Character – the proposal fails to respond to the existing and preferred neighbourhood character for this precinct
  - b) Standard B6: Street Setback –The street setback fails to ensure the setbacks of buildings respect the existing or preferred neighbourhood character of the area
  - c) Standard B17: Side and Rear Setbacks – The proposed side setbacks fail to achieve compliance with the numerical requirements of Standard B17
  - d) Standard B28: The proposed amendments fail to provide adequate external private open space for reasonable recreation and service needs of residents at dwellings 3, 4 and 5.

The minutes of the application heard at the Planning and Amenity committee meeting on 28 January 2021 are at **Attachment 5**.

#### VCAT

The Permit Applicant lodged an application for review under Section 77 of the *Planning and Environment Act 1987* with the Victorian Civil and Administrative Tribunal against Council's refusal to grant a planning permit.

A compulsory conference was held by VCAT on 9 June 2021 (via video link), and was attended by representatives from Council's Planning Department and representatives for the Permit Applicant.

Prior to the compulsory conference, the Permit Applicant circulated without prejudice amended plans in an attempt to address some of the concerns raised by Councillors and the Objectors. During the compulsory conference itself, the Permit Applicant agreed to refer the amended plans to Melbourne Water to obtain their comments on the amendments.

The Permit Applicant provided email confirmation from Melbourne Water advising that they had reviewed the amended plans and advised that the conditions as per their original referral response dated 24 September 2020 remain applicable when considering the proposed amended plans.

The changes to the plans are described as follows:

- reduction of total number of dwellings from 9 dwellings to 8 dwellings
- external alterations to built form of dwellings 3, 4 and 5 including:
  - alterations to ground floor side setbacks (minimum setbacks accord with standard B17 of Clause 55 of the Bayside Planning Scheme)
  - alterations to first floor side setbacks (minimum setbacks accord with standard B17 of Clause 55 of the Bayside Planning Scheme)
  - removal of first floor balconies
  - addition of first floor break in built form between dwellings 4 and 5

- alterations to roof form to comprise part flat roof, part pitched roof.
- layout alterations to dwellings 3, 4 and 5 including siting of kitchen dining/living areas to the ground floor and bedrooms to the first floor
- increased building setbacks to first floor walk in robe at dwelling 1 and first floor bathroom at dwelling 7
- alterations to garages to provide 2 parking spaces for dwellings 3, 4 and 5 (all dwellings are provided with adequate spaces in accordance with Clause 52.06 of the Bayside Planning Scheme)
- total number of parking spaces on site increased from 14 to 15
- 9 additional canopy trees around the dwellings.

The agreed amended plans and consent position is based on the conditions specified below, which were agreed to by the applicant and Council officers and include the agreed changes.

Should Councillors not endorse this agreed position, the matter will proceed to a full merits hearing currently scheduled for 9 and 10 August 2021.

## 2. Recommendation

That Council resolves to **Support the Grant of an Amendment to a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application **2017/246/2** for the land known and described as **4 Sunlit Court, Hampton East** for the **construction of 8 double storey dwellings on a lot located in a Special Building Overlay** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by SLC Bayside Construction Project NO. 1705 Revision L dated 8 June 2021 but modified to show:
  - a) the provision of a 5.2 metre wide garage door to each double garage
  - b) the provision of a 3.2 metre wide garage door to each single garage
  - c) all pedestrian doors should open outwards from the garages
  - d) visitor car parking space to be clearly signed and/pr line marked as 'visitor parking only'
  - e) both the driveway where it intersects with the footpath and the new crossover to have at least a 1m offset from the southern property boundary and/or the existing power pole relocated accordingly at the developer's cost
  - f) location of all plant and equipment including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the habitable rooms of adjoining properties
  - g) any changes required by Melbourne Water conditions
  - h) Water Sensitive Urban Design measures in accordance with Condition 7 of this permit

- i) a Landscaping Plan in accordance with Condition 9 of this permit
  - j) a Tree Management Plan in accordance with Condition 12
  - k) Development Contribution in accordance with Condition 23
- all to the satisfaction of the Responsible Authority.
2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
  3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
  4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
  5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
  6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

#### Water Sensitive Urban Design

7. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
  - a) the type of water sensitive urban design stormwater treatment measures to be used
  - b) the location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas
  - c) design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

### Landscaping

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the advertised landscape plan prepared by Harperconsults dated 17 August 2020 but modified to show:
  - a) a survey, including botanical names, of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009
  - b) a survey including botanical names of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site
  - c) a planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant
  - d) landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces
  - e) details of surface finishes of pathways and driveways
  - f) adequate planting areas including soil volume to facilitate at least nine (9) small replacement canopy trees, located outside of any easements. The canopy tree species must be capable of achieving mature canopy dimensions of 8m in height, and 4m width in accordance with Bayside City Council Landscape Guidelines (2016)
  - g) the TPZ of neighbouring trees where it extends within the subject site
  - h) any requirements as listed in the Condition 12
  - i) any amendments to the development plans.
10. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

### Tree Management and Protection Plan

12. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, a Tree Management Plan (report), a Tree Impact Assessment (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified Arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

- a) any recommendations suggested by the Tree Impact Assessment
  - b) the Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site
  - c) the location of tree protection measures to be utilised.
13. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.
  14. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.
  15. Any pruning that is required to be done to the canopy of Tree 16 to be retained is to be done by a qualified Arborist to Australian Standard - Pruning of Amenity Trees AS4373 - 1996. Any pruning of the root system of Tree 16 to be retained is to be done by hand by a qualified Arborist.

#### Street tree protection

16. Before the development starts, tree protection fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire nature strip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council-approved crossover to facilitate the construction of the crossover.
17. Soil excavation must not occur within 2 metres from the edge of the street tree asset's stem at ground level.
18. Street trees must not be removed, lopped, damage or pruned by any party other than Bayside City Council authorised tree care contractors.
19. Any installation of services and drainage within the TPZ must be undertaken using root- sensitive, non-destructive techniques.

#### Drainage

20. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
21. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's Infrastructure Assets Department.

22. Council records indicate that there is a 1.83m wide drainage and sewerage easement to the East property boundary as indicated on the drawings provided. The plans indicate that items shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the benefitting parties or Responsible Authority/Authorities. The items shall be partially demountable over the easement.

#### Development Contribution

23. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable.

#### Construction Management Plan

24. Before the commencement of works including demolition, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:
- a) a detailed schedule of works including a full project timing
  - b) a traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams
  - c) the location for the parking of all construction vehicles and construction worker vehicles during construction
  - d) delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed
  - e) proposed traffic management signage indicating any inconvenience generated by construction
  - f) fully detailed plan indicating where construction hoardings would be located
  - g) a waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing
  - h) containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site

- i) site security
- j) public safety measures
- k) construction times, noise and vibration controls
- l) restoration of any Council assets removed and/or damaged during construction
- m) protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site)
- n) remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site)
- o) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience
- p) traffic management measures to comply with provisions of AS 1742.3-2009 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads
- q) all contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan
- r) details of crane activities, if any.

#### Waste Management Plan

25. Before the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:

- a) dimensions of storage waste areas
- a) the number and size of bins to be provided
- b) facilities for bin cleaning
- c) method of waste and recyclables collection (an onsite private garbage collection is to be adopted)
- d) swept path drawings for the on site private waste collection vehicle
- e) types of waste for collection, including colour coding and labelling of bins
- f) hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines)
- g) method of hard waste collection
- h) method of presentation of bins for waste collection
- i) strategies for how the generation of waste and recyclables will be minimised
- j) compliance with relevant policy, legislation and guidelines.

When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

Melbourne Water

26. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must show:
  - a) the driveway and side setbacks surface levels must be designed to allow for the conveyance of floodwaters through the site to the satisfaction of Melbourne Water
  - b) finished floor levels of the garages must be set no lower than 28.28 metres to AHD
  - c) storage sheds and rainwater tanks located within the northern and eastern boundary setback must be relocated to allow for the conveyance of floodwaters.
27. Finished floor levels of the dwelling must be constructed no lower than 28.58 metres to Australian Height Datum (AHD).
28. Finished floor levels of the garage must be constructed no lower than 28.28 metres to AHD.
29. The building setbacks shown to site boundaries must not be further reduced without the further review and written approval by Melbourne Water, to ensure adequate open space areas to allow for the passage of overland flood flow.
30. The northern, eastern side setback and the driveway surface levels must be designed to allow for the conveyance of floodwaters through the site to the satisfaction of Melbourne Water.
31. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the building and driveway.
32. The front fence and any new internal fencing must be open style (50%) of construction and any new side boundary fencing must be timber paling to allow for the conveyance of overland flow.
33. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

Permit Expiry

34. This permit will expire if one of the following circumstances applies:
  - a) the development is not started within two years of the date of this permit
  - b) the development is not completed within four years of the date of this permit.

In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

**3. Assessment**

In considering the amended plans, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme and the grounds of refusal.

### Ground of Refusal 1

1. *The proposed amendments fail to respect the existing neighbourhood character of the area and fail to respond to the objectives of Clause 22.06 (Neighbourhood Character, Precinct G1) of Bayside Planning Scheme, on the following grounds: the area by failing to:*
  - b) *ensure that the garden setting is maintained and enhanced*
  - c) *ensure the development maintains an appropriate rhythm of visual separation between buildings.*

This ground of refusal related to neighbourhood character and in particular the garden setting of the site and the rhythm of visual separation between buildings. It was previously considered that the proposal failed to address the neighbourhood character guidelines for the precinct.

The amended plans show additional setbacks to the first floor of dwelling 1 facing Sunlit Court. This will increase the visual space between the proposed dwellings and the neighbouring building and thus will provide a larger visual break between the built form. This is considered to be a suitable design response to maintain an appropriate rhythm of visual separation between buildings within Sunlit Court.

The amended plans also show the provision of 9 additional canopy trees around the dwellings which will contribute to the softening the appearance of the dwellings when viewed from the streetscape and from the surrounding properties.

The permit conditions listed in the consent order will require the landscape plan to be updated to show the development changes as shown on the application plans as well as the additional canopy tree planting. This is considered to be a suitable design response to the existing and preferred neighbourhood character for the area.

For these reasons, the amended plans and consent order are considered to address the first ground of refusal.

### Ground of Refusal 2

2. *The proposed amendments fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:*
  - a) *Standard B1: Neighbourhood Character – the proposal fails to respond to the existing and preferred neighbourhood character for this precinct*
  - b) *Standard B6: Street Setback – The street setback fails to ensure the setbacks of buildings respect the existing or preferred neighbourhood character of the area*
  - c) *Standard B17: Side and Rear Setbacks – The proposed side setbacks fail to achieve compliance with the numerical requirements of Standard B17*
  - d) *Standard B28: The proposed amendments fail to provide adequate external private open space for reasonable recreation and service needs of residents at dwellings 3, 4 and 5.*

This ground of refusal related to neighbourhood character, street setbacks, side and rear setbacks and adequacy of private open space at dwellings 3, 4 and 5. It was previously considered that the proposal failed to address the preferred neighbourhood character for the precinct, the street setback standard, side and rear setback standard and private open space standard of Clause 55 of the Bayside Planning Scheme.

As noted above, the changes to the plans are considered to address the previous concerns raised in relation to neighbourhood character.

The amended plans show increases to the side setbacks of dwellings 1, 3, 4, 5 and 7 a well as the addition of a physical break in the first floor built form between dwellings 4

and 5. The increases to the first floor setbacks of dwellings 1, 3, 4, 5 and 7 mean that these parts of the built form now comply with standard B17 and the objective of the Bayside Planning Scheme. The proposed dwellings will not result in any adverse amenity impacts to neighbours by way of overlooking or overshadowing.

The proposed changes to the built form ensure that the 8 dwellings will sit appropriately within the large site and will be in keeping with the two-storey built form in the neighbourhood. The increases to side and rear setbacks will ensure that the built form does not appear unreasonably bulky when viewed from the surrounds.

The amended layouts of dwellings 3, 4 and 5, mean that their living areas have direct access to ground floor private open space. The private open space at dwellings 3, 4 and 5 now accords with the standard and objective of Standard 28 of Clause 55 of the Bayside Planning Scheme. This addresses the Council's previous concerns with respect to the 'reverse living' style of the dwellings which previously had living areas on the first floor with direct access to balconies only. The improved layout would provide appropriate, quality private open space for the recreational needs of future residents at dwellings 3, 4 and 5.

Whilst it is recognised that there is still a small variation sought to the street setback, this being the only non-compliance that has not been addressed is considered to be minimal and it would be unnecessary to require the street setback to be amended given that this setback has already been approved on the site as part of the previous planning permit application which was agreed by Council at the Planning and Amenity Committee at its meeting on 26 February 2019.

For these reasons, the amended plans and consent position are considered to address the second ground of refusal.

#### 4. Conclusion

For the reasons set out above, the concerns raised by Council and the objectors are considered to have been satisfactorily addressed by the amended plans and conditions imposed within the consent order.

The VCAT consent order is considered to be an appropriate outcome for this application, site and neighbourhood and would result in a development which would demonstrate a high level of compliance with the Bayside Planning Scheme.

### Support Attachments

1. Consent order ↓
2. Amended Plans ↓
3. Site and Surrounds ↓
4. Planning and Amenity Committee Meeting 28 Jan 2021 Agenda ↓
5. Planning and Amenity Committee Meeting 28 Jan 2021 Minutes ↓

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

**PLANNING AND ENVIRONMENT LIST**

VCAT REFERENCE NO. P365/2021  
PERMIT APPLICATION NO. 5/2017/246/2

|                              |   |
|------------------------------|---|
| <b>APPLICANT</b>             | Shangri-La Construction Pty<br>Ltd      |
| <b>RESPONSIBLE AUTHORITY</b> | Bayside City Council                    |
| <b>SUBJECT LAND</b>          | 4 Sunlit Court<br>HAMPTON EAST VIC 3188 |

**MINUTES OF CONSENT ORDER**

**THE TRIBUNAL ORDERS BY CONSENT THAT:**

1. Proceeding No. P365/2021 is resolved by consent.
2. In Planning Permit Application no. 5/2017/246/2 a permit is directed to issue for the construction of 8 double storey dwellings on a lot located in a Special Building Overlay, generally in accordance with plans prepared by SLC Bayside Construction, numbered TP 2.01 - 2.05; 3.01-3.03; 4.01; 4.02 and 4.04 (inclusive) dated 8 June 2021, and subject to the conditions set out in Appendix A.
3. The hearing listed for 9 and 10 August 2021 is vacated.
4. No order as to costs.

*HWL Ebsworth Lawyers*

**HWL Ebsworth Lawyers on behalf of the Applicant**

**Bayside City Council**

**Appendix A - Permit Conditions****The permit allows:**

Construction of 8 double storey dwellings on a lot located in a Special Building Overlay

**CONDITIONS**

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must be generally in accordance with the plans prepared by SLC Bayside Construction Project No. 1705 Revision L dated 8 June 2021 but modified to show:
  - a) the provision of a 5.2 metre wide garage door to each double each garage
  - b) the provision of a 3.2 metre wide garage door to each single garage
  - c) all pedestrian doors should be provided outwards from the garages
  - d) visitor car parking space to be clearly signed and/or line marked as 'visitor parking only'
  - e) both the driveway where it intersects with the footpath and the new crossover to have at least a 1m offset from the southern property boundary and/or the existing power pole relocated accordingly at the developer's cost
  - f) location of all plant and equipment including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the habitable rooms of adjoining properties
  - g) any changes required by Melbourne Water conditions
  - h) Water Sensitive Urban Design measures in accordance with Condition 7 of this permit
  - i) a Landscaping Plan in accordance with Condition 9 of this permit
  - j) a Tree Management Plan in accordance with Condition 12
  - k) Development Contribution in accordance with Condition 23all to the satisfaction of the Responsible Authority.
2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

#### Water Sensitive Urban Design

7. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
  - a) the type of water sensitive urban design stormwater treatment measures to be used
  - b) the location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas
  - c) design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

8. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

#### Landscaping

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the advertised landscape plan prepared by Harperconsults dated 17 August 2020 but modified to show:
- a) a survey, including botanical names, of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009
  - b) a survey including botanical names of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site
  - c) a planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant
  - d) landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces
  - e) details of surface finishes of pathways and driveways
  - f) adequate planting areas including soil volume to facilitate at least nine (9) small replacement canopy trees, located outside of any easements. The canopy tree species must be capable of achieving mature canopy dimensions of 8m in height, and 4m width in accordance with Bayside City Council Landscape Guidelines (2016)
  - g) the TPZ of neighbouring trees where it extends within the subject site
  - h) any requirements as listed in the Condition 12
  - i) any amendments to reflect changes to the development plans
10. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

#### Tree Management and Protection Plan

12. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, a Tree Management Plan (report), a Tree Impact Assessment (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably

qualified Arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

- a) any recommendations suggested by the Tree Impact Assessment
  - b) the Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site
  - c) the location of tree protection measures to be utilised.
13. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.
14. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.
15. Any pruning that is required to be done to the canopy of Tree 16 to be retained is to be done by a qualified Arborist to Australian Standard - Pruning of Amenity Trees AS4373 - 1996. Any pruning of the root system of Tree 16 to be retained is to be done by hand by a qualified Arborist.

#### Street Tree Protection

16. Before the development starts, tree protection fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire nature strip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council-approved crossover to facilitate the construction of the crossover.
17. Soil excavation must not occur within 2 metres from the edge of the street tree asset's stem at ground level.
18. Street trees must not be removed, lopped, damaged or pruned by any party other than Bayside City Council authorised tree care contractors.

19. Any installation of services and drainage within the TPZ must be undertaken using root- sensitive, non-destructive techniques.

#### Drainage

20. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
21. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's Infrastructure Assets Department.
22. Council records indicate that there is a 1.83m wide drainage and sewerage easement to the East property boundary as indicated on the drawings provided. The plans indicate that items shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the benefitting parties or Responsible Authority/Authorities. The items shall be partially demountable over the easement.

#### Development Contribution

23. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable.

#### Construction Management Plan

24. Before the commencement of works including demolition, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:
- a) a detailed schedule of works including a full project timing
  - b) a traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to

occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams

- c) the location for the parking of all construction vehicles and construction worker vehicles during construction
- d) delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed
- e) proposed traffic management signage indicating any inconvenience generated by construction
- f) fully detailed plan indicating where construction hoardings would be located
- g) a waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing
- h) containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site
- i) site security
- j) public safety measures
- k) construction times, noise and vibration controls
- l) restoration of any Council assets removed and/or damaged during construction
- m) protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site)
- n) remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site)
- o) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience
- p) traffic management measures to comply with provisions of AS 1742.3-2009 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads
- q) all contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan
- r) details of crane activities, if any.

#### Waste Management Plan

25. Before the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:
- a) dimensions of storage waste areas
  - b) the number and size of bins to be provided
  - c) facilities for bin cleaning
  - d) method of waste and recyclables collection (an onsite private garbage collection is to be adopted)
  - e) swept path drawings for the on site private waste collection vehicle
  - f) types of waste for collection, including colour coding and labelling of bins
  - g) hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines)
  - h) method of hard waste collection
  - i) method of presentation of bins for waste collection
  - j) strategies for how the generation of waste and recyclables will be minimised
  - k) compliance with relevant policy, legislation and guidelines to the satisfaction of the Council

When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

#### Melbourne Water

26. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must show:
- a) the driveway and side setbacks surface levels must be designed to allow for the conveyance of floodwaters through the site to the satisfaction of Melbourne Water
  - b) finished floor levels of the garages must be set no lower than 28.28 metres to AHD
  - c) storage sheds and rainwater tanks located within the northern and eastern boundary setback must be relocated to allow for the conveyance of floodwaters.
27. Finished floor levels of the dwelling must be constructed no lower than 28.58 metres to Australian Height Datum (AHD).

28. Finished floor levels of the garage must be constructed no lower than 28.28 metres to AHD.
29. The building setbacks shown to site boundaries must not be further reduced without the further review and written approval by Melbourne Water, to ensure adequate open space areas to allow for the passage of overland flood flow.
30. The northern, eastern side setback and the driveway surface levels must be designed to allow for the conveyance of floodwaters through the site to the satisfaction of Melbourne Water.
31. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the building and driveway.
32. The front fence and any new internal fencing must be open style (50%) of construction and any new side boundary fencing must be timber paling to allow for the conveyance of overland flow.
33. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

#### Permit Expiry

34. This permit will expire if one of the following circumstances applies:
  - a) The development is not started within two years of the date of this permit.
  - b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

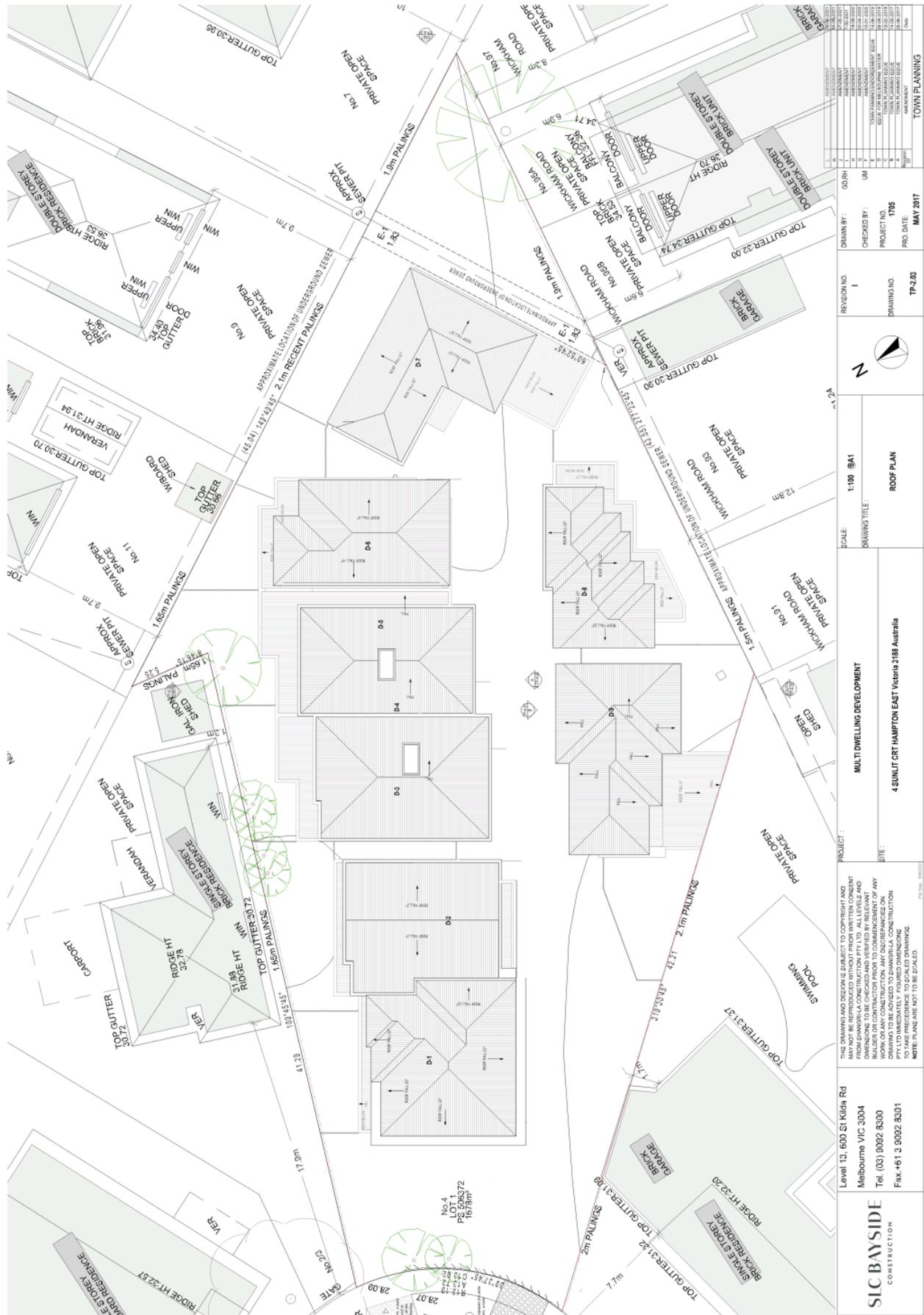
- End of conditions -





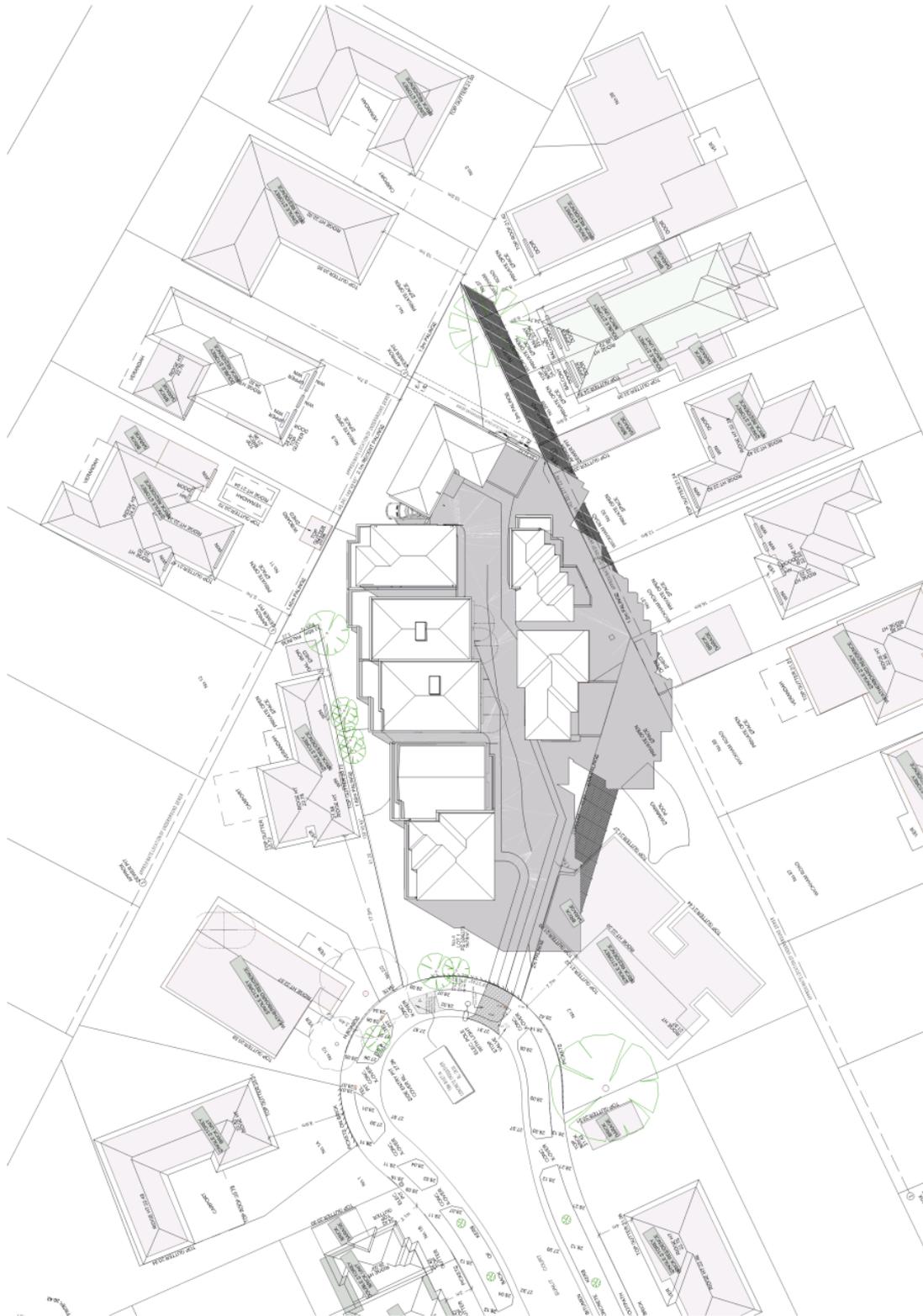


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| <p><b>SIC BAYSIDE</b><br/>CONSTRUCTION</p>   |  | <p>DRAIN BY : GD/SH</p> <p>CHECKED BY : UM</p> <p>PROJECT NO. : 1705</p> <p>PROJ. DATE : MAY 2017</p> <p>TOWN PLANNING</p>   |  |                        |



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| <p>Level 13, 600 St Kilda Rd<br/>Melbourne VIC 3004<br/>Tel: (03) 8002 8300<br/>Fax: +61 3 8002 8301</p> <p><b>SIC BAYSIDE</b><br/>CONSTRUCTION</p>  |  | <p>PROJECT :<br/>MULTI-DWELLING DEVELOPMENT</p> <p>SITE:<br/>4 SUMLIT CRT HAMPTON EAST Victoria 3188 Australia</p> |  | <p>SCALE: 1:100 @A1</p> <p>DRAWING TITLE: ROOF PLAN</p>            |  | <p>REVISION NO. 1</p> <p>PROJ. NO. TP-2.03</p> <p>PROJ. DATE: MAY 2017</p> |  | <p>TOWN PLANNING</p> |  |
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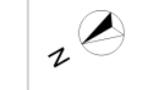




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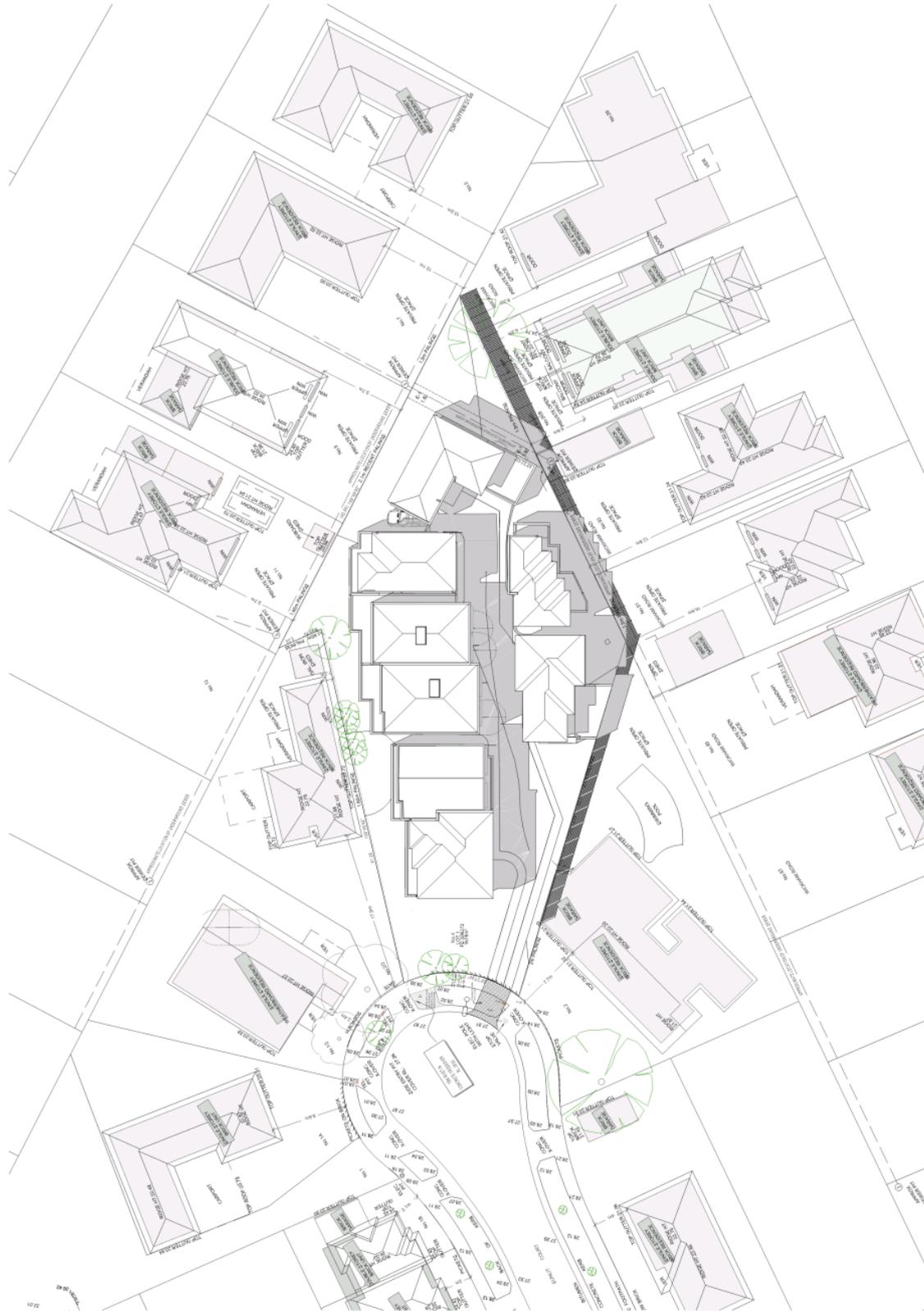


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 SITE: 4 SULLIVAN CRT HAMPTON EAST VIC 3188 Australia

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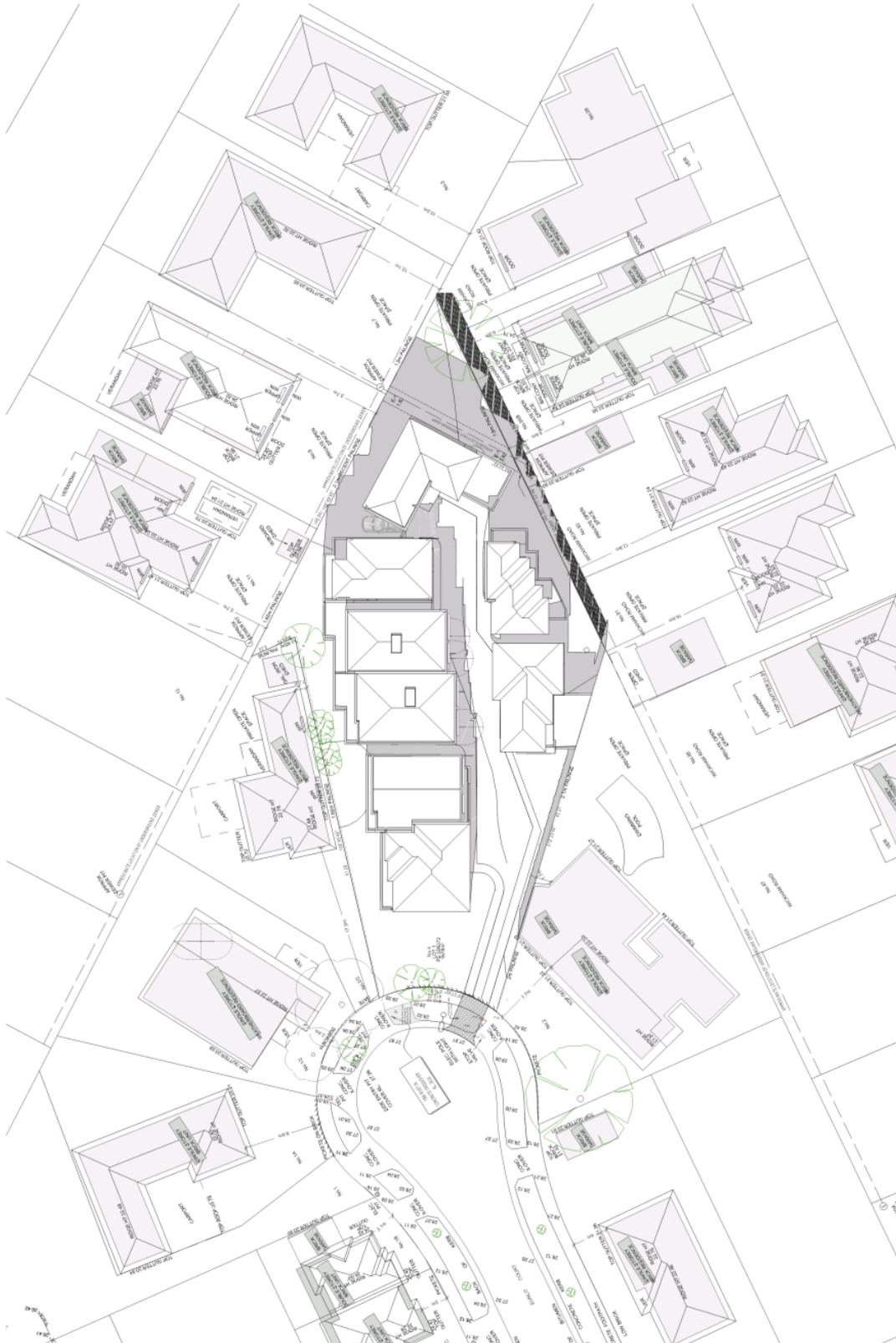
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PROJECT: MULTIDWELLING DEVELOPMENT  
 SITE: 4 SUITE CRT HAMPTON EAST Victoria 3188 Australia

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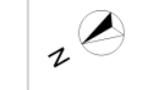




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REVISION NO: 1  
 DRAWING NO: TP-3.03



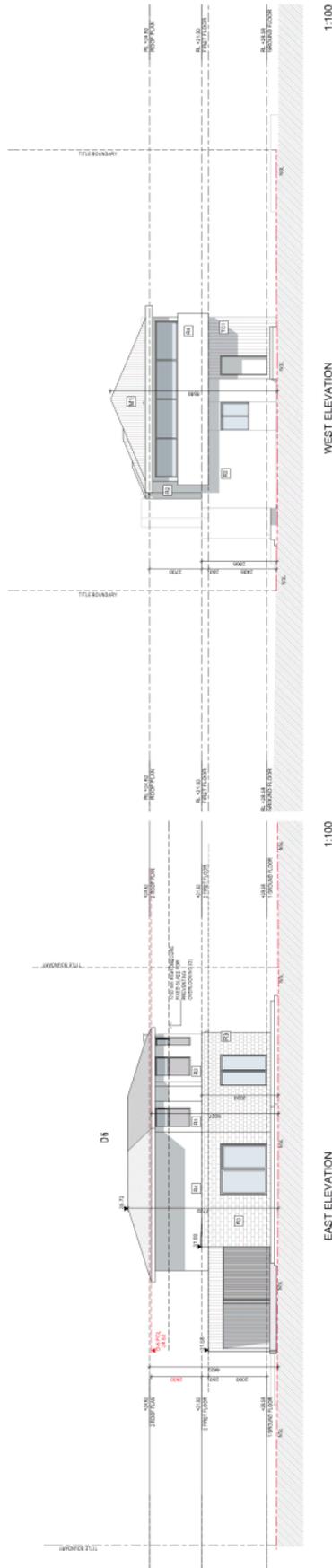
SCALE: 1:200 @A1  
 DRAWING TITLE: SHADOW DIAGRAMS JAN-22 SEPT.

PROJECT: MULTIDWELLING DEVELOPMENT  
 SITE: 4 SULLIT CRT HAMPTON EAST Victoria 3188 Australia

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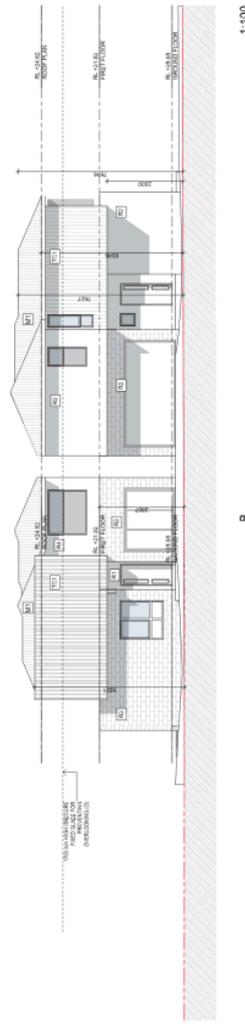


1:100

WEST ELEVATION

1:100

EAST ELEVATION



1:100

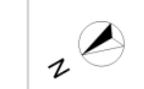
B

- FINISHES SCHEDULES**
- OUTLET DOWN PIPES, COPINGS AND OTHER RAINWATER GOODS: COLOUR BOND
  - WINDOWS AND DOORS: GENERALLY ALUMINIUM IMPROVED FRAMED
  - GLAZING: CLEAR GLASS AND FINISHED AS SHOWN
  - ENTRY DOORS AND PANELS: PAINTED TIMBER
  - CHIEF JOISTS: GENERALLY 400 WIDE EXCEPT WHERE SHOWN OR PLAN PAINTED YELLOW BOND
  - GARAGE DOOR: COLOUR BOND PANEL LIFT
  - EXTERNAL DOORING: GENERALLY TIMBER & TILED
  - STEPS AND LANDINGS: GENERALLY CONCRETE AND BLUE STONE
  - DRIVeways: SELECTED CONCRETE FINISH WITH EXPOSED AGGREGATE GENERALLY GREY
  - INTERNAL LINING: WALLS AND CEILING 3/4 PASTERBOARD LINING

| NO. | REVISION          | DATE       |
|-----|-------------------|------------|
| 1   | ISSUED FOR PERMIT | 24-06-2021 |
| 2   | AMENDMENT         | 24-06-2021 |
| 3   | AMENDMENT         | 24-06-2021 |
| 4   | AMENDMENT         | 18-08-2021 |
| 5   | AMENDMENT         | 18-08-2021 |
| 6   | AMENDMENT         | 18-08-2021 |
| 7   | AMENDMENT         | 18-08-2021 |
| 8   | AMENDMENT         | 18-08-2021 |
| 9   | AMENDMENT         | 18-08-2021 |
| 10  | AMENDMENT         | 18-08-2021 |
| 11  | AMENDMENT         | 18-08-2021 |
| 12  | AMENDMENT         | 18-08-2021 |
| 13  | AMENDMENT         | 18-08-2021 |
| 14  | AMENDMENT         | 18-08-2021 |
| 15  | AMENDMENT         | 18-08-2021 |
| 16  | AMENDMENT         | 18-08-2021 |
| 17  | AMENDMENT         | 18-08-2021 |
| 18  | AMENDMENT         | 18-08-2021 |
| 19  | AMENDMENT         | 18-08-2021 |
| 20  | AMENDMENT         | 18-08-2021 |

DESIGNED BY: GD:PH  
 CHECKED BY: UM  
 PROJECT NO: 1705  
 PRO. DATE: MAY 2017

REVISION NO: 1  
 DRAWING NO: TP-4.01



SCALE: 1:100 @A1  
 DRAWING TITLE: ELEVATION

PROJECT: MULTI-DWELLING DEVELOPMENT  
 4 SULLIT CRT HAMPTON EAST Victoria 3188 Australia

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| MATERIAL SCHEDULE |                           |
|-------------------|---------------------------|
| HATCH             | NAME                      |
|                   | SELECTED DARK RENDER      |
|                   | SELECTED GREY RENDER      |
|                   | SELECTED LIGHT RENDER     |
|                   | SELECTED LIGHT RENDER     |
|                   | SELECTED OBSCURE GLASS    |
|                   | CONC TILE ROOF            |
|                   | TIMBER LOOK FINISH        |
|                   | Soyyn Aazon - Dark Finish |



R4  
SELECTED LIGHT RENDER



R3  
SELECTED LIGHT RENDER  
WITH TOOL JOINTS  
(600X300)



R2  
SELECTED GREY RENDER



R1  
SELECTED DARK RENDER



P1  
Soyyn Aazon - Dark Finish



TC1  
TIMBER LOOK FINISH



TIMBER DECK



M1  
CONC TILE ROOF



EXPOSED AGGREGATE FOR  
DRIVEWAY

**FINISHES SCHEDULES**

- GUTTERS, DOWN PIPES, CAPPING AND OTHER RAINWATER GOODS: COLOUR BOND
- WINDOWS AND DOORS GENERALLY: ALUMINIUM IMPROVED FRAMED
- GLAZING: CLEAR GLASS AND OBSCURED AS SHOWN
- ENTRY DOORS AND PANELS: PAINTED TIMBER
- EAVE SOFFITS: GENERALLY 450 WIDE EXCEPT WERE SHOWN ON PLAN, PAINTED VILLA BOARD
- GARAGE DOOR: COLOUR BOND PANEL LIFT
- EXTERNAL DECKING GENERALLY: TIMBER & TILED
- STEPS AND LANDINGS: GENERALLY: CONCRETE AND BLUE STONE
- DRIVEWAYS: SELECTED CONCRETE FINISH WITH EXPOSED AGGREGATE GENERALLY GREY
- INTERNAL LININGS: WALLS AND CEILING 10 PLASTERBOARD LINING



TYPICAL WINDOW COLOUR



TYPICAL PAVER STYLE

|   |  |  |  |                                |  |                            |  |                             |  |                         |  |
|---|--|--|--|--------------------------------|--|----------------------------|--|-----------------------------|--|-------------------------|--|
| <p>Level 13, 600 St Kilda Rd<br/>Melbourne VIC 3004<br/>Tel. (03) 9092 8300<br/>Fax +61 3 9092 8301</p>   |  | <p>PROJECT: MULTI DWELLING DEVELOPMENT</p>               |  | <p>SCALE: 1:100 @A1</p>        |  | <p>REVISION NO. 1</p>      |  | <p>DRAWN BY: GORH</p>       |  | <p>DATE: 28-05-2017</p> |  |
| <p><b>SIC BAYSIDE</b><br/>CONSTRUCTION</p>  |  | <p>4 SUNLIT CRT HAMPTON EAST Victoria 3188 Australia</p> |  | <p>SCISSOR TITLE: Finishes</p> |  | <p>DRAWING NO. TP-4-04</p> |  | <p>CHECKED BY: UM</p>       |  | <p>DATE: 28-05-2017</p> |  |
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**Site and Surrounds**

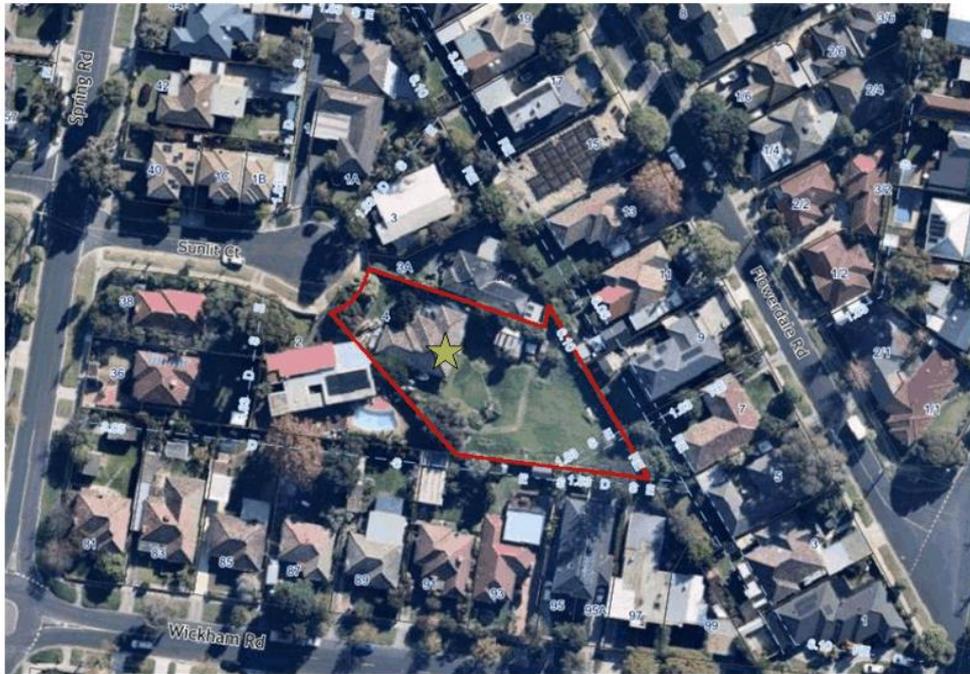


Figure 1 Aerial overview of the site and surrounds

| Legend       |   |
|--------------|---|
| Subject site | ★ |



Figure 2 View towards the site from Sunlit Court



Figure 3 View towards the site and adjoining property at 2/3 Sunlit Court



Figure 4 View to the site and adjoining property at 3 Sunlit Court

Bayside City Council

Planning and Amenity Delegated Committee - 28 January 2021

**4.4 4 SUNLIT COURT, HAMPTON EAST  
NOTICE OF DECISION TO GRANT AN AMENDMENT TO A PERMIT  
APPLICATION 2017/246/2 WARD: IVISON**

City Planning and Amenity - Development Services  
File No: PSF/20/10 – Doc No: DOC/20/371164

*Officers involved in the preparation of this report have no conflict of interest in this matter.*

1. Application details

|   |   |
|---|---|
| <b>Recommendation</b>   | Notice of Decision to Grant an Amendment to a Permit  |
| <b>Applicant</b>  | Shangri La  |
| <b>Title/Covenant/S173 Agreement</b>  | The title is not subject to any restrictive covenants.  |
| <b>Date application received</b>  | 1 June 2020   |
| <b>Current statutory days</b>   | 156 days  |
| <b>Zoning</b>   | Neighbourhood Residential Zone (Schedule 3)   |
| <b>Overlays</b>   | Design and Development Overlay (Schedule 3)<br>Development Contribution Plan Overlay (Schedule 1)<br>Special Building Overlay |
| <b>Site area</b>  | 1,658m <sup>2</sup>   |
| <b>Number of outstanding objections</b>                                     | 10  |
| <b>Is a Development Contribution Levy applicable?</b>                       | Yes<br>\$17,496   |
| <b>Is the site located within an area of cultural heritage sensitivity?</b> | Yes<br>A CHMP has been prepared.  |

Proposal

The application seeks approval to amend the permit pursuant to Section 72 of the *Planning and Environment Act 1987*.

The list of the proposed amendments is as follows:

- site layout alterations increasing number of dwellings proposed from 6 two-storey dwellings to 9 two-storey dwellings
- reduce permeability from 35% to 26% (46% site coverage and 35% garden area is maintained)
- increase overall building height from approximately 8.3 metres to 8.6 metres
- increase number of parking spaces on site from 12 to 15 spaces, inclusive of one

visitor space (no reduction sought)

- alterations to built form siting, building facades, materials, landscaping and common driveway associated with new site layout
- amend permit pre-amble to read as follows: Construction of 9 double storey dwellings on a lot located in a Special Building Overlay on a lot.

The application plans are provided at **Attachment 1**.

The currently endorsed plans are also provided at **Attachment 2**.

An aerial image and photographs of the site and surrounds are provided at **Attachment 3**.

#### History

Planning Permit **2017/246/1** for the construction of six double storey dwellings on a lot located within a Special Building Overlay was refused by Council officers under delegation on 28 June 2018.

The refusal was based on Melbourne Water's objection to the proposal pursuant to Section 55 of the *Planning and Environment Act 1987* as a determining referral authority.

The applicant lodged an appeal pursuant to Section 77 of the *Planning and Environment Act 1987* with the Victorian Civil and Administrative Tribunal (VCAT) against Council's decision to refuse to grant a planning permit. One objector lodged a Statement of Grounds in association with the Application for Review.

Prior to the Compulsory Conference scheduled for 31 January 2019, Melbourne Water confirmed that amended plans prepared by the Applicant addressed the concerns raised by Melbourne Water.

At the Compulsory Conference an in-principle agreement, subject to conditions, was reached between the Applicant and Council officers. It is noted that the objector failed to attend the Compulsory Conference and was subsequently struck out as a party to the proceeding by the Tribunal.

The Consent position agreed by the Applicant and Council Officers was agreed by Councillors at the Planning and Amenity Committee at its meeting on 26 February 2019.

Planning Permit 2017/246/1 was subsequently granted at the direction of VCAT on 14 March 2019.

Plans were endorsed by Council on 24 October 2019.

An extension of time request was submitted on 30 September 2020 and a two (2) year extension of time was granted on 19 October 2020.

#### 2. Planning controls

Pursuant to Section 72 of the *Planning and Environment Act 1987*, the ambit of discretion is limited to the proposed changes sought by the applicant. Consideration cannot be given to elements already approved as part of the original application but not sought to be amended.

#### Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-6 (Neighbourhood Residential Zone Schedule 3) – Construction of two or more dwellings on a lot

Bayside City Council Planning and Amenity Delegated Committee - 28 January 2021

- Clause 44.05-1 (Special Building Overlay) – Construction of a building or to construct or carry out works.

Original planning permit requirements

- Clause 32.09-6 (Neighbourhood Residential Zone Schedule 3) – Construction of two or more dwellings on a lot

- Clause 44.05-1 (Special Building Overlay) – Construction of a building or to construct or carry out works.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

The application was referred to the following authorities:

| Referral Authority | Response                             |
|--------------------|--------------------------------------|
| Melbourne Water    | No objection, subject to conditions. |

Internal referrals

The application was referred to the following Council departments for comment:

| Internal Referral        | Response                             |
|--------------------------|--------------------------------------|
| Arborist                 | No objection, subject to conditions. |
| Drainage Assets Engineer | No objection, subject to conditions. |
| Traffic Engineer         | No objection, subject to conditions. |

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and ten (10) objections were received.

Ten (10) objections remain outstanding at the time of this report.

The following concerns were raised:

- neighbourhood character
- visual bulk
- overlooking
- overshadowing
- traffic/parking
- waste collection
- noise
- drainage
- landscaping
- Aboriginal cultural heritage.

The number of objections received for this application is consistent across Council's record management systems.

Consultation meeting

A consultation meeting was held online on 19 November 2020 attended by the permit applicant and five (5) objectors. As a result of this meeting no objections were withdrawn.

#### 4. Recommendation

That Council resolves to issue a **Notice of Decision to Grant an Amendment to a Permit** under the provisions of the Bayside Planning Scheme in respect of planning application **2017/246/2** for the land known and described as **4 Sunlit Court, Hampton East**, for the **construction of 9 double storey dwellings on a lot located in a Special Building Overlay on a lot** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the Revision D plans but modified to show:
  - a) each double garage to have a minimum internal length of 6m
  - b) **each double garage to have a minimum 5.5m clear width**
  - c) **each single garage to have a minimum 3.5m clear width**
  - d) **the provision of a 5.2 metre wide garage door to each double garage**
  - e) **the provision of a 3.2 metre wide garage door to each single garage**
  - f) all pedestrian doors should be provided outwards from the garages
  - g) **visitor car parking space to be clearly signed and/or line marked as 'visitor parking only'**
  - h) both the driveway where it intersects with the footpath and the new crossover to have at least a 1m offset from the southern property boundary and/or the existing power pole relocated accordingly at the developer's cost
  - i) adequate sight lines to be provided in accordance with Clause 52.06 of the Bayside Planning Scheme
  - j) location of all plant and equipment including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the habitable rooms of adjoining properties
  - k) any changes required by Melbourne Water conditions
  - l) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit
  - m) a Landscaping Plan in accordance with Condition 10 of this permit
  - n) a Tree Management Plan in accordance with Condition 12
  - o) Development Contribution in accordance with Condition 23all to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

#### Water Sensitive Urban Design

7. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
  - a) the type of water sensitive urban design stormwater treatment measures to be used
  - b) the location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas
  - c) design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.
8. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

#### Landscaping

9. **Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the advertised landscape plan prepared by Harperconsults dated 17 August 2020 but modified to show:**

- a) a survey, including botanical names, of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009
  - b) a survey including botanical names of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site
  - c) a planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant
  - d) landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces
  - e) details of surface finishes of pathways and driveways
  - f) adequate planting areas including soil volume to facilitate at least nine (9) small replacement canopy trees, located outside of any easements. The canopy tree species must be capable of achieving mature canopy dimensions of 8m in height, and 4m width in accordance with Bayside City Council Landscape Guidelines (2016)
  - g) the TPZ of neighbouring trees where it extends within the subject site
  - h) any requirements as listed in the Condition 12
  - i) any amendments to the development plans.
10. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
  11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

#### Tree Management and Protection Plan

12. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, a Tree Management Plan (report), a Tree Impact Assessment (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified Arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

- a) any recommendations suggested by the Tree Impact Assessment

- b) the Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site
  - c) the location of tree protection measures to be utilised.
13. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.
  14. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.
  15. Any pruning that is required to be done to the canopy of Tree 16 to be retained is to be done by a qualified Arborist to Australian Standard - Pruning of Amenity Trees AS4373 - 1996. Any pruning of the root system of Tree 16 to be retained is to be done by hand by a qualified Arborist.

#### Street tree protection

16. Before the development starts, tree protection fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire nature strip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council-approved crossover to facilitate the construction of the crossover.
17. Soil excavation must not occur within 2 metres from the edge of the street tree asset's stem at ground level.
18. Street trees must not be removed, lopped, damaged or pruned by any party other than Bayside City Council authorised tree care contractors.
19. Any installation of services and drainage within the TPZ must be undertaken using root-sensitive, non-destructive techniques.

#### Drainage

20. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
21. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's Infrastructure Assets Department.
22. Council records indicate that there is a 1.83m wide drainage and sewerage easement to the East property boundary as indicated on the drawings provided. The plans indicate that items shall be constructed over the easement. Any proposal to encroach into the easement will

**require Build Over Easement consent from the benefitting parties or Responsible Authority/Authorities. The items shall be partially demountable over the easement.**

Development Contribution

23. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Contributions Levy Charge Sheet and it must include the Building Price Index applicable.

Construction Management Plan

24. Before the commencement of works including demolition, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:

- a) a detailed schedule of works including a full project timing
- b) a traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams
- c) the location for the parking of all construction vehicles and construction worker vehicles during construction
- d) delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed
- e) proposed traffic management signage indicating any inconvenience generated by construction
- f) fully detailed plan indicating where construction hoardings would be located
- g) a waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing
- h) containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site
- i) site security
- j) public safety measures

- k) construction times, noise and vibration controls
- l) restoration of any Council assets removed and/or damaged during construction
- m) protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site)
- n) remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site)
- o) an emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience
- p) traffic management measures to comply with provisions of AS 1742.3-2009 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads
- q) all contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan
- r) details of crane activities, if any.

#### **Waste Management Plan**

**25. Before the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:**

- a) dimensions of storage waste areas
- a) the number and size of bins to be provided
- b) facilities for bin cleaning
- c) method of waste and recyclables collection (an onsite private garbage collection is to be adopted via a 6.4m rear mini loader)
- d) swept path drawings for 6.4m rear mini loader
- e) types of waste for collection, including colour coding and labelling of bins
- f) hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines)
- g) method of hard waste collection
- h) method of presentation of bins for waste collection
- i) strategies for how the generation of waste and recyclables will be minimised
- j) compliance with relevant policy, legislation and guidelines.

**When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.**

**Melbourne Water**

26. Prior to the development plans being endorsed, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must show:
  - a) the driveway and side setbacks surface levels must be designed to allow for the conveyance of floodwaters through the site to the satisfaction of Melbourne Water
  - b) finished floor levels of the garages must be set no lower than 28.28 metres to AHD
  - c) storage sheds and rainwater tanks located within the northern and eastern boundary setback must be relocated to allow for the conveyance of floodwaters.
27. Finished floor levels of the dwelling must be constructed no lower than 28.58 metres to Australian Height Datum (AHD).
28. Finished floor levels of the garage must be constructed no lower than 28.28 metres to AHD.
29. The building setbacks shown to site boundaries must not be further reduced without the further review and written approval by Melbourne Water, to ensure adequate open space areas to allow for the passage of overland flood flow.
30. The northern, eastern side setback and the driveway surface levels must be designed to allow for the conveyance of floodwaters through the site to the satisfaction of Melbourne Water.
31. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the building and driveway.
32. The front fence and any new internal fencing must be open style (50%) of construction and any new side boundary fencing must be timber paling to allow for the conveyance of overland flow.
33. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

**Permit Expiry**

34. This permit will expire if one of the following circumstances applies:
  - a) The development is not started within two years of the date of this permit.
  - b) The development is not completed within four years of the date of this permit.

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

| Date            | Details  |
|-----------------|--|
| 28 January 2021 | <ul style="list-style-type: none"> <li>• Update to permit preamble</li> <li>• Update to Condition 1 requirements to include internal parking dimension and visitor parking line marking requirements</li> <li>• Update to drainage conditions</li> <li>• Update to Melbourne Water conditions</li> <li>• Amendment of landscape plan condition</li> <li>• Addition of waste management plan condition</li> <li>• Renumbering of remaining conditions.</li> </ul> |

#### 5. Council Policy

##### Council Plan 2017–21

Relevant objectives of the Council plan include:

- where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place
- where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context
- where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

- make discretionary planning controls stronger, by advocating for Council's planning and urban design objectives to state government.

##### Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.09 Transport and Access

- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy (Precinct G1)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 44.05 Special Building Overlay
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 53.18 Stormwater Management in Urban Development
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

#### 6. Considerations

In considering this application, regard has been given to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, objections received and the individual merits of the application.

##### 6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct G1. The proposal is considered to demonstrate an appropriate level of compliance with the preferred future character statement and precinct guidelines as contained in **Attachment 3**.

The overall scale and built form massing of the development will respond appropriately to the prevailing character and pattern of development within this part of Hampton East and incorporate physical breaks between the buildings at ground and first floors to mimic the rhythm and separation between existing buildings.

The generous front setbacks to dwellings 1 and 9 respond to the pattern of front setbacks on Sunlit Court and allows for a generous spacious garden setting that is consistent with this established garden character of Sunlit Court and the wider neighbourhood.

The pitched roof forms of dwellings 1 and 9 facing Sunlit Court respond favourably to the traditional pitched residential roof forms evident within the street and surrounds, whilst the combination of flat and skillion sections of roof associated with Units 3, 4 and 5 assist in reducing the overall building height and visual bulk of the development when viewed from adjoining properties.

The upper floor levels feature cantilevered sections that project beyond some sections of the ground floor footprint, consistent with the existing approved development on the site. This design feature is considered acceptable given it provides interest and articulation to the overall development as it extends down the length of the block. The cantilevered sections combined with the 'breaks' between buildings at ground and first floors modulate the appearance of the development to generally respect the rhythm and visual separation between dwellings when viewed from immediately adjoining properties to the north, south and east.

The proposed external materials and finishes are modest and reflect more contemporary development emerging within the neighbourhood.

The proposed 1.2m high rendered front fence not only complies with the schedule to the zone and responds to the front fence character within Sunlit Court, it will allow views of future landscaping, including canopy tree planting within the front setback which softens the development to the street.

## 6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at **Attachment 4**. Those non-compliant standards are discussed below:

### Street setback (Standard B6)

A street setback from Sunlit Court for Dwelling 1 of 8.8 metres at ground floor and 8.4 metres at first floor is proposed. Standard B6 calls for a front setback of 9 metres. The elements of non-compliance are highlighted below:

|              | Required | Proposed                               | Variation                  |
|--------------|----------|--|----------------------------|
| Sunlit Court | 9m       | <u>8.8m</u> at GF<br><u>8.4m</u> at FF | 200mm at GF<br>600mm at FF |

The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

It is noted that this street setback of dwelling 1 accords with the built form setback as shown on the existing endorsed plans. No additional variations are sought.

Notwithstanding the above, the non-compliances associated with dwelling 1 are considered to be acceptable in this instance as the site has a curved frontage, so the non-compliances would only apply to the centre of the front façade of dwelling 1. The remainder of the built form will be set back in accordance with the standard and therefore the overall appearance of the built form will not dominate the street.

The proposed site layout means that there will be ample space in front of dwelling 1 for significant landscaping and the conditions included in the recommendation will require landscaping including canopy trees to be provided to Council's satisfaction. Furthermore, the driveway proposed to the south-eastern side of the site results in a physical break in built form within the streetscape, maintaining the rhythm of the existing streetscape.

In addition, the neighbouring property to the south-east is set back just 7.7 metres from the front of the site. On balance, the proposed street setback of 8.8 metres at ground floor and 8.4 metres at first floor provides an appropriate transition from the street setbacks of both of the adjoining buildings.

On balance, it is recommended that the proposed street setback variations should be supported as they result in a development that responds appropriately to the preferred neighbourhood character whilst making efficient use of the site.

Side and rear setbacks (Standard B17)

|                          | Ground floor |   | First Floor |                    |
|--------------------------|--------------|---|-------------|--------------------|
|                          | Requirement  | Proposed  | Requirement | Proposed           |
| <b>North-west (side)</b> | 0m or 2m     | 2.3m – 4.8m   | 3.8m – 4.3m | <u>3.6m</u> – 4.5m |
| <b>North-east (side)</b> | 0m or 2m     | 2.5m, 3.4m, 3.6m, 5.7m  | 3.8m        | 3.8m - 5.7m        |
| <b>South-west (side)</b> | 0m or 2m     | 0m - 3.7m   | 3.7m        | 3.7m – 5.7m        |
| <b>South-east (rear)</b> | 0m or 3m     | <u>0.7m</u> , <u>2m</u> , <u>2.9m</u> , <u>3.1m</u> , <u>4.8m</u> , <u>6.2m</u> | 4.7m        | <u>4m</u> – 10m    |

The objective of the standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The majority of side setbacks comply with the standard at both ground and first floor level. A variation of 200mm is sought to the first floor walk in robe and bedroom 3 at dwelling 1. This part of the built form is located adjacent to the front private open space areas at the adjoining property at 2/3 Sunlit Court and therefore the minor encroachment would not have any unreasonable impacts on the amenity of this neighbour by way of any additional overshadowing or undue visual bulk. It is recommended that the variation is supported.

For the purposes of this assessment, the south-east boundary had been considered as the rear site boundary. At ground floor level a 1 metre variation is sought to the hallway and laundry at dwelling 8 and a 100mm variation is sought to the dining area at this dwelling. In addition, a 2.2 metre variation is sought to the garage at dwelling 7.

These ground floor variations are adjacent to the rear boundaries of neighbouring properties at 91 to 95 Wickham Road. The nearest neighbouring habitable window at these properties is located 7.5 metres from the proposed built form. Views from ground floor windows at the site towards the neighbouring properties will be screened by boundary fencing between the application site and neighbouring properties. In addition, landscaping proposed within the private open space areas at dwellings 7 and 8 will also soften the appearance of the built form when viewed from the rear private open space areas of neighbouring properties.

At first floor level, a 700mm variation is sought to the corner of bedroom 3 at dwelling 7. This variation is only sought to the corner of this bedroom due to the site orientation. The remainder of the first floor of this dwelling will be set back increasingly up to 10 metres from the rear boundary. The shadows cast from dwelling 7 will not result in any unreasonable overshadowing impacts towards neighbouring properties to the south or east. Furthermore, the built form will be off set a more than 9 metres from the nearest neighbouring property at its closest point. The scale and siting of the built form is considered to be appropriate to ensure that that it would present as an unreasonably bulky dwelling when viewed from the surrounding properties.

For the reasons set out above, it is recommended that the proposed setback variations are acceptable as they would not have any undue impacts on the amenity of neighbouring properties and would result in an acceptable design response within the neighbourhood context.

#### Private Open Space (Standard B28)

The objective of the standard is to provide reasonable recreation and service needs of residents by adequate private open space. The standard calls for open space to include 25m<sup>2</sup> secluded and 40m<sup>2</sup> overall with a minimum dimension of 3 m.

Dwellings 1, 2, 6, 7, 8 and 9 meet the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents.

Dwellings 3, 4 and 5 have private open space areas as follows:

|            | Secluded Private Open Space | Private Open Space |
|------------|-----------------------------|--------------------|
| Dwelling 3 | 18.2m <sup>2</sup>          | 18.2m <sup>2</sup> |
| Dwelling 4 | 19.3m <sup>2</sup>          | 19.3m <sup>2</sup> |
| Dwelling 5 | 30.7m <sup>2</sup>          | 30.7m <sup>2</sup> |

Dwellings 3, 4 and 5 are two-bedroom townhouses proposed to be located with their secluded private open space facing north.

These dwellings are arranged in reverse style living with a garage, bedroom and en-suite downstairs and a kitchen, dining living area, toilet and bedroom with en-suite upstairs. At ground floor level, access to the secluded private open space of these dwellings is provided by the bedroom. At first floor level, each dwelling has access from the living area to a north facing balcony with an area of 8m<sup>2</sup>.

Dwellings 3 and 4 fall short of the secluded private open space area requirements by between 6m<sup>2</sup> and 7m<sup>2</sup>. The ground floor secluded private open space area, in combination with the 8m<sup>2</sup> balcony would ensure that each dwelling has in total 25m<sup>2</sup> secluded private open space.

Whilst it is noted that the ground floor secluded private open space areas are not accessed directly from a living room, the first floor balcony areas are conveniently located for the recreational needs of future residents. It is also noted that the ground floor secluded private open space areas contain clothes lines and would provide for space for the servicing needs of residents.

It is recognised that Dwellings 3, 4 and 5 fall short of providing the overall private open space requirement by between 10m<sup>2</sup> and 22m<sup>2</sup>, however on balance, the private open space areas proposed are considered to be acceptable in this instance and provide for a variety of accommodation types for the differing needs of the bayside population.

#### Solar Access to Open Space (Standard B29)

The objective of this standard is to allow solar access into the secluded private open space of new dwellings.

The secluded private open space at dwellings 1, 2, 3, 4, 5, 6, 7 and 9 is either north, east or west facing and allow for appropriate solar access for the use of future residents.

Secluded private open space at dwelling 8 is south facing and does not accord with the standard with respect to the depth of the secluded private open space area.

Dwelling 8 has as secluded private open space area with dimensions of between 2 metres and 4.8 metres. The standard calls for a dimension of 7.85 metres. The total area of this secluded private open space is 58.2m<sup>2</sup>, almost twice the size required by the standard. Furthermore, part of the secluded private open space area, accessed from the dining area of the dwelling is east facing and will therefore receive appropriate solar access. For this reason, the objective is considered to have been met and this variation is acceptable.

### 6.3. Landscaping

The proposed amendments would not result in the removal of any additional trees from the site.

An amended landscape plan drawn by Harperconsults dated 17 August 2020 has been submitted with the application to reflect the built form and site layout alterations.

Council's Arborist has commented that the amended landscape plan does not include sufficient or appropriate species of canopy trees to accord with the requirements of the Bayside Landscape Guidelines (2016) and reach a minimum height of 8 metres at maturity.

The existing landscape plan condition is recommended to be updated to reference the amended landscape plan drawn by Harperconsults dated 17 August 2020 and to require at least nine canopy trees to be provided with the capacity to grow to mature heights of 8 metres and canopy widths of 4 metres.

The proposed amendments would not alter the location of the proposed vehicle access or crossover and would not therefore impact on the nature strip; however, it is noted that there is not a street tree on the nature strip adjacent to the site and therefore the landscape plan condition will be updated to reflect this.

### 6.4. Car parking and traffic

Pursuant to the car parking requirements at Clause 52.06, a dwelling requires car parking to be provided at a rate of 1 car space per one or two bedroom dwellings and 2 car spaces per three or more bedroom dwellings.

All dwellings have been provided car parking in accordance with the requirements of Clause 52.06-5 of the Bayside Planning Scheme.

The application was referred to Council's Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to internal parking dimensions and requiring the visitor space to be line marked. These conditions have been included within the recommendation.

Council's Traffic Engineer has commented that a private waste collection is to be adopted via a 6.4 metre rear mini loader. A permit condition requiring a waste management plan to be submitted to Council's satisfaction has been included in the recommendation.

Concerns have been raised in relation to increased car parking congestion however it is considered that the proposed development will not unreasonably impact on the car parking network in the street. In addition, car parking congestion was not raised as a concern by Council's Traffic Engineer.

**6.5. Cultural Heritage management plan**

The site is located within an area of cultural heritage sensitivity, therefore an assessment as to whether the proposal is considered a high impact activity has been undertaken.

Based on the Aboriginal heritage planning tool questionnaire, a cultural heritage management plan is required and has been undertaken. The original CHMP submitted with the application has been accompanied by a Notice of Approval and a letter from a Heritage Advisor confirming that the CHMP is fit for purpose for the amended application. The findings of this plan does not prohibit the granting of a planning permit.

**6.6. Development contributions levy**

The subject site is located within catchment area 15B.

Based on the proposed application and the below recommendation, a payment of \$17,496 is required. The payment of the development contributions is included as a condition of permit.

**6.7. Special Building Overlay**

The application was referred to Melbourne Water as a determining referral authority.

Melbourne Water has advised Council that they have reviewed the amended plans and have no objections, subject to conditions relating to finished floor levels, re-location of sheds and rainwater tanks, requiring imported fill to be kept to a minimum and new front and internal fencing to be 50% open in style and of timber palings. These conditions have been included in the updated recommendation.

**6.8. Objector issues not already addressed**Waste Collection

A waste management plan has been provided by the applicant and will be secured via condition. The waste management plan stipulates that waste is to be collected by a private contractor, who will transfer the bins from the storage areas, to a truck in Sunlit Court. Collection times are to be in accordance with EPA guidelines.

Noise

The proposed residential use will have noise impacts consistent with those normal to a residential zone. Speech, laughter, music etc. are noises associated with people living their lives and are all part of life in an urban area.

Drainage

The application has been referred to Council's Drainage Engineer and Melbourne Water as the determining referral authority who have required that specific drainage conditions be included on any amended planning permit that is issued. These conditions have been included in the recommendation.

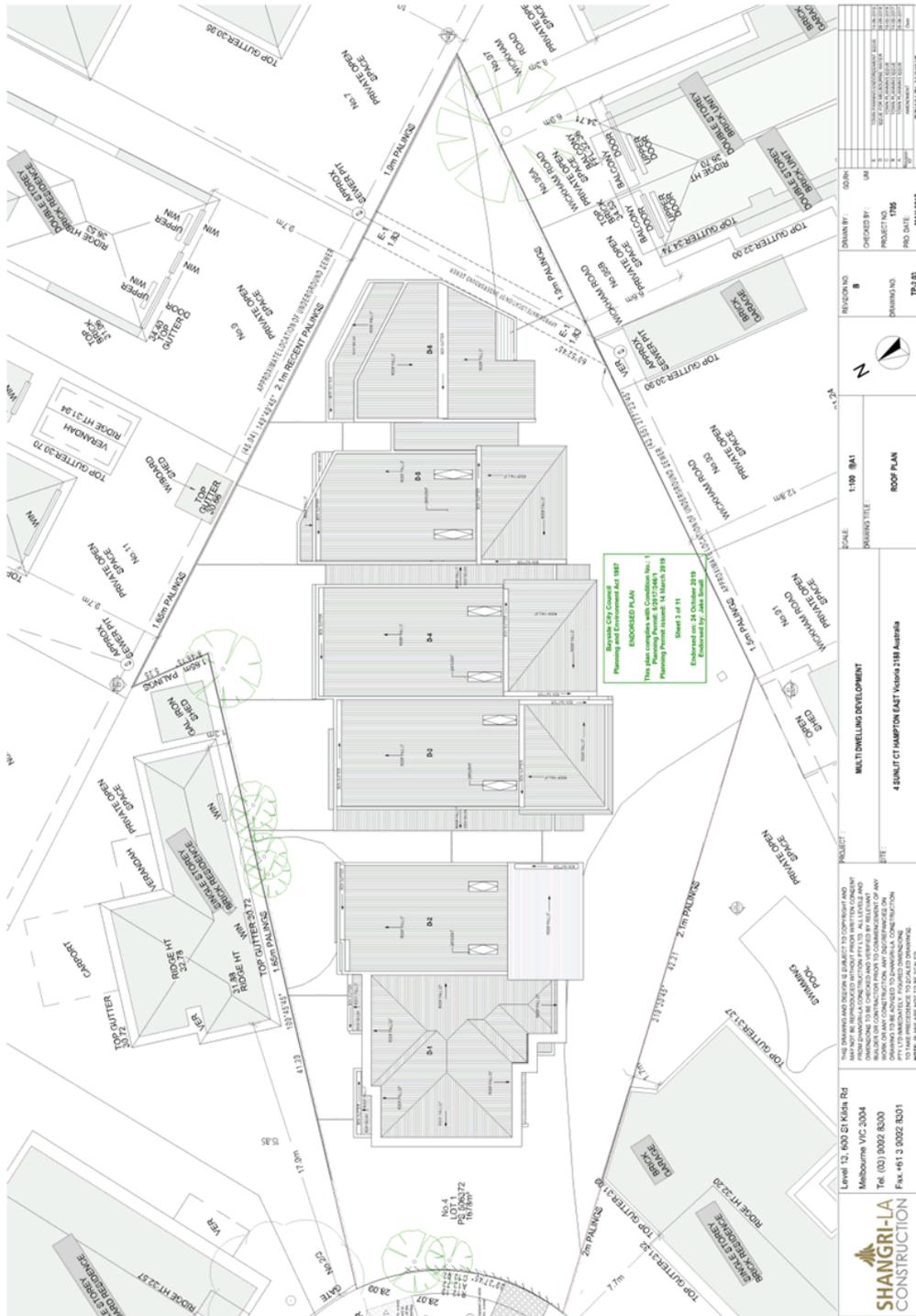
**Support Attachments**

1. Existing Endorsed Plans ↴
2. Advertised Plans ↴
3. Site and Surrounds ↴
4. Neighbourhood Character Assessment ↴
5. Clause 55 Assessment ↴



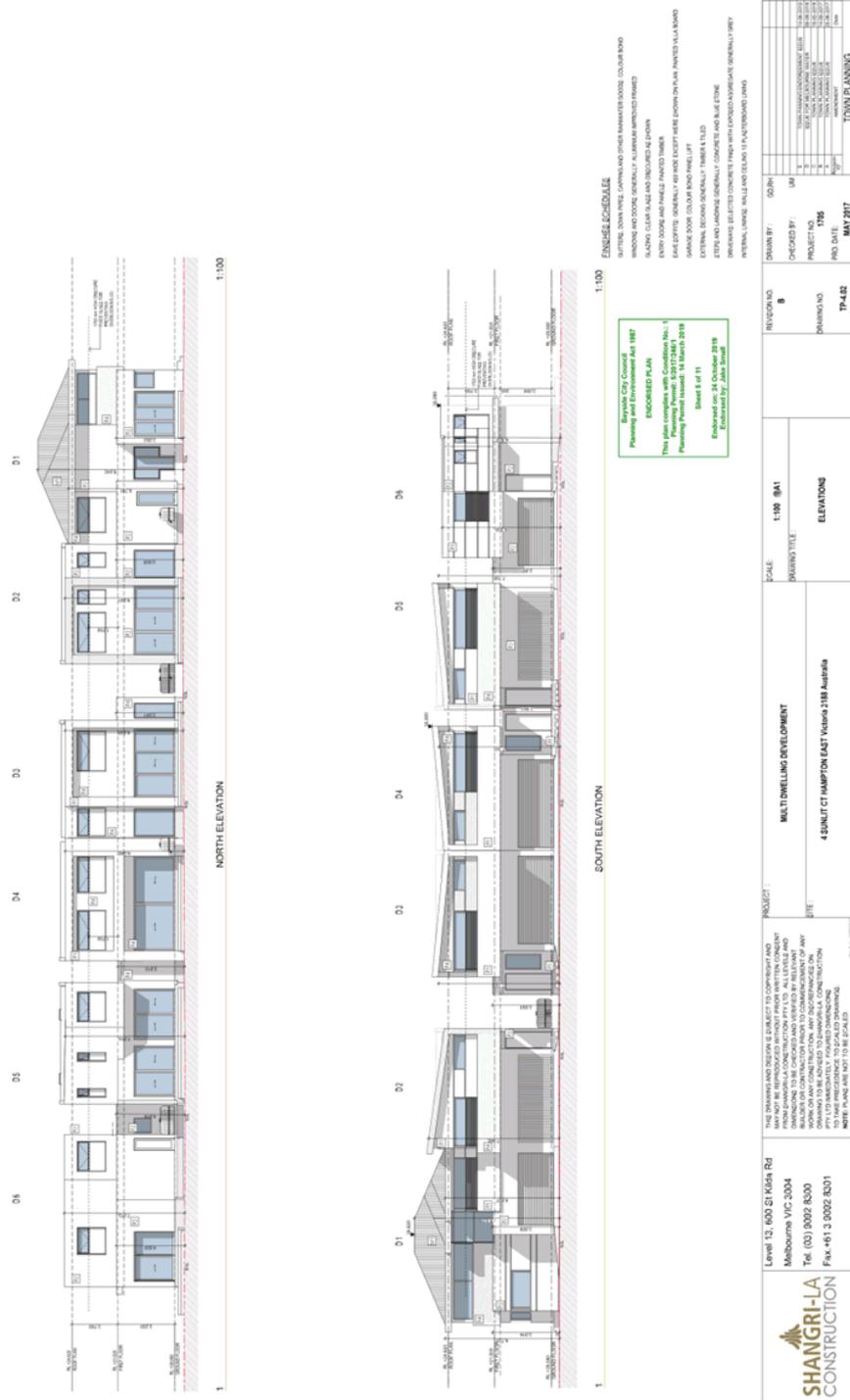
Item 4.4 – Matters of Decision

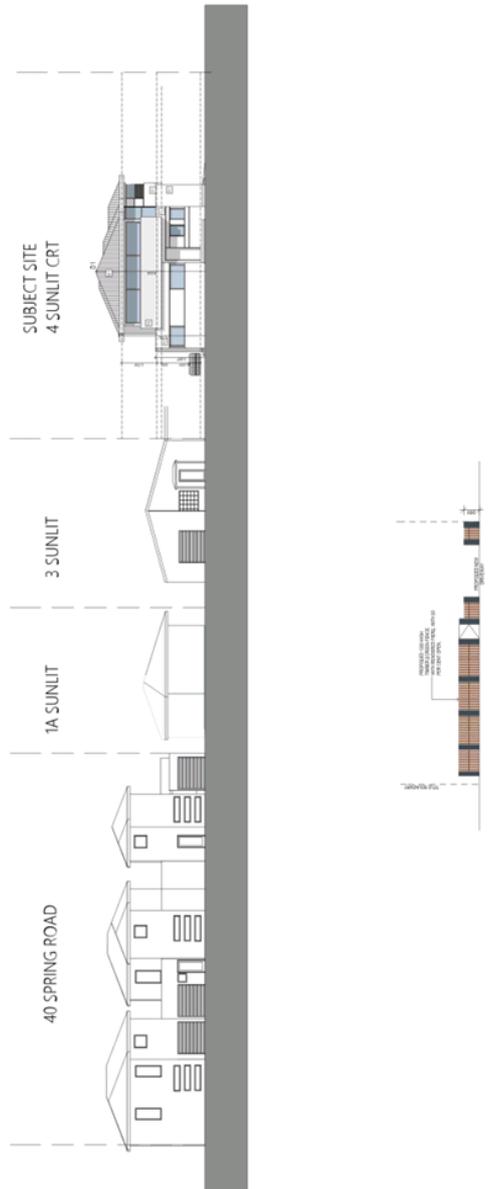




Item 4.4 – Matters of Decision







Bayside City Council  
Planning and Environment Act 1987  
ENDORSED PLAN  
This plan complies with Condition No. 1  
of the Planning Permit issued on 14 March 2019.  
Sheet 6 of 11  
Endorsed on: 24 October 2019  
Endorsed by: Jake Small

|                                    |  |   |  |                |   |   |   |
|------------------------------------|--|---|--|----------------|---|---|---|
| <p>SHANGRI-LA<br/>CONSTRUCTION</p> | Level 12, 400 St Kilda Rd<br>Melbourne VIC 3004<br>Tel: (03) 9092 8300<br>Fax: +61 3 0092 8301 | THE DRAWING IS FOR INFORMATION ONLY AND IS NOT TO BE USED FOR CONSTRUCTION. THE DRAWING IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN CONSENT OF SHANGRI-LA CONSTRUCTION. ANY REPRODUCTION OR COPIING OF THIS DRAWING WITHOUT THE WRITTEN CONSENT OF SHANGRI-LA CONSTRUCTION IS STRICTLY PROHIBITED. SHANGRI-LA CONSTRUCTION IS NOT RESPONSIBLE FOR ANY DAMAGE TO PROPERTY OR PERSONS ARISING FROM THE USE OF THIS DRAWING. TO TAKE PRECEDENCE OVER ALL OTHER DOCUMENTS.<br>NOTE: PLANS ARE NOT TO BE SCALED. | PROJECT TITLE:<br>MULTIDWELLING DEVELOPMENT<br>4 SUNLIT CT HAMPTON EAST VIC 3187 Australia | SCALE:<br>1/81 | RECORD NO:<br>5<br>DRAWING NO:<br>TP-4.63 | DRAWN BY:<br>UM<br>PROJECT NO:<br>1795<br>PRO DATE:<br>MAY 2017 | GOVERNMENT:<br>UM<br>TOWN PLANNING:<br>UM |
|                                    | SUBJECT:<br>4 SUNLIT CT HAMPTON EAST VIC 3187 Australia  |   |  |                |   |   |   |





# STORM Rating Report

TransactionID: 526508  
 Municipality: BAYSIDE  
 Rainfall Station: BAYSIDE  
 Address: 4 SUNLIT CT  
  
 HAMPTON EAST  
 VIC 3188  
  
 Assessor:  
 Development Type: Residential - Multiunit  
 Allotment Site (m2): 1,678.00  
 STORM Rating %: 105

Bayside City Council  
 Planning and Environment Act 1987  
  
**ENDORSED PLAN**  
 This plan complies with Condition No.: 1  
 Planning Permit: 5/2017/246/1  
 Planning Permit issued: 14 March 2019  
  
 Sheet 8 of 11  
  
 Endorsed on: 24 October 2019  
 Endorsed by: Jake Small

| Description  | Impervious Area (m2) | Treatment Type   | Treatment Area/Volume (m2 or L) | Occupants / Number Of Bedrooms | Treatment % | Tank Water Supply Reliability (%) |
|--------------|----------------------|------------------|---------------------------------|--------------------------------|-------------|-----------------------------------|
| COVERED AREA | 765.59               | Rainwater Tank   | 12,000.00                       | 20                             | 111.40      | 87.00                             |
| DRIVEWAY     | 347.12               | Raingarden 100mm | 2.00                            | 0                              | 91.60       | 0.00                              |

Date Generated: 13-Oct-2017

Program Version: 1.0.0





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# Tree Management Plan

4 Sunlit Court,  
Hampton East 3188

**Bayside City Council  
Planning and Environment Act 1987**  
**ENDORSED PLAN**  
**This plan complies with Condition No.: 1  
Planning Permit: 5/2017/246/1  
Planning Permit issued: 14 March 2019**  
**Sheet 10 of 11**  
**Endorsed on: 24 October 2019  
Endorsed by: Jake Small**



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|                |  |
|----------------|--|
| Client         | Shangri-La Construction                    |
| Client Address | Level 13 / 600 St Kilda Rd, Melbourne 3004 |
| Site Address   | 4 Sunlit Ct, Hampton East 3188             |
| Document Type  | Arborist Report – Tree Management Plan     |
| Date           | 3 <sup>rd</sup> July February 2019         |

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**1. Introduction**

This tree management plan (TMP) outlines the required tree protection measures for trees to be retained on the site and tree management guidelines during construction at 4 Sunlit Ct, Hampton East. This document refers to the Australian Standard AS4970-2009 Protection of trees on development sites.

A planning permit has been issued for the development of the site, condition 3 of the planning permit requires that a Tree Management Plan (TMP) and Tree Protection Plan (drawing) must be submitted to and be endorsed by the Responsible Authority. This TMP ensures to protect trees to be retained on the site as far as possible given the approved plans.

**Purpose**

The purpose of this TMP is to ensure that the construction works comply with conditions of the planning permit issued by Bayside Council.

**Summary:**

- Provide clear documentation to be used onsite by all persons involved in works near trees
- Minimise impacts to the root systems of trees situated within construction zones
- Protect retained trees and understory vegetation adjacent to construction activity
- Ensure provision of suitable locations for site access, storage compounds, vehicle parking and stockpiling.

**Responsible parties**

The implementation of this TMP is the responsibility of the landowner, any project manager (where applicable) and construction staff.

**Project arborist**

The nominated project arborist/s must be approved by the responsible authority

Arborist name: \_\_\_\_\_ Phone: \_\_\_\_\_

Arborist name (other): \_\_\_\_\_ Phone: \_\_\_\_\_

**Approval of TMP**

The TMP is to be approved by the relevant officer of the Bayside Council

Officers name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Phone: \_\_\_\_\_

Notes:



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#### **Certification of tree management activities**

Prior to work commencing (including demolition), a timetable for the supervision and certification of tree management activities must be prepared by the project arborist and submitted to the Responsible Authority for approval. The project arborist must provide certification of each stage of the supervision to the responsible authority (quote Planning Permit number and site address) within seven days of the inspection.

Prior to any works commencing on site (including demolition or vegetation removal) the project arborist must submit to the responsible authority a statement that the required tree protection measures (see tree protection plan) have been implemented. The statement must include photographs of the tree protection measures.

## **2. Tree Management Plan – Summary**

#### **Prior to commencement of works:**

- Copy of TMP must be available on site
- Delineate tree protection zones with temporary fencing and/ or ground protection
- Induct construction staff and contractors working on site on trees to be protected, maintaining exclusion zones and working close to trees.

#### **During construction**

- Induct any new construction staff and contractors working on site on trees to be protected, maintaining exclusion zones and working close to trees.
- Monitor works to ensure compliance with TMP
- Keep all construction activity as far from trees as possible.
- Monitor trees for signs of poor health, contact project arborist immediately if concerned about the health and/or safety of trees on or close to site.

#### **Post construction**

- Remove fencing
- Mulch around trees root zone
- Provide additional hand watering for trees on site during drier months (December-February)
- Monitor trees health and safety for up to two years following construction



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**Tree specific requirements:**

| Tree#  | Common name | DBH (cm) | Height (m) | Spread (m) | Age         | TPZ (m) | SRZ (m) |
|--|-------------|----------|------------|------------|-------------|---------|---------|
| 2  | Spotted Gum | 32       | 10         | 6          | Semi-mature | 3.8     | 2.5     |
| Notes: Tree located in adjoining property<br>Tree protection measures:<br>Pre-demolition: Prior to any demolition or construction on site install temporary protective fencing around tree 2 at the position indicated with a blue line below, existing boundary can be used as part of TPZ fencing.<br>Construction (post-demo): There is to be no unauthorized access within the TPZ.      |             |          |            |            |             |         |         |
| Tree 2   |             |          |            |            |             |         |         |
| 3  | Needle Palm | 10       | 3          | 1.9        | Young       | 1.2     | n/a     |
| Notes: Tree group located in adjacent property<br>Tree protection measures:<br>Pre-demolition: Prior to any demolition or construction on site install temporary protective fencing around tree 3 at the position indicated with a blue line below, existing boundary can be used as part of TPZ fencing.<br>Construction (post-demo): There is to be no unauthorized access within the TPZ. |             |          |            |            |             |         |         |
| Tree 3   |             |          |            |            |             |         |         |



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| Tree   | Common name     | DBH (cm) | Height (m) | Spread (m) | Age         | TPZ (m) | SRZ (m) |
|--|-----------------|----------|------------|------------|-------------|---------|---------|
| 4  | Silver Princess | 30       | 4          | 5.6        | Semi-mature | 3.6     | 2.4     |
| Notes: Tree located in adjacent property<br>Tree protection measures:<br>Pre-demolition: Prior to any demolition or construction on site install temporary protective fencing around tree 4 at the position indicated with a blue line below, existing boundary can be used as part of TPZ fencing.<br>Construction (post-demo): There is to be no unauthorized access within the TPZ. |                 |          |            |            |             |         |         |
|  |                 |          |            |            |             |         |         |
| Tree 4<br><br>Blue fencing – pre-demolition<br>Red fencing and ground protection – construction<br><br>There is to be no unauthorized access within the TPZ (permission must be sought from responsible authority).  |                 |          |            |            |             |         |         |
| Tree   | Common name     | DBH (cm) | Height (m) | Spread (m) | Age         | TPZ (m) | SRZ (m) |
| 5  | Unknown sp.     | 22       | 4          | 4          | Young       | 2.6     | 2.1     |
| Notes: Tree located in adjacent property<br>Tree protection measures:<br>Pre-demolition: Prior to any demolition or construction on site install temporary protective fencing around tree 5 at the position indicated with a blue line below, existing boundary can be used as part of TPZ fencing.<br>Construction (post-demo): There is to be no unauthorized access within the TPZ. |                 |          |            |            |             |         |         |
|  |                 |          |            |            |             |         |         |
| Tree 5<br><br>Blue fencing – pre-demolition<br>Red fencing and ground protection – construction<br><br>There is to be no unauthorized access within the TPZ (permission must be sought from responsible authority).  |                 |          |            |            |             |         |         |



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| Tree   | Common name         | DBH (cm) | Height (m) | Spread (m) | Age         | TPZ (m) | SRZ (m) |
|--|---------------------|----------|------------|------------|-------------|---------|---------|
| 6  | Norfolk Island Pine | 50       | 14         | 9.4        | Semi-mature | 6       | 3       |
| Notes: Tree located in adjacent property<br>Tree protection measures:<br>Pre-demolition: Prior to any demolition or construction on site install temporary protective fencing around tree 6 at the position indicated with a blue line below, existing boundary can be used as part of TPZ fencing.<br>Construction (post-demo): There is to be no unauthorized access within the TPZ. |                     |          |            |            |             |         |         |
| Tree 6<br><br>Blue fencing – pre-demolition<br>Red fencing and ground protection – construction<br><br>There is to be no unauthorized access within the TPZ (permission must be sought from responsible authority).  |                     |          |            |            |             |         |         |
| 7  | Various             | 10       | 3          | 2          | Semi-mature | 2       | 1.5     |
| Notes: Tree located in adjacent property<br>Tree protection measures:<br>Pre-demolition: Prior to any demolition or construction on site install temporary protective fencing around tree 7 at the position indicated with a blue line below, existing boundary can be used as part of TPZ fencing.<br>Construction (post-demo): There is to be no unauthorized access within the TPZ. |                     |          |            |            |             |         |         |
| Tree 7<br><br>Blue fencing – pre-demolition<br>Red fencing and ground protection – construction<br><br>There is to be no unauthorized access within the TPZ (permission must be sought from responsible authority).<br><br>Drive to be constructed at existing grade within TPZ.   |                     |          |            |            |             |         |         |



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| Tree | Common name | DBH (cm) | Height (m) | Spread (m) | Age         | TPZ (m) | SRZ (m) |
|------|-------------|----------|------------|------------|-------------|---------|---------|
| 8    | Lemon       | 13       | 3          | 2.5        | Semi-mature | 2       | 1.5     |

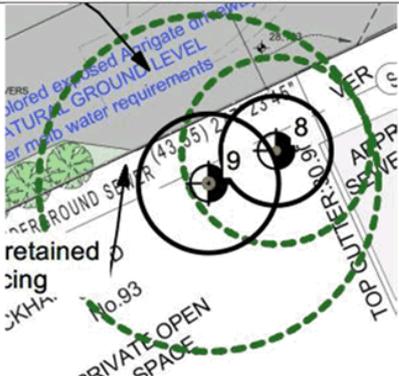
Notes: Tree located in adjacent property  
 Tree protection measures:  
 Pre-demolition: Prior to any demolition or construction on site install temporary protective fencing around tree 8 at the position indicated with a blue line below, existing boundary can be used as part of TPZ fencing.  
 Construction (post-demo): There is to be no unauthorized access within the TPZ.

Tree 8

Blue fencing – pre-demolition  
 Red fencing and ground protection – construction

There is to be no unauthorized access within the TPZ (permission must be sought from responsible authority).

Drive to be constructed at existing grade within TPZ.



| Tree | Common name     | DBH (cm) | Height (m) | Spread (m) | Age         | TPZ (m) | SRZ (m) |
|------|-----------------|----------|------------|------------|-------------|---------|---------|
| 9    | Italian Cypress | 23       | 8          | 4          | Semi-mature | 2.8     | 2.2     |

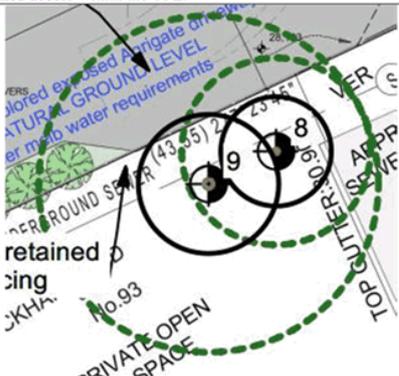
Notes: Tree located in adjacent property  
 Tree protection measures:  
 Pre-demolition: Prior to any demolition or construction on site install temporary protective fencing around tree 9 at the position indicated with a blue line below, existing boundary can be used as part of TPZ fencing.  
 Construction (post-demo): There is to be no unauthorized access within the TPZ.

Tree 9

Blue fencing – pre-demolition  
 Red fencing and ground protection – construction

There is to be no unauthorized access within the TPZ (permission must be sought from responsible authority).

Drive to be constructed at existing grade within TPZ.





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| Tree  | Common name | DBH (cm) | Height (m) | Spread (m) | Age         | TPZ (m) | SRZ (m) |
|---|-------------|----------|------------|------------|-------------|---------|---------|
| 10  | Olive       | 15       | 4          | 3          | Semi-mature | 2       | 1.8     |
| Notes: Tree located in adjacent property<br>Tree protection measures:<br>Pre-demolition: Prior to any demolition or construction on site install temporary protective fencing around tree 10 at the position indicated with a blue line below, existing boundary can be used as part of TPZ fencing.<br>Construction (post-demo): There is to be no unauthorized access within the TPZ. |             |          |            |            |             |         |         |
| Tree 10   |             |          |            |            |             |         |         |
| Blue fencing – pre-demolition<br>Red fencing and ground protection – construction<br><br>There is to be no unauthorized access within the TPZ (permission must be sought from responsible authority).<br><br>Drive to be constructed with permeable paving at existing grade within TPZ.  |             |          |            |            |             |         |         |
| Tree  | Common name | DBH (cm) | Height (m) | Spread (m) | Age         | TPZ (m) | SRZ (m) |
| 11  | Unknown sp. | 13       | 4          | 3          | Semi-mature | 2       | 1.7     |
| Notes: Tree located in adjacent property<br>Tree protection measures:<br>Pre-demolition: Prior to any demolition or construction on site install temporary protective fencing around tree 11 at the position indicated with a blue line below, existing boundary can be used as part of TPZ fencing.<br>Construction (post-demo): There is to be no unauthorized access within the TPZ. |             |          |            |            |             |         |         |
| Tree 11   |             |          |            |            |             |         |         |
| Blue fencing – pre-demolition<br>Red fencing and ground protection – construction<br><br>There is to be no unauthorized access within the TPZ (permission must be sought from responsible authority).<br><br>Drive to be constructed with permeable paving at existing grade within TPZ.  |             |          |            |            |             |         |         |



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3. Monitoring and certification

To ensure that the protection of trees is carried out to meet the objectives of this TMP the following monitoring and certification process is applicable in line with AS4970-2009 Protection of trees on development sites. Prior to work commencing (including demolition), a timetable for the supervision and certification of tree management activities must be prepared by the project arborist and submitted to the Responsible Authority for approval. The project arborist must provide certification of each stage of the supervision to the responsible authority (quote Planning Permit number and site address) within seven days of the inspection.

Initial site meeting to be arrange with the project arborist.

Site manager (name): \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Project arborist (name): \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Notes:

Construction stage: ensure TPZ fencing and ground protection is in place, mulch within TPZ and that there is no access to exclusion zone.

Site manager (name): \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Project arborist (name): \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Notes:

Post-construction: the site inspection and certification must be arranged to occur once all work, including landscaping has ceased and the project is complete.

Site manager (name): \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Project arborist (name): \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Notes:

Note: non-compliance with this TMP may be a breach of the planning permit. The land-owner/s, project manager or site contractors may be held responsible for any breaches of TMP.



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**4. Tree Protection measures – Detail**

As per the Bayside City planning permit for this site, trees 1-11 must be adequately protected throughout construction.

Trees on building sites can be adversely affected by earthworks, trenching, vehicle movement and/or parking, equipment and plant storage, and stockpiling of soils and construction materials.

The construction program must be managed to reduce the risk of harm to the trees and vegetation to be retained. Potential impacts may include:

- Removal of or damage to trees and understory vegetation
- Alteration of the natural drainage of the site
- Soil erosion and sedimentation
- Alteration and changes to existing soil grades throughout the site
- Risk of spread of invasive environmental weed species

To ensure that the retained vegetation is protected, and its conservation value maintained, the following protection measures must be implemented:

**Pre-construction**

- Define the construction zones to ensure works are contained within these zones
- Define suitable areas for site compounds and machinery storage
- Define suitable areas for stockpiling of soil and construction materials with provision of sediment barriers where appropriate
- Provision of site inductions to ensure all staff and contractors are aware of and comply with TMP and relevant environmental protection standards
- Prepare and distribute to all relevant staff and contractors, site plans showing clearly marked the above zones
- Define tree and vegetation protection zones with appropriate temporary protective fencing and signage



Figure 1: TPZ signage.

The protective fencing is to be constructed of temporary fence panels securely fixed to concrete pads or start picket stakes. No holes are to be dug for the fence construction unless outside the TPZ. The fence is to be a minimum of 1.8m high.

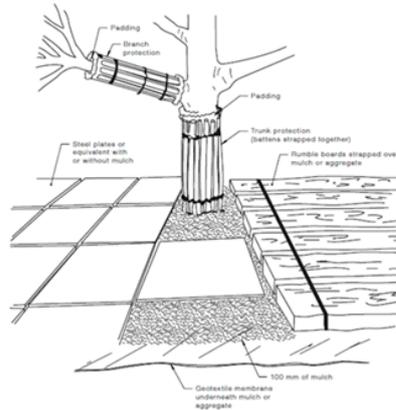
At least one weather proof sign is to be attached to the protective fencing and is to clearly state: 'TREE PROTECTION ZONE – NO ACCESS' and is to have the Contractor's and consulting arborists contact details (see figure 1).

Course wood chip mulch must be placed around the base of tree 4 and spread out to a depth of between 5-10cm within the TPZ of trees to be retained. The area inside the tree protection zone needs to be kept weed free throughout construction



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Ground protection must be provided using rumble-boards or similar where the site access intrudes into the TPZ of this tree (see Figure 4 below).



- NOTES:
- 1 For trunk and branch protection use boards and padding that will prevent damage to bark. Boards are to be strapped to trees, not nailed or screwed.
  - 2 Rumble boards should be of a suitable thickness to prevent soil compaction and root damage.

Figure 2: Example of trunk, branch and ground protection (adapted from AS4970: 2009 Protection of trees on development sites)

**Construction**

- Ensure ongoing compliance with environmental protection legislation
- Ensure the maintenance of maximum construction setback from all retained trees
- Ensure proper functioning of all tree protection fencing and ground protection where installed
- Soil moisture levels should be regularly monitored by the project arborist and if required additional watering provided.
- Consult immediately with the responsible authority if changes to this plan are proposed

**Post-construction**

- Remove fencing
- Monitor tree health and condition and if required provide treatments to improve tree health e.g. Additional watering, soil decompaction, application of mulch.
- Maintain additional watering between December and February
- Where possible trees should be within mulched garden beds

Post construction monitoring is recommended for 5 years, the minimum period is 2 years.



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#### Tree trunk and canopy protection

Tree trunks are susceptible to mechanical wounding during construction particularly from movement of machinery. If protective fencing is for any reason removed, not required or impossible to install, then trunk wrapping, and protection may be required. Trunk protection should in no way damage the trunk, i.e. no nails, screws or any other object should be used to fix trunk protection to trees.

Tree crowns and branches can also be damaged and canopy protection should extend a minimum of one metre beyond the perimeter of the canopy. Crown protection can include supervision (a spotter), pruning, tying branches back, tall fencing, high visibility tape or other measures. If pruning is required, this must be done in accordance with AS4373: 2007, Pruning of Amenity Trees and carried out by an appropriately qualified contractor (AQF Level 3). Pruning should be undertaken prior to construction work commencing.

#### 5. Recommendations

That this tree management plan be submitted to the responsible authority for approval, once approved this is to be implemented in liaison with the project Arborist and the site supervisor. Monitoring and inspections are to be carried out as indicated in the tree management plan, the project arborist will liaise with the site supervisor regarding the timing and frequency of these. In addition to this a pre-construction meeting should be attended by the site manager, the project arborist and contractors to introduce the tree protection plan and its requirements.

Sincerely

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Associate Diploma in Arboriculture (Burnley)  
BA/BSW (Monash)



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Trees fail in ways that are not predictable or fully understood. There is no guarantee expressed or implied that failure or deficiencies may not arise of the subject trees in the future. No responsibility is accepted for damage to property or injury/death caused by the nominated tree/s.



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Appendix 1 – TPZ Signage

A TPZ sign provides clear and readily accessible information to indicate that a TPZ has been established. Figure C1 provides an example of a suitable sign.



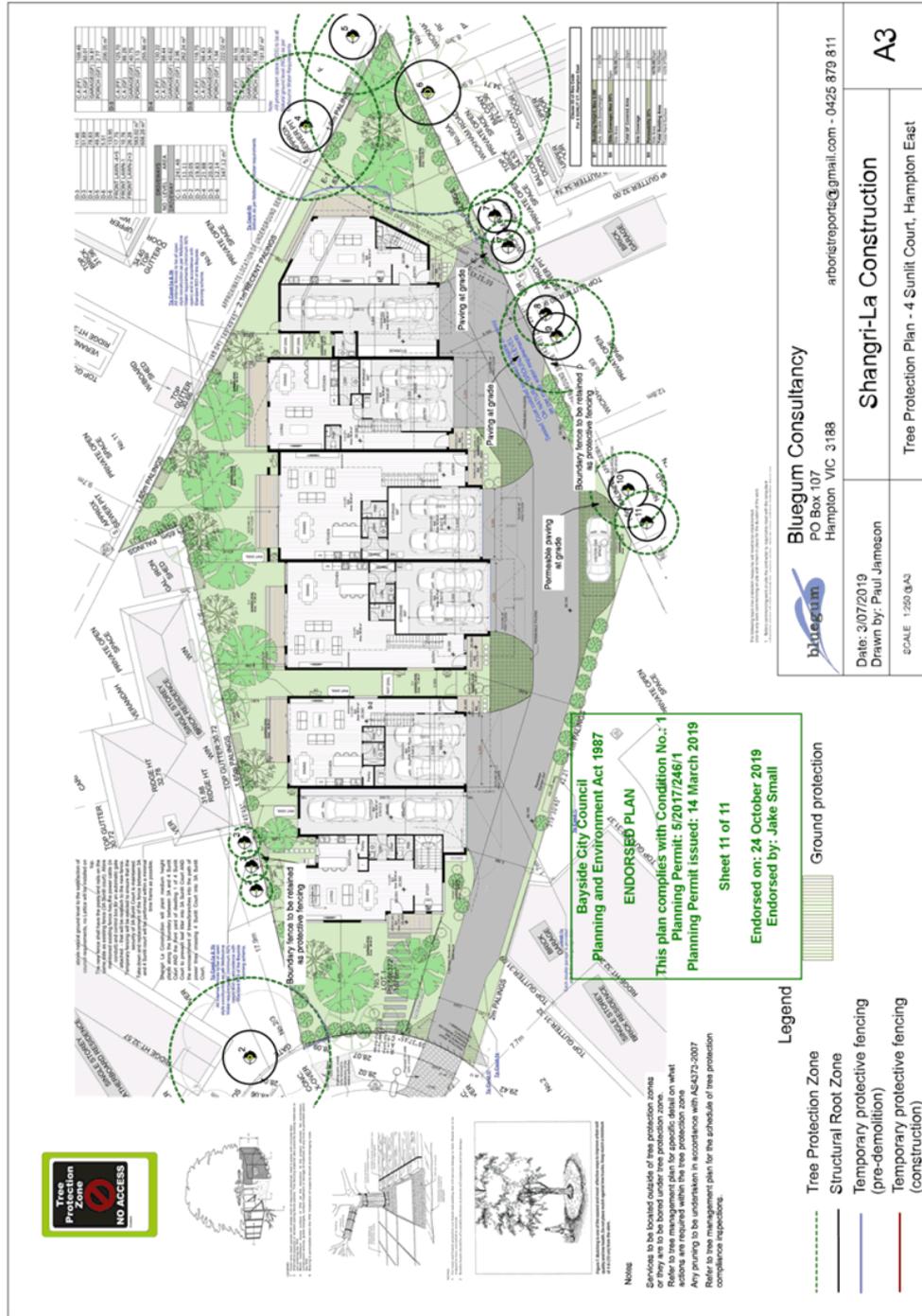
FIGURE C1 TREE PROTECTION ZONE SIGN



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Appendix 2 – Indicative stages in Development and the Tree Management Process

| Stages in Development                     | Tree Management Process   |  |
|---|---|--|
|   | Matters for Consideration   | Actions and Certification  |
| <b>Pre-construction</b>                   |   |  |
| Initial site preparation                  | State based OHS requirements for tree work  | Compliance with conditions of consent  |
|   | Approved retention/removal  | Tree removal/tree retention/transplanting  |
|   | Refer to AS 4373 for the requirements on the pruning of amenity trees   | Tree pruning<br>Certification of tree removal and pruning  |
|   | Specifications for tree protection measures   | Establish/delineate TPZ<br>Install protective measures<br>Certification of tree protection measures.   |
| <b>Construction</b>                       |   |  |
| Site Establishment                        | Temporary infrastructure<br>Demolition, bulk earthworks, hydrology  | Locate temporary infrastructure to minimize impact on retained trees.<br>Maintain protective measures.<br>Certification of tree protection measures. |
| Construction work                         | Liaison with site manager, compliance.<br>Deviation from approved plan  | Maintain or amend protective measures<br>Supervision and monitoring  |
| Implement hard and soft landscaping works | Installation of irrigation services<br>Control of compaction work<br>Installation of pavement and retaining walls | Remove selective protective measures as necessary<br>Remedial tree works<br>Supervision and monitoring   |
| Practical completion                      | Tree vigour and structure   | Remove all remaining tree protection measures<br>Certification of tree protection  |
| <b>Post-Construction</b>                  |   |  |
| Defects liability/maintenance period      | Tree vigour and structure   | Maintenance and monitoring<br>Final remedial tree works<br>Final certification of tree condition   |



Item 4.4 – Matters of Decision

PROPOSED DEVELOPMENT @ MULTI DWELLING DEVELOPMENT  
4 SUNLIT CT HAMPTON EAST Victoria 3188 Australia

COVER SHEET

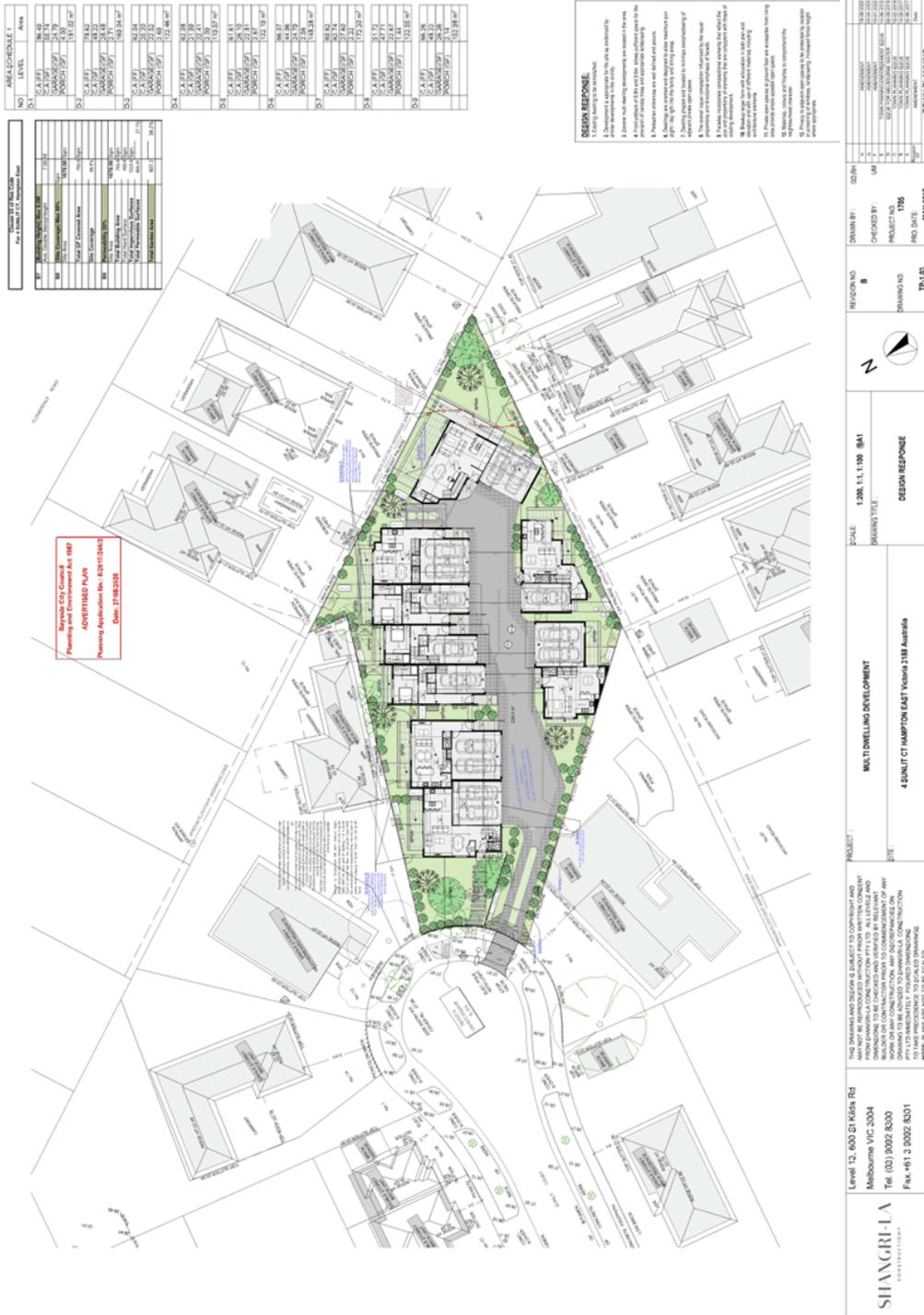
| Publish...                          | Layout No: | Layout Name                   |
|-------------------------------------|------------|-------------------------------|
| <input checked="" type="checkbox"/> | TP-1.01    | SITE CONTEXT                  |
| <input checked="" type="checkbox"/> | TP-1.02    | SITE AREA PLAN                |
| <input checked="" type="checkbox"/> | TP-1.03    | DESIGN RESPONSE               |
| <input checked="" type="checkbox"/> | TP-2.01    | GROUND FLOOR                  |
| <input checked="" type="checkbox"/> | TP-2.02    | FIRST FLOOR                   |
| <input checked="" type="checkbox"/> | TP-2.03    | ROOF PLAN                     |
| <input checked="" type="checkbox"/> | TP-2.04    | GARDEN AREA                   |
| <input checked="" type="checkbox"/> | TP-3.01    | SHADOW DIAGRAMS 9AM-22 SEPT.  |
| <input checked="" type="checkbox"/> | TP-3.02    | SHADOW DIAGRAMS 12AM-22 SEPT. |
| <input checked="" type="checkbox"/> | TP-3.03    | SHADOW DIAGRAMS 3AM-22 SEPT.  |
| <input checked="" type="checkbox"/> | TP-4.01    | ELEVATION                     |
| <input checked="" type="checkbox"/> | TP-4.02    | ELEVATIONS                    |
| <input checked="" type="checkbox"/> | TP-4.03    | STREETSCAPE                   |







Item 4.4 – Matters of Decision

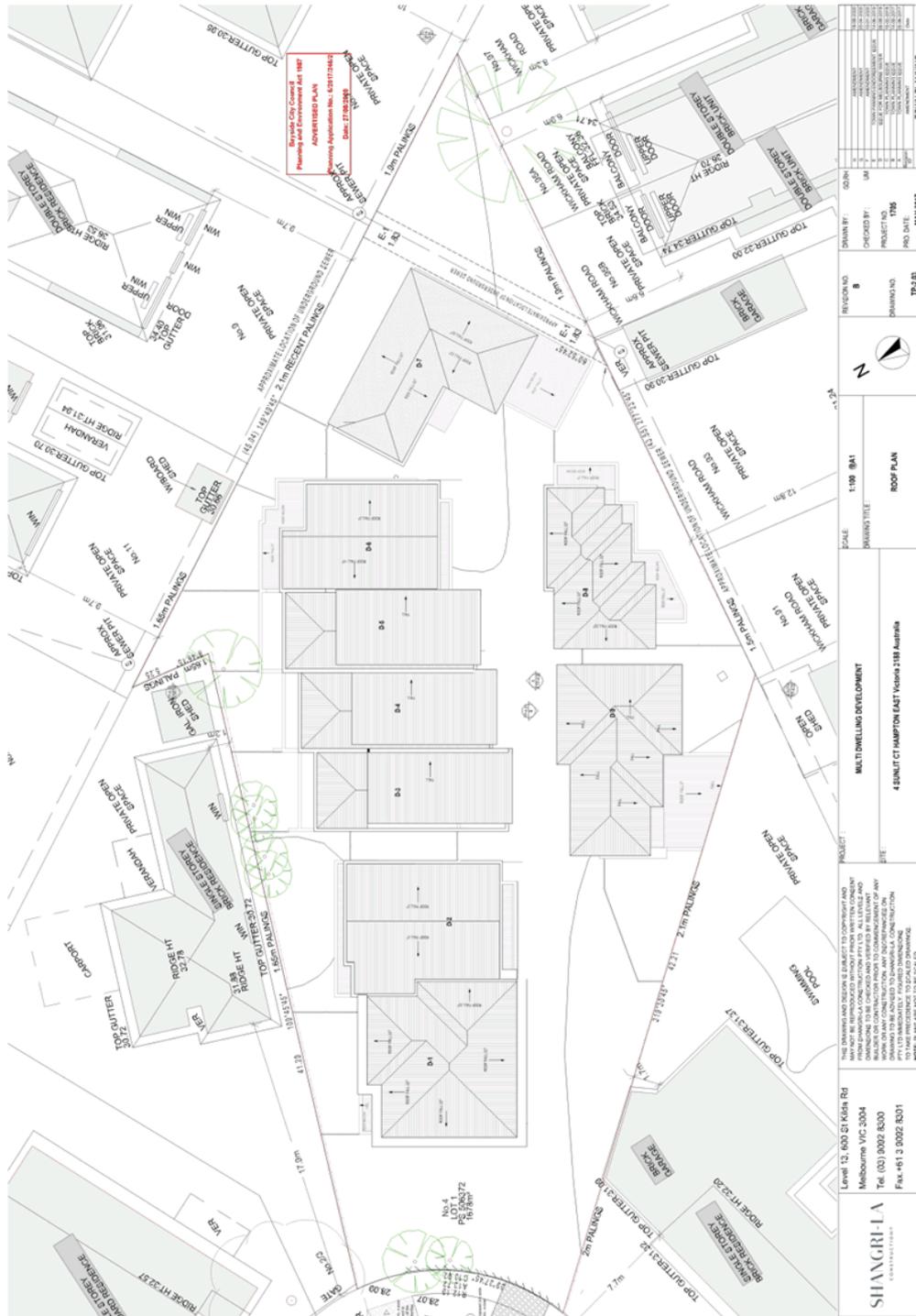


Item 4.4 – Matters of Decision

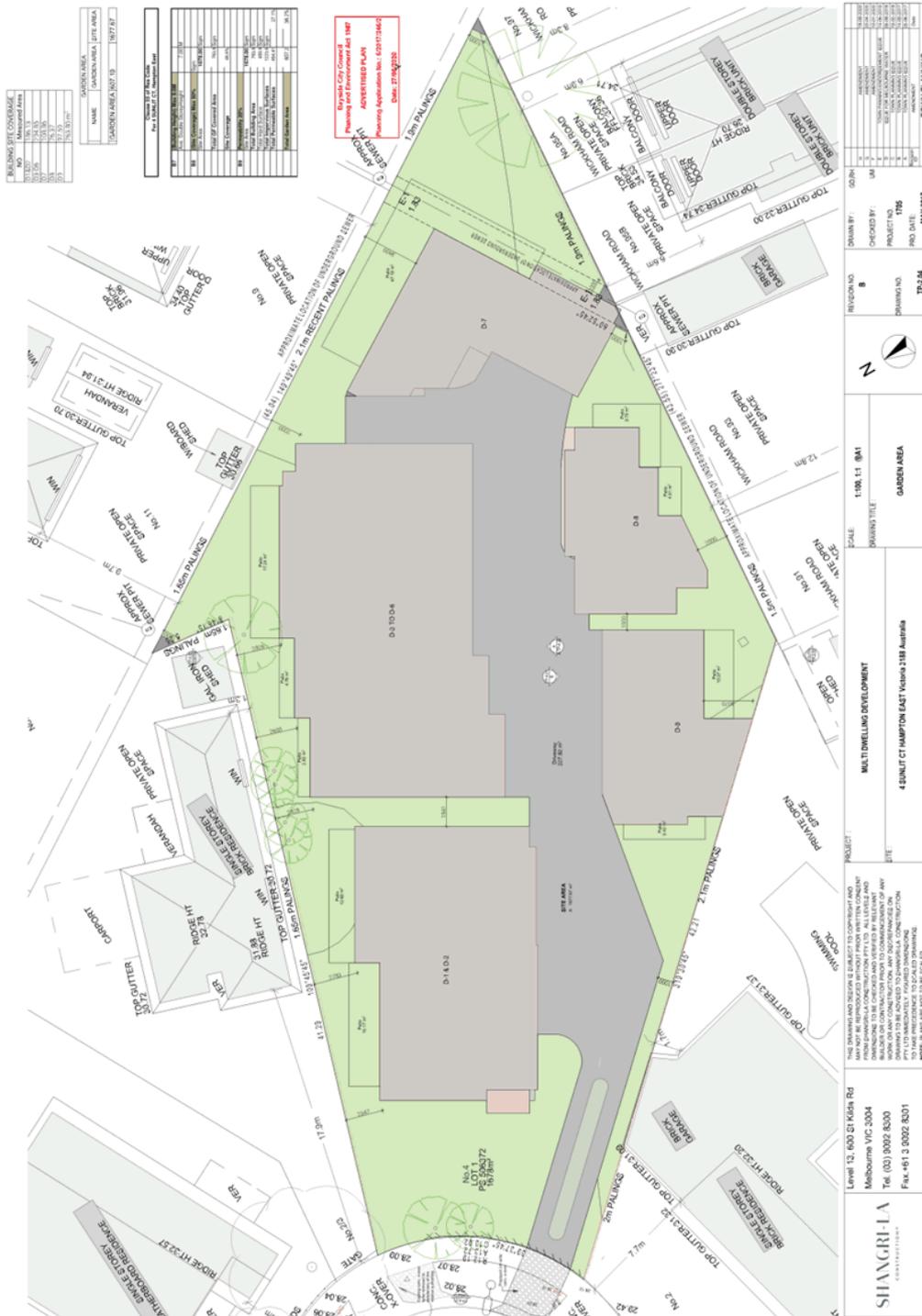


Item 4.4 – Matters of Decision

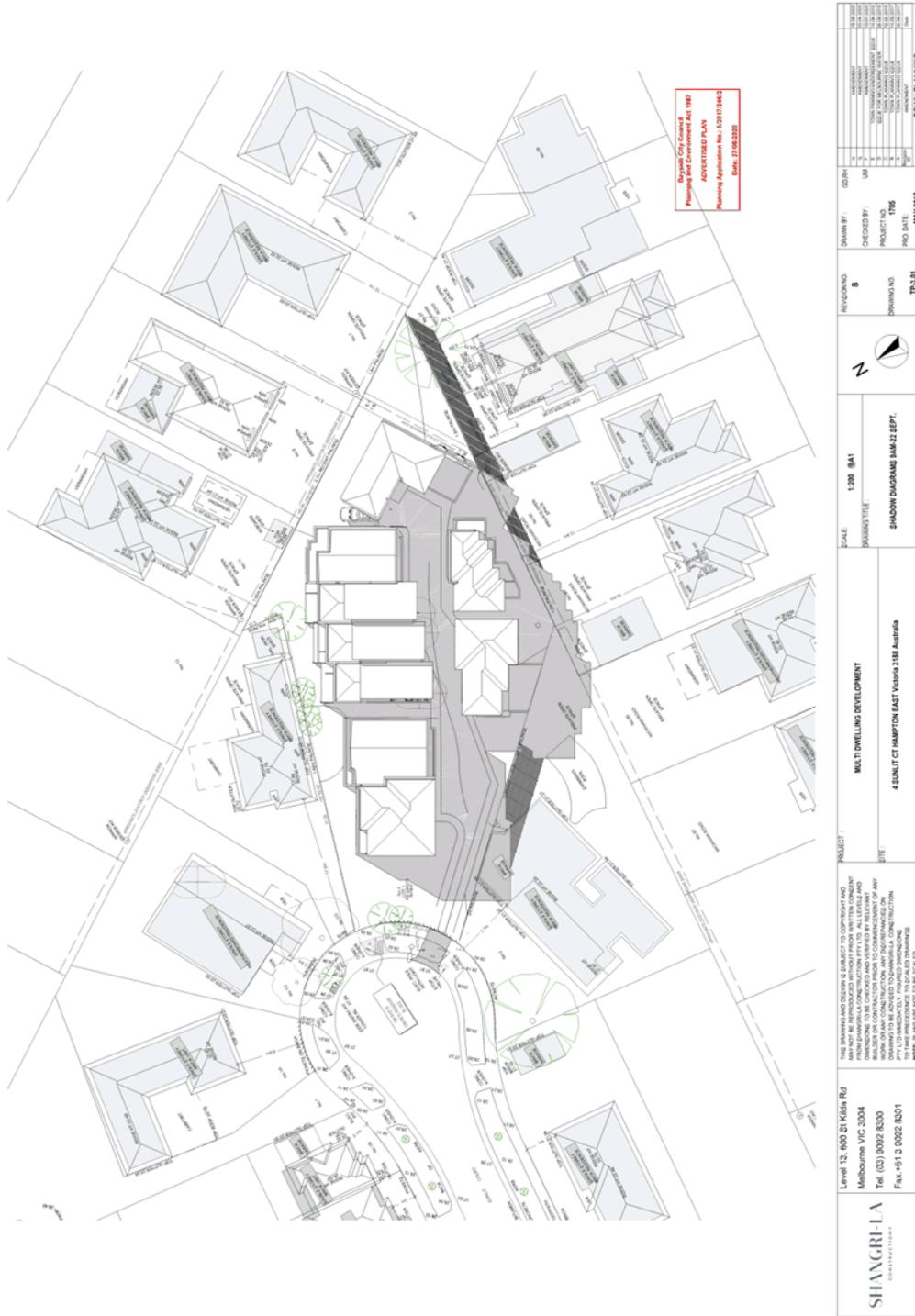


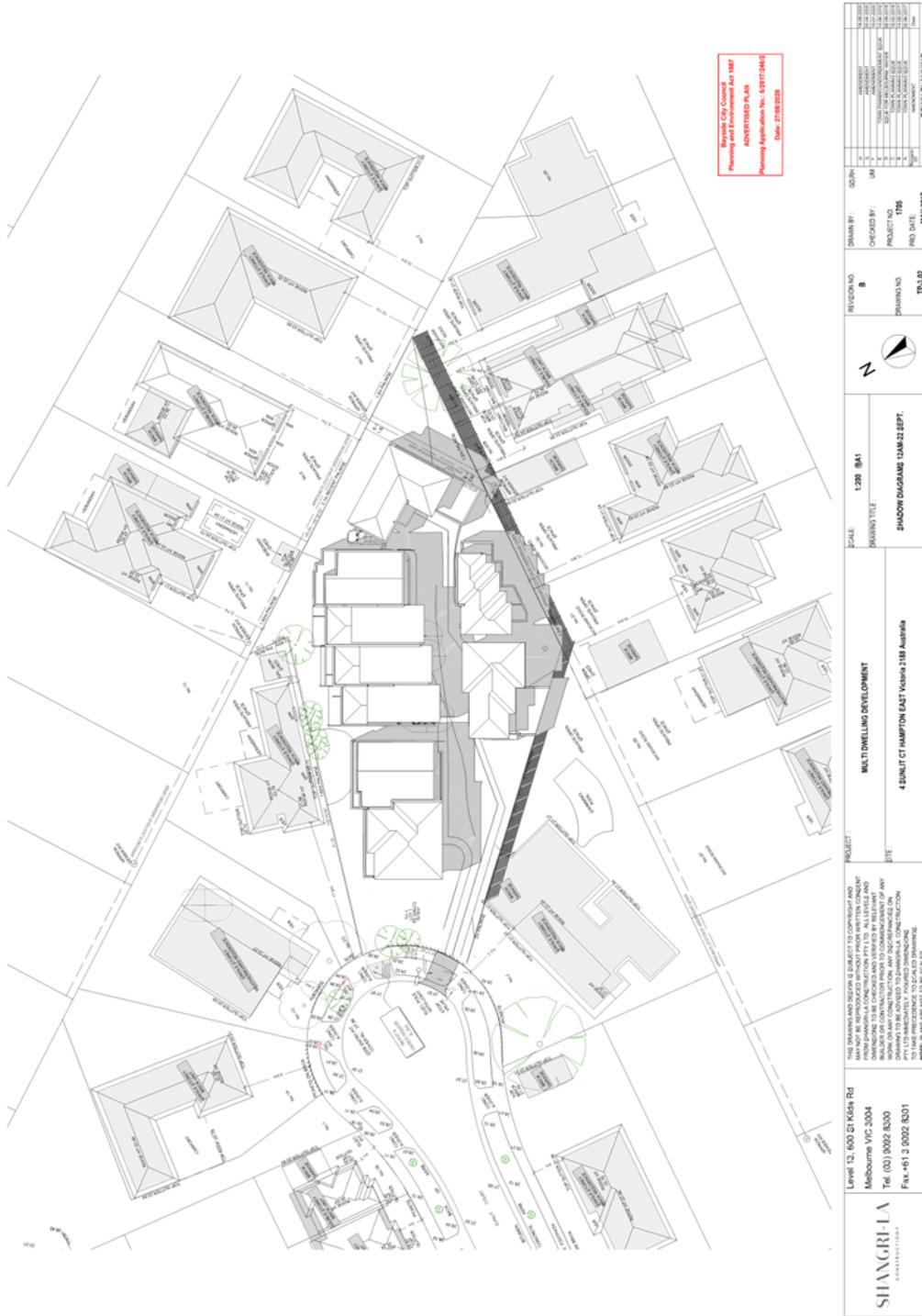


Item 4.4 – Matters of Decision

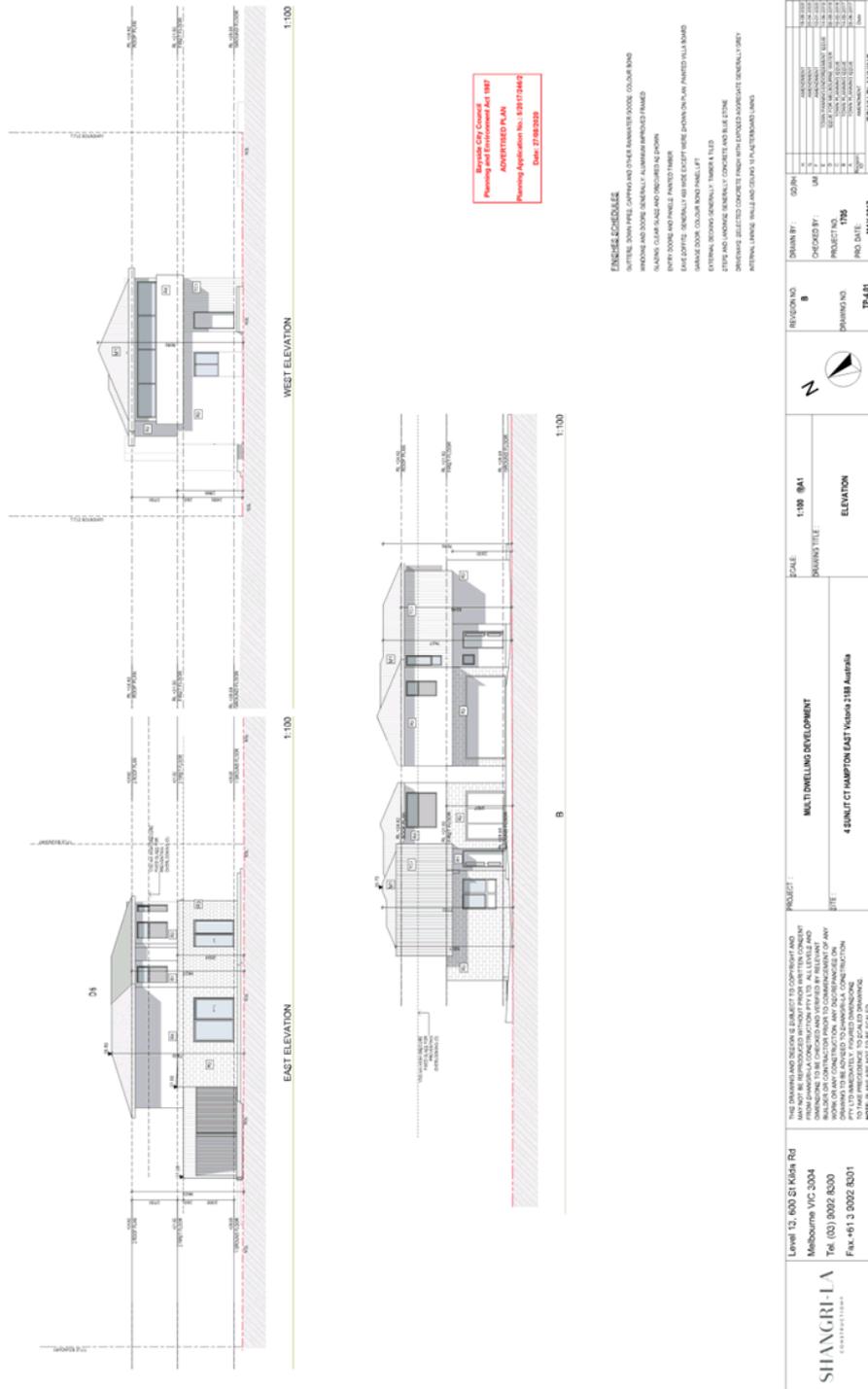


Item 4.4 – Matters of Decision

















Site and Surrounds



Figure 1 Aerial overview of the site and surrounds

| Legend       |   |
|--------------|---|
| Subject site | ★ |
| Objector(s)  | ● |



Figure 2 View towards the site from Sunlit Court



Figure 3 View towards the site and adjoining property at 2/3 Sunlit Court



Figure 4 View to the site and adjoining property at 3 Sunlit Court

### Neighbourhood Character Assessment

#### Neighbourhood Character Policy G1

#### Preferred Future Character Statement

*The well-articulated dwellings sit within landscaped gardens, some with established trees. New buildings are frequent and are designed to respond to the site, and include a pitched roof form to reflect the dominant forms in the area. Buildings are occasionally built to the side boundary, however the overall impression of the streetscape is of buildings within garden settings due to the regular front setbacks, well vegetated front yards and additional street tree planting in the area.*

#### Precinct Guidelines

| Objectives  | Design Responses   | Avoid  | Planning Officer Assessment   |
|---|--|--|---|
| <i>To maintain and enhance the garden settings of the dwellings.</i>  | <ul style="list-style-type: none"> <li>Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.</li> <li>Retain large, established trees and provide for the planting of new trees wherever possible.</li> <li>Buildings should be sited to allow space for the planting of trees and shrubs.</li> </ul> | <p><i>Lack of landscaping and substantial vegetation.</i></p> <p><i>Removal of large trees.</i></p> <p><i>Planting of environmental weeds.</i></p> | <p><b>Responds</b></p> <p>There are no additional trees on the site proposed to be removed over and above what has already been approved. The application has been accompanied by a landscape plan which has been reviewed by Council's Arborist. The landscape plan will be required to be updated to include 9 canopy trees of appropriate species which will grow to mature heights of 8 metres and mature canopy spreads of 4 metres in accordance with the Bayside Landscape Guidelines (2016) to ensure that the garden setting of the dwellings is maintained.</p> |
| <i>To maintain the rhythm of visual separation between buildings.</i> | <ul style="list-style-type: none"> <li>Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</li> </ul>  |  | <p><b>Responds</b></p> <p>The proposed dwellings are modulated in five groups, providing physical ground floor separation between Units 2 &amp; 3, 6 and 7, 7 and 8 and 8 and 9. This separation between buildings is carried to the upper floor with only Units 2 and 3 and Units 3, 4, 5 and 6 sharing a partywall. This results in a design response that adequately maintains the rhythm and visual separation between buildings. In addition, there is generous space around</p>   |

| Objectives  | Design Responses   | Avoid  | Planning Officer Assessment   |
|---|--|--|---|
|   |  |  | each dwelling to allow for opportunities for meaningful landscaping to soften the built form when viewed from immediately adjoining properties and maintain the vegetated characteristic of the area.   |
| <p><i>To ensure that new buildings provide an articulated and interesting façade to the street.</i></p> | <ul style="list-style-type: none"> <li>• <i>Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.</i></li> <li>• <i>Use pitched roof forms with eaves.</i></li> </ul> | <p><i>Large, bulky buildings with poorly articulated front and side wall surfaces.</i></p> | <p><b>Responds</b><br/>                     The overall design of the buildings is contemporary yet presents as two dwellings (being Unit 1 and Unit 9) to Sunlit Court. A combination of traditional pitched roof forms and more contemporary skillion and flat rooved areas are proposed. The dominant traditional pitched roof form of the dwellings towards the front of the site supports the primary roof form evident within the cul-de-sac and wider neighbourhood character.</p> |
| <p><i>To maintain the openness of the streetscape.</i></p>  |  | <p><i>High, solid front fencing.</i></p>   | <p><b>Responds</b><br/>                     As mentioned above the development will present as two dwellings to Sunlit Court and the built form is well setback from the frontage behind the proposed 1.2m high rendered front fence. This allows generous landscaping within the front setback, maintaining the openness to the streetscape.</p>   |

**ResCode Clause 55****(Two or More Dwellings on a Lot and Residential Buildings)**

| Application type  | Applicable clauses  |
|---|---|
| To construct or extend a dwelling (other than a dwelling in or forming part of an apartment development);<br><br>or<br><br>To construct or extend a residential building. | All of Clause 55 except Clause 55.07-1 to 55.07-15 (inclusive). |

| CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE  |                         |   |
|--|-------------------------|---|
| Title and Objective  | Complies with Standard? | Comments  |
| <b>B1 Neighbourhood Character</b><br>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.<br><br>Development responds to features of the site and surrounding area.   | Complies                | Refer to Attachment 4.  |
| <b>B2 Residential Policy</b><br>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.<br><br>Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Complies                | The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size.  |
| <b>B3 Dwelling Diversity</b><br>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.   | N/A                     | The application proposes 9 dwellings and therefore this standard does not apply.  |
| <b>B4 Infrastructure</b><br>Provides appropriate utility services and infrastructure without overloading the capacity.   | Complies                | The proposal will make use of existing infrastructure servicing the site.<br><br>The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.<br><br>Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. |

|  |          |   |
|--|----------|---|
|  |          | It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.   |
| <b>B5 Integration with the Street</b><br>Integrate the layout of development with the street | Complies | The development will integrate appropriately with the street and maintains ample space within the front setback and around the dwellings for landscaping to reflect the character of the area.<br><br>The side setbacks would maintain an appropriate rhythm of visual separation within the streetscape.<br><br>See Neighbourhood Character at <b>Attachment 4</b> for further discussion. |

| CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING   |                         |  |
|---|-------------------------|--|
| Title and Objective   | Complies with Standard? | Comments   |
| <b>B6 Street Setback</b><br>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.                       | Does not comply         | <b>Requirement:</b> 9 metres.<br><b>Proposed:</b> 8.8 metres ground floor, 8.4m at first floor.  |
| <b>B7 Building Height</b><br>Building height should respect the existing or preferred neighbourhood character.  | Complies                | <b>Maximum:</b> 9m (2 storeys)<br><b>Proposed:</b> 8.64m (2 storeys)   |
| <b>B8 Site Coverage</b><br>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.                                      | Complies                | <b>Maximum:</b> 50%<br><b>Proposed:</b> 46.5%  |
| <b>B9 Permeability and stormwater management</b><br>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.                      | Complies                | <b>Minimum:</b> >20%<br><b>Proposed:</b> 26.2%   |
| <b>B10 Energy Efficiency</b><br>Achieve and protect energy efficient dwellings and residential buildings.<br><br>Ensure orientation and layout reduces fossil fuel energy use and makes | Complies                | No habitable rooms rely on secondary light sources. Most of the primary living areas and secluded private open space areas at the dwellings are north facing making optimal use of the orientation of the site with respect to daylight and solar energy. Due to the site orientation, |

|   |          |   |
|---|----------|---|
| appropriate use of daylight and solar energy.   |          | dwellings 8 and 9 have south facing secluded private open space areas. The living areas to these dwellings have dual aspect windows with ample access to daylight.  |
| <b>B11 Open Space</b><br>Integrate layout of development with any public and communal open space provided in or adjacent to the development.  | N/A      | There is no communal open space in or adjacent to the development.  |
| <b>B12 Safety</b><br>Layout to provide safety and security for residents and property.  | Complies | The pedestrian entry point to dwelling 1 is clearly recognisable from Sunlit Court. Pedestrian entry points to the remaining dwellings are visible down the shared driveway while upper level windows of dwellings 1 and 9 allow for the passive surveillance of Sunlit Court and upper level windows of the remaining dwellings allow for passive surveillance of the shared driveway.   |
| <b>B13 Landscaping</b><br>To provide appropriate landscaping.<br>To encourage: <ul style="list-style-type: none"> <li>Development that respects the landscape character of the neighbourhood.</li> <li>Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</li> <li>The retention of mature vegetation on the site.</li> </ul> | Complies | The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions.<br><br>A condition of permit will require an amended landscape plan to be submitted including replacement canopy trees in accordance with the number and sizes required by the Bayside Landscape Guidelines and to the satisfaction of the Responsible Authority.<br><br>Refer to the report for further discussion. |
| <b>B14 Access</b><br>Ensure the safe, manageable and convenient vehicle access to and from the development.<br><br>Ensure the number and design of vehicle crossovers respects neighbourhood character.   | Complies | The proposed crossover and driveway abutting the southern boundary, makes good use of the sites orientation and provides convenient and safe vehicle access to/from the site.   |
| <b>B15 Parking Location</b><br>Provide resident and visitor vehicles with convenient parking.<br><br>Avoid parking and traffic difficulties in the development and the neighbourhood.<br><br>Protect residents from vehicular noise within developments.  | Complies | On site car parking is provided in the form of either single and double garages conveniently accessed by the common driveway.<br><br>Refer to the report for further discussion.  |

| CLAUSE 55.04 AMENITY IMPACTS  |              |  |             |  |
|---|--------------|--|-------------|--|
| Title and Objective   |              | Complies with Standard?                                  |             | Comments   |
| <b>B17 Side and Rear Setbacks</b><br>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.                               |              | Does not comply  |             | Areas of non-compliance are underlined. Refer to the report for further discussion.  |
|   | Ground floor |  | First Floor |  |
|   | Requirement  | Proposed   | Requirement | Proposed   |
| North-west (side)   | 0m or 2m     | 2.3m – 4.8m  | 3.8m – 4.3m | <u>3.6m</u> – 4.5m   |
| North-east (side)   | 0m or 2m     | 2.5m, 3.4m, 3.6m, 5.7m                                   | 3.8m        | 3.8m - 5.7m  |
| South-west (side)   | 0m or 2m     | 0m - 3.7m  | 3.7m        | 3.7m – 5.7m  |
| South-east (rear)   | 0m or 3m     | <u>0.7m</u> , <u>2m</u> , <u>2.9m</u> , 3.1m, 4.8m, 6.2m | 4.7m        | <u>4m</u> – 10m  |
| <b>B18 Walls on Boundaries</b><br>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. |              | Complies   |             | <b>South-West boundary</b><br><b>Maximum Height:</b> 3.6m<br><b>Proposed:</b> 3.5m<br><b>Average Height:</b> 3.2m<br><b>Proposed:</b> 3.2m<br><b>Maximum Length:</b> 18.05m<br><b>Proposed:</b> 6.4m   |
| <b>B19 Daylight to Existing Windows</b><br>Allow adequate daylight into existing habitable room windows.  |              | Complies   |             | The development has been sufficiently setback from all habitable room windows to abutting properties at No's 2 and 2/3 Sunlit Court, No's 91, 93, 95, 95A and 97 Wickham Road, and No's 7, 9 and 11 Flowerdale Road in accordance with the standard. |
| <b>B20 North Facing Windows</b><br>Allow adequate solar access to existing north-facing habitable room windows.   |              | Complies   |             | There are no north facing windows within 3m of the shared boundary.  |

|   |                 |   |
|---|-----------------|---|
| <p><b>B21 Overshadowing Open Space</b><br/>Ensure buildings do not significantly overshadow existing secluded private open space.</p> | <p>Complies</p> | <p>Additional overshadowing will occur over the adjoining secluded private open space at the neighbouring properties to the south-west and south at No. 3 Sunlit Court and No's 89, 91, 93, 95, 95A and 97 Wickham Road.</p> <p>The majority of overshadowing of these properties will not extend past the overshadowing cast by the existing fence line within their rear secluded private open space areas.</p> <p>The small amount of additional overshadowing will still ensure that at least 5 hours of sunlight between the hours of 9am and 3pm 22<sup>nd</sup> September will be provided to at least 40 square metres or 75% of the secluded private open space at all neighbouring properties in accordance with the standard.</p> <p>There will be no additional overshadowing to neighbouring properties to the north or east of the site as a result of the development.</p> |
| <p><b>B22 Overlooking</b><br/>Limit views into existing secluded private open space and habitable room windows.</p>                   | <p>Complies</p> | <p>All first and second floor habitable room windows within 9 metres of neighbouring properties have been screened through the use of a combination of obscure glazing, and sill heights above 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard.</p> <p>First floor balconies from dwellings 3, 4 and 5 have been screened to 1.7 metres above finished floor level through the use of solid render with batten screens above and would not give rise to unreasonable overlooking towards neighbouring habitable room windows or secluded private open space.</p> <p>All ground floor, windows will be screened by boundary fencing and landscaping which would limit overlooking impacts.</p>   |

|   |                 |  |
|---|-----------------|--|
| <p><b>B23 Internal Views</b><br/>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</p> | <p>Complies</p> | <p>Windows on the internal elevations of the dwellings have been either sited to avoid direct views into other dwellings within the site or have been screened with obscure glazing to 1.7 metres above finished floor level. This will limit views within the site between dwellings.</p> <p>At ground floor level, boundary fencing in combination with landscaping will limit views between the secluded private open space areas at dwellings.</p> |
| <p><b>B24 Noise Impacts</b><br/>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</p>                                   | <p>Complies</p> | <p>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</p>   |

| <p><b>CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES</b></p>  |                                       |  |
|--|---------------------------------------|--|
| <p><b>Title and Objective</b></p>  | <p><b>Complies with Standard?</b></p> | <p><b>Comments</b></p>   |
| <p><b>B25 Accessibility</b><br/>Consider people with limited mobility in the design of developments.</p> | <p>Complies</p>                       | <p>Entries are accessible for people with limited mobility and dwellings could be further retrofitted to accommodate people with limited mobility in the future if required.</p>   |
| <p><b>B26 Dwelling Entry</b><br/>Provide a sense of identity to each dwelling/residential building.</p>  | <p>Complies</p>                       | <p>The development fronts Sunlit Court and includes clearly identifiable entries to each dwelling. All dwellings have a porch at the main entry which provides shelter and a sense of personal address.</p> <p>Pedestrian pathways in the form of a dedicated pathway through the front private open space to dwelling one and alternate surfacing along either side of the driveway provide pedestrian access to the dwellings and also identify the dwellings entries.</p> |
| <p><b>B27 Daylight to New Windows</b><br/>Allow adequate daylight into new habitable room windows.</p>   | <p>Complies</p>                       | <p>All habitable rooms will have adequate access to daylight and will have windows with a clear view of the sky.</p>   |

| <p><b>B28 Private Open Space</b><br/>Provide reasonable recreation and service needs of residents by adequate private open space.</p> | <p>Does not comply</p>  | <p><b>Minimum:</b><br/>25m<sup>2</sup> secluded, 40m<sup>2</sup> overall with a minimum dimension of 3 m;<br/><b>Proposed:</b><br/>Dwellings 1, 2, 6, 7, 8 and 9 meet the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents.<br/><br/>Dwellings 3, 4 and 5 fall short of the ground floor secluded private open space requirements.<br/><br/>Refer to the report for further discussion.</p> |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
|---|---|---|--------------------|-----------------------------|------------|--------------------|---------------------|------------|--------------------|--------------------|------------|--------------------|--------------------|------------|--------------------|--------------------|------------|--------------------|--------------------|------------|--------------------|--------------------|------------|---------------------|---------------------|------------|--------------------|--------------------|------------|--------------------|--------------------|--|
|   | <table border="1"> <thead> <tr> <th></th> <th>Private Open Space</th> <th>Secluded Private Open Space</th> </tr> </thead> <tbody> <tr> <td>Dwelling 1</td> <td>25.4m<sup>2</sup></td> <td>116.3m<sup>2</sup></td> </tr> <tr> <td>Dwelling 2</td> <td>48.7m<sup>2</sup></td> <td>48.7m<sup>2</sup></td> </tr> <tr> <td>Dwelling 3</td> <td>18.2m<sup>2</sup></td> <td>18.2m<sup>2</sup></td> </tr> <tr> <td>Dwelling 4</td> <td>19.3m<sup>2</sup></td> <td>19.3m<sup>2</sup></td> </tr> <tr> <td>Dwelling 5</td> <td>30.7m<sup>2</sup></td> <td>30.7m<sup>2</sup></td> </tr> <tr> <td>Dwelling 6</td> <td>41.8m<sup>2</sup></td> <td>41.8m<sup>2</sup></td> </tr> <tr> <td>Dwelling 7</td> <td>147.9m<sup>2</sup></td> <td>147.9m<sup>2</sup></td> </tr> <tr> <td>Dwelling 8</td> <td>58.2m<sup>2</sup></td> <td>58.2m<sup>2</sup></td> </tr> <tr> <td>Dwelling 9</td> <td>66.3m<sup>2</sup></td> <td>66.3m<sup>2</sup></td> </tr> </tbody> </table> |   | Private Open Space | Secluded Private Open Space | Dwelling 1 | 25.4m <sup>2</sup> | 116.3m <sup>2</sup> | Dwelling 2 | 48.7m <sup>2</sup> | 48.7m <sup>2</sup> | Dwelling 3 | 18.2m <sup>2</sup> | 18.2m <sup>2</sup> | Dwelling 4 | 19.3m <sup>2</sup> | 19.3m <sup>2</sup> | Dwelling 5 | 30.7m <sup>2</sup> | 30.7m <sup>2</sup> | Dwelling 6 | 41.8m <sup>2</sup> | 41.8m <sup>2</sup> | Dwelling 7 | 147.9m <sup>2</sup> | 147.9m <sup>2</sup> | Dwelling 8 | 58.2m <sup>2</sup> | 58.2m <sup>2</sup> | Dwelling 9 | 66.3m <sup>2</sup> | 66.3m <sup>2</sup> |  |
|   | Private Open Space  | Secluded Private Open Space   |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| Dwelling 1  | 25.4m <sup>2</sup>  | 116.3m <sup>2</sup>   |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| Dwelling 2  | 48.7m <sup>2</sup>  | 48.7m <sup>2</sup>  |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| Dwelling 3  | 18.2m <sup>2</sup>  | 18.2m <sup>2</sup>  |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| Dwelling 4  | 19.3m <sup>2</sup>  | 19.3m <sup>2</sup>  |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| Dwelling 5  | 30.7m <sup>2</sup>  | 30.7m <sup>2</sup>  |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| Dwelling 6  | 41.8m <sup>2</sup>  | 41.8m <sup>2</sup>  |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| Dwelling 7  | 147.9m <sup>2</sup>   | 147.9m <sup>2</sup>   |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| Dwelling 8  | 58.2m <sup>2</sup>  | 58.2m <sup>2</sup>  |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| Dwelling 9  | 66.3m <sup>2</sup>  | 66.3m <sup>2</sup>  |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| <p><b>B29 Solar Access to Open Space</b><br/>Allow solar access into the secluded private open space of new dwellings/buildings.</p>  | <p>Does not comply</p>  | <p>The secluded private open space at dwellings 1, 2, 3, 4, 5, 6, 7 and 9 is north, east or west facing and allows appropriate solar access for the use of future residents.<br/><br/>Secluded private open space at dwellings 8 is south facing and does not accord with the standard with respect to the dimensions.<br/><br/>Refer to the report for further discussion.</p>   |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |
| <p><b>B30 Storage</b><br/>Provide adequate storage facilities for each dwelling.</p>  | <p>Complies</p>   | <p>Designated storage areas are provided within the garage area or within the secluded private open space at each dwelling and have a minimum area of 6 cubic metres in accordance with the standard.</p>   |                    |                             |            |                    |                     |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                    |                    |            |                     |                     |            |                    |                    |            |                    |                    |  |

| CLAUSE 55.06 DESIGN DETAIL  |                         |   |
|---|-------------------------|---|
| Title and Objective   | Complies with Standard? | Comments  |
| <p><b>B31 Design Detail</b></p> <p>Encourage design detail that respects the existing or preferred neighbourhood character.</p>   | Complies                | Refer to <b>Attachment 4</b> and the report for further discussion.   |
| <p><b>B32 Front Fences</b></p> <p>Encourage front fence design that respects the existing or preferred neighbourhood character.</p>   | Complies                | <p><b>Required:</b> 1.2m</p> <p><b>Proposed:</b> 1.2m</p>   |
| <p><b>B33 Common Property</b></p> <p>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.</p> <p>Avoid future management difficulties in common ownership areas.</p>        | Complies                | All areas of common property within the site have been designed to clearly delineate public, and to separate these from private areas. Common property is functional and capable of efficient management.   |
| <p><b>B34 Site Services</b></p> <p>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</p> <p>Avoid future management difficulties in common ownership areas.</p> | Complies                | <p>All appropriate site services can be easily catered for on-site. Mails boxes and services for each dwelling are shown to adjoin the footpath.</p> <p>Clotheslines, waste and recycling storage and rainwater tanks are proposed to be located within the private open space area at each dwelling.</p> |



Bayside City Council

Planning and Amenity Delegated Committee - 28 January 2021

**4.4 4 SUNLIT COURT, HAMPTON EAST  
NOTICE OF DECISION TO GRANT AN AMENDMENT TO A PERMIT  
APPLICATION 2017/246/2 WARD: IVISON**

City Planning and Amenity - Development Services  
File No: PSF/20/10 – Doc No: DOC/20/371164

*It is recorded that Mr Jonathan & Mrs Andrena Tomlinson, and Mr Daniel Bowden each submitted a written statement in relation to this item.*

**Moved: Cr Castelli (Deputy Mayor)**

**Seconded: Cr Samuel-King MBBS**

That Council, having caused notice of planning application **2017/246/2** to be given in accordance with Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required by Section 60 of the Act, resolves to issue a Notice of Decision to Refuse to Grant an Amendment to a Permit for the land known and described as 4 Sunlit Court, Hampton East for the construction of nine double storey dwellings on a lot located in a Special Building Overlay for the following reasons:

- 1) The proposed amendments fail to respect the existing neighbourhood character of the area and fail to respond to the objectives of Clause 22.06 (Neighbourhood Character, Precinct G1) of Bayside Planning Scheme, on the following grounds: the area by failing to:
  - a) ensure that the garden setting is maintained and enhanced
  - b) ensure the development maintains an appropriate rhythm of visual separation between buildings.
- 2) The proposed amendments fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
  - a) Standard B1: Neighbourhood Character – the proposal fails to respond to the existing and preferred neighbourhood character for this precinct
  - b) Standard B6: Street Setback –The street setback fails to ensure the setbacks of buildings respect the existing or preferred neighbourhood character of the area
  - c) Standard B17: Side and Rear Setbacks – The proposed side setbacks fail to achieve compliance with the numerical requirements of Standard B17
  - d) Standard B28: The proposed amendments fail to provide adequate external private open space for reasonable recreation and service needs of residents at dwellings 3, 4 and 5.

The Motion was PUT and a **DIVISION** was called:

**DIVISION:**   **FOR:**       Crs Alex del Porto, Laurence Evans OAM (Mayor), Clarke Martin, Sonia Castelli (Deputy Mayor), Hanna El Moullem, Jo Samuel-King MBBS and Fiona Stitfold (7)

**AGAINST:** Nil (0)

**CARRIED**



## 4.7 STATUTORY PLANNING - MONTHLY REPORT (MAY 2021)

City Planning and Amenity - Development Services  
File No: PSF/21/28 – Doc No: DOC/21/183061

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*In accordance with Chapter 2, Section 61(b) of Council's Governance Rules, a person is not permitted to present to this item as it is a report summarising decisions already made by another body, being VCAT.*

*Officers involved in the preparation of this report have no conflict of interest in this matter.*

### 1. Executive summary

To inform Council of the overall performance of the Statutory Planning team for May 2021. This report includes:

- details of decisions made under delegation by officers and by the Planning and Amenity Committee
- processing times and the types of applications received
- Victorian Civil and Administrative Tribunal (VCAT) determinations
- quarterly tree auditing data.

All councils are required to report to the State Government through two key systems. The first being the Local Government Performance Reporting Framework (LGPRF) and the second being the Planning Permit Activity Reporting System (PPARS). Both these systems provide for Council data to be audited and compared to other local government planning teams in Victoria and is made available to the public.

Information collected from each council area includes:

- what the permit applications are for
- the value of the works proposed
- how long they take to be processed
- how many are advertised
- how many have been referred to other agencies
- how many objections have been received
- trends in the numbers of applications and outcomes.

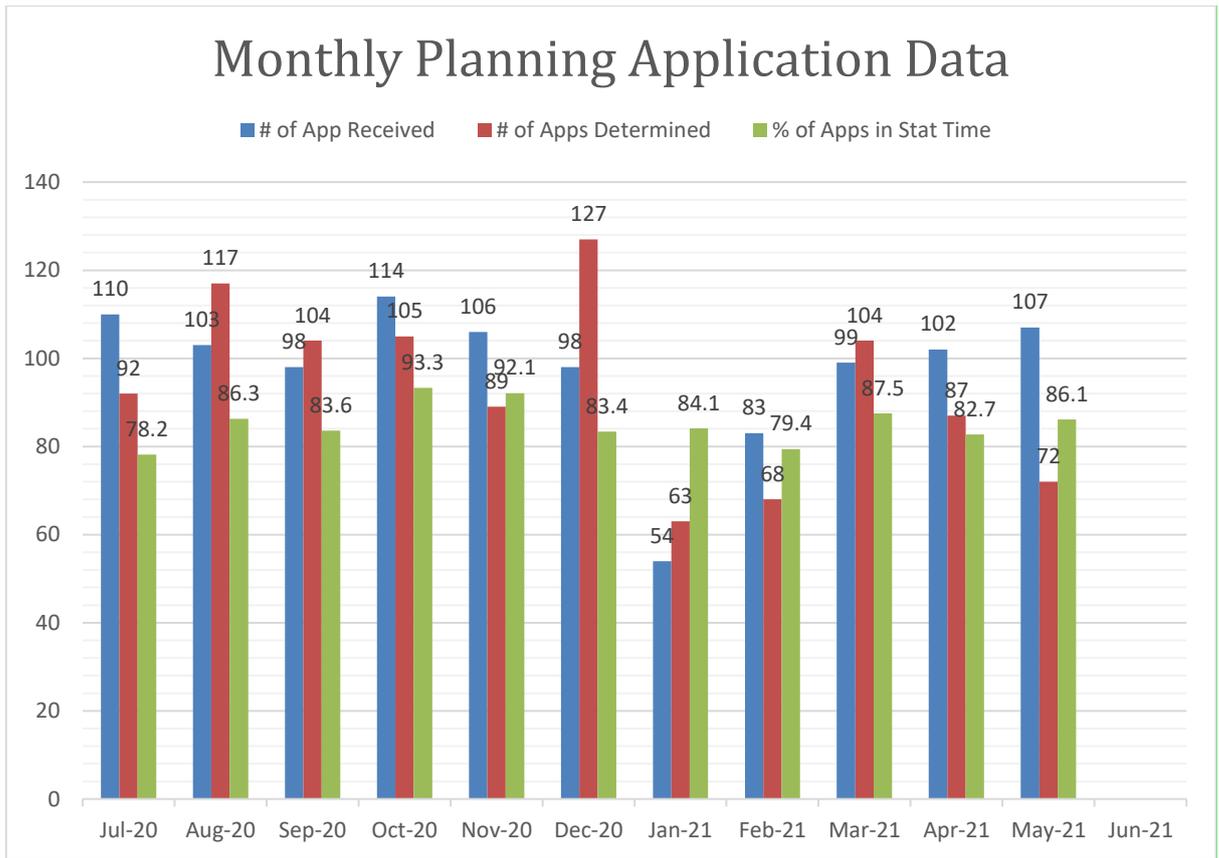
This data is provided to the State Government to create the PPARS monthly report and the annual LGPRF report. Refer **Attachment 1** for the PPARS report for May 2021.

### Decisions

For the month of May 2021, the Responsible Authority received 107 applications and determined 73 applications. A list of all applications lodged and determined in May 2021 are provided in **Attachment 2** and **Attachment 3** respectively for information purposes.

### Processing times

Council has a target for **2020–21** that 75% of all decisions (VicSmart and planning applications) will be determined within the statutory timeframe. Of all the applications determined for this month, 86.1% were determined within the statutory timeframe.



Source: PPARS report

To understand Bayside City Council’s Statutory Planning team’s performance, an analysis against both the inner and middle urban councils (IMU councils) and the Metropolitan Councils has been undertaken and shown in the table below. This data analyses the percentage of decisions determined based on the application type (VicSmart and planning applications).

|                      | Planning Applications | VicSmart Applications |
|----------------------|-----------------------|-----------------------|
| Bayside City Council | 82.6%                 | 88.9%                 |
| IMU councils         | 63%                   | 88.7%                 |
| Metro average        | 64.2%                 | 84%                   |

Source: PPARS report

Based on the above table, Bayside City Council is clearly determining a greater number of applications within the statutory timeframe compared with IMU council’s and the metro average.

This is also reflective of our year to date performance in which 80.7% of planning applications and 92.7% of VicSmart applications have been determined with the statutory timeframes. This demonstrates that the team’s performance continues to be delivered at a high level.

Further to the above, the median number of days between receipt of a planning application and a decision on the application provides additional information regarding the performance of the Statutory Planning team. The median is calculated on the gross number of days which includes weekends and public holidays. The table below provides a comparison for the month of May 2021.

|                      | Median days |
|----------------------|-------------|
| Bayside City Council | 56          |
| IMU councils         | 79          |
| Metro average        | 83          |

Source: PPARS report

### VCAT Decisions

Council manages a considerable number of matters which are referred to VCAT. These matters include merit appeals and compulsory conferences for decisions made by the Council and its delegates.

**Attachment 4** includes details of upcoming VCAT hearings, including compulsory conferences.

### VCAT outcomes

As a result of Council representation at VCAT, there are various outcomes/determinations. As such, the determinations received for the previous month and year are shown for the financial year to date in the table below.

Council has a target for **2020–21** that **65%** of all Planning and Amenity Delegated Committee and delegated officer decisions should not be set aside by VCAT. This is comparable with other inner urban councils in Melbourne such as Port Phillip and Stonnington.

This measure does not include applications to amend VCAT issued permits (Section 87A applications), consent orders or appeals which are withdrawn by the applicant or objector prior to a hearing.

For the 2020–21 financial year, Council has received 71 decisions, of which:

- 24 have been settled by consent orders
- 5 have been withdrawn
- 1 has been issued under S87A varied permit.

The total number of LGPRF measured decisions for the 2020–21 financial year is 41. This table below reflects the new 2020–21 LGPRF reporting requirements for Council.

| LGPRF Statutory Planning Measure 4 (SP4) – Decision Quality |   |             |  |             |
|---|---|-------------|--|-------------|
| Time period   | Decisions where the Council Delegate or Committees decision has been overturned or ' <b>Set Aside</b> ' |             | Decisions where the Council Delegate or Committees decision has been agreed with, either having been entirely ' <b>Affirmed</b> ' or the conditions of the permit 'varied' |             |
|   | Delegate  | Councillors | Delegate   | Councillors |
| July 2020   | 0   | 0           | 0  | 0           |
| August 2020   | 1   | 2           | 1  | 1           |
| September 2020  | 1   | 2           | 0  | 0           |
| October 2020  | 1   | 0           | 2  | 3           |
| November 2020   | 1   | 2           | 2  | 1           |
| December 2020   | 1   | 2           | 1  | 1           |
| January 2021  | 0   | 0           | 0  | 0           |

|                        |            |           |            |           |
|------------------------|------------|-----------|------------|-----------|
| February 2021          | 0          | 2         | 2          | 1         |
| March 2021             | 1          | 1         | 1          | 0         |
| April 2021             | 2          | 0         | 1          | 0         |
| May 2021               | 2          | -         | -          | 3         |
| June 2021              | -          | -         | -          | -         |
| <b>Total</b>           | <b>10</b>  | <b>11</b> | <b>10</b>  | <b>10</b> |
| <b>TOTAL DECISIONS</b> | <b>21</b>  |           | <b>20</b>  |           |
| <b>LGPRF Result</b>    | <b>51%</b> |           | <b>49%</b> |           |

As shown above, Council's target for 2020–21 that 65% of all Planning and Amenity Delegated Committee and delegated officer decisions should not be set aside. The table above shows that the target has not been met to date, although it should be noted that there is a high number of matters being settled by consent order.

In relation to decisions made by the Planning and Amenity Committee, the following table shows a comparison of the VCAT decisions that were a result of a Planning and Amenity Committee decision and whether that decision upheld the officer recommendation or was an overturn.

| Time period    | Set Aside decisions              |                             | Affirmed decisions               |                             |
|----------------|----------------------------------|-----------------------------|----------------------------------|-----------------------------|
|                | Officer recommendation supported | Overturn committee decision | Officer recommendation supported | Overturn committee decision |
| April 2021     | 0                                | 0                           | 1                                | 0                           |
| May 2021       | -                                | -                           | 3                                | 1                           |
| June 2021      | -                                | -                           | -                                | -                           |
| July 2021      | -                                | -                           | -                                | -                           |
| August 2021    | -                                | -                           | -                                | -                           |
| September 2021 | -                                | -                           | -                                | -                           |
| <b>Total</b>   | -                                | -                           | 4                                | 1                           |

As can be seen above, in May there were four VCAT Decisions issued, as a result of a decision made by the Planning and Amenity Committee. The officer recommendation was supported in three instances, and a Councillor overturn in one instance. All four of these decisions were affirmed by VCAT.

**Attachment 5** provides a summary of each case identifying the key issues for Council policy and strategy for the May 2021 VCAT outcomes.

#### VCAT Outcomes relating to Planning and Amenity Delegated Committee meeting decisions

In May 2021, VCAT determined four applications that were a result of a Planning and Amenity Delegated Committee decision.

#### **11 Alicia Street, HAMPTON**

This was an appeal under section 77 to review the refusal to grant a planning permit.

This application was for a three storey apartment building containing six dwellings. Officers forwarded a recommendation of support to the Planning and Amenity Committee meeting on 10 March; however, Councillors deemed to refuse the matter on grounds largely related to non compliance with existing or preferred neighbourhood character.

In the Order dated 7 May 2021, the Member ultimately agreed with the Council submission that the built form did not provide for an adequate transition to the differing controls on the opposite side of Alicia Street (this site was on the edge of the activity centre) and was also highly critical of the centrally located basement driveway which detracted from landscape opportunity within the site frontage.

The decision of Council was affirmed and no permit was granted.

A complete copy of the VCAT Order is provided at **Attachment 6**.

Cost of representation for appeal - \$9,900

### **36 Male Street, BRIGHTON**

The application for review was an applicant appeal pursuant to Section 80 of the *Planning and Environment Act 1987* against Council's condition on a Planning permit.

The contested conditions were conditions 1(m) and 36 of the permit which are standard conditions relating to the Bayside Development Contributions Plan Levy and were included in the Officer's recommendation to Council and conditions 1(n), 1(o) which relate to street setback and side and rear setback requirements and were added by Councillors at the Planning and Amenity Committee meeting on 1 December 2020.

The hearing on 12 May 2021 was attended by a Legal representative for Council, and a representative for the Permit Applicant.

At the hearing, Council set out the reasons it included conditions 1(m) and 36 requiring the payment of the DCPO levy, and 1(n) requiring a 1.2 metre increase to the setback to Male Street and 1(o) requiring full compliance with Standard B17 (side and rear setbacks) on the permit. The Permit Applicant set out why it believed that conditions 1(m) and 36 should be amended so that the drainage levy could be paid at a later date and conditions 1(n) and 1(o) were not required as the relevant street setback and side and rear setback objectives had been met.

The Tribunal found that the proposal complied with the street setback and side and rear setback objectives and responds appropriately to the site context of the Church Street Major Activity Centre and does have an unreasonable visual impact on neighbouring properties. The Tribunal agreed with the permit Applicant with respect to the conditions relating to the street setback and the side and rear setback that conditions 1(n) and 1(o) were not required.

With respect to the timing of the payment of the drainage levy, the applicant sought for this to be paid 'prior to the commencement of the development'. Council said this should be paid prior to the endorsement of plans in accordance with the standard permit condition. The Tribunal agreed with Council's submissions that the Bayside Drainage Development Contributions Plan (which is an incorporated document within the Bayside Planning Scheme) and clearly sets out the timing of when the contribution should be paid using the mandatory word 'must' be prior to the endorsement of plans unless some other agreement is made. As no special circumstances applied and no other agreement had been made, the Tribunal agreed with Council on this matter.

The Tribunal in its final order determined to issue a Planning Permit with the deletion of condition 1(n) and 1(o).

A complete copy of the VCAT Order is provided at **Attachment 7**.

Cost of representation for appeal - \$5,500

**561 Balcombe Road, BEAUMARIS**

The application for review was an Applicant appeal pursuant to Section 80 of the *Planning and Environment Act 1987* against Council's condition on a Planning permit.

The contested condition is the landscape plan condition, being condition 38. A landscape plan was recommended by Council Officers to be required to show replacement indigenous planting to be provided on site. The condition was amended by Councillors at the Planning and Amenity Committee meeting on 9 June 2020 to require 11 trees protected by the Vegetation Protection Overlay (VPO) to be retained on the site as well as the pruning of some of these trees.

The hearing on 21 May 2021 was attended by a representative from Council's Planning Department, and a representative for the Permit Applicant. Council Officers set out Council's reasons for the landscape plan condition and in particular the requirement for the 11 VPO protected trees to be retained. Officers advised the Tribunal that the removal of these trees would be contrary to the objectives and decision guidelines of the VPO and would be detrimental to the neighbourhood character of Black Rock.

The Permit Applicant submitted that the removal of the 11 trees protected by the VPO was supported by their Arborist and Council's Arborist as the species selection was not appropriate in this location and would cause damage to property in future. The Tribunal found the Applicant and Council's Arborists assessment compelling and agreed with the Applicant that the retention of these trees would be inappropriate and subject to replacement planting there would be no unreasonable impact on neighbourhood character.

The Tribunal in its final order determined to issue a varied Planning Permit with an amended landscape plan condition 38 as written within the Officer recommendation and set out in the agenda for the Planning and Amenity meeting on 9 June 2020.

A complete copy of the VCAT Order is provided at **Attachment 8**.

Cost of representation for appeal - \$0

**17A Abbott Street, SANDRINGHAM**

This was an application for review pursuant to Section 80 of the *Planning and Environment Act 1987* by the applicant against conditions imposed upon a planning permit.

The decision to approve a permit was made at the Planning and Amenity Committee meeting on 1 December 2020. The permit was approved as recommended by Council Officers, however Conditions 1i), 1j) and 1k) were imposed upon the permit by Councillors on the night of the meeting. These are the only conditions that were the subject of this appeal.

The relevant conditions were:

- i) no more than 2 car spaces allocated to each dwelling in accordance with the car parking requirements of Clause 52.06 of the Bayside Planning Scheme and a subsequent reduction to the basement level
- j) all side and rear setbacks designed to achieve compliance with Standard B17 (Side and Rear Setbacks) of the Bayside Planning Scheme
- k) the proposed ground floor boundary walls associated with the dining and kitchen areas to each dwelling reduced in length to allow for increased replacement planting to the satisfaction of the Responsible Authority

In its Order dated 24 May 2021, the Tribunal determined to vary Council's decision to amend Condition 1i) to remove the requirement to reduce the basement area, and delete Conditions 1j) and 1k) entirely.

The Member concluded that there would be little gain through a basement reduction as it did not contribute to the presentation of the built form.

The requirement to seek full compliance with side and rear setbacks was deleted as the encroaching areas were adjacent to non-sensitive interfaces, the requirements to reduce walls on boundary was removed essentially the exact same reason.

A complete copy of the VCAT Order is provided at **Attachment 9**.

Cost of representation for appeal - \$0

#### Associated VCAT costs for legal/planning advocate representation

Year to date, the cost of legal/planning advocate and expert representation for Council at VCAT is \$202,647.

#### **Quarterly tree auditing data** (1 April 2021 to 30 June 2021)

##### Local Law Tree removals

In approving Local Law tree removals, the approval ordinarily includes a requirement to replant a tree to compensate for the removal.

During the current round of audits, 200 audits of Local Law tree permits issued in 2019 were undertaken and it was found that:

130 (65%) were compliant and had planted a replacement tree; and 70 (35%) were non-compliant, not having planted a replacement tree.

The two top reasons for non-compliance were nurseries being closed throughout Covid-19 and difficulty obtaining the required species and size.

No fines were issued for permit holders that did not comply with Council's request to replant during this period. If the owners pay the fines, there is no requirement to plant a tree and the matter is considered finalised.

For these non-compliant properties, Council will issue a formal 'Notice to comply' in the first quarter of 2021/22 which will involve as a first step a requirement to plant a tree as required by approval. If the breach continues, Council will issue a fine.

##### Vegetation Protection Overlay (VPO) Tree removals

In approving VPO tree removal, conditions are included to require replanting of new vegetation to compensate for the loss of existing vegetation. As part of the planning permit, the Responsible Authority requires landscaping plans to be submitted and endorsed showing such replanting, which will typically include at least one canopy tree.

During the current round of audits, audits of 150 planning permits issued in 2019 for tree removal were undertaken and it was found that all properties had responded to Council's

request for a site inspection to be undertaken of the property. Of those 150 properties that were inspected 112 were found to comply.

Of the remaining 38 audits undertaken, Council will commence enforcement action in the first quarter of 2021/22, which as a first step seeks voluntary compliance. If this does not occur, it may lead to fines, enforcement at VCAT, or prosecution through the Magistrates Court.

### Trends

A significant number of the property owners were unaware of or had forgotten the requirements to replant after tree removal.

## 2. Recommendation

That Council resolves to:

- receive and note the report
- note the outcome of VCAT decisions on the planning applications handed down during May 2021.

## Support Attachments

1. PPARS Report May 2021 ↓
2. Applications lodged in May 2021 ↓
3. Applications determined in May 2021 ↓
4. Upcoming VCAT appeals ↓
5. May 2021 - VCAT Determined Appeals ↓
6. May 2021 VCAT Order - Appeal P614 2020 - 11 Alicia Street HAMPTON - 5.2019.440.1 ↓
7. May 2021 VCAT Order - Appeal P235.2021 - 36 Male Street and 1A Lollier Street BRIGHTON (5.2020.327.1) ↓
8. May 2021 VCAT Order - Appeal P1279.2020 - 561 Balcombe Road BLACK ROCK (5.2005.363.3) ↓
9. May 2021 VCAT Order - Appeal P305.2021 - 17A Abbott Street SANDRINGHAM (5.2020.165.1) ↓

## Planning Permit Activity Monthly Report

Select Year/Month: 2021 ▼ May ▼

To print this page, click [here](#).

### Bayside - May 2021

The following is a summary of the planning permit activity for which the [Bayside City Council](#) was the Responsible Authority.

The figures shown below are correct as at **23-06-2021**. The hyperlinked figures will search for the relevant **current data** in the Planning Permit Activity Reporting System (PPARS) and can only be accessed by registered Council users.

Click on the  icon for further information about how these figures are calculated.

For further information about any of these figures, please contact the relevant [Responsible Authority](#).

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### Data Accuracy

PPARs reports are subject to change as data is submitted by responsible authorities. **Data sourced from PPARs should reference the report 'generated date' and statement of data accuracy which notes if any responsible authorities data is missing.**

PPARs applies data checks in the form of 'business rules' to all data submitted for consistency. The validity of data relies on responsible authority systems, data entry and accurate submissions to PPARs.

Reports are generated on the 15th day of the month following the report period (or next business day). Planning Support will update reports with late submissions from responsible authorities on request.

**At the time of generation/update, the following responsible authorities had not provided data to PPARs for the month of this report:**

Alpine, Boroondara, Central Goldfields, Darebin, Gannawarra, Hepburn, Indigo, Minister for Planning, Moonee Valley, Mornington Peninsula, Mount Alexander, Stonnington, Towong

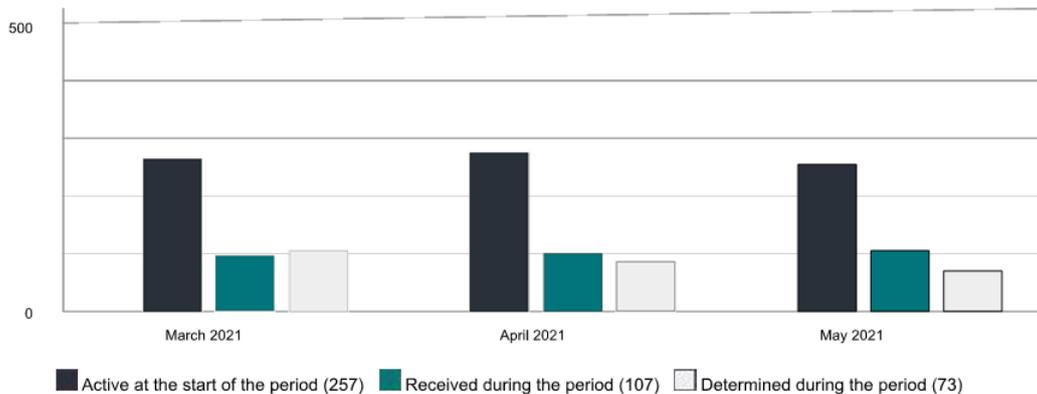
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Application activity

|  | This Month        | Last Month        | % Change | Financial Year to Date | Metro Average |
|--|-------------------|-------------------|----------|------------------------|---------------|
| <b>Total applications received</b>                             | <u>107</u>        | <u>102</u>        | 4.9%     | <u>1,074</u>           | 82            |
| New permit application   | <u>86</u> [80.4%] | <u>81</u> [79.4%] | 6.2%     | <u>812</u> [75.6%]     | 70            |
| Amended permit application                                     | <u>21</u> [19.6%] | <u>21</u> [20.6%] | 0.0%     | <u>262</u> [24.4%]     | 12            |
| Combined permit application                                    | <u>0</u> [0.0%]   | <u>0</u> [0.0%]   | 0%       | <u>0</u> [0.0%]        | 0             |
| <b>Total responsible authority outcomes</b>                    | <u>73</u>         | <u>87</u>         | -16.1%   | <u>1,032</u>           | 77            |
| Notices of Decision to issue permit (includes amended permits) | <u>11</u> [15.1%] | <u>13</u> [14.9%] | -15.4%   | <u>161</u> [15.6%]     | 10            |
| Refusal  | <u>6</u> [8.2%]   | <u>5</u> [5.7%]   | 20.0%    | <u>74</u> [7.2%]       | 3             |
| Withdrawn, not required, lapsed                                | <u>3</u> [4.1%]   | <u>10</u> [11.5%] | -70.0%   | <u>110</u> [10.7%]     | 10            |
| <b>Final outcomes</b>  | <u>77</u>         | <u>90</u>         | -14.4%   | <u>1,046</u>           | 75            |
| New permit issued  | <u>52</u> [67.5%] | <u>54</u> [60.0%] | -3.7%    | <u>632</u> [60.4%]     | 53            |
| Amended permit issued  | <u>16</u> [20.8%] | <u>21</u> [23.3%] | -23.8%   | <u>251</u> [24.0%]     | 10            |
| Combined permit issued   | <u>0</u> [0.0%]   | <u>0</u> [0.0%]   | 0%       | <u>0</u> [0.0%]        | 0             |
| No permit issued   | <u>9</u> [11.7%]  | <u>15</u> [16.7%] | -40.0%   | <u>163</u> [15.6%]     | 12            |

Applications received and decided



Performance figures

|  | This Month   | Last Month   | Financial Year to Date | Metro Average | IMU Average  |
|--|--------------|--------------|------------------------|---------------|--------------|
| <b>Applications with:</b>                        |              |              |                        |               |              |
| Public notice                                    | <u>29</u>    | <u>32</u>    | <u>378</u>             | 28            | 30           |
| Further information                              | <u>57</u>    | <u>49</u>    | <u>559</u>             | 40            | 37           |
| Referrals  | <u>5</u>     | <u>3</u>     | <u>35</u>              | 13            | 10           |
| Submissions                                      | <u>16</u>    | <u>20</u>    | <u>53</u>              | 9             | 10           |
| <b>Financial</b>                                 |              |              |                        |               |              |
| Total value of fees for applications received    | \$117,681    | \$107,023    | \$1,203,168            | \$80,938      | \$73,496     |
| Average fee per application received             | \$1,100      | \$1,049      | \$1,120                | \$982         | \$900        |
| Total estimated cost of works for permits issued | \$27,097,551 | \$44,794,943 | \$489,542,997          | \$59,526,334  | \$84,213,998 |
| Average cost of works per permit issued          | \$398,493    | \$597,266    | \$554,409              | \$944,862     | \$1,450,494  |

Processing times

|   | This Month | Last Month | Financial Year to Date | Metro Average | IMU Average |
|---|------------|------------|------------------------|---------------|-------------|
| Average gross days to Responsible Authority determination     | 68         | 74         | 75                     | 127           | 117         |
| Median processing days to Responsible Authority determination | 48         | 47         | 46                     | 82            | 77          |
| Completed within sixty days                                   | 82.6%      | 75.4%      | 80.7%                  | 64.2%         | 63.0%       |
| Average gross days to final outcome                           | 88         | 93         | 97                     | 137           | 134         |
| Median processing days to final outcome                       | 56         | 48         | 49                     | 83            | 79          |
| <b>VicSmart applications</b>                                  |            |            |                        |               |             |
| Received  | <u>39</u>  | <u>29</u>  | <u>319</u>             | 17            | 18          |
| Completed   | <u>27</u>  | <u>26</u>  | <u>302</u>             | 16            | 17          |
| Completed within ten days                                     | 88.9%      | 88.5%      | 92.7%                  | 84.0%         | 88.7%       |

### Reviews at the Victorian Civil and Administrative Tribunal (VCAT)

Under review at the start of the period: 6

|   | This Month       | Last Month       | % Change | Financial Year to Date |
|---|------------------|------------------|----------|------------------------|
| <b>Grounds for appeal* on appeals lodged:</b> |                  |                  |          |                        |
| Section 77: Appeal against refusal by RA      | 2                | 1                | 100.0%   | 32                     |
| Section 79: Appeal against failure to grant   | 1                | 1                | 0.0%     | 4                      |
| Section 80: Appeal against conditions         | 2                | 0                |          | 16                     |
| Section 82: Appeal against issue of permit    | 2                | 0                |          | 19                     |
| <b>Total determinations</b>                   | <u>6</u>         | <u>5</u>         | 20.0%    | <u>69</u>              |
| Affirmed                                      | <u>1</u> [16.7%] | <u>0</u> [0.0%]  |          | <u>12</u> [17.4%]      |
| Varied  | <u>4</u> [66.7%] | <u>2</u> [40.0%] | 100.0%   | <u>19</u> [27.5%]      |
| Set Aside                                     | <u>1</u> [16.7%] | <u>3</u> [60.0%] | -66.7%   | <u>33</u> [47.8%]      |
| Withdrawn/Struck out                          | <u>0</u> [0.0%]  | <u>0</u> [0.0%]  |          | <u>5</u> [7.2%]        |
| Remitted                                      | <u>0</u> [0.0%]  | <u>0</u> [0.0%]  |          | <u>0</u> [0.0%]        |
| <b>Processing times</b>                       |                  |                  |          |                        |
| Average gross days to determination           | 145              | 204              | -29.2%   | 193                    |
| Median processing days to determination       | 103              | 195              | -47.2%   | 168                    |

\*Appeals may have multiple grounds for review, and thus may be listed more than once.

\*PPARs monthly reports use VCAT figures submitted to PPARs by responsible authorities. These figures are not sourced directly from the Department of Justice.

**Outcomes for Permits Issued**

**Application categories for permits issued**

Note that permits may have more than one category.

|   | This Month | Last Month | Financial Year to Date |
|---|------------|------------|------------------------|
| Change or extension of use  | <u>7</u>   | <u>13</u>  | <u>172</u>             |
| Alterations to a building, structure or dwelling                          | <u>22</u>  | <u>28</u>  | <u>297</u>             |
| Extension to an existing dwelling or structure associated with a dwelling | <u>0</u>   | <u>0</u>   | <u>0</u>               |
| Extension to an existing building or structure (other than a dwelling)    | <u>0</u>   | <u>0</u>   | <u>0</u>               |
| One of more new buildings   | <u>0</u>   | <u>0</u>   | <u>9</u>               |
| Single dwelling   | <u>3</u>   | <u>3</u>   | <u>47</u>              |
| Multi-dwelling  | <u>22</u>  | <u>19</u>  | <u>248</u>             |
| Other buildings and works (including septic tanks, dams, earthworks)      | <u>0</u>   | <u>1</u>   | <u>8</u>               |
| Demolition  | <u>0</u>   | <u>0</u>   | <u>1</u>               |
| Native vegetation removal   | <u>7</u>   | <u>11</u>  | <u>71</u>              |
| Other vegetation removal  | <u>0</u>   | <u>1</u>   | <u>10</u>              |
| Consolidation   | <u>0</u>   | <u>0</u>   | <u>2</u>               |
| Subdivision of land   | <u>6</u>   | <u>10</u>  | <u>143</u>             |
| Subdivision of buildings  | <u>1</u>   | <u>0</u>   | <u>4</u>               |
| Subdivision - Change to easement and/or restrictions                      | <u>0</u>   | <u>0</u>   | <u>6</u>               |
| Subdivision - Removal of covenant   | <u>0</u>   | <u>0</u>   | <u>1</u>               |
| Subdivision - Realignment of boundary                                     | <u>1</u>   | <u>0</u>   | <u>1</u>               |
| Liquor license  | <u>2</u>   | <u>1</u>   | <u>23</u>              |
| Waiving of parking requirement  | <u>1</u>   | <u>4</u>   | <u>13</u>              |
| Signage   | <u>1</u>   | <u>1</u>   | <u>18</u>              |
| Telecommunications facility   | <u>0</u>   | <u>0</u>   | <u>0</u>               |
| Other   | <u>0</u>   | <u>0</u>   | <u>0</u>               |

**Dwellings**

The net number of additional dwellings approved is 0

**Subdivisions**

The net number of lots created from subdivision approval is 14

**Change of Land Use**

The following table displays the proposed land uses for issued permits (new and combined) where there was a change in land use.

|                             | This Month | Last Month | Financial Year to Date |
|-----------------------------|------------|------------|------------------------|
| Agriculture                 | 0          | 0          | 0                      |
| Food and drink premises     | 0          | 0          | 5                      |
| Industry and warehouse      | 0          | 0          | 0                      |
| Leisure and recreation      | 0          | 0          | 5                      |
| Office                      | 0          | 0          | 0                      |
| Place of assembly           | 0          | 0          | 0                      |
| Residential / Accommodation | 5          | 6          | 112                    |
| Retail premises             | 0          | 0          | 0                      |
| Vacant                      | 0          | 0          | 0                      |
| Child care                  | 0          | 0          | 0                      |
| Education centre            | 0          | 0          | 0                      |
| Mineral extraction          | 0          | 0          | 0                      |
| Pleasure boat facility      | 0          | 0          | 0                      |
| Transport terminal          | 0          | 0          | 0                      |
| Utility installation        | 0          | 0          | 0                      |
| Mixed use                   | 0          | 3          | 10                     |
| Other                       | 0          | 0          | 0                      |

For further information or to provide feedback, please contact Planning Support  
Version 3.0 - Generated 23-06-2021



Councillor Notifications  
 Planning Applications Summary  
 Lodged from 1/05/2021 to 31/05/2021



| Application   | Property Address                 | Development Details  | Received |
|---------------|----------------------------------|--|----------|
| <b>TBA</b>    |                                  |  |          |
| 5.2021.216.1  | 12 Tibbles ST, BEAUMARIS         | VPO3 - Removal x 1   | 02/05/21 |
| 5.2020.342.3  | 109 Charman RD, BEAUMARIS        | 1 Dwelling - Alts & Adds on Lot < 500m2                              | 03/05/21 |
| 5.2021.8190.1 | 39 Warleigh GVE, BRIGHTON        | Subdivision of Existing Buildings                                    | 03/05/21 |
| 5.2020.178.2  | 142 Esplanade, BRIGHTON          | 2 New Dwellings  | 04/05/21 |
| 5.2021.217.1  | 7 Dorothea ST, HIGHETT           | 2 New Dwellings  | 04/05/21 |
| 5.2021.218.1  | 1 Mc Gregor AVE, BLACK ROCK      | VPO3 - Removal x 1   | 04/05/21 |
| 5.2021.219.1  | 68 Dendy ST, BRIGHTON            | 2 New Dwellings  | 04/05/21 |
| 5.2021.220.1  | 72 Canberra GVE, BRIGHTON EAST   | 1 Dwelling - Alts & Adds - SBO                                       | 04/05/21 |
| 5.2021.221.1  | 33 Union ST, BRIGHTON EAST       | 1 Dwelling - Alts & Adds on Lot < 500m2                              | 05/05/21 |
| 5.2021.222.1  | 390 Bay ST, BRIGHTON             | Medical Centre - New Use Only  | 05/05/21 |
| 5.2021.223.1  | 15 Sturdee RD, BLACK ROCK        | VPO3 - Removal x 1   | 05/05/21 |
| 5.2011.595.3  | 36 Iona ST, BLACK ROCK           | 2 New Dwellings  | 06/05/21 |
| 5.2020.152.2  | 43 Durrant ST, BRIGHTON          | 2 New Dwellings  | 06/05/21 |
| 5.2021.224.1  | 72 Edward ST, SANDRINGHAM        | VPO3 - Removal x 1   | 06/05/21 |
| 5.2021.225.1  | 10A Hartley ST, BRIGHTON         | 1 Dwelling - Alts & Adds on Lot < 500m2                              | 06/05/21 |
| 5.2021.8185.1 | 35 Camperdown ST, BRIGHTON EAST  | Subdivision of Land (1 to 9 Lots)                                    | 06/05/21 |
| 5.1998.3541.3 | 390 Bay ST, BRIGHTON             | Medical Centre - Alts/Adds to Bld Only                               | 07/05/21 |
| 5.2018.44.2   | 7/26 Avoca ST, HIGHETT           | 1 Dwelling - Alts & Adds - DDO                                       | 07/05/21 |
| 5.2021.226.1  | 1/8 Prince ST, HAMPTON           | 1 Dwelling - Alts & Adds on Lot < 500m2                              | 07/05/21 |
| 5.2021.227.1  | 317 Hampton ST, HAMPTON          | 1 Dwelling - Alts & Adds - Heritage                                  | 07/05/21 |
| 5.2021.228.1  | 3 Mulgoa ST, BRIGHTON            | 1 Dwelling - Alts & Adds - DDO                                       | 07/05/21 |
| 5.2021.229.1  | 3/188 South RD, BRIGHTON EAST    | 1 Dwelling - Alts & Adds on Lot < 500m2                              | 07/05/21 |
| 5.2021.8192.1 | 8 Camperdown ST, BRIGHTON EAST   | Subdivision of Land (1 to 9 Lots)                                    | 07/05/21 |
| 5.2021.8193.1 | 7 Parkside ST, BEAUMARIS         | Subdivision of Land (1 to 9 Lots)                                    | 07/05/21 |
| 5.2021.8194.1 | 18 Marriage RD, BRIGHTON EAST    | Subdivision of Land (1 to 9 Lots)                                    | 07/05/21 |
| 5.2017.151.4  | 201/157 Church ST, BRIGHTON      | 6 - 10 New Dwellings   | 10/05/21 |
| 5.2021.230.1  | 12 Foam ST, HAMPTON              | Office - Alts/Adds to Building & Use                                 | 10/05/21 |
| 5.2021.231.1  | 24 Marion ST, BRIGHTON           | 1 Dwelling - Alts & Adds on Lot < 500m2                              | 10/05/21 |
| 5.2021.232.1  | 1/91 Martin ST, BRIGHTON         | 1 Dwelling - Alts & Adds - Heritage                                  | 10/05/21 |
| 5.2021.233.1  | 72 Edward ST, SANDRINGHAM        | VPO3 - Removal x 1   | 10/05/21 |
| 5.2021.8195.1 | 67E Earlsfield RD, HAMPTON       | Vary/Remove Easements&Other Restrictions                             | 10/05/21 |
| 5.2010.702.2  | 3 - 5 Heath ST, SANDRINGHAM      | Residential Bldg - New Use & Building                                | 11/05/21 |
| 5.2017.670.2  | 3 Louise ST, BRIGHTON EAST       | 2 New Dwellings  | 11/05/21 |
| 5.2020.385.2  | 31 Arranmore AVE, BLACK ROCK     | 2 New Dwellings  | 11/05/21 |
| 5.2021.234.1  | 16 Service ST, HAMPTON           | 1 Dwelling - Alts & Adds - Heritage                                  | 11/05/21 |
| 5.2021.235.1  | 4/10 Heath ST, SANDRINGHAM       | Fence on a lot < 500m2   | 11/05/21 |
| 5.2021.236.1  | 6 Herbert ST, HIGHETT            | 1 Dwelling - Alts & Adds - SBO                                       | 11/05/21 |
| 5.2021.237.1  | 9 Tatong RD, BRIGHTON EAST       | 2 New Dwellings  | 11/05/21 |
| 5.2021.238.1  | 79 Thomas ST, BRIGHTON EAST      | 2 New Dwellings  | 11/05/21 |
| 5.2021.239.1  | 2/34 Asling ST, BRIGHTON         | Fence on a lot > 500 m2  | 11/05/21 |
| 5.2020.488.2  | 50 William ST, BRIGHTON          | 3 New Dwellings  | 12/05/21 |
| 5.2021.240.1  | 1A Palmer AVE, BRIGHTON EAST     | Reduction/Waiver of Car Park Requirement and Fence on a lot > 500 m2 | 12/05/21 |
| 5.2019.510.2  | 70 Esplanade, BRIGHTON           | 6 - 10 New Dwellings   | 13/05/21 |
| 5.2020.625.2  | 45 Lawson PDE, HIGHETT           | 2 New Dwellings  | 13/05/21 |
| 5.2021.241.1  | 64 Vincent ST, SANDRINGHAM       | 1 Dwelling - Alts & Adds on Lot < 500m2                              | 13/05/21 |
| 5.2021.242.1  | 4/15 Major ST, HIGHETT           | 1 Dwelling - Alts & Adds on Lot < 500m2                              | 13/05/21 |
| 5.2021.243.1  | 54 Cluden ST, BRIGHTON EAST      | 2 New Dwellings  | 13/05/21 |
| 5.2021.244.1  | 408 New ST, BRIGHTON             | 1 Dwelling - Alts & Adds on Lot < 500m2                              | 13/05/21 |
| 5.2019.708.3  | 18 Ocean ST, HAMPTON             | 3 New Dwellings  | 14/05/21 |
| 5.2021.245.1  | 1 Hamilton ST, BRIGHTON          | 1 Dwelling - Alts & Adds - Heritage                                  | 14/05/21 |
| 5.2021.246.1  | 330 - 336 Reserve RD, CHELTENHAM | Trade Supplies - New Bldg & Use and Advertising Signs                | 14/05/21 |
| 5.2021.8197.1 | 34 Tulip ST, BLACK ROCK          | Subdivision of Land (1 to 9 Lots)                                    | 14/05/21 |
| 5.2021.8198.1 | 14 Carpenter ST, BRIGHTON        | Subdivision of Land (1 to 9 Lots)                                    | 14/05/21 |
| 5.2021.247.1  | 64 Widdop CRES, HAMPTON EAST     | Fence on a lot > 500 m2  | 16/05/21 |
| 5.2021.248.1  | 11 Allen ST, HIGHETT             | 2 New Dwellings  | 17/05/21 |
| 5.2016.369.3  | 63 Murphy ST, BRIGHTON           | 1 Dwelling - Alts & Adds - SBO                                       | 18/05/21 |
| 5.2021.249.1  | 37 Graham RD, HIGHETT            | 1 Display Home, Advertising Signs, Buildings & Works in EAO          | 18/05/21 |
| 5.2021.250.1  | 18 Stanley ST, BRIGHTON          | VPO3 - Removal x 1   | 18/05/21 |
| 5.2021.251.1  | 42 Dalgetty RD, BEAUMARIS        | VPO3 - Removal x 1   | 18/05/21 |

| Application   | Property Address                  | Development Details  | Received |
|---------------|-----------------------------------|--|----------|
| 5.2021.252.1  | 464 Hampton ST, HAMPTON           | Dwelling(s) Other - New Building & Use                             | 18/05/21 |
| 5.2021.253.1  | 67 Brickwood ST, BRIGHTON         | 1 Dwelling - Alts & Adds - SBO                                     | 18/05/21 |
| 5.2018.716.2  | 41 Regent ST, BRIGHTON EAST       | 1 Dwelling - New - SBO   | 19/05/21 |
| 5.2021.8196.1 | 51 Thomas ST, HAMPTON             | Vary/Remove Easements&Other Restrictions                           | 19/05/21 |
| 5.2021.8199.1 | 35 Bourneville AVE, BRIGHTON EAST | Variation/Removal of Covenants                                     | 19/05/21 |
| 5.2021.8202.1 | 1 - 3 Beach RD, HAMPTON           | Subdivision that Realigns Boundaries                               | 19/05/21 |
| 5.2011.519.3  | 73 William ST, BRIGHTON           | 3 New Dwellings  | 20/05/21 |
| 5.2021.254.1  | 1/41B Bluff RD, BLACK ROCK        | Minor Sports & Rec Fac - New Use Only                              | 20/05/21 |
| 5.2021.255.1  | 133 Esplanade, BRIGHTON           | Building & Works in VPO  | 20/05/21 |
| 5.2021.256.1  | 182 Church ST, BRIGHTON           | 1 Dwelling - New - DDO   | 20/05/21 |
| 5.2021.257.1  | 216 - 218 Beach RD, BLACK ROCK    | VPO3 - Removal x 1   | 20/05/21 |
| 5.2021.258.1  | 7 Parkview CRES, HAMPTON EAST     | 1 Dwelling - New - Lot < 500m2                                     | 20/05/21 |
| 5.2021.259.1  | 7 Point AVE, BEAUMARIS            | VPO3 - Removal x 1   | 21/05/21 |
| 5.2021.260.1  | 229 Thomas ST, HAMPTON            | Fence on a lot > 500 m2  | 21/05/21 |
| 5.2021.261.1  | 40 Jack RD, CHELTENHAM            | 2 New Dwellings  | 25/05/21 |
| 5.2021.262.1  | 9 Ivy ST, HAMPTON                 | 2 New Dwellings  | 25/05/21 |
| 5.2021.263.1  | 13 Tweed ST, HIGHETT              | 2 New dwellings  | 25/05/21 |
| 5.2021.264.1  | 2 Banksia AVE, BEAUMARIS          | VPO3 - Removal x 1   | 25/05/21 |
| 5.2021.265.1  | 82 New ST, BRIGHTON               | 1 Dwelling - Alts & Adds - Heritage                                | 25/05/21 |
| 5.2021.266.1  | 42 Reserve RD, BEAUMARIS          | VPO3 - Removal x 1   | 25/05/21 |
| 5.2021.267.1  | 42 Reserve RD, BEAUMARIS          | VPO3 - Removal x 1   | 25/05/21 |
| 5.2021.268.1  | 30 Arranmore AVE, BLACK ROCK      |  | 25/05/21 |
| 5.2021.269.1  | 8 Biarritz AVE, BEAUMARIS         | VPO3 - Removal x 3   | 25/05/21 |
| 5.2021.8186.1 | 14 Normanby ST, BRIGHTON          | Subdivision of Land (1 to 9 Lots)                                  | 25/05/21 |
| 5.2021.8200.1 | 2A Gillies ST, HAMPTON            | Subdivision of Land (1 to 9 Lots)                                  | 25/05/21 |
| 5.1999.4849.2 | 23 Tibbles ST, BEAUMARIS          | 2 New Dwellings  | 26/05/21 |
| 5.2021.270.1  | 16 Charles ST, BRIGHTON EAST      | 1 Dwelling - Alts & Adds on Lot < 500m2                            | 26/05/21 |
| 5.2021.8203.1 | 42 Teddington RD, HAMPTON         | Subdivision of Land (1 to 9 Lots)                                  | 26/05/21 |
| 5.2021.8204.1 | 26 Collins ST, BRIGHTON           | Vary/Remove Easements&Other Restrictions                           | 26/05/21 |
| 5.2020.261.2  | 5 - 7 Edward ST, SANDRINGHAM      | 1 Dwelling - Alts & Adds - Heritage                                | 27/05/21 |
| 5.2021.271.1  | 40 Abbott ST, SANDRINGHAM         | 1 Dwelling - Alts & Adds on Lot < 500m2                            | 27/05/21 |
| 5.2021.272.1  | 20 Alicia ST, HAMPTON             | 2 New Dwellings  | 27/05/21 |
| 5.2021.273.1  | 14 Bluff RD, BLACK ROCK           | Liquor Licence - New & Alts  | 27/05/21 |
| 5.2021.275.1  | 10 Seaton RD, HIGHETT             | 1 Dwelling - Alts & Adds - SBO                                     | 27/05/21 |
| 5.2021.276.1  | 15 Nepean AVE, HAMPTON EAST       | 4 New Dwellings  | 27/05/21 |
| 5.2021.277.1  | 8 Nepean HWY, BRIGHTON            | 1 Dwelling - Alts & Adds on Lot < 500m2                            | 28/05/21 |
| 5.2021.278.1  | 328 Bay RD, CHELTENHAM            | Retail Premises Other-Alts/Adds Bld Only                           | 28/05/21 |
| 5.2021.279.1  | 24 Elwood ST, BRIGHTON            | Fence on a lot > 500 m2  | 28/05/21 |
| 5.2021.8205.1 | 28 Florence ST, BRIGHTON EAST     | Subdivision of Land (1 to 9 Lots)                                  | 28/05/21 |
| 5.2021.280.1  | 1 Durrant ST, BRIGHTON            | 1 Dwelling - Alts & Adds - SBO                                     | 29/05/21 |
| 5.2021.281.1  | 33 Bluff RD, BLACK ROCK           | Carparking   | 29/05/21 |
| 5.2021.282.1  | 38 Binnie ST, BRIGHTON EAST       | Subdivision of Land ( 1 to 9 Lots)                                 | 30/05/21 |
| 5.1999.4454.2 | 34 Beaumaris PDE, HIGHETT         | 1 Additional Dwelling on a Lot                                     | 31/05/21 |
| 5.2017.347.3  | 28 Blanche ST, BRIGHTON EAST      | 1 Dwelling - Alts & Adds on Lot < 500m2 and Fence on a Lot < 500m2 | 31/05/21 |
| 5.2017.640.4  | 48 Lucas ST, BRIGHTON EAST        | 2 New Dwellings  | 31/05/21 |
| 5.2019.53.2   | 2A Dudley ST, BRIGHTON            | 6 - 10 New Dwellings and Reduction/Waiver of Car Park Requirement  | 31/05/21 |
| 5.2021.283.1  | 54 Beach RD, HAMPTON              | 1 Dwelling - Alts & Adds on Lot < 500m2                            | 31/05/21 |
| 5.2021.284.1  | 72 Edward ST, SANDRINGHAM         | VPO3 - Removal x 1   | 31/05/21 |

Total: 107

Planning Applications Summary - Councillor Bulletin  
Determined from 1/05/2021 to 31/05/2021

| Application     | Property Address<br>Proposal   | Determination                         | Determined |
|-----------------|--|---------------------------------------|------------|
| <b>Northern</b> |  |                                       |            |
| 5.2020.515.1    | 49 Montclair AVE, BRIGHTON 3186<br>6 - 10 New Dwellings  | Notice of Decision Granted - Council  | 11/05/2021 |
| <b>Southern</b> |  |                                       |            |
| 5.2020.335.1    | 20 Crawford ST, CHELTENHAM 3192<br>2 New Dwellings   | Notice of Decision Granted - Delegate | 04/05/2021 |
| <b>TBA</b>      |  |                                       |            |
| 5.2019.270.3    | 160 New ST, BRIGHTON 3186<br>1 Dwelling - New - Lot < 500m2  | Amended Permit Granted - Delegate     | 03/05/2021 |
| 5.2021.210.1    | 144 Bluff RD, BLACK ROCK 3193<br>VPO3 - Removal x 1  | Permit Refused - Delegate             | 03/05/2021 |
| 5.2020.587.1    | 31 Normanby ST, BRIGHTON 3186<br>Medical Centre - Alts/Adds to Bld Only                                  | Permit Granted - Delegate             | 04/05/2021 |
| 5.2020.658.1    | 14 Davie AVE, CHELTENHAM 3192<br>2 New Dwellings   | Permit Granted - Delegate             | 04/05/2021 |
| 5.2021.194.1    | 1 Clive ST, BRIGHTON EAST 3187<br>Fence on a lot > 500 m2  | Permit Granted - Delegate             | 04/05/2021 |
| 5.2020.593.1    | 25 Tennyson ST, BRIGHTON 3186<br>1 Dwelling - New - DDO  | Notice of Decision Granted - Delegate | 05/05/2021 |
| 5.2021.182.1    | 72 Edward ST, SANDRINGHAM 3191<br>VPO3 - Removal x 2   | Application Withdrawn                 | 05/05/2021 |
| 5.2021.216.1    | 12 Tibbles ST, BEAUMARIS 3193<br>VPO3 - Removal x 1  | Permit Refused - Delegate             | 05/05/2021 |
| 5.2014.339.2    | 6 Vaucuse ST, BRIGHTON 3186<br>2 New Dwellings   | Amended Permit Granted - Delegate     | 06/05/2021 |
| 5.2018.519.2    | 399 Hampton ST, HAMPTON 3188<br>1 Dwelling - Alts & Adds - DDO   | Amended Permit Granted - Delegate     | 06/05/2021 |
| 5.2021.19.1     | 8A Clonmult AVE, HIGGETT 3190<br>1 Dwelling - Alts & Adds on Lot <500m2                                  | Permit & Plans Granted - Delegate     | 06/05/2021 |
| 5.2021.54.1     | 32 Imbros ST, HAMPTON 3188<br>1 Dwelling - Alts & Adds - Heritage  | Permit Granted - Delegate             | 06/05/2021 |
| 5.2021.79.1     | 3/43 Warleigh GVE, BRIGHTON 3186<br>1 Dwelling - Alts & Adds on Lot < 500m2                              | Permit Granted - Delegate             | 06/05/2021 |
| 5.2021.172.1    | 2/59 Fourth ST, BEAUMARIS 3193<br>VPO3 - Removal x 1   | Permit Refused - Delegate             | 06/05/2021 |
| 5.2021.218.1    | 1 Mc Gregor AVE, BLACK ROCK 3193<br>VPO3 - Removal x 1   | Permit Granted - Delegate             | 06/05/2021 |
| 5.2021.8190.1   | 39 Warleigh GVE, BRIGHTON 3186<br>Subdivision of Existing Buildings                                      | Permit Granted - Delegate             | 06/05/2021 |
| 5.2021.214.1    | 23 Orchard ST, BRIGHTON 3186<br>1 Dwelling - Alts & Adds - Heritage                                      | Permit Granted - Delegate             | 07/05/2021 |
| 5.2021.8185.1   | 35 Camperdown ST, BRIGHTON EAST 3187<br>Subdivision of Land (1 to 9 Lots)                                | Permit Granted - Delegate             | 07/05/2021 |
| 5.2020.598.1    | 4/15 Grosvenor ST, BRIGHTON 3186<br>1 Dwelling - Alts & Adds - Heritage                                  | Permit Granted - Delegate             | 10/05/2021 |
| 5.2021.223.1    | 15 Sturdee RD, BLACK ROCK 3193<br>VPO3 - Removal x 1   | Permit Granted - Delegate             | 10/05/2021 |
| 5.2021.224.1    | 72 Edward ST, SANDRINGHAM 3191<br>VPO3 - Removal x 1   | Permit Granted - Delegate             | 10/05/2021 |
| 5.2018.276.3    | 427B Hampton ST, HAMPTON 3188<br>Bottle Shop - New Use Only  | Notice of Decision Granted - Council  | 11/05/2021 |
| 5.2020.403.1    | 149 Dalgetty RD, BEAUMARIS 3193<br>2 New Dwellings   | Notice of Decision Granted - Council  | 11/05/2021 |
| 5.2020.500.1    | 17 New ST, BRIGHTON 3186<br>Aged Care Facility - New Use & Building and Easement Removal.                | Permit Refused - Council              | 11/05/2021 |
| 5.2020.637.1    | 6 Acheron CRT, HAMPTON EAST 3188<br>2 New Dwellings  | Notice of Decision Granted - Council  | 11/05/2021 |
| 5.2020.638.1    | 88 Asling ST, BRIGHTON 3186<br>Medical Centre - Alts/Adds to Bld & Use                                   | Notice of Decision Granted - Delegate | 11/05/2021 |
| 5.2020.660.1    | 2/76 - 78 Beach RD, SANDRINGHAM 3191<br>Construction of a four storey building and access to a Road Zone | Permit Refused - Council              | 11/05/2021 |

| Application   | Property Address<br>Proposal   | Determination                         | Determined |
|---------------|--|---------------------------------------|------------|
| 5.2021.38.1   | 12 Taylor ST, BRIGHTON EAST 3187<br>1 Dwelling - Alts & Adds - Heritage                                      | Notice of Decision Granted - Delegate | 11/05/2021 |
| 5.2021.215.1  | 192 Church ST, BRIGHTON 3186<br>1 Dwelling - Alts & Adds - Heritage  | Permit & Plans Granted - Delegate     | 11/05/2021 |
| 5.2016.596.3  | 5 Reynolds ST, HAMPTON EAST 3188<br>26 or More Dwellings   | Amended Permit Granted - Delegate     | 12/05/2021 |
| 5.2020.655.1  | 62 Tibrockney ST, HIGHETT 3190<br>2 New Dwellings  | Notice of Decision Granted - Delegate | 12/05/2021 |
| 5.2021.136.1  | 14 Bluff RD, BLACK ROCK 3193<br>Advertising Signs  | Permit & Plans Granted - Delegate     | 12/05/2021 |
| 5.2021.209.1  | 1/18 Alfred ST, BEAUMARIS 3193<br>1 Dwelling - Alts & Adds on Lot < 500m2                                    | Permit Granted - Delegate             | 12/05/2021 |
| 5.2021.227.1  | 317 Hampton ST, HAMPTON 3188<br>1 Dwelling - Alts & Adds - Heritage  | Permit Granted - Delegate             | 12/05/2021 |
| 5.2021.235.1  | 4/10 Heath ST, SANDRINGHAM 3191<br>Fence on a Lot < 500m2  | Permit Granted - Delegate             | 12/05/2021 |
| 5.2012.649.5  | 51 Service ST, HAMPTON 3188<br>3 New Dwellings   | Amended Permit Granted - Delegate     | 13/05/2021 |
| 5.2014.107.2  | 5 Dudley ST, BRIGHTON 3186<br>4 New Dwellings  | Amended Permit Granted - Delegate     | 13/05/2021 |
| 5.2021.36.1   | 303/220 Bay RD, SANDRINGHAM 3191<br>1 Dwelling - Alts & Adds on Lot < 500m2                                  | Permit Granted - Delegate             | 13/05/2021 |
| 5.2021.103.1  | 1/324 South RD, HAMPTON EAST 3188<br>Medical Centre - New Use Only   | Permit Granted - Delegate             | 13/05/2021 |
| 5.2021.157.1  | 34 Brighton ST, SANDRINGHAM 3191<br>1 Dwelling - Alts & Adds on Lot < 500m2                                  | Permit Granted - Delegate             | 13/05/2021 |
| 5.2021.225.1  | 10A Hartley ST, BRIGHTON 3186<br>1 Dwelling - Alts & Adds on Lot < 500m2                                     | Permit Granted - Delegate             | 13/05/2021 |
| 5.2021.233.1  | 72 Edward ST, SANDRINGHAM 3191<br>VPO3 - Removal x 1   | Permit Granted - Delegate             | 13/05/2021 |
| 5.2017.650.3  | 7 St Ninians RD, BRIGHTON 3186<br>2 New Dwellings  | Notice of Decision Granted - Delegate | 14/05/2021 |
| 5.2021.8192.1 | 8 Camperdown ST, BRIGHTON EAST 3187<br>Subdivision of Land (1 to 9 Lots)                                     | Permit Granted - Delegate             | 14/05/2021 |
| 5.2021.8193.1 | 7 Parkside ST, BEAUMARIS 3193<br>Subdivision of Land (1 to 9 Lots)   | Permit Granted - Delegate             | 14/05/2021 |
| 5.2021.8194.1 | 18 Marriage RD, BRIGHTON EAST 3187<br>Subdivision of Land (1 to 9 Lots)                                      | Permit Granted - Delegate             | 14/05/2021 |
| 5.2019.361.2  | 1/411 St Kilda ST, BRIGHTON 3186<br>2 or More Additional Dwellings on a Lot                                  | Amended Permit Granted - Delegate     | 18/05/2021 |
| 5.2020.259.2  | 25 Smith ST, HAMPTON 3188<br>2 New Dwellings   | Amended Permit Granted - Delegate     | 18/05/2021 |
| 5.2021.8197.1 | 34 Tulip ST, BLACK ROCK 3193<br>Subdivision of Land (1 to 9 Lots)  | Permit Granted - Delegate             | 18/05/2021 |
| 5.2021.181.1  | 3/18 Regent ST, BRIGHTON EAST 3187<br>1 Dwelling - Alts & Adds on Lot < 500m2                                | Permit & Plans Granted - Delegate     | 20/05/2021 |
| 5.2016.240.2  | 37 Melrose ST, SANDRINGHAM 3191<br>Office - Alts/Adds to Building Only                                       | Notice of Decision Granted - Delegate | 21/05/2021 |
| 5.2019.188.2  | 63 Dalgetty RD, BEAUMARIS 3193<br>2 New Dwellings  | Amended Permit Granted - Delegate     | 21/05/2021 |
| 5.2019.708.2  | 18 Ocean ST, HAMPTON 3188<br>3 New Dwellings   | Amended Permit Granted - Delegate     | 21/05/2021 |
| 5.2021.75.1   | 6/63 Roslyn ST, BRIGHTON 3186<br>Carport on a Lot < 500m2  | Permit & Plans Granted - Delegate     | 21/05/2021 |
| 5.2021.108.1  | 1/27 North RD, BRIGHTON 3186<br>Alteration to Access to a Main Road  | Permit Granted - Delegate             | 21/05/2021 |
| 5.2021.118.1  | 53A Camperdown ST, BRIGHTON EAST 3187<br>1 Dwelling - Alts & Adds on Lot < 500m2                             | Application Lapsed                    | 21/05/2021 |
| 5.2021.122.1  | 121/226 Bay RD, SANDRINGHAM 3191<br>Residential Building - Alts & Adds                                       | Permit Granted - Delegate             | 21/05/2021 |
| 5.2021.240.1  | 1A Palmer AVE, BRIGHTON EAST 3187<br>Reduction/Waiver of Car Park Requirement and Fence on a lot > 500<br>m2 | Permit Granted - Delegate             | 21/05/2021 |
| 5.2021.8202.1 | 1 - 3 Beach RD, HAMPTON 3188<br>Subdivision that Realigns Boundaries   | Permit Granted - Delegate             | 21/05/2021 |
| 5.2020.488.2  | 50 William ST, BRIGHTON 3186<br>3 New Dwellings  | Amended Permit Granted - Delegate     | 24/05/2021 |
| 5.2021.135.1  | 3 Valerian ST, HAMPTON 3188<br>Subdivision of Land (1 to 9 Lots)   | Permit Granted - Delegate             | 24/05/2021 |

| Application      | Property Address<br>Proposal   | Determination                     | Determined |
|------------------|--|-----------------------------------|------------|
| 5.2020.625.2     | 45 Lawson PDE, HIGHETT 3190<br>2 New Dwellings                               | Amended Permit Granted - Delegate | 27/05/2021 |
| 5.2021.239.1     | 1/34 Asling ST, BRIGHTON 3186<br>Fence on a lot > 500 m2                     | Permit Refused - Delegate         | 27/05/2021 |
| 5.2021.3.1       | 21 Munro AVE, CHELTENHAM 3192<br>2 New Dwellings                             | Permit Granted - Delegate         | 28/05/2021 |
| 5.2021.200.1     | 41 Middleton ST, HIGHETT 3190<br>1 Dwelling - New - SBO                      | Permit & Plans Granted - Delegate | 28/05/2021 |
| 5.2021.129.1     | 268 Bay ST, BRIGHTON 3186<br>Liquor Licence - New & Alts                     | Permit & Plans Granted - Delegate | 31/05/2021 |
| 5.2021.147.1     | 2/15 Canterbury PL, BRIGHTON 3186<br>1 Dwelling - Alts & Adds on Lot < 500m2 | Permit & Plans Granted - Delegate | 31/05/2021 |
| 5.2021.266.1     | 42 Reserve RD, BEAUMARIS 3193<br>VPO3 - Removal x 1                          | Permit Granted - Delegate         | 31/05/2021 |
| 5.2021.268.1     | 30 Arranmore AVE, BLACK ROCK 3193  | Permit Granted - Delegate         | 31/05/2021 |
| <b>Total: 71</b> |  |                                   |            |



## Upcoming VCAT Appeals - Councillor Bulletin

Date report produced: 13/07/2021



| App No.         | Property Address<br>Proposal   | Bayside Determination                 | Appeal No. | Appeal Type                          | Compulsory<br>Conference | Hearing    |
|-----------------|--|---------------------------------------|------------|--------------------------------------|--------------------------|------------|
| <b>BECK</b>     |  |                                       |            |                                      |                          |            |
| 2020.661.1      | 13 Lileura AVE, BEAUMARIS 3193<br>Proposed two dwellings on a lot  | Notice of Decision Granted - Council  | P898/2021  | Conditions                           |                          | 4/08/2021  |
| <b>BOYD</b>     |  |                                       |            |                                      |                          |            |
| 2020.653.1      | 80 Orlando ST, HAMPTON 3188<br>11 - 25 New Dwellings   | Permit Refused - Council              | P755/2021  | Refusal to Grant a Permit            | 6/09/2021                | 1/12/2021  |
| 2020.660.1      | 1/76 - 78 Beach RD, SANDRINGHAM 3191<br>Construction of a four storey building and access to a Road Zone | Permit Refused - Council              | P869/2021  | Refusal to Grant a Permit            | 1/10/2021                | 6/12/2021  |
| <b>CAST</b>     |  |                                       |            |                                      |                          |            |
| 2020.594.1      | 34 Were ST, BRIGHTON 3186<br>1 Dwelling - Alts & Adds - DDO  | Notice of Decision Granted - Delegate | P537/2021  | Notice of Decision to Grant a Permit | 12/07/2021               | 8/11/2021  |
| 2020.500.1      | 17 New ST, BRIGHTON 3186<br>Aged Care Facility - New Use & Building and Easement Removal.                | Permit Refused - Council              | P891/2021  | Refusal to Grant a Permit            | 17/09/2021               | 22/11/2021 |
| <b>Central</b>  |  |                                       |            |                                      |                          |            |
| 2020.154.1      | 6 Frances ST, HIGGETT 3190<br>3 New Dwellings  | Permit Refused - Delegate             | P1471/2020 | Refusal to Grant a Permit            |                          | 22/07/2021 |
| 2012.406.2      | 19 Small ST, HAMPTON 3188<br>6 - 10 New Dwellings  | Amended Permit Refused - Council      | P1939/2020 | Refusal Amended Permit               |                          | 28/07/2021 |
| 2015.780.2      | 8 - 10 Station WK, BRIGHTON 3186<br>2 New Dwellings and Retail Premises Other - New Bld + Use            | Notice of Decision Granted - Council  | P2044/2020 | Notice of Decision to Grant a Permit | 4/06/2021                | 5/08/2021  |
| 2017.246.2      | 4 Sunlit CRT, HAMPTON EAST 3188<br>6 - 10 New Dwellings  | Amended Permit Refused - Council      | P365/2021  | Refusal Amended Permit               | 9/06/2021                | 9/08/2021  |
| 2020.211.1      | 17 Hemming ST, BRIGHTON EAST 3187<br>3 New Dwellings   | Notice of Decision Granted - Council  | P2049/2020 | Notice of Decision to Grant a Permit | 17/05/2021               | 15/09/2021 |
| 2020.145.1      | 23 Beaumaris PDE, HIGGETT 3190<br>6 - 10 New Dwellings   | Permit Refused - Council              | P126/2021  | Refusal to Grant a Permit            |                          | 22/09/2021 |
| 2020.243.1      | 6/65 Tibrockney ST, HIGGETT 3190<br>1 Dwelling - Alts & Adds on Lot < 500m2                              | Permit Refused - Council              | P1874/2020 | Refusal to Grant a Permit            |                          | 26/11/2021 |
| 2020.107.1      | 78 Orlando ST, HAMPTON 3188<br>New 3 storey multi unit building over basement car parking                | Permit Refused - Council              | P114/2021  | Refusal to Grant a Permit            |                          | 21/02/2022 |
| <b>DEND</b>     |  |                                       |            |                                      |                          |            |
| 2017.650.3      | 7 St Ninians RD, BRIGHTON 3186<br>2 New Dwellings  | Notice of Decision Granted - Delegate | P883/2021  | Notice of Decision to Grant a Permit | 17/09/2021               | 25/11/2021 |
| <b>EBDN</b>     |  |                                       |            |                                      |                          |            |
| 2020.571.1      | 250 Bay RD, SANDRINGHAM 3191<br>26 or More Dwellings   | Permit Refused - Delegate             |            | Refusal to Grant a Permit            | 8/10/2021                | 13/12/2021 |
| <b>IVIS</b>     |  |                                       |            |                                      |                          |            |
| 2016.596.3      | 5 Reynolds ST, HAMPTON EAST 3188<br>26 or More Dwellings   | Amended Permit Granted - Delegate     | P987/2021  | Conditions                           |                          | 23/08/2021 |
| <b>Northern</b> |  |                                       |            |                                      |                          |            |
| 2019.72.1       | 136T Church ST, BRIGHTON 3186<br>Advertising Signs   | Notice of Decision Granted - Council  | P880/2020  | Conditions                           |                          | 21/12/2020 |
| 2019.73.1       | 142T Martin ST, BRIGHTON 3186<br>Advertising Signs   | Permit Granted - Council              | P881/2020  | Conditions                           |                          | 21/12/2020 |
| 2019.76.1       | 329T New ST, BRIGHTON 3186<br>Advertising Signs  | Permit Granted - Council              | P883/2020  | Conditions                           |                          | 21/12/2020 |
| 2019.355.1      | 444 St Kilda ST, BRIGHTON 3186<br>2 or More Additional Dwellings on a Lot and construction of 1.2m fence | Notice of Decision Granted - Delegate | P408/2020  | Notice of Decision to Grant a Permit |                          | 16/07/2021 |
| 2015.820.2      | 10 Well ST, BRIGHTON 3186<br>6 - 10 New Dwellings  | Amended Permit Refused - Council      | P1914/2020 | Refusal Amended Permit               |                          | 22/07/2021 |
| 2020.276.1      | 12 Alford ST, BRIGHTON EAST 3187<br>2 New Dwellings  | Notice of Decision Granted - Council  | P786/2021  | Conditions                           |                          | 26/07/2021 |
| 2008.804.2      | 282S Bay ST, BRIGHTON 3186<br>Retail Premises Other-Alts/Adds Bld Only                                   | Amended Permit Refused - Delegate     | P20/2021   | Refusal Amended Permit               |                          | 13/08/2021 |
| 2020.150.1      | 14 Waterloo ST, BRIGHTON 3186<br>1 Dwelling - Alts & Adds on Lot < 500m2                                 | Permit Refused - Council              | P121/2021  | Refusal to Grant a Permit            |                          | 13/08/2021 |
| 2020.352.1      | 26 William ST, BRIGHTON 3186<br>1 Dwelling - Alts & Adds - Heritage                                      |                                       | P817/2021  | Failure to Grant a Permit            |                          | 9/08/2021  |
| 2019.355.1      | 444 St Kilda ST, BRIGHTON 3186<br>2 or More Additional Dwellings on a Lot and construction of 1.2m fence | Notice of Decision Granted - Delegate | P408/2020  | Notice of Decision to Grant a Permit |                          | 8/09/2021  |
| 2020.372.1      | 66 Black ST, BRIGHTON 3186<br>11 - 25 New Dwellings and Fence on a lot > 500 m2                          |                                       | P623/2021  | Failure to Grant a Permit            | 2/07/2021                | 14/09/2021 |
| 2020.106.1      | 2B North RD, BRIGHTON 3186<br>Restaurant - Alts/Adds to Bldg & Use                                       | Notice of Decision Granted - Council  | P1461/2020 | Notice of Decision to Grant a Permit | 16/07/2021               | 11/10/2021 |
| <b>Southern</b> |  |                                       |            |                                      |                          |            |
| 2019.107.1      | 28T East CNC, BEAUMARIS 3193<br>Advertising Signs  | Permit Granted - Council              | P879/2020  | Conditions                           |                          | 21/12/2020 |
| 2020.73.1       | 401 Beach RD, BEAUMARIS 3193<br>1 Dwelling - Alts & Adds - DDO and Fence on a lot > 500 m2 and Remove/   | Not Support - Refused - Council       | P2045/2020 | Failure to Grant a Permit            | 3/06/2021                | 3/08/2021  |
| 2020.242.1      | 45 Bayview CRES, BLACK ROCK 3193<br>1 Dwelling - Alts & Adds - DDO                                       | Permit Refused - Delegate             | P2068/2020 | Refusal to Grant a Permit            |                          | 16/08/2021 |
| 2020.399.1      | 40 Bluff RD, BLACK ROCK 3193<br>Liquor Licence - New & Alts  | Permit Refused - Council              | P359/2021  | Refusal to Grant a Permit            | 17/06/2021               | 16/08/2021 |
| 2020.332.1      | 341 Beach RD, BLACK ROCK 3193<br>4 New Dwellings   |                                       | P465/2021  | Failure to Grant a Permit            |                          | 1/11/2021  |

Appeals: 32



## VCAT Determined Appeals from 1/05/2021 to 31/05/2021

|                           |  |
|---------------------------|--|
| <b>Subject land</b>       | <b>11 Alicia ST, HAMPTON</b>   |
| <b>Application no.</b>    | 2019.440.1   |
| <b>VCAT reference no.</b> | P614/2020  |
| <b>Applicant</b>          | Angela Wong  |
| <b>Referral Authority</b> | N/A  |
| <b>Respondents</b>        | R Vanderheide, M Vanderheide, J Hall, T Hall, R Beattie, J Beattie, G Buzatu, G De Biase, P Hameister, P Jenner, H Kelvy, I Spence, J Spence, R Watters, |
| <b>VCAT Member</b>        | Bill Sibonis   |
| <b>Date of hearing</b>    | 23/03/2021   |
| <b>Date of order</b>      | 7/05/2021  |
| <b>Proposal</b>           | Construction of a three storey apartment building  |

|   |                           |
|---|---------------------------|
| <b>Officer recommendation/<br/>Delegate determination</b> | Notice of decision        |
| <b>Council determination</b>                              | Refusal                   |
| <b>Appeal type</b>  | Refusal to Grant a Permit |
| <b>Plans substituted<br/>(prior to hearing)</b>           |                           |
| <b>VCAT determination</b>                                 | No Permit to Issue        |
| <b>LGPRF outcome</b>                                      | AFFIRMED                  |

**Comments:**

This was an appeal under section 77 to review the refusal to grant a planning permit.

This application was for a three storey apartment building containing six dwellings. Officers forwarded a recommendation of support to the Planning and Amenity Committee meeting on 10<sup>th</sup> March however Councillors deemed to refuse the matter on grounds largely related to non compliance with existing or preferred neighbourhood character.

In their Order dated 7 May 2021, the Member ultimately agreed with the Council submission that the built form did not provide for an adequate transition to the differing controls on the opposite side of Alicia Street (this site was on the edge of the activity centre) and was also highly critical of the centrally located basement driveway which detracted from landscape opportunity within the site frontage.

The decision of Council was affirmed and no permit was granted.

|                           |  |
|---------------------------|--|
| <b>Subject land</b>       | <b>14 Campbell ST, BRIGHTON</b>  |
| <b>Application no.</b>    | 2020.423.1   |
| <b>VCAT reference no.</b> | P2066/2020   |
| <b>Applicant</b>          | John Hatzis and Vicky Hatzis   |
| <b>Referral Authority</b> | N/A  |
| <b>Respondents</b>        | Human Habitats   |
| <br>                      |  |
| <b>VCAT Member</b>        | Michelle Blackburn   |
| <b>Date of hearing</b>    | 30/04/2021   |
| <b>Date of order</b>      | 4/05/2021  |
| <b>Proposal</b>           | Construction of four dwellings including basements over two lots and a front fence in excess of 1.2 metres |

|   |                                      |
|---|--------------------------------------|
| <b>Officer recommendation/<br/>Delegate determination</b> | Notice of decision                   |
| <b>Council determination</b>                              | Not applicable                       |
| <b>Appeal type</b>  | Notice of Decision to Grant a Permit |
| <b>Plans substituted<br/>(prior to hearing)</b>           | No                                   |
| <b>VCAT determination</b>                                 | Varied Permit to Issue               |
| <b>LGPRF outcome</b>                                      | N/A                                  |

**Comments:**

This was an appeal under section 80 to review conditions placed on a planning permit, and also a section 82 appeal from an objector against Council's granting of an NOD.

This application was for four, two storey dwellings across two lots and was approved under delegation on 17 December 2020.

Outside of the formal VCAT proceedings, the applicant engaged with both the relevant objecting party and also Council, and ultimately agreed on a revised set of plans and associated conditions that generally allowed for increased setbacks from boundaries.

A consent Order was submitted to VCAT and in their Order dated 4 May 2021 VCAT directed Council to issue a varied permit in accordance with this Consent Order.

|                           |   |
|---------------------------|---|
| <b>Subject land</b>       | <b>36 Male ST, BRIGHTON</b>   |
| <b>Application no.</b>    | 2020.327.1  |
| <b>VCAT reference no.</b> | P235/2021   |
| <b>Applicant</b>          | Upscale Property Group Pty Ltd  |
| <b>Referral Authority</b> | N/A   |
| <b>Respondents</b>        | N/A   |
| <br>                      |   |
| <b>VCAT Member</b>        | Tracy Watson  |
| <b>Date of hearing</b>    | 12/05/2021  |
| <b>Date of order</b>      | 24/05/2021  |
| <b>Proposal</b>           | Construction of a three-storey building containing six dwellings on a lot in a Special Building Overlay |

|   |                        |
|---|------------------------|
| <b>Officer recommendation/ Delegate determination</b> | Notice of decision     |
| <b>Council determination</b>                          | Notice of decision     |
| <b>Appeal type</b>                                    | Conditions             |
| <b>Plans substituted (prior to hearing)</b>           | No                     |
| <b>VCAT determination</b>                             | Varied Permit to issue |
| <b>LGPRF outcome</b>                                  | AFFIRMED               |

**Comments:**

The application for review was an applicant appeal pursuant to Section 80 of the *Planning and Environment Act 1987* against Council's condition on a Planning permit.

The contested conditions were conditions 1(m) and 36 of the permit which are standard conditions relating to the bayside development contributions plan levy and were included in the Officer's recommendation to Council and conditions 1(n), 1(o) which relate to street setback and side and rear setback requirements and were added by Councillors at the Planning and Amenity Committee meeting on 1 December 2020.

The hearing on 12 May 2021 was attended by a Legal representative for Council, and a representative for the Permit Applicant.

At the hearing, Council set out the reasons it included conditions 1(m) and 36 requiring the payment of the DCPO levy, and 1(n) requiring a 1.2 metre increase to the setback to Male Street and 1(o) requiring full compliance with Standard B17 (side and rear setbacks) on the permit. The Permit Applicant set out why it believed that conditions 1(m) and 36 should be amended so that the drainage levy could be paid at a later date and conditions 1(n) and 1(o) were not required as the relevant street setback and side and rear setback objectives had been met.

The Tribunal found that the proposal complied with the street setback and side and rear setback objectives and responds appropriately to the site context of the Church Street Major Activity Centre and does have an unreasonable visual impact on neighbouring properties. The Tribunal agreed with the permit Applicant with respect to the conditions relating to the street setback and the side and rear setback that conditions 1(n) and 1(o) were not required.

With respect to the timing of the payment of the drainage levy, the applicant sought for this to be paid 'prior to the commencement of the development'. Council said this should be paid prior to the endorsement of plans in accordance with the standard permit condition. The Tribunal agreed with Council's submissions that the Bayside Drainage Development Contributions Plan (which is an incorporated document within the Bayside Planning Scheme) and clearly sets out the timing of when the contribution should be paid using the mandatory word 'must' be prior to the endorsement of plans unless some other agreement is made. As no special circumstances applied and no other agreement had been made, the Tribunal agreed with Council on this matter.

The Tribunal in its final order determined to issue a Planning Permit with the deletion of condition 1(n) and 1(o).

|                           |   |
|---------------------------|---|
| <b>Subject land</b>       | <b>5 Kirkwood ST, BEAUMARIS</b>                               |
| <b>Application no.</b>    | 2020.622.1  |
| <b>VCAT reference no.</b> | P295/2021   |
| <b>Applicant</b>          | Joanne Pamela Vink  |
| <b>Referral Authority</b> | N/A   |
| <b>Respondents</b>        | Bayside City Council  |
| <br>                      |   |
| <b>VCAT Member</b>        | K Birtwistle  |
| <b>Date of hearing</b>    | 14/05/2021  |
| <b>Date of order</b>      | 19/05/2021  |
| <b>Proposal</b>           | Removal of one Southern Mahogany (Eucalyptus botryoides) tree |

|   |                           |
|---|---------------------------|
| <b>Officer recommendation/<br/>Delegate determination</b> | Refusal                   |
| <b>Council determination</b>                              | Not applicable            |
| <b>Appeal type</b>  | Refusal to Grant a Permit |
| <b>Plans substituted<br/>(prior to hearing)</b>           | No                        |
| <b>VCAT determination</b>                                 | Permit Granted            |
| <b>LGPRF outcome</b>                                      | SET ASIDE                 |

**Comments:**

This matter was for the removal of native vegetation in Vegetation Protection Overlay Schedule3. The subject tree was a large Southern Mahogany gum in the front setback.

- Application lodged on 10/12/20
- Council issued a refusal on 24/12/20
- VCAT appeal hearing on 14/5/2021
- Final order from VCAT on 19/05/2021
- Member K. Birtwistle presided over the hearing. The tribunal set aside council's decision and granted a permit for removal.
- The member had concerns about the danger posed by trees which they said must be balanced against the vegetation protection and enhancement objectives of the Planning Scheme.
- The member "only one independent expert appeared and gave "weight to that evidence".
- With regard to habitat the member stated that the tree had "a limited, if any, role in conserving flora and fauna and its removal will not adversely affect the conservation of flora and fauna in the area".
- Whilst VPO3 refers to native tree the member highlighted that the tree "is a planted non-indigenous example and does not form part of any pattern of continuous canopy vegetation" and "does not represent remnants of any vegetation communities that were once widespread and now lost".
- Further, the member commented on "Council's recommended planting guide "Live Bayside Plant Bayside" does not include Southern Mahoganys in the recommended planting list" [sic].
- Finally the member issued a permit for the removal of the tree.

This member also issued permits for other trees in the area, namely: 54 Weatherall Road and 52 Weatherall Road.

|                           |   |
|---------------------------|---|
| <b>Subject land</b>       | <b>561 Balcombe RD, BLACK ROCK</b>  |
| <b>Application no.</b>    | 2005.363.3  |
| <b>VCAT reference no.</b> | P1279/2020  |
| <b>Applicant</b>          | LAWRENCE ROY INGVORSEN  |
| <b>Referral Authority</b> | N/A   |
| <b>Respondents</b>        | N/A   |
| <br>                      |   |
| <b>VCAT Member</b>        | Bill Sibonis  |
| <b>Date of hearing</b>    | 21/05/2021  |
| <b>Date of order</b>      | 24/05/2021  |
| <b>Proposal</b>           | Construction of one (1) double storey and two (2) single storey dwellings |

|   |                        |
|---|------------------------|
| <b>Officer recommendation/<br/>Delegate determination</b> | Amended permit granted |
| <b>Council determination</b>                              | Permit granted         |
| <b>Appeal type</b>  | Amend a Permit         |
| <b>Plans substituted<br/>(prior to hearing)</b>           | No                     |
| <b>VCAT determination</b>                                 | Varied Permit to Issue |
| <b>LGPRF outcome</b>                                      | AFFIRMED               |

**Comments:**

The application for review was an Applicant appeal pursuant to Section 80 of the *Planning and Environment Act 1987* against Council's condition on a Planning permit.

The contested condition is the landscape plan condition, being condition 38. A landscape plan was recommended by Council Officers to be required to show replacement indigenous planting to be provided on site. The condition was amended by Councillors at the Planning and Amenity Committee meeting on 9 June 2020 to require 11 trees protected by the Vegetation Protection Overlay (VPO) to be retained on the site as well as the pruning of some of these trees.

The hearing on 21 May 2021 was attended by a representative from Council's Planning Department, and a representative for the Permit Applicant. Council Officers set out Council's reasons for the landscape plan condition and in particular the requirement for the 11 VPO protected trees to be retained. Officers advised the Tribunal that the removal of these trees would be contrary to the objectives and decision guidelines of the VPO and would be detrimental to the neighbourhood character of Black Rock.

The Permit Applicant submitted that the removal of the 11 trees protected by the VPO was supported by their Arborist and Council's Arborist as the species selection was not appropriate in this location and would cause damage to property in future. The Tribunal found the Applicant and Council's Arborists assessment compelling and agreed with the Applicant that the retention of these trees would be inappropriate and subject to replacement planting there would be no unreasonable impact on neighbourhood character.

The Tribunal in its final order determined to issue a varied Planning Permit with an amended landscape plan condition 38 as written within the Officer recommendation and set out in the agenda for the Planning and Amenity meeting on 9 June 2020.

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|---------------------------|--|
| <b>Subject land</b>       | <b>17A Abbott ST, SANDRINGHAM</b>                            |
| <b>Application no.</b>    | 2020.165.1   |
| <b>VCAT reference no.</b> | P305/2021  |
| <b>Applicant</b>          | Piet Gouws   |
| <b>Referral Authority</b> | N/A  |
| <b>Respondents</b>        | R Weller, M Brumer   |
| <br>                      |  |
| <b>VCAT Member</b>        | Bill Sibonis   |
| <b>Date of hearing</b>    | 21/05/2021   |
| <b>Date of order</b>      | 24/05/2021   |
| <b>Proposal</b>           | Construction of two dwellings on a lot including a roof deck |

|   |                        |
|---|------------------------|
| <b>Officer recommendation/<br/>Delegate determination</b> | Notice of decision     |
| <b>Council determination</b>                              | Notice of decision     |
| <b>Appeal type</b>  | Conditions             |
| <b>Plans substituted<br/>(prior to hearing)</b>           | No                     |
| <b>VCAT determination</b>                                 | Varied Permit to Issue |
| <b>LGPRF outcome</b>                                      | AFFIRMED               |

**Comments:**

This was an application for review pursuant to Section 80 of the *Planning and Environment Act 1987* by the applicant against conditions imposed upon a planning permit.

The decision to approve a permit was made at the Planning and Amenity Committee meeting on 1 December 2020. The permit was approved as recommended by Council Officers, however Conditions 1i), 1j) and 1k) were imposed upon the permit by Councilors on the night of the meeting. These are the only conditions that were the subject of this appeal.

The relevant conditions were:

- i) no more than 2 car spaces allocated to each dwelling in accordance with the car parking requirements of Clause 52.06 of the Bayside Planning Scheme and a subsequent reduction to the basement level
- j) all side and rear setbacks designed to achieve compliance with Standard B17 (Side and Rear Setbacks) of the Bayside Planning Scheme
- k) the proposed ground floor boundary walls associated with the dining and kitchen areas to each dwelling reduced in length to allow for increased replacement planting to the satisfaction of the Responsible Authority

In its Order dated 24 May 2021, the Tribunal determined to vary Council's decision to amend Condition 1i) to remove the requirement to reduce the basement area, and delete Conditions 1j) and 1k) entirely.

The Member concluded that there would be little gain through a basement reduction as it did not contribute to the presentation of the built form.

The requirement to seek full compliance with side and rear setbacks was deleted as the encroaching areas were adjacent to non-sensitive interfaces, the requirements to reduce walls on boundary was removed essentially the exact same reason.

|   |  |
|---|--|
| <b>Subject land</b>                                       | <b>5 Halifax ST, BRIGHTON</b>  |
| <b>Application no.</b>                                    | 2019.353.1   |
| <b>VCAT reference no.</b>                                 | P430/2020  |
| <b>Applicant</b>  | Jintao Zhang   |
| <b>Referral Authority</b>                                 | Melbourne Water  |
| <b>Respondents</b>  | N Ardeljan, Y Ardeljan, T Seymour, J Seymour and S Dorrington  |
| <br>  |  |
| <b>VCAT Member</b>  | Picha Djohan   |
| <b>Date of hearing</b>                                    | 26/05/2021   |
| <b>Date of order</b>                                      | 26/05/2021   |
| <b>Proposal</b>   | Constructing two or more dwellings on a lot under clause 32.09-6 of the Neighbourhood Residential Zone;<br>front fence within 3 metres of a street greater than the maximum height specified in clause 55.06-2 (1.2 metres) under clause 32.09- 6 of the Neighbourhood Residential Zone; and<br>or constructing or carrying out works under clause 44.05- 2 of the Special Building Overlay. |
| <br>  |  |
| <b>Officer recommendation/<br/>Delegate determination</b> | Refusal  |
| <b>Council determination</b>                              | Not applicable   |
| <b>Appeal type</b>  | Refusal to Grant a Permit  |
| <b>Plans substituted<br/>(prior to hearing)</b>           | No   |
| <b>VCAT determination</b>                                 | Permit to Issue  |
| <b>LGPRF outcome</b>                                      | SET ASIDE  |

**Comments:**

The application for review was an Applicant appeal pursuant to Section 77 of the *Planning and Environment Act 1987* against Council's Notice of Decision to Refuse to Grant a Planning Permit.

The Applicant sought to construct two dwellings and a front fence on the lot in a Special Building Overlay. The site is burdened by a registered restrictive covenant. The Applicant did not seek to vary or remove the covenant. Council considered the application and received objections from beneficiaries of the covenant and determined to refuse the application as it was not satisfied that the proposal would not contravene the covenant.

As an aside, Council officers included concerns raised by Melbourne Water as a second reason for refusal. During the processing of the Appeal, Melbourne Water changed its position with respect to the plans and no longer had concerns and as a result, this reason for refusal was therefore removed. Council relied solely on its concerns in relation to the covenant.

The hearing on 18 and 19 February was attended by a legal representative on behalf of Council, and representatives for the Permit Applicant and Objector parties. Council's legal representative set out that the covenant includes reference to 'a residence' which it interpreted as a reference to a single residential unit and therefore in turn imposes a single dwelling restriction on the land. The objector agreed with this. Council and the Applicant referred the Tribunal to a number of supreme court judgments in relation to restrictive covenants on numbers of dwellings.

The Tribunal ultimately agreed with the Applicant's position with respect to these other decisions that the purpose of the restrictive covenant is to ensure that the land is used only for residential purposes, that residential buildings are not subdivided into 'flats', that the construction materials should be brick or slate or tile roof and found that the purpose is not to restrict the number of residences. The Tribunal therefore found that the covenant would not be breached if the permit for two dwellings were to be issued.

With respect to the consideration of the proposed two dwellings, the Objectors raised a number of concerns on garden area, drainage, noise, boundary fencing, trees and overlooking. The Tribunal found that the proposal was acceptable in accordance with the Planning Scheme and in its final order determined to issue a planning permit subject to conditions.



**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL****PLANNING AND ENVIRONMENT LIST**VCAT REFERENCE NO. P614/2020  
PERMIT APPLICATION NO. 5/2019/440/1**CATCHWORDS**

Section 77 *Planning and Environment Act 1987*; Bayside Planning Scheme: General Residential Zone; Design and Development Overlay; Apartment development; Policy; Built form; Neighbourhood character; Amenity.

|                              |   |
|------------------------------|---|
| <b>APPLICANT</b>             | Angela Wong   |
| <b>RESPONSIBLE AUTHORITY</b> | Bayside City Council  |
| <b>RESPONDENTS</b>           | R Vanderheide, M Vanderheide, J Hall,<br>T Hall, R Beattie, J Beattie, G Buzatu,<br>G De Biase, P Hameister, P Jenner, H Kelvy,<br>I Spence, J Spence, R Watters, T Wardell,<br>T Webb, Hampton Neighbourhood<br>Association Inc. |
| <b>SUBJECT LAND</b>          | 11 Alicia Street, Hampton   |
| <b>HEARING TYPE</b>          | Hearing   |
| <b>DATES OF HEARING</b>      | 1, 2 and 23 March 2021  |
| <b>DATE OF ORDER</b>         | 7 May 2021  |
| <b>CITATION</b>              | Wong v Bayside CC [2021] VCAT 438   |

**ORDER**

- 1 Pursuant to clause 64 of Schedule 1 of the *Victorian Civil and Administrative Tribunal Act 1998*, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:
  - Prepared by: Wolf Architects
  - Drawing numbers: A.001, A.100, A.101, A.102, A.103, A.104, A.105, A.106, A.107, A.108, A.109, A.110, A.111, A.112, A.113, A.114, A.115, A.116, A.117, A.118, A.119, A.120, A.121
  - Revision: 3
  - Dated: 23/12/2020
- 2 In application P614/2020 the decision of the responsible authority is affirmed.
- 3 In planning permit application 5/2019/440/1 no permit is granted.



Bill Sibonis  
Senior Member

#### APPEARANCES

|   |  |
|---|--|
| For Angela Wong   | Ms T Cincotta, Solicitor of Best Hooper Lawyers. Evidence was called from: <ul style="list-style-type: none"> <li>• Mr D Crowder, Town Planner of ratio:consultants pty ltd</li> <li>• Mr M O'Shea, Traffic Engineer of Traffix Group Pty Ltd</li> <li>• Mr J Patrick, Landscape Architect of John Patrick Landscape Architects Pty Ltd</li> </ul> |
| For Bayside City Council  | Mr H Gerrard, Town Planner of Glossop Town Planning Pty Ltd  |
| For Mr P Hameister  | Mr R Forrester of counsel  |
| For Ms J and Mr T Hall  | Ms J Hall  |
| For Hampton Neighbourhood Association Inc.  | Mr J Balmer  |
| For Mr R and Ms J Beattie   | Mr R Beattie   |
| Mr M Vanderheide, Dr R Vanderheide, Mr H Kelvy, Ms R Watters, Mr I and Ms J Spence, Ms G Buzatu, Mr P Jenner, Mr G De Biase | All in person  |



**INFORMATION**

|   |   |
|---|---|
| Description of proposal                 | The construction of a three-storey apartment building, plus basement.   |
| Nature of proceeding                    | Application under section 77 of the <i>Planning and Environment Act 1987</i> – to review the refusal to grant a permit.   |
| Planning scheme                         | Bayside Planning Scheme ( <b>Planning Scheme</b> )  |
| Zone and overlays                       | General Residential Zone – Schedule 2,<br>Moderate Residential Growth Areas: Bay Street, Church Street, Hampton Street and Sandringham Major Activity Centres ( <b>GRZ2</b> )<br>Design and Development Overlay – Schedule 12, Built Form Standards for Hampton Street Major Activity Centre ( <b>DDO12</b> )   |
| Permit requirements                     | Cl. 32.08-6 (the construction of two or more dwellings on a lot in GRZ2)<br>Cl. 43.02-2 (the construction of a building and the construction and carrying out of works on land in DDO12)  |
| Relevant scheme policies and provisions | Cl. 11, 15, 16, 32.08, 43.02, 52.06, 55 and 65  |
| Land description                        | The review site is located on the north side of Alicia Street in Hampton, approximately 120 metres east of Hampton Street. It has a frontage of 21.34 metres, a maximum depth of 38.07 metres and a site area of approximately 812 square metres. A two-storey detached dwelling occupies the property. To the north is the Linacre Private Hospital. To the east are two, two-storey dwellings, while to the west is a two-storey dwelling with a basement car park. On the opposite side of Alicia Street are dwellings, both single-storey and two-storey. |
| Tribunal inspection                     | A site inspection was undertaken after the hearing.   |

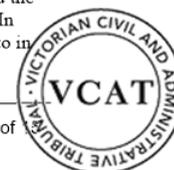


**REASONS<sup>1</sup>****WHAT IS THIS PROCEEDING ABOUT?**

- 1 This proceeding concerns a proposal to construct a three-storey apartment development (plus basement car park) on the land at 11 Alicia Street in Hampton (**review site**). In July 2017, an application was made to the Bayside City Council (**Council**) for a planning permit to construct the proposed development. Notice of the planning application was given and 21 objections were received.
- 2 The Council's planning officers prepared a report which provided an assessment of the proposal against the Planning Scheme, and included a recommendation that the Council grant a planning permit subject to conditions. Contrary to this recommendation, the Council resolved to refuse a permit on grounds which refer to matters of neighbourhood character and a non-compliance with standard B17 of clause 55.
- 3 Prior to the hearing, the applicant prepared and circulated amended plans which, amongst others, increased the setbacks from the boundaries. These plans were substituted for the planning permit application plans at the commencement of the hearing.
- 4 While maintaining its opposition to the grant of a permit, the Council advised that it would not pursue the ground of refusal relating to non-compliance with standard B17. The respondents support the Council's position with respect to the neighbourhood considerations, but raise additional concerns relating to amenity impacts, car parking and traffic.
- 5 Based on the submissions, the key issues for determination may be expressed as follows:
  - Will the development contribute to the preferred neighbourhood character?
  - Will there be any unacceptable impacts on the amenity of adjoining properties?
  - Will an acceptable level of amenity be provided for occupants of the development?
  - Is sufficient car parking provided and will there be any unacceptable traffic impacts?
- 6 Having considered the submissions and the evidence, with regard to the relevant policies and provisions of the Planning Scheme, assisted by my inspection, I have determined to affirm the Council's decision. My reasons follow.

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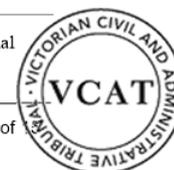
<sup>1</sup> The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.



### WILL THE DEVELOPMENT CONTRIBUTE TO THE PREFERRED NEIGHBOURHOOD CHARACTER?

- 7 An assessment of the development's response to neighbourhood character must be undertaken within the site's strategic context and against the relevant planning policies and provisions.
- 8 The land forms part of the Hampton Major Activity Centre. There is no dispute that the redevelopment of the site in the form of an apartment building is consistent with policies within the Planning Policy Framework which seek increased residential densities in locations that provide good access to services and facilities. Such locations include activity centres, and the relevant policies are found at clauses 11.03-1S, 15.01-4R, 16.01-2S, 16.01-2R and 16.01-4S.
- 9 Complementary objectives and strategies are detailed within the Municipal Strategic Statement (MSS). These include, but are not limited to:
- Clause 21.03, which has the objective of accommodating population increases and responding to changing demographic profiles. A related strategy is to direct new medium density housing to Major Activity Centres and residential opportunity areas, particularly those with good access to public transport routes as identified in the Residential Framework Plan.<sup>2</sup>
  - Clause 21.03-1 that has an almost identical objective, but varied to include reference to Neighbourhood Activity Centres, and a further objective to deliver increased housing densities and diversity of dwellings within activity centres. Related strategies in respect of the latter include:
    - Encourage redevelopment of larger sites for higher density residential dwellings.
    - Discourage the replacement and construction of single dwellings.
    - Encourage the more efficient use of built form through the consolidation of sites and construction of basement car parks.
  - Clause 21.11-4, which details the objectives and strategies for the Hampton Street local area (being the Hampton Street Centre). The land is included in the 'residential areas', which has a strategy to provide for increased housing densities and diversity of housing types within the centre and direct larger developments to larger sites within or immediately adjoining the business precincts.
- 10 Policy also addresses built form outcomes. Clauses 15.01-1R, 15.01-2S and 15.01-5S detail objectives and strategies addressing good urban design, response to context and contribution to a preferred neighbourhood character. At the local level, the MSS objectives at clause 21.06 (built form

<sup>2</sup> The Residential Framework Plan shows the review site as being within a Moderate Residential Growth Area.



and environment) refer to achieving quality design outcomes which make a positive contribution to the character of residential areas; built form that conserves and enhances valued urban character; and protecting the amenity of dwellings within and adjacent to activity centres.

- 11 Strategies include ensuring that the interface between activity centres and adjacent residential areas is appropriate in terms of built form and amenity; and ensuring development responds to the spacious, low-scaled landscape character of residential precincts of activity centres, with residential buildings set back within vegetated front gardens and streetscapes.
- 12 The vision for the Hampton Street Centre as detailed in clause 21.11-4 includes the following:

The surrounding residential precinct will retain its spacious and leafy character. New housing in this precinct will integrate with the existing streetscape and provide additional opportunities for people to live near the centre. The interface of the business and surrounding residential precincts will be marked by sensitive urban design treatments.
- 13 Map 1 at clause 21.11-4 nominates a preferred 11.0 metre (three-storey) height for the properties in Alicia Street which are within the boundaries of the activity centre, and includes an annotation along the front of the properties which the legend identifies as 'provide transitional building heights'.
- 14 A Neighbourhood Character Policy is at clause 22.06. The objectives of this policy include:
  - To ensure that development is responsive to the preferred future character of the area.
  - To recognise the need for change around activity centres while respecting the desired future character.
- 15 Pursuant to clause 22.06-3, in exercising discretion, it is policy to take into account:
  - The preferred future character and the precinct guidelines including objectives, design responses and avoid statements for each precinct as described in this policy.
  - The extent to which the characteristics of the built and natural environment in the immediate vicinity of the site may determine a preferred future character that is different from that applying to the remainder of the precinct in which the site is located.
  - Whether the site is located within a residential opportunity area as shown on the Strategic Framework Plan of the Municipal Strategic Statement and the extent to which this may alter the relevance of the design responses to consideration of the proposal.



- 16 Map 1 of the policy identifies the precincts which accompany this clause. The review site is within Precinct F1, the preferred future character of which is described as follows:
- The dwellings, including a continued frequent presence of per WW2 dwellings, sit within garden settings. Some parts of the Precinct also have a continuous presence of Inter-War Californian Bungalows. Buildings are occasionally built to the side boundary, however, the impression of the streetscape is of informality and openness due to the open front fencing, and well articulated building designs. Buildings and gardens are clearly visible from the street despite the presence of front fences, and these are appropriate to the building era. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.
- 17 A series of objectives, design responses and outcomes which are to be avoided is provided.
- 18 With respect to the weight to be given to clause 22.06 and the provisions of DDO12, which are detailed below, I agree with the following findings of the Tribunal in *2426 Grenville Pty Ltd v Bayside CC*:<sup>3</sup>
18. ... clause 22.06 includes the subject land in Precinct F1. There is a statement of preferred future character. The area of land comprising Precinct F1 includes land within and outside of the Activity Centre. The application of this clause must be informed by the fact that DDO12 is the most specific, and particularly relevant, control in the assessment of this permit application. DDO12 expressly applies to the subject land and sets out design objectives and provisions relating to (among others) built form provisions for the Hampton Street Major Activity Centre. DDO12 carries greater weight than the broader character policy in clause 22.06.
- 19 The design objectives of DDO12 are:
- To ensure that the height of development is compatible with the preferred future role and character of the Hampton Street Major Activity Centre.
- To develop the centre in a way that conserves and enhances its valued urban character and heritage places.
- To ensure that new development contributes to safe and active streets.
- To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.
- To recognise the redevelopment potential of the Wills Street Precinct.
- 20 Pursuant to the provisions of DDO12, on land in a residential zone, except for a roof deck, a permit is not required to construct a building or construct

<sup>3</sup> [2018] VCAT 1338



or carry out works for a building with a building height of not more than (relevantly):

...

- 10 metres overall height where the slope of the natural ground level at any cross section of the site of the building wider than 8 metres is 2.5 degrees or more.

- 21 As the slope of the natural ground level exceeds 2.5 degrees on a minimum 8.0 metre cross section of the building, and the building has a maximum height of 10.9 metres, a permit is required under DDO12.
- 22 Map 1 to DDO12 specifies the 'Hampton Street Major Activity Centre Built Form Precincts' and shows the review site as being in Precinct E. In respect of building height, the relevant provisions of DDO12 state that a building should not exceed the preferred building height (in metres and storeys) specified. For Precinct E, this is 11.0 metres (3 storeys) or 12.0 metres (3 storeys) where the slope of the land is as detailed above.
- 23 The land is within a residential precinct of the activity centre. In respect of development within such precinct, DDO12 provides:

On land within a Residential Zone, design responses including recessed upper most levels and attic style development will be encouraged.

Buildings in a Residential Zone should be set back in accordance with the relevant Clauses 54 and 55 standards except that the second floor should be set back a minimum of 4 metres behind the front wall of the floor immediately below, unless the second floor is an attic.
- 24 The Council and the respondents were critical of the development's appearance in the streetscape and wider neighbourhood context. In particular, criticism was directed to the overall height, siting of the top floor level, prominence of the first floor level and the centralised location of the driveway and basement entry with the consequential implications for the landscaping opportunities in the front setback. Underlying these submissions is the site's location at the edge of the activity centre with an interface comprising land on the opposite side of the street which is outside the activity centre boundaries and in the Neighbourhood Residential Zone.
- 25 Development on the north side of Alicia Street will be different in form, scale and siting to that on the south side in response to the different strategic context. However, development on the review site needs to display an acknowledgment of, and response to, the context on the opposite side. In part, this is reflected in the annotation of 'transitional building height' along the site's frontage.
- 26 As discussed at the hearing, there is a lack of clarity in respect of what this annotation means, and how it is intended to manifest in the built form. This



was succinctly addressed by the Tribunal in the matter of *Morphology v Bayside CC*:<sup>4</sup>

- 29 I agree with Mr Morrison that I should take notice of the 'transitional building height' along the frontage of land on the south side of Grenville Street in the DDO12 map.<sup>5</sup> The map is curious because the DDO12 text makes no provision for 'transitional' heights. The *Hampton Street Centre Final Structure Plan* (November 2006) is a reference document in the scheme.<sup>6</sup> I have examined this document but it does not assist in understanding the purpose of the transitional building height line shown on the map.
- 30 The proposal complies with the non-mandatory third storey front setback requirement. That requirement applies throughout the DDO12 area. Third storey front setbacks at the boundary between DDO12 and areas outside DDO12 require careful scrutiny. The purpose of transitional building heights must therefore be something more than the non-mandatory third storey front setback requirement. I will proceed on the basis that its purpose is to consider the need for any further third storey front setbacks that may be needed in individual interface circumstances.
- 27 I agree with the Tribunal's view that the purpose of the transitional building heights must mean something more than the discretionary requirement in the provisions of the DDO12 that the second floor should be set back a minimum of 4.0 metres behind the front wall of the floor immediately below.
- 28 In this instance, as confirmed by the evidence, the second-floor level is set back a minimum of 4.3 metres from the front wall of the floor immediately below. When consideration is given to the topography, which places the review site at a higher level than the land opposite, and to the height of dwellings opposite, which will not be more than two storeys due to the provisions of the Neighbourhood Residential Zone, the 300mm exceedance of the specified setback is not sufficient to achieve an acceptable transition in height. The upper level should be more recessive to achieve a suitably tempered built form response, displaying an evident acknowledgement of the site's location at the edge of the activity centre.
- 29 I agree with the Council and the respondents that the first-floor level is unduly prominent. It is a strong horizontal element of a robust appearance, emphasised by the concrete finish, which accentuates the presentation of a bulky and somewhat intrusive appearance in the streetscape. It is not sufficiently respectful of a context where the opposite side of the street is in a different zone and policy context that anticipates a more modest level of change. A façade of a more restrained appearance is warranted to display a

<sup>4</sup> [2014] VCAT 2

<sup>5</sup> *Bayside Planning Scheme* cl 43.02 schd 12 ('DDO12') cl 5.0 map 1.

<sup>6</sup> *Bayside Planning Scheme* cl 43.02 schd 12 ('DDO12') cl 4.0.



meaningful acknowledgement of the interface with land outside the activity centre, and the existence of conventional residential forms opposite.

- 30 Related to this is the treatment of the front setback area. The central placement of the driveway and basement ramp is not respectful of the street's character. Although there are isolated examples of central driveways, all at-grade, these are in the minority and do not characterise the street. The prevailing pattern is of side driveways. Compounding the impact of the uncharacteristic location is the connection to a basement ramp. This design response, together with the adjacent pedestrian path, accentuates the visibility and consequential impact of this utilitarian element. It also has the effect of eroding the opportunity for landscaping in the front setback to achieve the garden setting sought by the design objectives of DDO1. The design has the effect of drawing attention to the vehicle access and basement entry, and strongly bisecting the front setback rather than contributing to the creation of the strong garden character referred to in the design objectives.
- 31 These issues, and their significance, principally arise due to the site's location at the edge of the activity centre. Had the site been in a location within the activity centre, where the interface was with other land in the same strategic context, I may have made different findings. I do not disagree with the applicant that, over time, development on the northern side of the street will stand in contrast to that on the south side. However, as stated, development needs to display a legible and meaningful acknowledgement of the residential area opposite, which is not envisaged to undergo the same extent of change. The development does not do this satisfactorily to justify the grant of a permit. This is the result of the second-floor setback, which only exceeds that specified in the DDO1 by a minor amount, the prominent form of the first floor, and the siting of the driveway and basement ramp with the consequential impacts on landscaping opportunities.

**WILL THERE BE ANY UNACCEPTABLE IMPACTS ON THE AMENITY OF ADJOINING PROPERTIES?**

- 32 The key considerations in respect of the development's impact on the amenity of adjoining properties raised in the respondents' submissions are overlooking, overshadowing, visual bulk and noise. The grounds on which the Council opposes the development do not include reference to off-site amenity impacts.

**Overlooking**

- 33 The objective of clause 55.04-6 is to limit views into existing habitable room windows and secluded private open space areas. The related standard B22 details the means by which the objective can be met, and refers to the provision of screening of habitable room windows, balconies, terraces, decks or patios to a height of 1.7 metres above floor level.



- 34 The plans variously show the provision of obscure glazing, screens and the use of planter boxes to limit overlooking. During the course of the hearing a lack of clarity was identified in relation to the proposed measures. The applicant sought to provide further information to respond to this issue, but the evidence is that if a permit was to be issued, a condition requiring compliance with clause 55.04-6 should be included. I agree that such a condition would be warranted.

#### Overshadowing

- 35 Clause 55.04-5 has the objective of ensuring buildings do not significantly overshadow existing secluded private open space. Standard B21 reads:

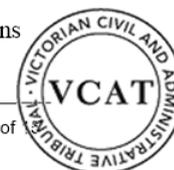
Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.

If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.

- 36 While the shadow diagrams show that there will be shadow cast from the proposed development onto the adjoining secluded private open space areas of 1/9 and 13 Alicia Street at the equinox, the extent of this shadow is within the parameters set out in standard B21. Accordingly, the overshadowing will not have an unacceptable impact on the amenity of these properties.

#### Visual bulk

- 37 The siting of the development complies with standard B17 at clause 55.04-1 and therefore meets the discretionary requirement of DDO12. This is one, but not the sole, indicator that the building may not have unacceptable visual bulk impacts on the amenity of adjoining properties.
- 38 The assessment of the acceptability or otherwise of the development's presentation to the neighbouring sites requires consideration of other factors. These include, but are not limited to, the architecture of the building, the length and height of the walls plane, the materials and external finishes, the nature and extent of fenestration, any modulation provided by balconies and the like, and the presence of landscaping. A holistic assessment requires consideration of these factors in combination to determine whether visual bulk impacts will manifest so as to have an unacceptable effect on neighbours' amenity.
- 39 Of course, any such assessment must remain mindful of the site's location within a part of the municipality which has been strategically identified to experience significant change. Based on the Planning Scheme's framework, this change must reasonably be accompanied by expectations that the resultant built form outcomes will be notably different to those



within areas where a lesser degree of change is anticipated and provided for. Within the context of the site, this means that residents on the north side of Alicia Street can expect a greater presence of built form and development than what would occur on properties located on the south side of the street.

- 40 A three-storey apartment development, by its very nature, will present a level of visual bulk. What needs to be assessed is whether the building has been sited and designed to present an acceptable interface with the adjoining properties having regard to the factors mentioned above. The proposed minimum setbacks meet or exceed the requirements of standard B17. In the context of a specific control (DDO12) which nominates compliance with standard B17 as a requirement in respect to the siting of development, albeit discretionary, this can reasonably be taken to indicate an acceptable outcome and this compliance, while not determinative in the assessment of visual bulk, must carry weight.
- 41 Along the elevations there is variation in these setbacks to provide a degree of modulation and avoid the presentation of sheer wall planes. Assisting in providing further modulation is the provision of balconies at both the first and second floor levels. The elevations disclose the use of various materials and finishes, including concrete, render and cladding, with selected application to provide some visual interest. Relief to the wall planes is provided by the inclusion of fenestration of varying size and form.
- 42 Although there is a general lack of landscaping along the side boundaries, this is not inconsistent with the design objectives or requirements of DDO12, which refer to maintaining a strong landscape character with residential buildings set within vegetated front gardens and streetscapes. There is no reference to providing a garden setting along the depth of the site, which would include side setbacks. That said, the existence of planting on the property at 1/9 Alicia Street, adjacent to the common boundary, will assist in providing some screening of the development from the rear yard of this adjoining site.
- 43 Within the activity centre context, and having regard to the provisions of DDO12, the development as viewed from the adjoining residential properties will be prominent and a substantial change from what presently exists, but will not manifest as a built form that presents unacceptable visual bulk.

#### Noise

- 44 Respondents expressed concerns regarding the emanation of noise from the use of the roof-top swimming pool and from the associated plant equipment. Any noise that is created would be associated with a residential use, which would not be unexpected in a residential context. If any noise



generated causes a nuisance, then there are other laws or regulations to address this. As observed by the Tribunal in *Potts v Glen Eira CC*:<sup>7</sup>

- 15 The potential for the general [sic] of noise is not a reason to refuse this proposal. It is possible to have neighbours who indulge in frequent loud parties, but that can occur in relation to detached houses, just as well as in relation to medium density townhouses. The prospect of finding oneself in close proximity to neighbours who create noise nuisances of that sort is one of the risks one takes in living in an urban area. Of course, if the noise generation amounts to a nuisance there are other laws appropriate to deal with that sort of problem. I do not accept that vehicles driving into and out of the site along the driveway and over the crossing onto the street would create an inappropriate noise. Vehicle speeds in these circumstances are necessarily low and generally quiet. There is the possibility of some high revving motor car enthusiast with an inadequate muffler, but that again is just as likely in relation to a detached house and like loud parties, is subject to the laws against creating nuisances. I recognise that nuisances of this sort can occur, but if that was a reason for refusal there would be no more residential development. Children playing, people talking, motor mowers operating and the like are all part of the ordinary incidents of life in an urban situation. They are part of the give and take of urban life that neighbours are obliged to accept (unless the problems get to the stage of being nuisances against which the law provides protection).

**WILL AN ACCEPTABLE LEVEL OF AMENITY BE PROVIDED FOR OCCUPANTS OF THE DEVELOPMENT?**

- 45 The principal concern regarding the amenity that the development will provide for its occupants relates to the proposed excavation at the rear of the land, which results in parts of the two ground floor dwellings being constructed below the natural ground level.
- 46 Such a design response presents challenges, primarily in respect of the penetration of daylight into habitable rooms, and outlook from their windows. A daylight assessment accompanied the planning application. That assessment demonstrated that the ground floor rooms would receive adequate daylight, and no concerns about this assessment were raised by the Council. Further, no party sought to demonstrate that the assessment is somehow flawed or should otherwise not be relied upon. The applicant submitted that the increased setbacks included in the amended plans would further improve daylight access.
- 47 The other challenge is in respect of the potential creation of a sense of enclosure. The proposed setbacks are generally sufficient to avoid this, but

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<sup>7</sup> [2003] VCAT 1129

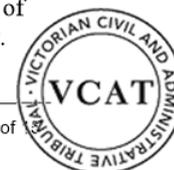


attention should be paid to the species selection to ensure that the landscaping does not encroach into the space to an unreasonable extent.

- 48 It is also relevant that the rooms with the lesser setbacks from the boundary are associated with bedrooms, with living areas being provided with increased setbacks to enhance both outlook and daylight access.

**IS SUFFICIENT CAR PARKING PROVIDED AND WILL THERE BE ANY UNACCEPTABLE TRAFFIC IMPACTS?**

- 49 Pursuant to clause 52.06-5, the development attracts a requirement of 10 car parking spaces, comprising three spaces for the two-bedroom dwellings (a rate of one car space per dwelling), six spaces for the three-bedroom dwellings (a rate of two spaces per dwelling) and one car space for visitors.
- 50 The proposed development accommodates 13 car spaces, with the additional three spaces above the Planning Scheme requirement arising from the allocation of two car spaces for each of the two-bedroom dwellings, rather than one per dwelling.
- 51 As the Planning Scheme requirement is satisfied, the car parking provision is acceptable and there is no basis on which to require additional car parking on the land.
- 52 Concerns were expressed in respect of the proposed use of the visitor car space as a turn-around bay for the waste collection vehicle. The effective operation in this manner would require that the visitor car space is unoccupied during waste collection times. The applicant submitted that this could be achieved by the installation of appropriate signs.
- 53 I am not persuaded that this is an acceptable arrangement. There is no reason why the use of the visitor car space should be restricted in this manner. It may lead to circumstances where the space is occupied (notwithstanding the existence of signs) and the waste collection vehicle is unable to manoeuvre adequately on-site in order to exit in a forward direction.
- 54 As discussed at the hearing this can be addressed by allocating one of the car spaces of the two-bedroom dwellings as a visitor car space. This would enable a dedicated turn-around space for the waste collection vehicle to be provided, while still meeting the Planning Scheme's car parking requirement of one car space for a two-bedroom dwelling.
- 55 The Council does not oppose the development on traffic-related grounds. The respondents, however, raised concerns regard the potential traffic impacts. The evidence included an assessment of the traffic conditions in Alicia Street which, due to the current restrictions associated with the pandemic, were estimated to be some 10% - 20% lower than would otherwise be expected. The surveys indicate that Alicia Street carries between 360 - 400 vehicle per day. According to the evidence, outside of the restrictions, this would be in the order of 500 - 530 vehicles per day.



- 56 The evidence is that Alicia Street, with a width of 9.4 metres, would be classified as an Access Street – Level 2, utilising the classification system provided at clause 56.06. This means that the street has an environmental capacity of 2000 - 3000 vehicles per day, and therefore has the capacity to accommodate additional traffic without adverse impacts on its operation, efficiency or amenity.
- 57 An assessment of the proposal's traffic generation forms part of the evidence. With six dwellings proposed, the evidence is that there will be a daily traffic generation of 40 vehicle trip ends per day. This equates to four vehicle trip ends in the peak hour. I accept the evidence that additional traffic will not have an unacceptable impact on Alicia Street, or the surrounding road network. There is no evidence to the contrary, and I give weight to the fact that the Council's traffic engineers did not object to the proposal.

### CONCLUSION

- 58 For the reasons given above, the development does not represent an acceptable built form outcome within the site's strategic and physical context. The decision of the responsible authority is affirmed. No permit is granted.

Bill Sibonis  
Senior Member





## VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P235/2021  
PERMIT NO. 5/2020/327/1

## CATCHWORDS

Section 80 of the *Planning & Environment Act 1987*; Bayside Planning Scheme;  
Three storey high building (6 dwellings); GRZ2, DDO11, DCPO1, SBO;  
Building setbacks & developer contribution payment timeframe.

|                              |  |
|------------------------------|--|
| <b>APPLICANT</b>             | Upscale Property Group Pty Ltd                                 |
| <b>RESPONSIBLE AUTHORITY</b> | Bayside City Council   |
| <b>SUBJECT LAND</b>          | 36 Male Street & 1A Loller Street, Brighton                    |
| <b>HEARING TYPE</b>          | Hearing  |
| <b>DATE OF HEARING</b>       | 12 May 2021  |
| <b>DATE OF ORDER</b>         | 24 May 2021  |
| <b>CITATION</b>              | Upscale Property Group Pty Ltd v Bayside CC<br>[2021] VCAT 518 |

## ORDER

- 1 The decision of the Responsible Authority is varied.
- 2 The Tribunal directs that Permit No. 5/2020/327/1 must contain the conditions set out in the permit issued by the Responsible Authority on 31 December 2020, with the following modifications:
  - (a) Conditions 1(n) and 1(o) are deleted.
- 3 The Responsible Authority is directed to issue a modified permit in accordance with this order.

Tracy Watson  
Member



**APPEARANCES**

|                           |   |
|---------------------------|---|
| For Applicant             | Paul Little, town planner (Planning and Property Partners Pty Ltd). Mr Little called expert town planning evidence from Kel Twite (SJB Planning). |
| For Responsible Authority | Panos Nickas, solicitor (Nickas Legal).   |

**INFORMATION**

|  |   |
|--|---|
| Description of Proposal                  | The planning permit allows the construction of a three-storey high building (above a basement car park) which will accommodate six dwellings.   |
| Nature of Proceeding                     | Application under Section 80 of the <i>Planning and Environment Act 1987</i> – to review Conditions 1(m), 1(n), 1(o) and 36 of the permit.  |
| Planning Scheme                          | Bayside Planning Scheme.  |
| Zone and Overlays                        | Clause 32.08 – General Residential Zone, Schedule 2.<br>Clause 43.02 – Design and Development Overlay, Schedule 11.<br>Clause 44.05 – Special Building Overlay.<br>Clause 45.06 – Development Contributions Plan Overlay, Schedule 1.   |
| Permit Requirements                      | Clause 32.08-6 – To construct two or more dwellings on a lot.<br>Clause 43.02-2 – To construct a building or construct or carry out works.<br>Clause 44.05-2 – To construct a building or construct or carry out works.   |
| Relevant Scheme, policies and provisions | Includes Clauses 11, 15, 16, 19, 21.02, 21.03, 21.06, 21.10, 21.11, 22.06, 22.08, 34.01, 32.08, 43.02, 44.05, 45.06, 52.06, 55, 65, 71.02 and 72.04.  |
| Land Description                         | The subject site is located on the south-east corner of Male and Loller Streets in an established residential area, and is currently developed with two dwellings. The subject site is rectangular in shape with a frontage to Male Street of 17.58 metres and a frontage to Loller Street of 48.77 metres, yielding a site area of 857m <sup>2</sup> . |
| Tribunal Inspection                      | 13 May 2021.  |



## REASONS<sup>1</sup>

### What is this proceeding about?

- 1 The Bayside City Council issued a planning permit allowing the construction of a three-storey high building containing six dwellings, subject to a range of conditions. The permit applicant is seeking a review of Condition nos. 1(m), 1(n), 1(o) and 36 of the permit.
- 2 It is the Council's position that each of the four contested conditions are necessary, fair and appropriate having regard to the applicable provisions and policies of the Bayside Planning Scheme.
- 3 I will address each of the contested permit conditions in the following section, firstly in regards to the proposed building's setbacks, and secondly in regards to the conditions relating to the developer contribution requirements.

### Is Condition 1(n) necessary to achieve an acceptable planning outcome?

- 4 This condition relates to the proposed front setback of the building.
- 5 Condition 1(n) of the permit requires the modification of the development plans to show:

The buildings ground, first and second storey setback from the Male Street boundary must be increased by a minimum of 1.2 metres.
- 6 The applicant is seeking the deletion of this condition.
- 7 The Council's argument was that, in order to respect the preferred neighbourhood character of the area, the building's front setbacks should be more commensurate with the 9 metres setback required by Standard B6 of the planning scheme. The Council submitted that the increased setbacks would appropriately enhance the proposed front garden landscaping opportunities and reduce the visual impact of the building, particularly given the single storey height and setback of the neighbouring dwelling.
- 8 The proposed minimum front setbacks are: 7.515 metres, at ground level; 7.45 metres to the balcony edge and 9.9 metres to the building edge, at first floor level; and 7.5 metres to the balcony edge and 11.561 metres to the building edge, at the upper level.
- 9 The street setback objective at Clause 55.03-1 of the planning scheme is, "To ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site."

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<sup>1</sup> I have considered the written and verbal submissions of the two parties & the expert town planning evidence (including all their tendered exhibits) and the statement of grounds filed. In accordance with the practice of the Tribunal, I do not recite or refer to all of this material in these reasons.



- 10 When determining if this objective has been met, I need to consider the following decision guidelines:
- Any relevant neighbourhood character objective, policy or statement set out in this scheme.
  - The design response.
  - Whether a different setback would be more appropriate taking into account the prevailing setbacks of existing buildings on nearby lots.
  - The visual impact of the building when viewed from the street and adjoining properties.
  - The value of retaining vegetation within the front setback.
- 11 Having considered the above decision guidelines, I am satisfied that the street setback objective has been met for the key reasons outlined below.
- 12 Pursuant to Clause 21.11-3, the subject site is located within the Residential Precinct of the Church Street Major Activity Centre where three-storey high buildings (up to 11 metres in height) above a basement are supported. The proposed building is also consistent with the three-storey height, including with a recessed upper level, which is sought by Schedule 11 to the Design and Development Overlay (DDO11). It was clear from my site inspection that the desired built form intensification of this area is underway.
- 13 In other words, the preferred character of the defined residential areas within the Church Street Major Activity Centre envisages three storey high buildings adjacent to extant single storey buildings (such as at no. 38 Male Street directly to the east of the subject site). In this policy context, I do not consider that the proposed visual juxtaposition of a three-storey high building and the abutting single storey building necessitates a reduction in the visual impact of the proposed building by increasing its setback to Male Street.
- 14 Rather, the policy context of the planning scheme reinforces the importance of the second part of the Clause 55.03-1 objective which is, “to make efficient use of the site.”
- 15 Pursuant to Clause 22.06 of the planning scheme the subject site is in Precinct B2 which seeks a preferred future character of, amongst other things, dwellings sitting within established gardens and car parking sited to allow for vegetation to flow around buildings. The focus of this local policy on achieving a landscaped front garden setting is consistent with the DDO11 objective, “To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.” The proposed building setbacks achieve this landscape outcome by providing landscaping along all sides of the subject site, including the planting of canopy trees in the front garden, and appropriately minimising the loss of landscaping opportunities through the provision of a basement car park. There is nothing about the proposed

landscaping outcome that would necessitate an increase in the front setbacks.

- 16 Furthermore, the local Clause 22.06 policy specifically recognises the need for change around activity centres, and hence allows for flexibility in the exercise of discretion based on the prevailing existing character and location within a residential opportunity area (which is the case for the subject site).
- 17 Lastly, the proposed front setbacks are respectful of the prevailing nearby setbacks. In this case, the setback of the dwelling at no. 38 Male Street is atypical in the streetscape. The prevailing setbacks in this streetscape are shown on the survey plan and Mr Twite went through this in some detail in the course of giving his expert evidence. I agree with Mr Twite's evidence that the proposed setbacks are consistent with the prevailing setbacks on this section of Male Street, and that the abutting setback is the anomalous one. Given the built form intensification outcome sought for the subject site and surrounds it is inappropriate to require an increased front setback because of the existing anomalous setback of the abutting property.
- 18 For all of the above reasons, I find that the proposed front setbacks are appropriate and that Condition 1(n) of the permit is therefore unwarranted and should be deleted.

**Is Condition 1(o) necessary to achieve an acceptable planning outcome?**

- 19 This condition relates to the proposed eastern side setbacks of the first floor level of the building, that is, its mid-level.
- 20 Condition 1(o) of the permit requires the modification of the development plans to show:

The proposal designed to achieve compliance with the side and rear setback requirement of Standard B17 (Side and Rear Setbacks) of the Bayside Planning Scheme.
- 21 The applicant is seeking the deletion of this condition.
- 22 The Council's primary argument was that the eastern side setbacks should comply with Standard B17 in order to appropriately limit the visual impact of the building on the outlook from the habitable room windows and rear secluded private open space of the abutting property at no. 38 Male Street.
- 23 The proposed eastern side setback of the mid-level of the building is either 1.5 metres or 1.8 metres. Standard B17 of the planning scheme requires a setback of 1.87 metres from the eastern side boundary.
- 24 The side and rear setbacks objective at Clause 55.04-1 of the planning scheme is, "To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings."

- 25 When determining if this objective has been met, I need to consider the following decision guidelines:
- Any relevant neighbourhood character objective, policy or statement set out in this scheme.
  - The design response.
  - The impact on the amenity of the habitable room windows and secluded private open space of existing dwellings.
  - Whether the wall is opposite an existing or simultaneously constructed wall built to the boundary.
  - Whether the wall abuts a side or rear land.
- 26 Having considered the above decision guidelines, I am satisfied that the side and rear setbacks objective has been met for the key reasons outlined below.
- 27 I have already detailed the preferred neighbourhood character for this area in relation to the street setback issue. Given the small size of the non-compliance in relation to the eastern side setback, and the strategic policy context of the subject site, there is no reason to increase the side setback on the basis of a neighbourhood character consideration.
- 28 This leaves me to consider the impact of the proposed eastern side setbacks on the habitable room windows and secluded private open space of no. 38 Male Street.
- 29 The proposed 1.8 metres side setback interfaces with the rear garden area of no. 38 Male Street. However, the primary secluded private open space area of no. 38 Male Street is located beyond the existing shed structure located along the shared eastern boundary. The change to the visual impact of the proposed eastern side of the building from this primary secluded private open space area by an additional 0.07 metres setback would be unappreciable to the casual observer. There is therefore no reason to increase the eastern side setback in this location.
- 30 Where the proposed eastern side setback is 1.5 metres, the building is located adjacent to habitable room windows of no. 38 Male Street. However, the proposed building's direct interface in this location is with the non-sensitive driveway of no. 38 Male Street.
- 31 Furthermore, the finished floor level of the habitable rooms in question are elevated above natural ground level. This elevated position reduces the visual impact of the proposed building when viewed from within these rooms.
- 32 Given the existing physical and strategic contexts of the subject site and the property at no. 38 Male Street, I do not consider that setting back the front half of the mid-level of the building from the eastern side boundary an additional 0.37 metres is necessary. Again, in the context of the overall

appearance of the eastern side of the proposed building an additional 37 centimetres setback is inconsequential. There is therefore no reason to increase the eastern side setback in this location.

- 33 For all of the above reasons, I find that the proposed side setbacks are appropriate and that Condition 1(o) of the permit is therefore unwarranted and should be deleted.

**Are Conditions 1(m) & 36 necessary to achieve an acceptable planning outcome?**

- 34 These two conditions relate to the development contributions requirement of the planning permit.
- 35 Condition 1(m) of the permit requires developer contributions in accordance with Condition 36 of the permit. Condition 36 of the permit is that:

Prior to the endorsement of plans required under condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Development Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

- 36 The dispute in relation to the development contribution relates to when the drainage levy should be paid. In other words, there was no dispute about the validity of the drainage levy.
- 37 The applicant is seeking the deletion of Condition 1(m) and a modification to the wording of Condition 36 to allow the development levy to be paid prior to the commencement of works, so that the amended condition would read:

Prior to the commencement of works, the permit holder must pay a drainage levy in accordance with the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

The levy payment shall be submitted to Council with the Bayside Drainage Development Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

- 38 It was Mr Twite's evidence that linking the payment of the drainage levy to the endorsement of plans is unduly onerous and that, "it is appropriate for a more flexible timeframe to be applied to the payment of development contributions, so they may be paid once the permit holder has greater certainty around timeframes for the commencement of the development, if they so choose. Allowing a development contribution to be paid 'prior to

the commencement of works' enables this flexibility, whilst according with the purpose of the DCPO." Mr Twite also noted in his evidence, "that in the event that the contribution is not paid prior to the commencement of works (and not picked up by the building surveyor) the Council still retains enforcement rights."

- 39 One of the purposes of the Development Contributions Plan Overlay is, "To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence." The *Bayside Drainage Development Contributions Plan (December 2014, amended March 2017)* (BDDCP) has been prepared in accordance with Clause 45.06-2 of the planning scheme, and is an Incorporated document.
- 40 The BDDCP is listed as an Incorporated document at Clause 21.10-5, and more importantly is included in the Schedule to Clause 72.04 of the planning scheme. There was no dispute that the BDDCP is an Incorporated document, and that it therefore forms part of the Bayside Planning Scheme.
- 41 Chapter 7.3 of the BDDCP sets out the timing of when the development contribution (in this case the drainage levy) is to be paid as follows:
- In accordance with section 46K of the Planning and Environment Act 1987 the development infrastructure levies are payable to Bayside City Council.
- The development infrastructure levy must be paid:
- Prior to the issue of a Statement of Compliance for the subdivision that creates additional lots; or
  - Prior to the endorsement of plans under a condition of a planning permit;
- unless another arrangement for payment has been agreed to by the Responsible Authority..."
- 42 In other words, Conditions 1(m) and 36 have been included in the planning permit to achieve compliance with the requirement of the Incorporated document that the levy must be paid prior to the endorsement of plans.
- 43 Mr Twite's verbal evidence was that Conditions 1(m) and 36 are consistent with the BDDCP, however he stated that there is still discretion available for another arrangement for payment to be made.
- 44 I find that Conditions 1(m) and 36 implement the requirements of the BDDCP Incorporated document which clearly states that payment of the levy is to be made prior to the endorsement of the plans.
- 45 The planning merits of the contents and requirements of the BDDCP have already been tested through the planning scheme amendment process. The BDDCP specifically uses the mandatory word 'must' be paid prior to the

endorsement of plans, unless another arrangement for payment has been agreed to by the Responsible Authority.

- 46 In this case, no such agreement has been reached. Put another way, I consider that the payment of the levy prior to the endorsement of plans is the 'default' position which is clearly established by the BDDCP. There may be rare, and unusual special circumstances where an alternative arrangement for the timing of the payment of the levy is deemed appropriate.
- 47 However, in this case no such special circumstances have been identified. Rather, the justification for the change to the timing of the payment was based on more broad-brush planning principles, rather than accounting for the specific requirements of the BDDCP.
- 48 I therefore find that Condition 1(m) should be retained and that Condition 36 should not be varied.

#### **Conclusion**

- 49 For the reasons explained above, the decision of the Responsible Authority is varied in regards to Conditions 1(n) and 1(o).

Tracy Watson  
**Member**





**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL****PLANNING AND ENVIRONMENT LIST**VCAT REFERENCE NO. P1279/2020  
PERMIT NO. 5/2005/363/3

|                              |  |
|------------------------------|--|
| <b>APPLICANT</b>             | Lawrence Ingvorsen                       |
| <b>RESPONSIBLE AUTHORITY</b> | Bayside City Council                     |
| <b>SUBJECT LAND</b>          | 561 Balcombe Road<br>BLACK ROCK VIC 3193 |
| <b>HEARING TYPE</b>          | Hearing                                  |
| <b>DATE OF HEARING</b>       | 21 May 2021                              |
| <b>DATE OF ORDER</b>         | 24 May 2021                              |

**ORDER**

- 1 The decision of the responsible authority is varied.
- 2 The Tribunal directs that planning permit 5/2005/363/3 must contain the conditions set out in planning permit 5/2005/363/3 issued by the responsible authority on 9 June 2020 with the following modification:
  - (a) Condition No. 38 is amended to read:
    - 38 Within three (3) months of the issue of an amended permit in accordance with the determination of the Victorian Civil and Administrative Tribunal in proceeding P1279/2020, a detailed landscape plan to the satisfaction of the responsible authority must be submitted to and be endorsed by the responsible authority. The plan must be generally in accordance with the advertised landscape concept plan drawn by Zenith Concepts, dated December 2019 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
      - (a) replacement planting of indigenous species within the garden bed next to the driveway
- 3 The responsible authority is directed to issue a modified planning permit in accordance with this order.

Bill Sibonis  
**Senior Member**



**APPEARANCES**

|                          |                          |
|--------------------------|--------------------------|
| Mr L Ingvorsen           | In person                |
| For Bayside City Council | Ms R Nolan, Town Planner |

**INFORMATION**

|                                    |   |
|------------------------------------|---|
| Description of proposal            | An amendment to the permit to allow the removal of trees.   |
| Nature of proceeding               | Application under section 80 of the <i>Planning and Environment Act 1987</i> – to review the conditions contained in the permit.  |
| Planning scheme                    | Bayside Planning Scheme   |
| Zone and overlays                  | Neighbourhood Residential Zone – Schedule 3, Minimal Growth Area ( <b>NRZ3</b> )<br>Design and Development Overlay – Schedule 1, Building Height Control – Coastal ( <b>DDO1</b> )<br>Vegetation Protection Overlay – Schedule 3, Beaumaris and Black Rock Native Vegetation Areas ( <b>VPO3</b> )<br>Development Contributions Plan Overlay – Schedule 1, Bayside Drainage Development Contributions Plan ( <b>DCPO1</b> ) |
| Permit requirements                | Cl. 42.02-2 (removal of native vegetation on land in VPO3)  |
| Key scheme policies and provisions | Cl. 12, 15, 21, 22.06, 42.02, 55 and 65   |
| Land description                   | The review site is located on the south side of Balcombe Road in Black Rock. It is occupied by three dwellings. Surrounding land is residential.  |



**REMARKS**

- 1 This is an application for a review of a condition of an amended permit issued by the Bayside City Council for land at 561 Balcombe Road in Black Rock.
- 2 Reasons for this decision were given orally at the conclusion of the hearing.

Bill Sibonis  
**Senior Member**





**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL****PLANNING AND ENVIRONMENT LIST**VCAT REFERENCE NO. P305/2021  
PERMIT APPLICATION NO. 5/2020/165/1

|                              |   |
|------------------------------|---|
| <b>APPLICANT</b>             | Piet Gouws                                |
| <b>RESPONSIBLE AUTHORITY</b> | Bayside City Council                      |
| <b>RESPONDENTS</b>           | R Weller, M Brumer                        |
| <b>SUBJECT LAND</b>          | 17A Abbott Street<br>SANDRINGHAM VIC 3191 |
| <b>BEFORE</b>                | Bill Sibonis, Senior Member               |
| <b>HEARING TYPE</b>          | Hearing                                   |
| <b>DATE OF HEARING</b>       | 21 May 2021                               |
| <b>DATE OF ORDER</b>         | 24 May 2021                               |

**ORDER**

- 1 The decision of the responsible authority is varied.
- 2 The Tribunal directs that planning permit 5/2020/165/1 must contain the conditions set out in planning permit 5/2020/165/1 issued by the responsible authority on 31 December 2020 with the following modifications:
  - (a) Condition 1(i) is amended to read:
    - (i) no more than 2 car spaces allocated to each dwelling in accordance with the car parking requirements of Clause 52.06 of the Bayside Planning Scheme
  - (b) Conditions No. 1(j) and 1(k) are deleted.
- 3 The responsible authority is directed to issue a modified planning permit in accordance with this order.

Bill Sibonis  
**Senior Member**



**APPEARANCES**

|                          |   |
|--------------------------|---|
| For P Gouws              | Mr M Law, Town Planner of Taylors Development Strategists Pty Ltd |
| For Bayside City Council | Ms A Fajgman, Town Planner  |
| For R Weller             | Mr P Weller   |
| Mr M Brumer              | In person   |

**INFORMATION**

|                                    |  |
|------------------------------------|--|
| Description of proposal            | The construction of two, two-storey dwellings, including roof decks.   |
| Nature of proceeding               | Application under section 80 of the <i>Planning and Environment Act 1987</i> – to review the conditions contained in the permit.   |
| Planning scheme                    | Bayside Planning Scheme  |
| Zone and overlays                  | General Residential Zone – Schedule 3,<br>Moderate Residential Growth Areas: Hampton Street Major Activity Centre and Sandringham Major Activity Centre (Coastal Location) <b>(GRZ3)</b><br><br>Design and Development Overlay – Schedule 8, Built Form Standards for Sandringham Village Major Activity Centre <b>(DDO8)</b><br><br>Development Contributions Plan Overlay – Schedule 1, Bayside Drainage Development Contributions Plan <b>(DCPO1)</b> |
| Permit requirements                | Cl. 32.06 (the construction of two or more dwellings on a lot on GRZ3)<br><br>Cl. 43.02-2 (the construction of a building and the construction and carrying out of works on land in DDO8)  |
| Key scheme policies and provisions | Cl. 15.01, 21, 22.06, 32.08, 43.02, 52.06, 55 and 65   |
| Land description                   | The review site is located on the north side of Abbott Street in Sandringham, east of Essex Street, and has rear abuttal to Brooklyn Place. The property is occupied by a single dwelling. To the east is a two-storey block of flats. To the west and north are two-storey dwellings.   |



**REMARKS**

- 1 This is an application for a review of conditions on a permit issued by the Bayside City Council for the construction of two, two-storey dwellings, including roof decks, on land at 17A Abbott Street, Sandringham.
- 2 Reasons for this decision were given orally at the conclusion of the hearing.

Bill Sibonis  
**Senior Member**





**4.8 66–70 BLACK STREET, BRIGHTON  
SUPPORT THE GRANT OF A PERMIT (VCAT CONSENT ORDER)  
APPLICATION 2020/372/1 WARD: BLEAZBY**

CITY PLANNING AND AMENITY - DEVELOPMENT SERVICES  
FILE NO: PSF/21/28 – DOC NO: DOC/21/192254

**IN ACCORDANCE WITH CHAPTER 2, SECTION 61(B) OF COUNCIL'S GOVERNANCE RULES 2020, A PERSON IS NOT PERMITTED TO PRESENT TO THIS ITEM AS IT IS A REPORT SUMMARISING DECISIONS ALREADY MADE BY ANOTHER BODY. IN ADDITION, THE CONSENT ORDER IS AN OUTCOME SUBSEQUENT FROM THE VCAT COMPULSORY CONFERENCE WHERE PARTIES ESTABLISHED AN AGREED POSITION.**

**OFFICERS INVOLVED IN THE PREPARATION OF THIS REPORT HAVE NO CONFLICT OF INTEREST IN THIS MATTER.**

**1. APPLICATION DETAILS**

|   |  |
|---|--|
| <b>RECOMMENDATION</b>   | SUPPORT THE GRANT OF A PERMIT  |
| <b>APPLICANT</b>  | 66-70 BLACK STREET PTY LTD   |
| <b>TITLE/COVENANT/S173 AGREEMENT</b>  | THE TITLE IS NOT SUBJECT TO ANY RESTRICTIVE COVENANTS.   |
| <b>DATE APPLICATION RECEIVED</b>  | 13 AUGUST 2020   |
| <b>ZONING</b>   | GENERAL RESIDENTIAL ZONE (SCHEDULE 1)  |
| <b>OVERLAYS</b>   | DEVELOPMENT CONTRIBUTION PLAN OVERLAY (SCHEDULE 1)<br>DEVELOPMENT CONTRIBUTIONS PLAN OVERLAY (SCHEDULE 11) |
| <b>SITE AREA</b>  | 2187M <sup>2</sup>   |
| <b>NUMBER OF OBJECTIONS</b>   | 13 OBJECTIONS  |
| <b>STATEMENTS OF GROUNDS LODGED</b>   | 3 STATEMENT OF GROUNDS   |
| <b>PARTIES TO THE APPEAL</b>  | 2 PARTIES  |
| <b>TRIBUNAL HEARING DATE</b>  | 14 – 17 SEPTEMBER 2021 (4 DAYS)  |
| <b>AMENDED PLANS LODGED</b>   | 29 JUNE 2021   |
| <b>IS A DEVELOPMENT CONTRIBUTION LEVY APPLICABLE?</b>                       | YES – CATCHMENT AREA 11A<br>20 ADDITIONAL APARTMENTS = \$22,200  |
| <b>IS THE SITE LOCATED WITHIN AN AREA OF CULTURAL HERITAGE SENSITIVITY?</b> | YES, CHMP HAS BEEN APPROVED.   |

**PURPOSE**

THE PURPOSE OF THIS REPORT IS TO ENDORSE A CONSENT POSITION REACHED BY ALL PARTIES ON 2 JULY 2021 FOLLOWING THE CIRCULATION OF AMENDED PLANS AT VCAT, PRIOR TO A MERITS HEARING (IF REQUIRED).

DUE TO THE TIMING OF THE COMPULSORY CONFERENCE HELD BY VCAT ON 2 JULY 2021, AND THE SCHEDULED TRIBUNAL HEARING, THE SUBSTANTIVE REPORT IN RELATION TO THIS MATTER WILL BE PUBLISHED AS A LATE AGENDA ITEM AS SOON AS PRACTICABLE.



## **5. CONFIDENTIAL BUSINESS**

There was no confidential business submitted to the meeting.