

# **WRITTEN STATEMENTS**

**7 September 2021**

**Planning and Amenity Delegated  
Committee Meeting**

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2. Mr Stephen O'Brien, Universal Planning (O)
3. Dr Anna Kucminska (O)

*Definitions*

*A= Applicant*

*S= Supporter*

*O= Objector*

**Item 4.1**  
**2 Enfield Road, Brighton**

## 1. Mr Lou Bozancic (O)

Dear Councillors,

### Objection Submission - Planning Application 5/2021/128/1 – 2 Enfield Rd, Brighton

I am the owner of the property at 12 Grandview Road, Brighton, located adjacent to this proposal (see image below). Thank you for the opportunity to lodge a written submission. It follows objections lodged by 8 neighbours to this proposal during the public notification / advertising period. I also participated in the consultation meeting on 26 July 2021, also attended by 3 objectors, the Council Officer and the Applicant's representative.



I note the Officer report notes that no objections were withdrawn following the consultation meeting. The report should also note that the Applicant made no changes to the proposal in response to the concerns raised in the 8 objections lodged to the proposal and that the Applicant made no attempts to resolve the objections.

As a preliminary point, what concerns me is that the plans are riddled with errors, including incorrect labelling of windows on my property facing the subject site which are habitable room windows (they are noted in the plans as non-habitable) and the Officer report notes that the shadow diagrams are incorrectly illustrated. I raised this window matter in the consultation meeting and it was dismissed by the Applicant. This is an important component to Council's assessment of the application as the following is noted in the Decision Guidelines of Standard B17:

- *The impact on the amenity of the habitable room windows and secluded private open space of existing dwellings.*

I'm baffled at why the Applicant has not been required to correct the plans so that the Council Officer can make an informed decision and so that the objectors can comprehend the impacts of this proposal, particularly when it comes to the important consideration of overshadowing to neighbouring properties.

I have otherwise reviewed the Council Officer report forming part of the Agenda and raise with you the following outstanding summarised concerns for which must stop the grant of a planning permit. The proposed permit conditions do not satisfy my concerns.

In summary, there are fundamental issues with the design, including:

- The front setback does not comply.
- The garages are located in front of the line of the dwellings which does not accord with Council's preferred neighbourhood character policy.

- The first floor is not recessed and therefore does accord with Council’s preferred neighbourhood character policy.
- The side setbacks do not limit amenity impact to secluded private open space and habitable room windows of neighbouring properties.
- The proposal overshadows my rooftop solar energy facility.
- The side-by-side nature of the proposal is inappropriate in terms of neighbourhood character (noting also that there is only one existing side-by-side townhouse development in this character precinct west of Nepean Highway [located directly behind the Bay Street Major Activity Centre] and that a single-dwelling covenant applies to a significant number of dwellings in the precinct).

1. Front setback variation

The officer report at Page 42 notes that the proposed front setback complies with the streetback standard. This is incorrect. The officer has made a mistake in their assessment. The correct standard is below and the front setback of the proposal needs to be 9m to comply. The proposal is setback 7.5m at ground floor and 7.4m at first floor. The proposal should be amended to comply with the Bayside Planning Scheme. A compliant 9m front setback is not only important in terms of maintaining streetscape rhythm and character, but also as an appropriate response to the secluded private open space and habitable room windows at the rear of my property, and the overshadowing of my rooftop solar energy system (located on my garage); a compliance setback would reduce the overshadowing.

Development context	Minimum setback from front street (metres)	Minimum setback from a side street (metres)
There is an existing building on one abutting allotment facing the same street and no existing building on the other abutting allotment facing the same street, and the site is not on a corner.	The same distance as the setback of the front wall of the existing building on the abutting allotment facing the front street or 9 metres, whichever is the lesser.	Not applicable

2. Garages in front of the line of the dwelling

The garages are not located behind the line of the dwelling. The garage of Unit 1 is setback 7.5m from the street. The ground floor entry is setback 9.5m from the street. So the garage is in front of the line of the dwelling. While, the first floor is setback 7.4m from the street, it cantilevers over the ground floor, which fails to comply with the preferred neighbourhood character statement for the precinct which seeks recessed upper floor level from the front façade.

The garage of Unit 2 is setback 9m from the street. The ground floor entry is setback 10.5m from the street. So the garage is in front of the line of the dwelling. While the first floor is setback 9m from the street, it cantilevers over the ground floor, which fails to comply with the preferred neighbourhood character statement for the precinct which seeks recessed upper floor level from the front façade.

The Officer report justifies this variation from the preferred neighbourhood character on the basis that the existing neighbourhood character shows other garages located in front of the line of the dwelling. There are 4 out of 15 dwellings facing Enfield Road which have a garage located in front of the line of the dwelling, and further, they are all located on the north side of Enfield Road. How can this variation be justified on this basis?

### 3. First floor is not recessed from the ground floor

The first floor of Unit 1 is setback 7.4m from the street, it cantilevers over the ground floor, which fails to comply with the preferred neighbourhood character statement for the precinct which seeks recessed upper floor level from the front façade.

The first floor of Unit 2 is setback 9m from the street, it cantilevers over the ground floor, which fails to comply with the preferred neighbourhood character statement for the precinct which seeks recessed upper floor level from the front façade.

A recessed first floor is not only important in terms of maintaining streetscape rhythm and character, but also as an appropriate response to the secluded private open space and habitable room windows at the rear of my property, and the overshadowing of my rooftop solar energy system (located on my garage); a recessed first floor would reduce the overshadowing.

### 4. Side setbacks

The proposed side setbacks of the proposal are inadequate to limit the amenity impact to my secluded private open space and my habitable room windows facing the property. The side-by-side nature of the proposal is has failed to consider the unique nature of the site which have 5 rear secluded private open space areas which must be considered and the design of the building has failed to appropriately respond to these sensitive areas.

### 5. Overshadowing my solar facility

My rooftop solar system is used to heat the swimming pool in my backyard which is why it is located on top of the garage located adjacent to the pool. The system requires direct solar energy for heating and therefore any overshadowing will completely compromise the system. The plans show significant overshadowing from the proposal to the solar energy system on my garage (the Officer report also notes that the shadow diagrams are incorrect – I have to ask how the Applicant and Officer expect me to be able to properly understand the impacts if the plans are incorrect?).

The Applicant has failed to show the solar energy system in their plans and they have failed to address the impact that the proposal has on the efficiency of this system. The Applicant has also failed to consult with me and, if they aren't willing to amend the plans, they should offer to relocate my rooftop solar energy facility at their expense.

The Officer report notes that *"the current position of the solar infrastructure provide little tolerance for any adjoining development"*; this is simply incorrect. The proposed plans should provided a compliant 9m front setback and a recessed the first floor to comply with Council's preferred neighbourhood character Policy which demonstrates no overshadowing to my rooftop solar energy facility and there is plenty of room to do so noted these large four bedroom (all at first floor) and two living room homes.

### 6. Other neighbourhood character considerations

Council's preferred neighbourhood character policy states:

- *Consider as relevant: Providing only one vehicular crossover per site frontage, unless the frontage is substantially wider than those that are prevalent in the Precinct.*

The Officer report response to this item states that the frontage “can accommodate an additional crossover to service the dwellings separately along the combined frontage.”; however that is not the consideration under this preferred neighbourhood character guideline. It is evident from the Plan of Subdivision attached to the title that this site is no wider than other frontages in the Precinct and is certainly not substantially wider. As such, a single crossover is all which should be provided.

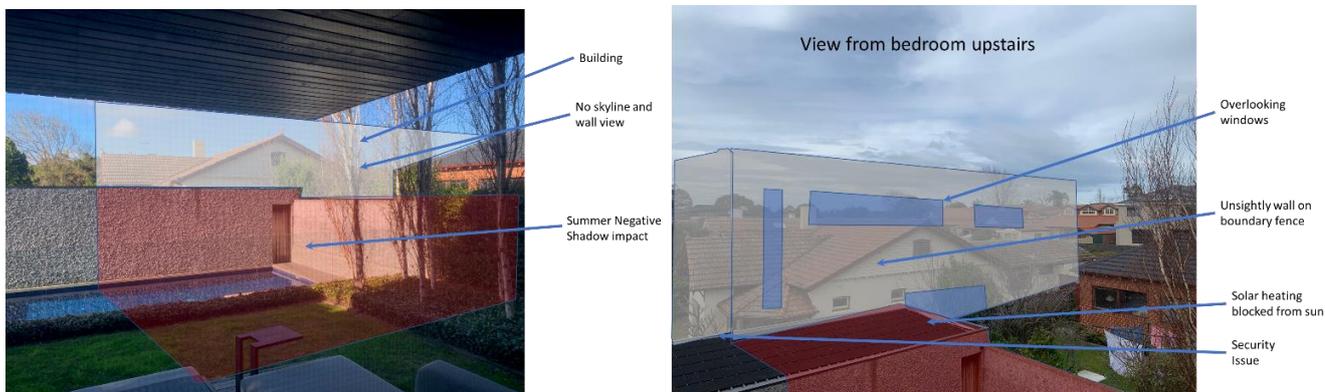
The side-by-side nature of the proposal is inappropriate in terms of neighbourhood character (noting also that there is only one existing side-by-side townhouse development in this character precinct west of Nepean Highway [located directly behind the Bay Street Major Activity Centre] and that a single-dwelling covenant applies to a significant number of dwellings in the precinct – see below).



Diagram 1 – Single Dwelling Map

- Diagram 1 above illustrates the properties that are on a single dwelling covenant which is unlikely to ever be removed as it covers 122 properties (in blue).
- The properties marked in yellow above are currently single dwelling and are on a different plan allotments (some maybe also on single dwelling covenants.)
- The only noted multi-dwelling building is at the end of Enfield Road next to Nepean Highway noted in green in the diagram above.
- Note that the GR22 is inconsistent with the single dwelling covenant properties.

I have also added some diagrams indicating what the development would look like and clearly not in character with the neighbourhood, unsightly and no considerations to my property 12 Grandview Road.



We trust that the concerns we have raised will be given proper consideration during the process. Should you wish to discuss this further please do not hesitate to contact.

Yours sincerely,  
Lou Bosancic

## 2. Mr Joseph Lenczner (on behalf of Mrs Frances Lenczner) (O)

### Reply to Council planner's report on behalf of objector Frances Lenczner of 4 Enfield Road Brighton

Frances Lenczner relies on her objection dated 28 June 2021 (**objection**) and her reply to the developer's planner's report dated 27 August 2021 (**reply to the developer**) as supplemented by the reply to the Council Planner's report below.

The Council planner recommends that conditions be imposed in respect of the permit. The Recommended conditions ameliorate some aspects of developer's permit application eg. by providing set back of two meters of the Eastern garage wall "from the eastern side boundary" in respect of 4 Enfield Road (limited to the length of the garage only) and recommends one car garage instead of two car garage in respect of the proposed Eastern unit (par 4 Recommendation 1 b pages 8 and 18).

It is submitted that the recommended conditions (par 4 Recommendations) do not resolve the detrimental effect of the development proposal on the **Amenity and neighbourhood character**.

The objector submits that even allowing for the Recommended conditions proposed by the Council's planner;

- (a) The proposed development does not comply with "preferred character strategies", comparing surrounding houses in Enfield Road and the neighbourhood. (please refer to the objection and the reply to the developer).
- (b) The proposed development is, two dwelling block construction with different façade and roof scape from the surrounding houses. The Council's planner proposes that the developer submit construction-materials schedule (Par 4 Recommendations 1 g). Until provided the objector cannot comment. The objector should be able to address the proposal as part of the permit process.
- (c) Due to increased density of occupation contemplated by the proposed development little room has been left for vegetation on the Eastern and Western sides of the proposed development. The Council planner proposes that the developer submit amended Landscaping plan, Arboricultural and Tree management Plan reports but until provided the objector cannot comment.
- (d) In any event the sense of spaciousness of the current dwelling, particularly in the front and the sides, consistent with majority of surrounding houses particularly in Enfield Road, will be lost by the proposed development.

#### Two Garages and two crossovers

- (e) Allowing for the recommendation for one car garage in respect of the Eastern unit, still allows for two garages on the site, one in respect of the Western unit with a double car garage and Eastern unit recommended by the council's planner set back of two metres only limited to the length of that garage leaving closer set back in respect of the rest of the eastern wall of the proposed development.

- (f) Apart from adversely impacting on the amenity of the area and the neighbourhood character this will create two garages and gates to the garages and the street noise, from traffic from and to those garages impacting adversely on the habitation in 4 Enfield Road and the surrounding houses.
- (g) The effect of the two garages and two crossovers will likely cause increase in traffic in and out of the development property and effectively remove car parking available in front of the development property. The proposal is contrary to the Precinct B5 preferred character policy guideline which provides for one vehicular crossover per site frontage, unless the frontage is substantially wider than those that are prevalent in the Precinct. The frontages of 2 Enfield Road is not wider frontage than those prevalent.

**Furthermore there are fundamental issues with the design;**

- The front setback does not comply. The Planning Scheme stipulates 9m.
- The garages are located in front of the line of the dwellings which does not accord with the Council's preferred neighbourhood character policy.
- The first floor of both units is not recessed and therefore does not accord with Council's preferred neighbourhood character policy.
- The side setbacks do not limit amenity impact to secluded private open space and habitable room windows of neighbouring properties.
- The side-by-side nature of the proposal is inappropriate in terms of neighbourhood character (noting also that there is only one existing side-by-side townhouse development in this character precinct west of Nepean Highway [located in Warleigh Grove behind the Bay Street Major Activity Centre] and that a single-dwelling covenant applies to a significant number of dwellings in the precinct).
- The Northern Boundary of the GRZ2 is inconsistent with the boundaries of single dwelling covenant properties (122) in the area. It is unclear as to how this anomaly came into being and Council should examine this more closely prior to further development approvals being granted.

The recommendation that the proposed development be approved with conditions does not satisfy the objector's objections; nor comply with Council's Plan 2017-2021, nor the B5 Precinct objectives of preferred neighbourhood character and response to the street scape.

In summary, for the above reasons the permit to construct the proposed development, with or without the recommended conditions in the Council's planners report, should therefore be refused.

Furthermore the conditions stated in the Recommendation part of the Council's planners report do not allow for the circulation of amended plans to the objectors, nor for any further comment on what might be proposed if the Council approves the developer's application subject to the recommended conditions. The objector would appreciate the opportunity to view the developers response to the Recommended conditions before Council's final decision in respect of the application for permit. In the usual course the recommended conditions if incorporated in the permit application would have formed part of the developer's application for permit.

One option is for the Council to invite a response from the developer to the Recommended conditions while reserving the decision on the application pending the further information and opportunity to the objector(s) to respond.

6 September 2021

Submitted by Joseph Lenczner on behalf of Frances Lenczner registered owner of 4 Enfield Road Brighton

### **3. Mr William Mcmeel (O)**

Monday, 6 September 2021

Dear Councillors,

Planning Application 5/2021/128/1 – 2 Enfield Rd, Brighton. Request to be Heard

I am the owner of the property at ,10 Grandview rd. Brighton. Thank you for the opportunity to lodge a written submission in place of being at the meeting. It follows objections lodged by 8 neighbours to this proposal during the public notification / advertising period. The consultation meeting was held on 26 July 2021 and attended by 3 objectors, the Council Officer and the Applicant's representative.

The Officer's report states that no objections were withdrawn following the consultation meeting. His report should also note that the Applicant made no changes to the proposal in response to the concerns raised by the 8 objectors. Additionally, the Applicant made no attempt to resolve the objections.

The recommendation that the proposed development be approved with conditions does not satisfy our objections; nor comply with Council's Plan 2017-2021, or B5 Precinct objectives of preferred neighbourhood character and response to the streetscape.

In summary, there are fundamental issues with the design, including:

- The front setback does not comply. The Planning Scheme stipulates 9m.
- The garages are located in front of the line of the dwellings which does not accord with Council's preferred neighbourhood character policy.
- The first floor of both units is not recessed and therefore does accord with Council's preferred neighbourhood character policy.
- The side setbacks do not limit amenity impact to secluded private open space and habitable room windows of neighbouring properties.
- The side-by-side nature of the proposal is inappropriate in terms of neighbourhood character (noting also that there is only one existing side-by-side townhouse development in this character precinct west of Nepean Highway [located in Warleigh Grove behind the Bay Street Major Activity Centre] and that a single-dwelling covenant applies to a significant number of dwellings in the precinct).

- The Northern Boundary of the GRZ2 is inconsistent with the boundaries of single dwelling covenant properties (122) in the area. It is unclear as to how this anomaly came into being and Council should examine this more closely prior to further development approvals being granted
- The drainage problem was not looked at in the right way as I can see it may be a problem in years to come. Which could be a cost to me or the new owner of 2 Enfield rd. and not the developer who cause the problem.
- I am not happy on how they will look my fruit trees and rose garden as I harvest a lot of fruit trees and the rose garden bring bees in to garden to help my trees and vegetable garden.  
I have lived at this address for over 40 years and have known this house for over 60 years and have seen some bad changes to character of the area but this one tops the list.

The conditions stated in the Recommendation do not allow for circulation of amended plans to the objectors, nor for any further comment on what might be proposed if the Council approved the application subject to these conditions. For example; the condition of a Hipped Roof could result in any compliant hipped roof being approved without further consultation. I would appreciate the opportunity to view these changes before Council's final approval.

I trust that the concerns that I have raised will be given proper consideration during the decision making process.

Yours sincerely

William J Mcmeel

#### **4. Mrs Amanda Millis (O)**

Monday, 6 September 2021

Request to be Heard

Dear Councillors,

**Planning Application 5/2021/128/1 – 2 Enfield Rd, Brighton.**

I am the owner of the property at 8 Grandview Road, Brighton. Thank you for the opportunity to lodge a written submission in place of being at the meeting. This note follows objections lodged by 8 neighbours to this proposal during the public notification/advertising period.

The Planning Officer's report states that no objections were withdrawn following the consultation meeting. His report should also note that the Applicant made no changes to the proposal in response to the concerns raised by the 8 objectors. Additionally, the Applicant made no attempt to resolve the objections, particularly with regard to B5 Precinct Guidelines.

The recommendation that the proposed development be approved with conditions does not satisfy our objections; nor comply with Council's Plan 2017-2021, or the Council's B5 Precinct objectives of preferred neighbourhood character and response to the streetscape.

I want to draw your attention to the Arboricultural Report by Lloyd Hetrick dated March 2021 that I received today. The arborist has omitted to survey my trees that are growing next to the existing single garage. This garage will be demolished to make way for the development. There is a Crepe Myrtle and four Ficus Hillii. There is no plan to protect these trees or to ensure that the soil surrounding them is not disturbed or washed away. The garage wall retains this garden along its length. A substitute retaining wall and pool compliant fence must be constructed immediately after demolition occurs.

I submit that Council insert a Condition in the Permit to ensure the protection of the above trees and compliance with swimming pool regulations during the demolition and building process.

In summary, there are fundamental issues with the design, including:

- The “cookie cutter” TV like screen frontage and lack of articulation is completely out of character with the streetscape and neighbouring B5 precinct. These are short-term housing in-fills that will not stand the test of time.
- The first floor of both units is not recessed and therefore does accord with Council’s preferred neighbourhood character policy.
- The side setbacks do not limit amenity impact to secluded private open space and habitable room windows of neighbouring properties.
- The side-by-side nature of the proposal is inappropriate in terms of neighbourhood character (noting also that there is only one existing side-by-side townhouse development in this character precinct west of Nepean Highway [located in Warleigh Grove behind the Bay Street Major Activity Centre] and that a single-dwelling covenant applies to a significant number of dwellings in the precinct).
- The Northern Boundary of the GRZ2 is inconsistent with the boundaries of single dwelling covenant properties (122) in the area. It is unclear as to how this anomaly came into being and Council should examine this more closely prior to further development approvals being granted.

The conditions stated in the Recommendations do not allow for circulation of amended plans to the objectors, nor for any further comment on what might be proposed if the Council approved the application subject to these conditions. For example; the condition requiring a Hipped Roof could result in any compliant hipped roof being approved without further consultation. I would appreciate the opportunity to view these changes before Council’s issuing of a permit.

I trust that the concerns that I have raised will be given proper consideration during the decision making process.

Yours sincerely

Amanda Millis

Town Planner, Urban Designer

**Item 4.2**  
**17 Hall Street, Brighton**

## 1. Mr Rayyan Jafari & Mrs Brittany Rusciano (O)

Dear all Bayside Councillors

We are writing to you all regarding the proposed development at 17 Hall St Brighton (PP 5/2021/48/1). It has come to our attention that Bayside Council is intending to grant a permit for this proposal, much to our disappointment. We are new to the area and are currently building our family home at 123 Roslyn St Brighton which is directly opposite the subject site across the right of way. We have been looking to move to Brighton for quite some time and have been quite particular as to which pocket of Brighton we wish to live. All we knew was that we wanted to be in an area where low density living was prevalent (not amongst apartment buildings or multi-townhouse buildings), within walking distance to the Church St precinct and close to Billila mansion. Therefore, when we came across the property at 123 Roslyn St, it ticked all the boxes and we knew that we couldn't let it pass. The reason why we have mentioned this is that the predominant development type in and around the subject site at Hall St is all low density. What has been proposed is not only out of character for the area, we feel it somewhat disrespects what Bayside council has worked hard on preserving - neighbourhood character. Further, it adversely affects the home we are currently building, particularly when it comes to privacy and overshadowing. We have spent a significant amount of time and money to ensure that firstly, what we build positively adds to the value of the neighbourhood, and secondly to build a home that our family can enjoy for many years to come without having to compromise our privacy and safety. We feel that by allowing the development at 17 Hall St to proceed, we will no longer have the privacy and security we were thrilled to have captured prior to this application being made. We understand that building and development will continue and we are not opposed to development, however the parameters set by the local council must be respected and met, otherwise the topic of neighbourhood character and rescode would seemingly become irrelevant moving forward.

Over the time we have been building our house, we have quickly realised that the right of way is actively used both by vehicles and pedestrians. By allowing a development such as the one proposed at 17 Hall St to be constructed, the safety of the right of way will be severely compromised. Almost every day we see children riding their bikes/scooters up and down the right of way, as well as residents of all ages walking their dogs, etc. It would be an utter shame to have this amenity taken away for all residents.

We have attached our original objection for your reference. We think it would be a good idea to reject the proposal as it stands, or postpone your decision to a later date and allow for the residents to meet with you all, preferably at the subject site or on zoom, to further discuss how a more appropriate outcome can be achieved. We understand you all have commitments and the circumstances we are facing today may not permit a straight forward meeting, however we think it is of utmost importance that our concerns are heard and acted upon. As mentioned in our letter of objection, we have no issue in proceeding further to attempt to preserve our livelihoods and change an unfavourable outcome through VCAT, should this be the case. We hope that we can come to a mutually agreeable resolution.

Below is our formal objection that we request to be heard at the council meeting:

## **Objection to the proposed development at 17 Hall St Brighton 3186**

To whom it may concern

We would like to formally submit our objection of the proposed three dwelling development at 17 Hall St Brighton. There are many factors of which this objection is based, however the main area of concerns are overdevelopment and overlooking into our private open space at 123 Roslyn St Brighton. We are currently building our family home and are spending a significant amount of money to build something that will add value to the streetscape as well as maintaining our privacy. The proposal at 17 Hall St would adversely impact our privacy, especially with the proposed rooftop terraces (with which views are insignificant at that level anyway). Further, the sheer bulk of the proposed building will cast unnatural shadowing over our private open space which will affect the northerly aspect that we currently benefit from.

The subject property at 17 Hall St falls within a Neighbourhood Residential zone. This typically calls for low density development preserving and respecting the neighbourhood character. It is clear that what is proposed better suits an area designated with general residential or activity centre zoning. I understand that a 9m height limit is permissible in a neighbourhood residential zone with an additional 1m in height permissible if the land slopes greater than 2.5 degrees over an 8m horizontal distance, however the additional height typically allows for adjustments in floor levels to cater for the gradient of the block, not to add additional levels. Further, it seems the proposal breaches both front and side setback requirements dictated by the neighbourhood residential zone. It should be noted that the right of way is just that – a right of way. We find it difficult to understand how safe pedestrian and vehicle access is compliant without negatively impacting the residents on Hall St, Weatherly Grove and Roslyn St. The right of way can only cater for one vehicle travelling in one direction at any one time. We would like further clarification from council to explain how visitor parking has been addressed, given the proposed dwellings facing the right of way do not have any designated vehicle parking areas whatsoever.

Being a builder and developer, we have had access to the plans and reviewed them and we find it difficult to accept that the council traffic engineering department has approved the vehicle access in and out of the proposed basement. We would like to request that this be more carefully reviewed, and that council should make a more practical assessment of this.

In conclusion, our concerns with this proposed development are quite serious and reasonable. As a builder and developer, we are not opposed to development in general however the neighbourhood zoning must be respected, and close consideration must be given to the living conditions of the residents. I hope that council will review this objection and provide objective feedback. If a notice of decision will be granted for the proposal as it is then we will have no hesitation in appealing the decision at VCAT and are quite happy to incur costs to do so in order to ensure that the privacy of our family is in no way negatively impacted, as well as the overall amenity of the residents.

Kind regards

Rayyan Jafari & Brittany Hannah Rusciano

## 2. Mr Alan & Mrs Jennifer Rogers (O)

We are at the southern and eastern boundary of the proposed development at 17 Hall Street, Brighton, and wish to register our objections as follows.

1. Severe loss of northern winter sun into our Secure Private Open Space (which fronts on ROWY) is only partially shown on your Shadow Planning submission as this indicates as at 22nd of September. Request Shadow drawings to show impact on our Northern SPOS on our property as at 22nd June.  
This occurs because of the bulk of the development and reduced set-backs on the Eastern Boundary (ROWY). It appears a large portion of each of the 3 dwellings is set back one metre from the boundary which does not comply with the required setback and adds to the dominance of the streetscape. This laneway is not a street but a narrow ROWY.
2. Loss of privacy and Secure Personal Open Space, not only from the bulk of the structure, but also from roof-top terraces (2 of which include a swimming pool) from proposed 3 dwellings, impacts our SPOS as balustrades on roof-top terraces is only 1.1metres in height allowing people to overview into our SPOS.
3. Covenant restricts materials of building to be of brick, stone or concrete and roofing to be of slate/tiles. Proposed plans indicate timber sections on building and terrace, tiles are used as flooring - drawing it a long bow to calling it a roof contravening covenant requirements.
4. Planning submission prepared by Human Habitats – State and Local Planning Policy Summary - indicates concentration of residential developments into activity centres. Hall Street is zoned Neighbourhood Residential, which does not fall within the Major Activity Centre for Brighton. There is a designated area for high density development in Brighton and Hall Street is not within the MAC zoning.
5. Proposed front fence of dwelling No 1 at 17 Hall Street, Brighton being 1.8 metres high and the proposed set-back of dwelling No 1 at 17 Hall Street, Brighton at 4.3 metres in place of the required 9 metres, makes sight lines required for cars travelling either from Hall street into ROWY or visa-versa extremely dangerous. Your judgement to see cars in either direction will be heavily impaired, especially on the tight corner outside dwelling No 1.
6. The ROWY is narrow and when two cars currently pass each other heading in the opposite direction the car closest to No 17 Hall Street has to mount the footpath to pass. With 7 car spaces proposed for 17 Hall Street this will make for congestion and become extremely dangerous on a narrow ROWY.  
  
Bayside infrastructure vehicles eg: waste service trucks, find it almost impossible to negotiate Hall Street with cars parked both sides and also turning into the narrow ROWY and the proposed development would only exacerbate this situation. We have had numerous incidents where waste service trucks have had to reverse into our small drive way missing our house structure by millimetres to execute a turn into Hall Street. This also occurs when the waste trucks are travelling from Hall Street into the ROWY. The proposed development would make this a dangerous traffic situation.
7. Planning Policy Framework/Controls (4) objective is to maintain the rhythm of spacious visual separation between buildings and provide and accommodate substantial vegetation. The proposed dwellings are one continual mass of hard service material that does not meet this objective.

8. Site Layout and Building Massing – Clause 55.03  
Set-backs fronting Hall Street and ROWY are not compliant with the minimum setback requirement.

Parking Location – Examples given above regarding Waste pick-up trucks there is insufficient space for emergency and delivery vehicles.

B21 – As mentioned above regarding overshadowing, we request a Shadow Plan for Northern Winter sun as at 22 June to show the full impact of how our property at 20 Hall Street will be impacted by a 3 dwelling development which does not reflect the existing Neighbourhood Character.

B22 – Overlooking – Limit views into existing secluded private open space. As previously mentioned – with roof terraces which have balustrades of only 1.1 metre high, our Secure Private Open Space will be heavily compromised.

Furthermore the properties on the east/ south east side of ROWY (123 Roslyn Street and 20 Hall Street Brighton), does NOT have mature vegetation that will provide effective screening, and the proposed landscaping for the site at 17 Hall Street does NOT provide enough canopy trees and substantial vegetation as there is no separation between dwellings to accommodate this. (Ref Clause 22.06). And therefore does not respect the existing character of the neighbourhood.

The proposal has tried to maximise Northern aspect for its own purpose to the detriment of existing surrounding and adjoining properties.

B24 – Noise Impacts. Objective- Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.

Not quite sure how 3 Roof Top Terraces ( 2 with pools) can be contained and NOT have an impact on adjoining dwellings.

Hall Street is sited in a Neighbourhood Residential Zone and not a Major Activity Centre. The proposed development is not sympathetic to the character of Hall Street.

Alan & Jennifer Rogers

### **3. Mr Craig & Mrs Alicia Tiley (O)**

Dear Councillors,

Our family are long time Bayside residents and love our community. Thank you for playing your part in managing and protecting the residents.

I am writing regarding a proposed development at 17 Hall Street, Brighton. The Council is due to consider granting a permit at your meeting on Tuesday. The property at 17 Hall Street is adjacent to our properties – both 16 and 18 Weatherly Grove. Each of these properties have a single dwelling – one with a new home 15 years old and another over 40 years. The proposed development is for three, two storey, three bedroom dwellings with double level basement and roof deck and two car spaces for each unit on a site area of 745m<sup>2</sup>. We also believe the roof deck will house two swimming pools and that there is a provision for a total of seven car spaces. I submitted letters of objection from both of our properties - 16 and 18 Weatherly Grove.

We consider this development to be a significant over reach and unnecessary density maximisation. It is opportunistic and will forever change the neighbourhood character. It will have a remarkable negative impact on the safety of the area. The uniqueness of the laneway is often frequented by the young kids of the area and those walking from the park. We cannot see how this will any longer be safe for those kids and young families.

I realise that you would very often receive objections without being provided an alternative solution. I would welcome the opportunity to meet and have you observe the street, laneway and area of proposed development. It has a far greater impact when seen in person and honestly the planning and commentary does not do enough to convey the real practical impact. We would also propose that the developer consider reducing the number of dwellings to allow all residents of the neighbourhood – including the new ones – to live in a safe, non-congested, and open environment.

Thanks you for your careful consideration. I realise that these decisions are not easy but this one has a significant impact. All of our neighbours are objecting and many have additional valid points. We would appreciate the Councillors carefully consider this.

Sincerely,  
Craig and Alicia Tiley

#### 4. Mr Larry Picker (O)

Bayside City Councillors; I appeal for your help.

My name is Larry Picker and I have lived at 18 Hall Street since 2005.

Of all the owners in the properties affected by the cynical development proposed for 17 Hall Street, I have lived here the longest and I am most aware of the history of traffic challenges and issues in Hall Street and the laneway, or right of way (ROWY).

I am a person who likes change. I have no objection to property development. It is a right of all owners to do so. In my view, when done appropriately, property development enhances the suburb and most importantly, the value of our properties.

I am a person who sets great store in fairness, in proper process, in checks and balances, and ethical behaviour. I do not like to be taken advantage of, misled or manipulated.

I have attached my original letter of objection for your perusal.

I and many other residents have asked Bayside City Council to come to the end of Hall Street and view the site for themselves and listen to the concerns that we, as residents, are aware of and know so well. We have been ignored.

Sometimes maps and plans do not tell a story properly.

Please allow me to demonstrate this:

This is the reality of Hall street, looking westwards from outside 18 Hall Street.



I ask you to contact the waste removal contractors or the relevant department within Council and ask them how many times they have had to field complaints from drivers about being blocked at the corner where Hall Street becomes a laneway.

This problem exists for all heavy vehicles.

There will be many such vehicles in the street over many years as 17 Hall, 20 Hall, 16 Hall and 15 Hall all get rebuilt in the near future.

I have already noted in my original objection that our Audi was sideswiped by a truck belonging to one of the people contracting 9 Hall street. It was parked where the gunmetal VW Golf was parked. The claim came to \$16,000. Fortunately my security cameras picked it up. The issue is real.



Two vehicles cannot pass each other on the ROWY.

It is common practice for one vehicle to use the footpath in this instance.

The pedestrians, who are fortuitously in the photograph, are there for you to see.

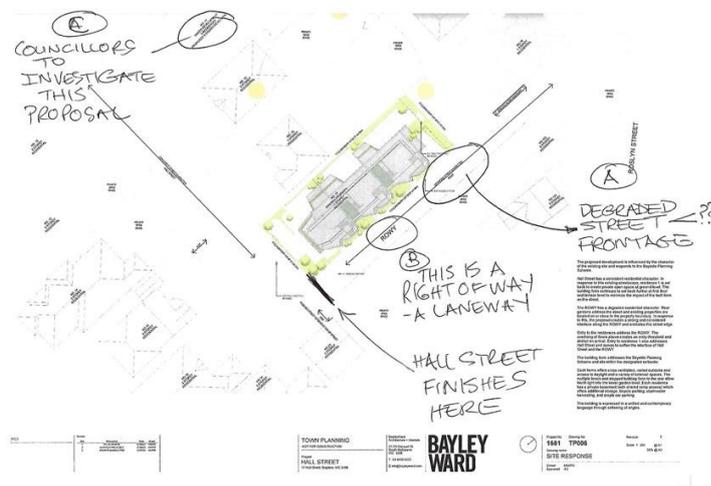
Not all “corner” sites are equal.

This appropriateness of dispensations given to corner sites needs to be carefully considered before being granted.

In this case, the corner site is not on two streets. Rather it borders a narrow laneway, bordered by the sides of 4 properties and their fences and garages.

I have it in writing that Bayside Council regulations do not allow parking in streets less than 4.5m in width and as such it is not necessary to place “No Parking” signage in the ROWY. Where are the residents and visitors of this proposed development going to park?

I also include a copy of a page of the plans below, with my comments.



A:

Note the comment “Degraded street frontage”.

Is this statement misleading?

The laneway frontage is not degraded. It is bordered by just four properties and fenced appropriately for a laneway, to the side of the properties rather than as the front of the proposed properties.

B:

ROWY versus a street

It is not a street, it is just a narrow laneway. A “rat-run” if you will, used by local residents a short cut to Billila, Church Street and the station.

Hall Street itself finishes at number 20; after the corner is the narrow ROWY.

C:

Can Bayley Ward or Council planning staff comment on the caption:

11 Hall Street, Under development, 5 residences, 3 story development.

Is 17 Hall Street just the forerunner of what is to come?

### **The Developer's Website**

I draw Councillor's attention to Lion Property's website. There is a page called Prominence – Lion Properties. That page now features just a photo of the bathing boxes. All the wordage and audiovisual information on that page has been removed. With the benefit of hindsight, this occurred just prior to the plans being submitted. Funny that.

That wording spruiked the development to property investors, promising a return of 34% over three years. The design of these units, incorporating roof-top spas/pools leads me to suspect that this return would be achieved primarily by allowing these to be used for short-stay rentals, like airbnb. The residents' fears that noise, especially on weekends, will be a big issue here is not unfounded.

In conclusion:

Maps, plans and checklists do not tell the whole story.

The Middle Brighton activity zone ends at Halifax Street. It does not extend across Halifax Street into Hall Street. This development attempts to do just that.

This development is opportunistic; it is cynical and it is inappropriate. It is out of character with the surrounding properties.

There is nothing like it in our area. Who would build a subterranean floor used as a living area above an even deeper basement garage in Hall Street?

Make no error councillors, this is a test case. Once this one is approved, all bets are off for the rest of Bayside.

I have read my fellow resident's comments on the bulk of the development, the overlooking, the loss of privacy, the loss of amenity, the noise, the safety issues and the traffic concerns. I agree with all of them.

I cannot understand why the Council's Planners allowed this development to proceed in the first place. Effectively this means that VCAT becomes inevitable, because this development is unfair to the existing residents' lives and amenity.

I can only appeal to you all to stop this lunacy. Please. You are our representatives and we elect you to ensure that our suburb and its residents are taken care of.

Should the developer be instructed to respect the laneway and be told to build two side by side units, like the others in the street, that is their right and I could not object to that. That is after all what section 55 requires.

## 5. Mr Trevor Gange (O)

Hello Bayside councillors.

I have reviewed communications regarding the proposed development of 17 Hall Street Brighton.

I am saddened by the fact that council considering granting a permit on Tuesday 7<sup>th</sup> August 2021. We have 2 young children that ride their bikes, scooters and skateboards down hall street and then turn into the narrow lane which goes downhill into Weatherly Grove. The increased volume of traffic is of grave concern not just for my children's safety but for those of other children in Hall Street, Weatherly Grove and other streets around the area. Many children and people use this access to and from Billilla Park Brighton and the safety aspect of more frequent traffic flow reduces the safety to those mentioned above.

This will set a new precedent for an increase in the density of homes throughout the whole of the low density Brighton area and in particular for similar position block at the end of streets. I moved to this area because of the family orientation, quieter streets and low density growth zone that it is. To me the **safety** of children (and adults) is of paramount concern.

These 3 proposed new homes are opposite a single new home currently under construction which has walls right on this narrow laneway. There is only the one footpath and the garbage trucks that use this little laneway each week don't allow for any passing traffic whether that be bicycles, skateboards, cars etc. at 10 - 15km per hour that children travel this could be extremely dangerous. I sometimes notice larger vehicles like council trucks mounting the footpath due to their poor turning circles and on one occasion side swiping a car owned by Larry Picker from 18 Hall St. I cant stress how much it worries me that the safety of our community are at risk here. On 3 to 4 occasions per week I am unable to go down the lane when another car is entering from the other end – SOMEONE HAS TO MOUNT THE CURB, or otherwise reverse back into the junction of Weatherly Grove and Rosslyn Street or otherwise back around a corner into Hall Street. Once again the safety aspect here is going to be magnified with the proposed 7 underground car parks at the subject development combined with other car and truck traffic and then add in a few small children and we have a massive safety issue here. Imagine if one of your children had a serious accident and you were in our shoes. Where would the accountability be?

The increased population density by conducting a high density project on a small footprint in a low density area is totally out of keeping with the area. I don't really understand how this can be refuted. I have analysed all the local Streets between Halifax, Hampton Street (low density area properties) and this does create a problem. In fact I can use a drone to analyse every house in our low density area if that would assist. It is opening this area up for development that is NOT in keeping with other properties an allotment sizes in this area. It is not in keeping with the current homes in the area on many fronts which I can video and analyse if we proceed to VCAT backed by professional analysts.

So what is the solution, how do we compromise? I would have hoped that a maximum of 2 homes would be built on an allotment of 745m<sup>2</sup> rather than 250m<sup>2</sup> sites x 3 and without the rooftop pools. It would be preferable for pools to be located on the ground rather than a roof. I understand that people and noises occur at properties however from a rooftop there are no baffles (trees, fences vegetation) to stop reverberating sounds from a balconied rooftop space travelling. As these deigns are for smaller plunge pools without solar heating they are being heated by most likely

gas. This increases the likelihood of them being used during the night and sound reverberates and is magnified at night. Simply explained by google: **At night the ground cools quickly. The higher air is warmer than the air close to the ground. During the day the sound travels faster near the ground. ... The sound further from the ground travels faster at night causing the sound wave to refract back towards the earth.** I have attached a document that thoroughly explains why sound is louder at night to emphasise that a 'Party Size' pool/spa on a rooftop is going to cause a noise issue. Not only will the rooftop entertaining be noisy across hour homes it will reverberate between this development and the property opposite at 123 Rosslyn Street. Furthermore I can't find any other new developments of this size in this low density growth zone with pools on the roof. Once again this is going to have a massive impact on the neighbourhood character of the area.

As a real estate agent at Jellis Craig I would like to offer my services for free and resell the property in this hot market if that would assist the current vendors. I can arrange for marketing to be paid for and any commission to be donated to the Royal Children's Hospital, Headspace or even provided back to the vendor as part compensation. In fact this could end up being a massive plug for a community minded developer to promote themselves as ethically minded and considerate of those that they are going to impact for the entire duration of their stay in the area.

I am open to discussions and would be pleased to meet with any councillor to discuss how we can improve the safety and overdevelopment aspects in particular. It would be fabulous if we can all work together to protect the long term future implications that effect us and generations of families that move to the area over time.

Once again I do sincerely hope we can resolve this instead of going to VCAT which I am prepared to do as safety is primary and overdevelopment is being understated by council.

Please see below details of how sounds can travel – pertinent to my points around rooftop pools. Please see your personal emails for more information on this for your review as I am instructed by your website to only submit a max of 4 pages.

Kind regards

**Trevor Gange**

## REFRACTION OF SOUND WAVES & ACOUSTIC SHADOWS EXPLAINED

Posted on March 17, 2015

*This article was written by Mike Bannon*

Close your eyes for a moment and pretend you are picnicking, during the midafternoon, with family and friends in Central Park. About a two football fields away you can see a softball game. You can see the men and women cheering as ballplayers smack the ball and race around the bases. You see a player slide into home plate and you watch the umpire signal him out. You can see all this action, but you cannot hear it.

Later that night as the temperature cools and other softball teams are playing under the lights you can see and hear everything clearly. Why is this so? Could it be,

during the day, you were situated in an acoustic shadow?

During the day the sun heats up the earth's surface, warming the air close to the ground. Sound travels faster in warmer air. So the sound travels faster in the air close to the ground. The reverse happens at night. At night the ground cools quickly. The higher air is warmer than the air close to the ground. During the day the sound travels faster near the ground. This causes the sound wave to refract upwards. At night the opposite happens. The sound further from the ground travels faster at night causing the sound wave to refract back towards the earth.

In the 1800s Osborne Reynolds performed the first sound wave refraction recorded test. He placed a ringing bell, one foot above the ground, and crawled twenty yards. He had to lift his head in order to hear the ringing sound. He then crawled seventy yards and had to stand before he could hear the ringing sound.

In 2001 Charles D. Ross published a book called *Civil War Acoustic Shadows*. In this article we are going to explore the phenomenon of sound wave refraction and how it relates to the sounds of war the formation of acoustic shadows.

### **Downward Sound Wave Refraction**

In the early 20th century, with the use of hot air balloons, scientists started to learn more about our atmosphere and its different layers. In 1923 atmospheric temperature changes were documented while studying meteors. In 1924 Erwin Schrodinger, a Nobel-Prize winning Austrian Physicist, suggested that "lowfrequency sounds would be absorbed less in the atmosphere and would therefore be refracted back to earth more strongly than high frequency sounds".

The layers that house our ozone tend to be warmer due to the captured radiation from the sun. When the sound wave hits this warmer layer, it's refracted back towards the earth.

### **Wind**

Wind also plays an important role in the refraction of sound waves and ultimately on the distance they travel. Wind traveling directly into an oncoming sound wave will make it refract upward more sharply. Wind traveling in the same direction as a sound wave will make the sound wave refraction more gradual. In the upper atmosphere a strong wind traveling in the direction of the wave will push the wave further and faster.

England and Holland. For four days the English Navy fought the Dutch Navy off the coast of Dunkirk during the second Anglo-Dutch war. Historians credit the larger

Dutch Navy with the victory. During the battle, non-combatant boating passengers situated at sea in a shadow zone somewhere between the battle and the coast of England did not hear the battle. On the other hand the battle was heard throughout various locations in England.

### **Calculating Sound Speed in Different**

#### **Temperatures**

The speed of sound at 0 degrees Celsius is 331 m/s. For each 1 degree Celsius added the speed of sound increases. Here is the formula for calculating the increase in speed:

$$C = (331 + 0.6T)m/s$$

$C$  = the new speed of sound

$T$  = the air temperature in degrees Celsius

To calculate the speed of sound in air at 30 degrees:

$$C = (331 + 0.6 \times 30) = 349 \text{ m/s}$$

At 30 degrees Celsius, the speed of sound is 349 m/s.

#### **Conclusion**

When environmental engineers look to minimize industrial noise to surrounding communities they must consider the concept of sound wave refraction and its acoustic shadow effect. Industrial noise, in areas immediately surrounding the factories, will be greater at night than during the day.

Take a look at the oil refinery in the photo below. The surrounding community will hear little of the sounds emitted from the stacks high above the refinery during the day. The sound waves from these sources will ultimately refract upward. Communities located many kilometers away will hear this noise. However, during the night is a different story. These waves will be refracted right onto the community.

Let's say a stack is emitting sound wave 20 meters above the ground. Engineers need to calculate the angle of refraction in order to determine how to best combat this phenomena and ultimately reduce decibel levels to surrounding community. In a follow up article, "Proposed Math for Refracting Sound Waves," we will propose new math used to calculate the angle of refracting (bending) of sound waves. Later this year, we also intend to conduct an experiment similar to the one performed by Osborne Reynolds in the 1800's. Look for this article sometime in September, 2015

## 6. Mr Leigh Hallamore (O)

To The City Of Bayside Councillors

Dear Councillors,

RE Town Planning Application at 17 Hall Street Middle Brighton

This Tuesday, the council is meeting to decide on the Bayside City's recommendation to grant a planning permit for the above address.

I own and live at 15 Hall Street, next door to the subject property at number 17. My family and I have owned and lived there since the early 60's. .

I am deeply concerned that what should be an application to build two residences is an application to build three.

The subject property is number 17 Hall Street. This property is the last property on the north-eastern side of Hall Street. It corners a small laneway that joins the end of Hall Street to the intersection of Roslyn Street and Weatherly Grove. The lane is a very narrow "one vehicle at a time" roadway with no dwellings fronting the lane and no parking is possible nor allowed

I implore you to please make yourself familiar with this location. Please take a good look around before this Tuesday's meeting. Without knowing the site's peculiarities, it will be impossible for you to form a meaningful opinion.

The developer is hoping that this block is treated as a normal corner block. It is absolutely not a normal corner block. As such, a permit to build three units rather than two should not be allowed. Identical blocks in Hall Street of 745 sqm have only been allowed to build two. Not Three. The narrow laneway it corners should not make any difference to the developer's application.

Apart from general congestion, overlooking, noise etc, I have grave concerns over safety. My grand children and many neighbouring children always play at the end of the street and indeed in the laneway. The added traffic created by this proposed three-unit development will greatly increase the risk of serious accidents.

Once again, please take a good look at the site before Tuesday's meeting and ask yourself, Should this site be given the same considerations as normal corner sites?.

Please see my earlier objection letter attached.

If you have any queries regarding the above, please do not hesitate to contact me on 0418 310 724.

Your Sincerely,

Leigh Hallamore

## 7. Mr Peter & Mrs Maryse Gibson (O)

To: The City of Bayside Councillors

From: Peter and Maryse Gibson: 11 Hall Street, Brighton,3186.

Application Reference Number: 5/2021/48/1 – 17 Hall Street, Brighton, 3186

Dear Councillors,

I am writing in relation to discussions and proceedings to take place this Tuesday, the 7<sup>th</sup> of September relating to the above property plans to be considered by council.

Being a resident of Brighton for approximately 15 years, my wife and my family moved to Hall Street 3 years ago on the bases that the low density area of Hall Street provided a safe haven from building and development of “apartment” style residential living. Houses in the area were predominantly single or double storey establishments - generally with both front and back grassed yards.

As I noted previously in my Objection letter to council, I am not against development by any means. In most cases, I think Brighton has benefited over the years by a combination of tasteful and “council appropriate” developments that have Brighton categorised as one of the most traditional yet affluent areas of Melbourne. Unfortunately the planned development at 17 Hall Street I believe would tarnish the hard work council has traditionally governed on streets like Hall Street and Weatherly Grove.

Outside of many of the more “technical” aspects that the current plans contravene (as outlined by other residents in the area that have lived in Hall Street far longer than I have), my concern is simply from more of a traditionalist area. The proposed development is far from maintaining the low density Hall Street “feel” with the proposed “bulk building” destroying the whole purpose of why Clause 55 was established by council in the first place.

Independent of the nature of the development and taking away all sentimental thoughts as to whether the establishment does or does not meet the feel of Hall Street, “safety” grounds must also be considered first and foremost when decisions by council are made. Simply “getting it wrong” is not an option for anyone.

The 3 dwellings proposed along the very small, narrow (ROW) laneway (not a street) – and the planned additional traffic and pedestrian flow as a result of those dwellings – would add to what is already an incredibly congested and dangerous area. Only living in the street (and seeing day in / day out cars and pedestrians fighting for the same space) can you fully appreciate the “safety” situation. Further restricted eye line sighting at that corner (should it be wall heights or the like) when turning from Hall Street into the ROW ( with planned additional traffic flow both ways ) will only enhance the risk element.

Throw in congestion management plans for where the development visitors will park – no doubt along Hall Street in what is already a tight and congested area for residents – and further safety issues need to be addressed for when larger vehicles (such as the Council Garbage Trucks) need access to that ROW each week.

Councillors, in summary I am taking emotion out of my comments when considering if this development proposal should proceed. When facts are considered as to whether the proposed development meets the current low density landscape of Hall Street and when you consider if all safety and congestion management plans have been considered by those responsible, I am sure the decision will be evident.

I have again attached my original Objection letter – and the residents of Hall Street, Weatherly Grove and surrounding areas appreciate council rejecting the current plans on the bases that such a development would set a negative precedent in what is such an amazing area of historical Brighton.

Yours Sincerely,

Peter and Maryse Gibson

## **Objection To The Development Of**

### **Objection Details:**

Maryse and myself are the owners of 11 Hall Street in Brighton. We purchased our property back in May, 2018 on the bases that we understood Hall Street to be a family friendly area, lined primarily with single dwelling , northerly facing houses – all representative of the true character of that part of the “low density” Brighton area.

I am not one to object to development, in fact I encourage it when in line with the character of any specific area, however I was concerned to see that the plans for the multi residential development at 17 Hall Street (in a limited area of land) not only portrayed a “bulk” development no doubt driven towards financial gain, however that it contravened many of the Councils clear development objectives.

In particular, my objections to the Plans in question are centred around a disregard to Councils Bayside Planning Scheme (Clause 55: Clause 55.02 in particular ) :

Neighbourhood Character and Infrastructure:

- The plans are for a “bulk” type development not in character with the other houses in Hall Street – nor the surrounds of Brighton’s historic and iconic Billilla Mansion.
- The development facing Hall Street is unlike all others in that it faces an East West direction – again contravening previous Council directives.
- The “setback and façade” of the development on the Hall Street corner is not in character with the rest of Hall Street nor Council directives .

Safety:

- The Right of Way running from Hall Street to the junctions of Weatherly Grove and Roslyn Street is extremely narrow and visibility turning into both access points is already limited and dangerous. Adding additional traffic flow complications and car movements on a regular bases (including turning into proposed garages) is not in character with the size nor width of the Right of Way street. Children regularly access that ROW to walk and ride and larger vehicles struggle to turn and manoeuvre as is. The new development already being built on the adjacent boundary of that ROW leaves limited room for error for any larger vehicle. Any larger vehicle required to make a delivery to the front door of one of the 3 dwellings would completely “block” the ROW.

Parking:

- The proposed development allows for limited parking below the building – and (as a result of the ROW) zero parking outside each of the 3 dwellings proposed. All visitor parking would have to be filtered back up to Hall Street – or down to Weatherly Grove. Hall Street already has tight parking provisions with Permit Parking already in place to accommodate for those parking to access the Train Station – plus to allow for the usual allocation of visitors to those houses located along Hall Street.

Covenant Removal:

- We would appreciate an understanding as to why was there a lack of transparency and visibility from Council when decisions were being made to remove the Covenant at 17 Hall Street at the time of purchase .

In Summary:

I am aware of other objections to the development that go further into “specifics” as to why the proposed plans are not in character with the Bayside Planning schemes. I applaud the time taken to outline those details – and welcome Council feedback as to why any such “exceptions” should be made when the proposed development contravenes the reason for Council Planning Schemes being created in the low density area surrounding Hall Street.

The multi residential development is not in character with Hall Street, is not in line with Council regulations in that area of Brighton, offers amenity, parking and safety concerns and is simply just not the right “fit” in comparison to the surrounding streets or areas.

As I result, I am suggesting the Council reject these development plans and consider future (single dwelling ) plans that are more in line with the character of Hall Street .

## 8. Mr Graeme Croft (O)

### Objection to the Development

Of

17 Hall Street Brighton

To: Bayside City Council

Re: Application Number 5/2021/48/1

Address 17 Hall Street Brighton Victoria 3186

#### **Objectors Details**

Graeme Croft

Property : 16 Hall St Brighton 3186

Correspondence: 11 Collington Avenue Brighton 3186

Telephone: 0418372759

Email: graeme.croft@croft.com.au

I am the owner of 16 Hall Street directly opposite the proposed development of 17 Hall st Brighton.

**Objection Details:** 5/2021/48/1

**The subject site is zoned NRZ3.**

**Schedule 3 to Clause 32.09, Neighborhood Residential Zone states this is a “Minimal Residential Growth Corridor”.**

The proposed development fails to meet the design objectives in Clause 43.02, (1) Design objectives specifically:

- a. To preserve the existing Character and amenity of areas as low rise up to 2 Storey , suburban areas with strong Garden Character
- b. To maintain the prevailing streetscape Rhythm , building scale and height of neighbourhoods ( mostly one ot two units at most on a block)
- c. To maintain a strong landscape character with buildings set within vegetated surrounds (This development as minimal opportunity for landscaping
- d. The Pool on a raised platform seem incompatible with residential scale

**The responsible Authority ( City of Bayside ) is required to consider whether the design objectives of the Schedule 3 NRZ have been met.**

I submit the application fails in the following regard:

- e. The development fails to respect and is not compatible with the surrounding residential character of Hall St .
- f. The development fronts a very narrow part of Hall Street where one way traffic to Roslyn limits access & egress from the two way section of Hall Street.
- g. The building side and rear setbacks are less than required side setbacks, rear setbacks in NRZ3, reducing amenity to neighbors.
- h. The development fails to meet siting , height, design, building setbacks, and landscaping is minimal failing to keep in character of the area

**The Development fails to comply with requirements of Clause 54.02-1 – Neighborhood Character / Clause 53.03-1 and Clause 55 of the Bayside Planning Scheme**

- a. Front and side setbacks do not comply with A10 & B17
- b. The visual bulk of the building is unacceptable in NRZ3
- c. Raised Pool platforms are inconsistent with residential scale.

## 9. Mr Michael Korfiatis, Human Habitats (A)

Dear Sir / Madam,

**PURPOSE: SUBMISSION IN SUPPORT OF PROPOSAL**

**APPLICATION NO. 5/2021/48/1**

**ADDRESS: 17 HALL STREET, BRIGHTON**

Human Habitats continues to act on behalf of 17 Hall Street Pty Ltd in relation to the abovementioned planning application for the construction of three dwellings with a basement car park, at 17 Hall Street, Brighton.

We would firstly like to thank Council for the opportunity to speak to a proposal we are very excited about - one we think results in an excellent design outcome, appropriately increasing residential density within a well serviced area, whilst balancing impacts to the adjoining and neighbouring properties.

Since February 2020 our client has collaborated closely with Council and the community through the development of the scheme, and taken on board design feedback. Our client has listened, where possible, and progressively refined the scheme in response to the feedback provided, to result in the proposal now before you.

It is no surprise that the project has now attracted the support of the Bayside City Council town planning department, who have recommended that Council determine to issue a Notice of Decision to Grant a Planning Permit.

The proposal that is now before Council is appropriate having regard for the Planning Scheme and in particular Clause 55 of the Bayside Planning Scheme including the variations to particular standards in the NRZ schedule.

Specifically, the proposal:

- Provides for positive character outcomes that complement the emerging character of the surrounding area, and contributes to improving the streetscape address of the adjacent right of way;
- Achieves a modest level of residential intensification as envisaged by the planning policy framework;
- Provides for a quality architecturally designed residential development that will improve housing diversity within an existing residential environment;
- Achieves a functional and attractive design response that provides a high-quality living environment for existing and future residents;
- Accords with relevant car parking requirements and standards, and ensures that the proposal will not unreasonably impact the car parking demand and traffic flow of surrounding streets; and
- Contributes to the desired 'garden setting' of the area, providing ample deep planting opportunities for canopy trees throughout the site and in key locations along the street frontage and site corners adjacent to neighbouring sites, as well as along the right of way adjacent to the entrances to dwellings.

As such, we request that Councillors support the planning officers' recommendation for approval of this planning permit application. Thank you.

## **Item 4.3**

### **51 Burrows Street, Brighton**

## 1. Mr Roman & Mrs Raya Bocian (O)

Dear Honourable Council Members

The Proposed above application will greatly impact on our home and our lifestyle.

Furthermore, we feel that we will be negatively impacted by this huge development.

- The upper levels of the building are too close to our property and will tower above your single storey home. As a minimum, the property should comply with the **ResCode setback** requirements.
- The setbacks to the street frontages are minimal, and do not allow for tree planting and the building will present as visually **dominant** to the street and the **intersection**.
- The proposed double crossover and driveway proposed on Well Street will create a traffic hazard/danger so close to the intersection with little regard for site distances and pedestrian welfare.

The **proposed garage** to Well Street adjoins our bedroom and the use of the garage and driveway **with no separation from our home** (not even any landscaping) will be visually obtrusive and will result in unreasonable noise impacts on us resulting in the loss of sleep and a strong feeling of being overpowered.

This driveway will also be positioned between two large street trees and so close to the intersection that cars leaving will not be able to see pedestrians and other vehicles turning into Well Street thus further creating hazard and traffic congestion.

### In their letter...“Consultation meeting

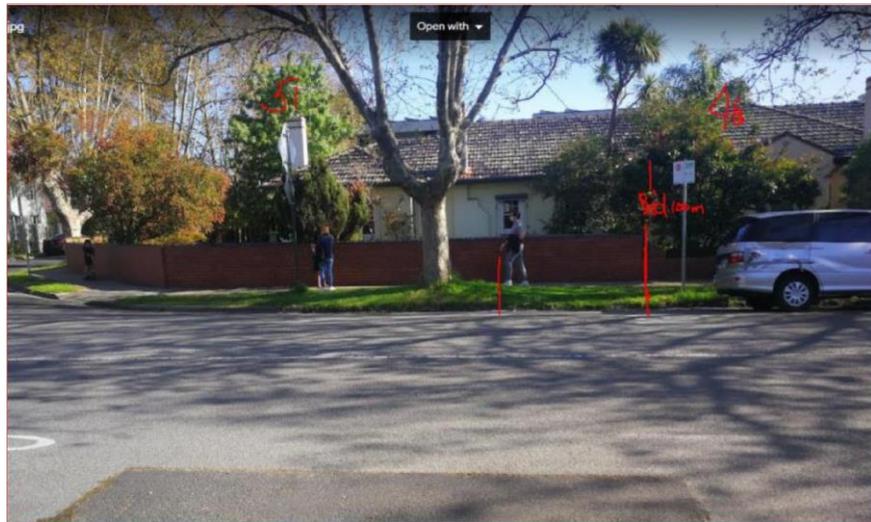
A consultation meeting did not occur; however, the applicant **did consult** privately with objectors. Upon consulting with objectors, the applicant formally submitted amended plans and one objection was withdrawn as a result. The amendments to plans are as follows”

Also, their misleading application statement of “talking to objectors” seem to be **false** as I spoke to 4 of the 6 of the objectors to confirm that ...and none were contacted by any of the applicants. As for Amber Organization Consultants justifying the additional driveway, siting that there was light traffic... (Ref 217 22 July) This of course was observed during Covid-19 lockdown and there was less traffic in Melbourne overall and less foot traffic during winter, and no International Students..

I, (Raya) happen to sit daily in my office, front window facing Male St (working from home) ... and observe firsthand the foot, car, and Bus traffic. I can assure you, there are **hundreds of people walking** on our side daily, (during warm weather especially) many elderly, young people, mothers and kids on their bikes, and pets, and that’s not counting the warmer weather and holiday season.. There are constant activities in the area and Well St being a busy street and one of the major Bus routes via Burrows St.

Furthermore, our commissioned Town Planner “**Keen Planning**” who submitted an official objection on our behalf, has expressed surprise that the justification for **the ADDITIONAL DRIVEWAY** onto Well St **has been OMITTED** from the council’s recommendation as it does **NOT** meet typical council policy.

Red line indicates on the boundary and LOSS of extra car space in the street. Photo below Taken 6 Sept 2021



Please Notice that the proposed Garage is right NEXT to my Master Bedroom .. Can you imagine the petrol **Many people go for a walk on our side compared to the opposite side.**

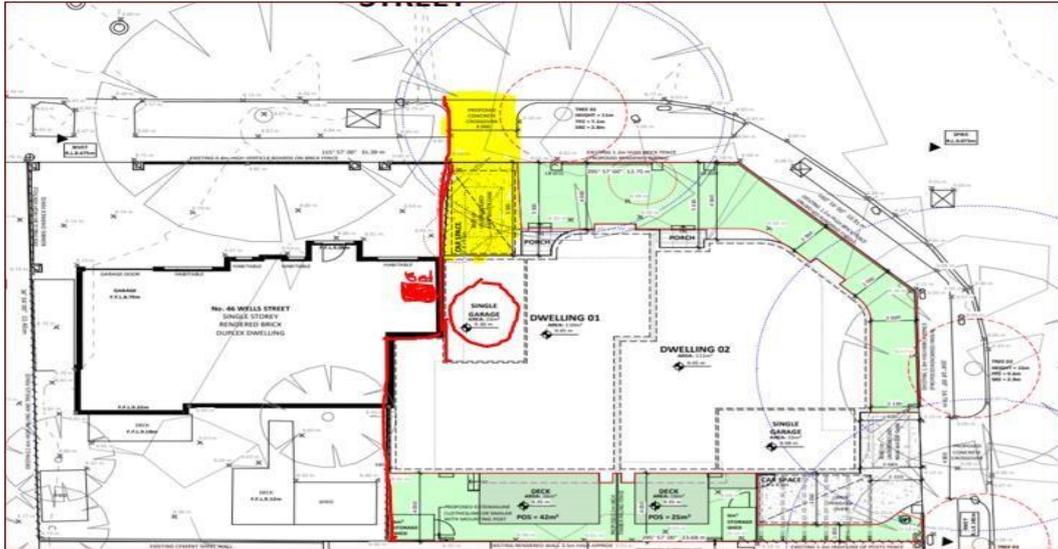
Also what about the health issues from the DIESEL VAN Fumes...that will be parked in the driveway, as it will be going directly into my bedroom every morning when he goes to work at 6am.

Our Actual Master BEDROOM **has a common party wall with their Garage.. (How can that be acceptable?)**

His WORK DIESEL VAN will be parked in the driveway and he will typically leave for work **approx. 6am..** And wake us up every day... and where is his trailer going to be parked?



Notice No Setback of driveway from our boundary next to our bedroom.



Red SQUARE on the left hand side Indicates our exact location of the bed right next to the GARAGE party wall and the DRIVEWAY .. where is the Diesel Work Van going to be parked

The dangerous driveway on our boundary for a single car garage for a 3 Level 4 bedroom Townhouse

Keen Planning also pointed out...

*"It is disappointing Council is not acknowledging the spacing of the Burrows Street garage / driveway nor the **minimal separation** of built form from your site."*

Keen Planning noted the following...

*"Modification of driveway such that compliance with **Clause 52.06-9** (Car Parking - Design Standards for Car Parking) is met. We note this **refers only to the Burrows Street driveway / crossover** and requires the plans to demonstrate there is appropriate space on either side of the driveway for unobscured views for pedestrian sightlines.*

*We note the **omission** of amending the Well Street crossover is contrary to our experience with other applications in Bayside, as Council policy typically requires driveways to be at least 1.0 metre away from property boundaries. We understand that in this instance they have not made this a requirement for the Well Street driveway" (emphasis ours)*

We, Roman and Raya Bocian, residents of 46 Well St Brighton, therefore **strongly oppose** to this new application and especially the **additional driveway** being right next door to our **master bedroom** on the border and **not even being separated by minimum of "1 metre** from boundary as mentioned above!!!...

Overall the **proposal is monolithic**, has limited architectural merit and is visually **imposing on our property** and the surrounding area. The development should at least comply with the minimum setback requirements from the street and from our common property to lessen its dominance.

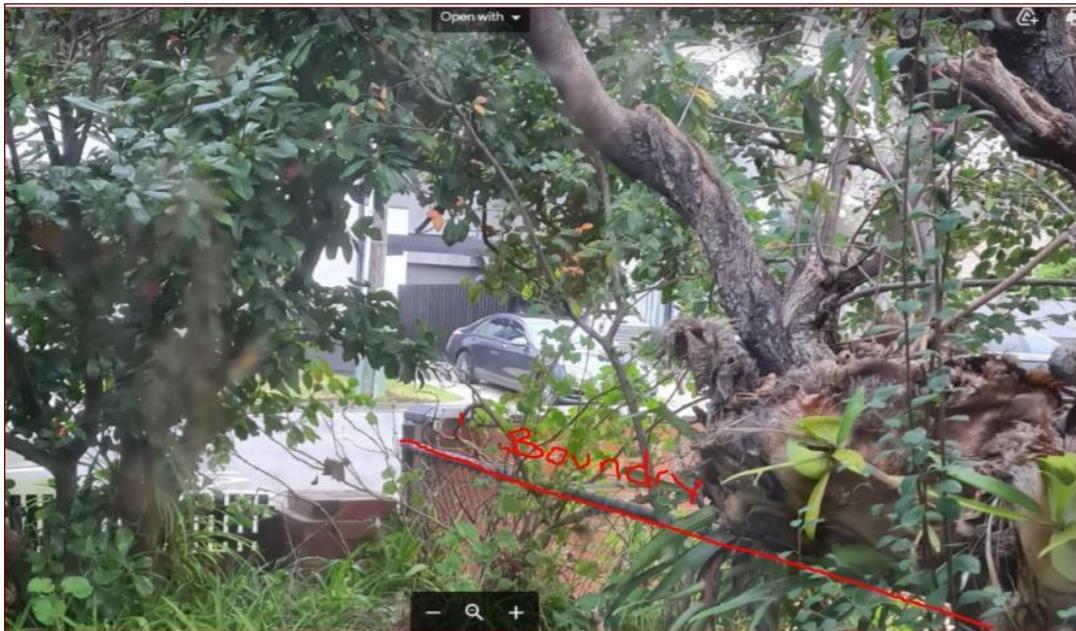
We feel that we are being overpowered by **greedy and selfish project** that has no regard for us or our property.

We therefore **humbly request** that you take our very serious concerns on board and potential health issues that the diesel fumes may cause in the future with the Garage, Van and car being so close to our living quarters.

We request that this application be **declined**.

Yours Sincerely,

Roman and Raya Bocian.



From My Bedroom and the proposed driveway and garage will be by my Bedroom Window.



Regular Bus route from around the corner of Burows St with driveway & garage right on our border and in front of our window.

## 2. Ms Lucina Bocian (O)

### **OBJECTION FOR PROPOSED DWELLING:**

51 Burrows St, Brighton Vic, 3186

Ref: 2021/207

I would like to formally object to the additional driveway being proposed for the area adjacent to 46 Well St for the proposed 2 townhouse development at 51 Burrows St, Brighton.

As a former resident of Well St and a regular commuter through Well St, using it as my primary access point for Safeway supermarket and the facilities of Church St I am deeply concerned about the proposed additional driveway for the following key reasons. In summary;

1. Pedestrian safety
2. Visibility for oncoming traffic
3. Impact on the “**greenspace**” and unique landscaping features for which Well St is known.
4. Potential for reduced available street parking for the community
5. Dangerous and Inadequate setback from a busy corner and general traffic congestion

#### **To expand upon my primary objections**

To expand upon my primary objections

1. Pedestrian safety - that particular corner where Burrows St turns into Well St is heavy in pedestrian traffic and particularly children and dogs. Children often cycle or scoot around the corner ahead of their guardians and dogs rush ahead of their owners before they are able to turn the corner. To have a driveway so close to the corner is especially dangerous and Positioning a driveway so close to the corner is dangerous with increased potential for accidents.

The danger is amplified by the fact that the pathway is a popular thoroughfare to the rear access of Church St and in particular Safeway and the arcades and laneway that connect to Church St and its many community facilities. Hence the corner of Burrows St and Well St is unusually busy and experiences higher footfall traffic than other intersections as it is commonly used by locals to access community amenities. In addition, the many elderly residents who regularly use that thoroughfare to access local medical facilities will be hazarded by the position of the proposed driveway.

2. Expanding upon the above points, the corner is extremely busy with vehicle traffic, including the route of buses as well as many local and guest cars. Given that Burrows St is a popular connection point to both Dendy St and offers an alternative route to segue to Well St and is already the location of 3 way traffic congestion from Well St, Male St and Burrows St.

It is already challenging enough for vehicles to take into consideration the oncoming two (2) way traffic from the other streets without the added danger of a proposed new rogue driveway positioned immediately upon turning the corner. To position a driveway there would be Unconscionable conduct in light of an already awkward traffic situation.

The proposal would both compromise and endanger community access for the benefit of a singular personal dwelling (which in of itself is gross underdevelopment of the land potential and in direct violation of the state government planning overlays for the area and stated intentions)

3. Adding to the impact - The driveway would be positioned behind a mature plane tree that is a key feature of the Well St landscape and significantly adds to both street appeal and the value of all adjacent properties. Well St is known for its landscaping and the commitment to nurturing and protecting our green environment is a stated aim of both state government and local council. It is also visually beautiful and removal or damaging of the tree would have both environmental and aesthetic

impacts on the local landscape. Of course retaining the tree would be dangerous given it would create a blind spot for both residents and vehicles turning out from Burrow St. Removal of the tree would ruin the balance of the plantings and destroy what is currently a beautiful focal point from multiple directions.

4. The addition of a driveway **WILL** impact street parking in a time when we need more than ever street parking to access key community benefits. That particular strip between the corner of Burrows St and the driveway of the adjacent residence at 46 Well st used to be able to accommodate 3 street parking spots. This was reduced to 2 spots and the addition of a driveway may potentially reduce this further. With Bayside being a popular location for our aging population, the strip is popular for the elderly as they access both the abundance of medical practitioners clustered along Well St, Carpenter St and the adjacent streets as well as the shops for their needed supplies all within easy walking distance to their car.

5. The driveway is dangerously close to an already busy and awkward corner when reversing, that as previously mentioned in point 2 is the subject of unusual and tricky 3 way traffic that demands the full attention of drivers as they seek to merge into Well St as they turn the corner of Burrows St. Apart from the fact that it may not be legal to position a driveway so close to the corner, given the local traffic patterns it would indeed be unconscionable for the council to approve it as it is dangerous to both local traffic as well as the resident if the proposed dwelling. It is an impact and accident point waiting to happen on numerous accounts.

Please see attached PDF further illustrating the above key points as supporting evidence.

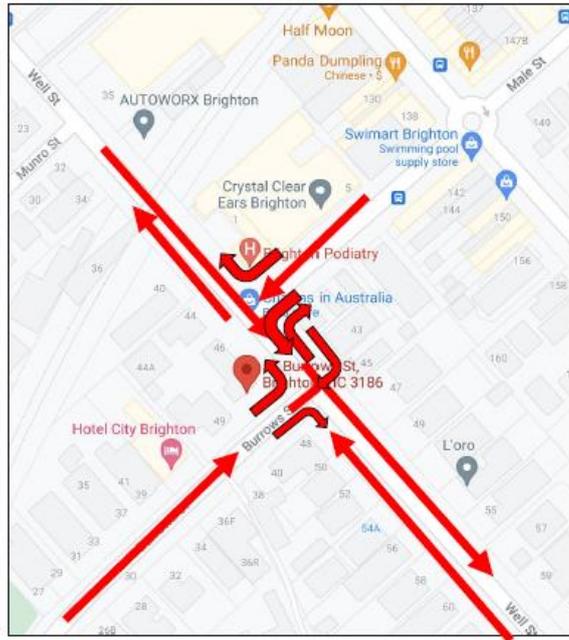
Yours sincerely,  
Lucina Bocian

## Supporting Photographic evidence for the traffic danger of proposed new driveway location

Development Address: 51 Burrow St, Brighton, Vic 3186  
2021/207

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Illustration Oncoming 2 way traffic from Well St, Male St, Burrows St





Proposed Driveway Location behind tree  
Adjacent to Burrows St corner



### **3. Mr Jason Barnfather, Squareback (A)**

#### **Agenda Item 4.3**

#### **51 BURROWS STREET, BRIGHTON**

Dear Councillors,

On Tuesday night, our application for a planning permit to construct two dwellings on this site will be presented to Councillors for consideration.

We support the recommendation and assessment undertaken by the Planning Department and also wish to highlight the following to assist with your decision making:

- The site is located on the corner of Well Street and Burrows Street which is only metres from Church Street and in an area where there has been a significant amount of development over the last 10 years due to its favourable location.
- There is already a planning permit on the subject site combined with the adjoining property at 46 Well Street for a three storey apartment building. Whilst this has not been acted upon and the proposal before Council seeks to develop only 51 Burrows Street, it shows there is clear policy support for urban consolidation in this area to a three storey scale.
- The proposed dwellings will face Well Street and the three storey scale is consistent with the prevailing height of built form along Well Street.
- The proposal will offer a high quality architectural presentation with a landscaped setting that will positively contribute to the area.
- The proposal displays a high level of compliance with the relevant ResCode Standards as confirmed by the Planning Department in their recommendation to support the proposal.
- It is acknowledged that there are some variations to Standard B17 (Side and Rear Setbacks), however as outlined by the Planning Department these are considered to be appropriate and we stress that these variations need to be considered in the context of their siting which is adjacent to the roof of the dwelling at 46 Well Street which is a non-sensitive interface. The subject site is also to the south of this adjoining property so there will be no unreasonable shadow impacts caused by the variations.
- During the application process, we consulted with (discussions and a meeting) with the immediate adjoining property owners, including representatives from Keen Planning on behalf of the owners of 46 Well Street. Following these discussions, we submitted amended plans which included cutbacks to the built form in an effort to address the concerns expressed and we advise Councillors that the owners of 49 Burrows Street subsequently withdrew their objection.
- We were not able to reach an agreement with the owners of 46 Well Street on changes, however we believe that we have appropriately addressed their key concern in relation to the proposed crossover from Well Street which they considered to be dangerous. We strongly disagree with their position on the crossover and we wish to highlight to

Councillors that this crossover was reviewed by an independent Traffic Engineer (report on pages 145 – 147 of the Agenda) and also the Council Traffic Engineer who agreed that it complied with the Australian Standards in relation to its proximity to the intersection.

- We also wish to highlight that the proposed crossover to Well Street only serves one new dwelling and this would have a low traffic volume, so we believe the crossover is appropriate.

Overall, we consider the proposal to be appropriate having regard to the Planning Scheme provisions.

We therefore urge Councillors to support the application and if you have any questions prior to the Meeting, please email [jason@squareback.com.au](mailto:jason@squareback.com.au) or call us on 9965 1930.

Regards,

A handwritten signature in black ink, appearing to be 'JB' followed by a flourish and a period.

Jason Barnfather  
Director  
**Squareback**

**Item 4.4**  
**2/124 Esplanade, Brighton**

## 1. Mr Dan Langer (O)

### WRITTEN STATEMENT OF OBJECTION

The proposed amendment to the permit includes the addition of a roof access structure above the level of the roof. This structure will contain a lift, stairwell and access foyer and increases the overall building height to 9200.

The overall height of the existing dwelling is 7170. The currently approved plans include a roof deck above the roof height with 1700 high glazed balustrade around the deck. Access to this deck is via an internal stair and through a roof hatch near the level of the roof deck. When constructed, the glass balustrade would be all that extends above the existing roof.

Construction of a roof access structure as proposed, will increase the overall building height by 2130, from 7170 to 9200. There will be a significant increase to the visual bulk that this dwelling creates if the proposed roof access structure is constructed. It would be misleading to view this proposal that the overall height is only marginally increasing if measured from the top of the balustrade to the top of the roof access structure.

Another matter is that of the Plan of Strata noting an upper boundary of the lot as 7620. Whilst there may be "air rights" to utilize air space of the common property above the dwelling, one must question as to the intent of including an upper boundary in the Plan of Strata. Clearly it would be to maintain a reasonable overall building height to be sympathetic to and compatible with surrounding buildings. To allow a building to be constructed with an overall height of 9200, being 1580 above this upper boundary, would be a blatant disregard of this intention and create a building that will appear excessive and not in keeping with its surroundings. This is especially the case as the lot size is only 329m<sup>2</sup>.

Finally, we accept that an occupier would like to include a roof deck to improve amenity of their dwelling. The currently approved plans includes such a deck with good access via an internal stair from the upper level. We do not have an issue with the current plans and feel the design works with the neighbourhood character. We do however strongly object to the proposed addition of a roof access structure which will have a detrimental effect on surrounding properties.

## 2. Mrs Barbara Layther (O)

Application #5/2017/204/3 Agenda item: 4.4 Meeting 7 September 2021

Subject site: 2/124 Esplanade, Brighton

Statement from owners /custodians. See addresses below

Barbara Layther representing 3/124 Esplanade & 13 A Manor Street BRIGHTON

One of four OC units, the subject site of 332 sq m. is set mid location with its entrance foyer at the rear. Unit 1 a developed 2 storey dwelling is directly in front and Unit 3 a single storey villa directly behind. Unit 2&3 front doors face each other.

The application is to amend a permit by: - **the construction of a roof access structure to the existing roof deck including works that fall within common property air space.**

To be built is i) a lift structure so a passenger lift can extend up through the 2<sup>nd</sup> storey roof.

The roof access is to build ii) a room into which the lift will disperse passengers. Also entering this room will be those who access by stairway.

From this room a door will open iii) onto the roof deck which roomlike now is encircled by a protective 1.7 glazed balustrade.

This proposed roof access structure which altogether covers TWO roof access points will deliver considerable bulk. It has a combined width reaching across more than half of its rear eastern wall AND which would equate to the better part of a 3<sup>rd</sup> storey level wall. This width (combining 2 access points) is greater than the width of neighbouring roof access structures.

This large intrusive roof access structure is permanent and will be directly in front of Unit 3 for the full 24 hours of every day. I believe this to be a gross disproportionate use of space and time for those who use the lift and rarely see it and for those who are forced to see it daily and never use it. Whereas the stairway access requires no access structure.

As well shadowing and loss of light would increase. Late in the day shadows would be cast where never before.

The planner may consider there is minimal impact from the access structure for the rear unit. We dispute this because the huge lift enclosing structure standing on the edge of the 2nd storey wall and its associated structures close above you is of maximum visual impact. Being opposite it would definitely be in view every time a Unit 3 occupant goes out the front door, moves about the garden or looks out a window because whatever is built on the unit 2 site is what Unit 3 is set to see.

**The owner of the subject site has an agreement with the Owners Corporation to lease the 'airspace' above the 7.62 metre upper boundary to which all owners will have agreed upon.**

A special resolution vote gained the lease on 03.04.2017, without 100%, not all owners agreed.

**Proposal to amend preamble to Planning Permit: -**

**...the development as currently approved already extends into the common property 'air space' and this should have been included within the permit preamble when issued by VCAT. The permit preamble will be amended to include works within common property...**

It is not right or proper to add to or change a VCAT order.

There is no need to amend the current roof deck plan when it was in place at the time of the VCAT order.

What the Member wrote should be kept exactly as it was written. It would be improper to suggest what should have been included and then write it in. The preamble should not include **works within the common property**

*#36 VCAT Order Ref #: P332/2018 dated 12.11.2018*

'The proposed access to the roof deck is by sliding hatch (rather than an access structure) and

this, together with the materials used including the glazed balustrade and glass privacy screen

and planter box with landscaping minimises the visual impact of the roof deck. On this basis, I

consider that the design of the roof deck adequately integrates the structure and form and

associated access with the building;'

This quote mirrors what we believe. The stairway access is adequate and by its use the OC and fellow neighbours would be spared the impact of unnecessary visual bulk.

### 3. Mr Jason Barnfather, Squareback (A)

#### Agenda Item 4.4

#### 2/124 ESPLANADE, BRIGHTON

Dear Councillors,

On Tuesday night, our application for amendments to an existing planning permit will be presented to Councillors for consideration.

The application primarily seeks to provide an access structure to an already permitted roof terrace to allow for a lift and stair access.

We support the recommendation and assessment undertaken by the Planning Department and also wish to highlight the following to assist with your decision making:

- The lift and stair access structure is consistent with the mandatory requirements of the Design and Development Overlay Schedule 1.
- There are plenty of roof terraces with access structures along The Esplanade and Beach Road and therefore this application is consistent with the character of the area.
- The lift and stair access structure does not create any new overlooking opportunities. In fact, it is likely to decrease overlooking opportunities from the objectors' properties to the rear (north-east) as the structure will replace 1.7m high clear glazing and there are no windows within the access structure with outlook to the north-east.
- The lift and stair access structure has been integrated in an architecture sense, with similar materials and finishes to the balance of the dwelling and roof terrace (as shown below).



- The objectors have raised issues with the height relative to common property identified on Title and they claim it breaches the limit, despite their knowledge of an 'airspace'

agreement that was established in 2017 and was authorised by Special Resolution of its members, including the objectors.

- The approved roof terrace and the current proposal are in accordance with the agreement.
- The proposed amendments are within the height limit specified in the Neighbourhood Residential Zone.
- The provision of lift access to the roof terrace ensures persons with limited mobility can use the roof terrace and benefit from the amenity that it offers.

Overall, we consider the changes to be appropriate having regard to the Planning Scheme provisions and having considered the potential impacts of the amendments.

We therefore urge Councillors to support the application and if you have any questions prior to the Meeting, please email [jason@squareback.com.au](mailto:jason@squareback.com.au) or call us on 9965 1930.

Regards,

A handwritten signature in black ink, appearing to read 'JB', with a long horizontal flourish extending to the right.

Jason Barnfather  
Director  
**Squareback**

**Item 4.5**

**137b Weatherall Road, Cheltenham**

## 1. Mr Brian Hardy (O)

Written Statement by Brian Hardy Re:

Application No 5/2021/4/1

Address 137B Weatherall Road CHELTENHAM

Proposed Building and Works in a Public Park and Recreation Zone

This statement is additional to my original Objection to the granting of the above referenced application.

Residents of the area surrounding the Cheltenham Reserve have recently become aware of a State Government proposal for the area within a 1.6km radius of the proposed Suburban Rail Loop Cheltenham/Southland Station to have high levels of growth and change. Their prediction is that by 2056 this area will see a population of 52500. (<https://engage.vic.gov.au/mfpf/southern-metro-lufp>)

This massive projected population growth makes the need for passive recreation space in this area even more vital. It appears that the Council in its decision making on the Cheltenham Reserve consistently favours the relatively small (when compared to overall Bayside population) formal organized sport sector and pays little or no attention to the needs of other residents who utilize the Cheltenham Reserve for passive recreational space.

On the Cheltenham Reserve, we have seen in recent years a number of developments (ie light towers, upgraded light towers, expanded pavilion, electronic score board, conversion of existing Manual Score board into a VIP viewing box) all of which have hardened this area and chipped away at this area's passive recreational value. The current application would probably be among one of the worst offenders in this regard.

If history is any guide, if this application is approved, it will shortly be followed by another and that by another and so on.

What I am arguing for is the non-approval of this application and the development of a formal Master Plan to ensure that a long term view is taken which balances the remaining passive recreational values of this reserve with the reasonable needs of the Sports Club Tenants.

Brian Hardy

## **2. Mr Chris Graham (on behalf of Cheltenham Football Netball Club (A))**

Dear Committee,

### **PLANNING PERMIT APPLICATION 5/2021/4/1 137B WEATHERALL ROAD, CHELTENHAM**

I write to you on behalf of the Cheltenham Football and Netball Club and in relation to our current proposal for a netball training court and which forms Agenda Item 4.5 of this evenings meeting.

I firstly want to thank the Council planning officer for their assistance in relation to this application and the supportive assessment and recommendation they have provided before the Committee.

This application follows recent upgrades to the primary facility, where unisex changerooms were provided for our male and female sporting teams, adding to the club's diversity, invitingness and encouraging new members. Whilst we as a sporting club are currently unable to use the facility and reserve for our current needs and desires, we are excited about the future prospects this proposal presents by way of additional recreational opportunities for our expanding netball teams and the broader community and users of the reserve.

Throughout the application process and as outlined in the planning officer report, I have personally sought to engage with objecting residents and address and clarify the issues they have raised. For the benefit of the Committee, I highlight the below characteristics of the proposal in responding to concerns raised by objectors:

- The netball court is to be used purely for training purposes only and not for example for scheduled weekend matches. As such, there is to be no increase in the amount of car parking or traffic congestion beyond that of the existing conditions is expected to occur on weekend days as raised by objectors.
- Lighting of the proposed court is to be provided via new lights attached to the existing lighting mast and appropriately angled away from nearby properties. The Council planning officer has recommended a series of conditions be included in relation to lighting including its type, timing and luminance levels all of which we accept.
- One existing tree on-site requires permission for its removal and which is supported by Council's arborist. It is intended for this tree to be replanted in the north-east corner of the reserve, however we note the officers suggestion for a replacement tree of the same species if this cannot be readily achieved. Notwithstanding, as part of the application, a net increase in trees are proposed to be planted within the reserve for the added aesthetic and benefit for the community and users.

Again we thank the Council officers assessment of this application and are accepting of all recommended conditions as drafted and implore the Committee to support this application as proposed, in which will provide added benefit to not only our growing club but also everyday reserve users.

Should the Committee require any additional information or wish to discuss this application in further detail, please do not hesitate to contact me as necessary.

Yours sincerely,

Chris Graham  
Treasurer Cheltenham Football Netball Club

**Item 4.6**

**341 Beach Road, Black Rock**

## **1. Ms Leanne Scott (O)**

RE: 341 Beach Road Black Rock

Application No. 5/2020/332/1

Due to be heard Tuesday 7th September 2021 at Council Meeting

Please I ask all Councillors to hear my reasons for objecting to the this planned development. I have no issue with development with Bayside. What I am objecting to is:-

### **Privacy - Loss of Privacy for Children and Adults**

#### **Bulk visualisation and streetscape over two blocks side by side**

#### **Privacy viewing from Roof Decks and rear balconies into 4 Fourth Street & 2 Fourth Street**

#### **Crowding into the rear of the block.**

I live at 4 Fourth Street, my daughter lives at 2 Fourth Street, Black Rock. The Application above has boundary fences over both these properties.

No. 342 Beach Road Black Rock shares a boundary fence onto the rear of 4 Fourth Street.

No. 341 (Application to be heard) is next to this and abounds my rear major fence and 2 Fourth Street.

We have a large development at 342 Beach Road that commenced in 2015 we, as neighbours lost our appeal, and Seven Units are in the process of being built (still in construction). Council did not support the development, VCAT did.

Visually from Beach Road this development is massive to comparable residential homes around it.

On the block immediately next to this large development is 341 (the Application) which is proposed 4 Townhouse's over three levels, including Roof Decks only on Townhouse 3 and 4, and underground car park. These Townhouses look directly into the rear of my home (4 Fourth Street) and 2 Fourth Street. The balconies and Roof Decks on Townhouse 3 and 4 look into two rear bedrooms of 4 Fourth Street. The privacy to a rear garden of 2 Fourth Street is severely compromised. It is a tennis court that has lights and is used frequently. I also have a rear bungalow, and outdoor play area for the children that is clearly visible from the decks & balconies.

All I am asking is for removal of the Roof Decks permanently, and fixed screening that will protect my property that I have lived in for 23 years. We have been through negotiation with Award Property Group and verbally roof decks were removed and fixed screening agreed to, along with higher fencing. Unfortunately, communication broke down and we are now scheduled for VCAT. I am a widow with 4 children, 4 Grandchildren and all I am asking is for privacy in my home residence and my children's residence. I am shattered by the loss of privacy in my rear garden, family entertaining and children's play equipment.

Bayside is most popular due to its parks, open spaces, family orientated community and encourage open air space. It could appear we now have multi dwelling developments that promote bay from two rear townhouses!! This contradicts council's strategic planning and imposes on the privacy of families that have lived and supported the area for many, many years.

I ask you to consider my appeal to look at this Application and its impact to all those adjoining houses that this one development affects forever.

Please note that my Town Planner, Stephen O'Brien of Universal Planning will also be forwarding a letter to Council.

Kind regards,  
Leanne Scott.

## 2. Mr Stephen O'Brien, Universal Planning (O)

Dear Mayor Evans and Councillors,

### Response to Planning Application 2020/332/1 (341 Beach Road, Black Rock)

Universal Planning have been engaged by Ms Leanne Scott (our client) who is the Registered Proprietor of numbers 2 and 4 Fourth Street, Black Rock to prepare this submission/objection to the above planning application.

Our client has tried to negotiate with the Permit Applicant asking that her concerns be addressed and it was expected (via multiple correspondence from the Permit Applicants Town Planner to Universal Planning) that amended plans were to be formally substituted addressing her points, primarily those relating to overlooking.

For the record, our client has acted in good faith during the assessment of this application, noting it was the Permit Applicant, not her, who lodged an appeal against Council.

### Location of our Client to the Application Site

As per the Nearmap image below, our clients 2 properties are located to the north and east of the application site, with our client residing in #4 Fourth Street and her daughter at Number 2:



Location of our clients properties #2 #4

### Previous Objection

On October 19, 2020 our client submitted an objection to the advertised plans outlining her concerns to matters such as;

- Overlooking concerns of the rear dwellings towards the rear secluded private open spaces #2 and #4 (**of main and current concern**).
- Neighbourhood Character elements not being met.
- Side setbacks not being compliant with Standard B17.
- Removal of the "coastal" vegetation is excessive, unnecessary with the replacement planting doing little to re-establish the character.
- Inconsistencies with the drawings at ground level and elevations.

Our client is accepting of a development occurring on this site, however the view is that this development is simply asking too much of the site.

### VCAT

It must be emphasised that it was the Permit Applicant, not our client who lodged the failure appeal to VCAT. Our client who responded to the VCAT Order by lodging Statement of Grounds seems to be the one who is unjustly being criticised by the Permit Applicant as causing significant delays and cost to this project.

Noting that should a permit application be granted, the appeal is 'turned' from a Section 79 application to a Section 82 (Application for Review by an Objector), however our client **is prepared to withdraw from VCAT proceedings** on the proviso that a number of conditions are added to the permit that strengthen matters of overlooking (see below).

### Concerns

We note that Officers have made a recommendation to approve the application subject to conditions. All along our client has asked for some simple modification to the plans, changes which have minimal impact to the overall integrity of the built form, yet provides her with assurances that her privacy issues are strengthened.

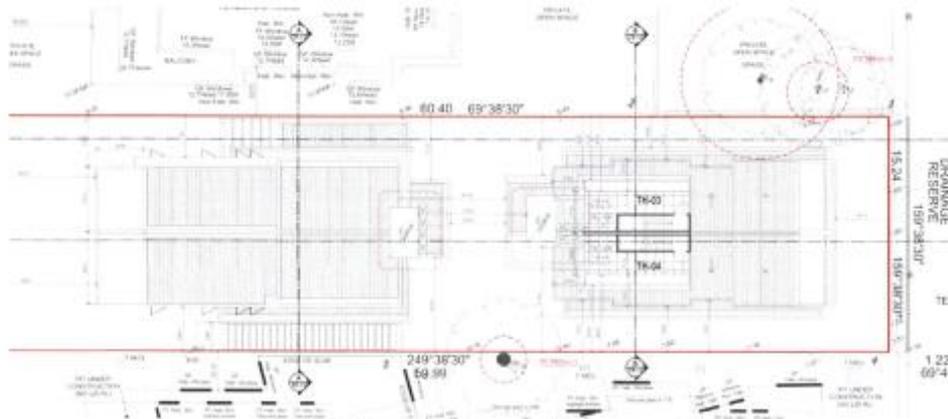
What is noticeable about these plans is the 'reverse living' arrangements where the bedrooms are on the lower floors and the living and dining rooms on the upper floor. There are of course many distinguishable VCAT cases which set the precedent for refusing to issue a permit where reverse living is not characteristic of the area, which is the case in this setting. By bringing the living/dining rooms etc to an upper level is problematic in that the Secluded Private Open is reliant upon balconies which add to the overall scale and size of the built form. That said, and as we have stated above, our client is willing to accept this application with modest changes being made.

It was noted in revised plans (which were never formally substituted as amended plans) that a number of simplified changes were made which addressed (largely in part) the concerns of our client, noting one or two smaller changes as additional suggestions.

Without prejudicing our clients position of any ongoing or future appeal, our client will be willing to withdraw her application to VCAT if the following permit conditions are included:

#### 1. Removal of the Roof Top Balconies

All along we have sought clarification, but never received both from Council or the Permit Applicant, why roof top terraces are provided to the rear dwellings and not to the front 2 beach facing units?



Location of roof top terraces to the rear units

Surely, the objective of a roof top balcony is to enhance views and provide enjoyable solar lit space for the future occupants to enjoy? Instead, by locating the balconies to the rear 2 dwellings means that they need to be enclosed/screened, adding additional bulk to the north and east as well as minimising solar access to these roof top spaces. By locating the balconies to the front dwellings means they would only need to be screened to the north and south, and not to the west (beach facing).

When reviewing Nearmap images of dwellings along Beach Road, there are very few dwellings with roof top balconies, and those that do, have them facing the beach and not deep into the lot facing adjoining rear properties.

Overlooking from these rooftop balconies is a concern to our client and whilst the "technical standard" may just be met, the Objective of meeting the Neighbourhood Character Objective isn't, for the reasons we have outlined above, namely bulk, scale and bringing in a new element of roof top appearances that is uncharacteristic for this area.

Should a permit be issued, **we ask that a condition is included to remove these upper floor elements** enabling our client and her daughter to enjoy their privacy.

Rear Balconies to be Increased in Height

Accepting of the reverse living concept (on the proviso of the condition below being included on a issued permit), the terraces to the rear of dwellings 3 & 4 are directly facing our clients rear yard at # 4Fourth Street and the northern view of dwelling 3 is facing the rear secluded private open space to our clients property at #2 Fourth Street.

The terrace component as it faces #2 Fourth Street is only 1.3m high solid balustrade plus 500mm slatted screen which still enables overlooking into the rear yard of #2. This is an extremely poor outcome of overlooking measures as:

- These slats can easily be removed.
- Go no way in 'limiting' (as required by the Overlooking Objective) the overlooking into our clients rear yard.

To the east the height of these balconies are 1.8 metres. Whilst our client has asked that these terraces are removed altogether, should a permit be issued we ask **that their height be increased to 1.9 metres along the eastern and northern layout** which will provide ironclad assurances that her privacy is protected.

#### Height of the Rear Dividing Fence.

The eastern boundary fence is proposed at 2 metres. Our client has respectfully requested that this fence is increased by an additional 1 metre to 3 metres to ensure at ground level both her privacy and those of the future residents at dwellings 3 & 4 are protected. The addition of an extra 1 metre high fence surely is not fatal to this application? Good solar access is maintained to the rear yards of these new dwellings, albeit it from eastern aspect.

Whilst we make no submissions to the application not meeting Standard B17 (Side and Rear Setbacks) it is varied in the Schedule for a reason and that is to protect the amenity and integrity of the adjoining properties, that amenity being the appearance of the built form, scale, size, bulk and more importantly maintaining character. To flippant 'wave it through' as 'meeting the Standard' we say is a poor attempt at maintaining and defending the current character setting of the area, noting in particular that this is a Neighbourhood Residential Zone, which has as its purpose (our emphasis added):

- *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*

Overall, what our client is seeking are small nominal changes to the plans which can be achieved via permit conditions, the roof top elements in particular were agreed in principal, but that agreement has disappointedly been retracted.

We ask that should a permit be issued that conditions above be included, which we say represents an acceptable planning outcome to both our client and to the development.

Yours sincerely



**Stephen O'Brien** B RTP MPIA  
Director

### 3. Dr Anna Kucminska (O)

Firstly, i feel deeply disappointed that I have not been given enough time to provide my written submission.

In spite of numerous correspondence which i have exchanged with Bayside City Council Department, I have received the letter stating that I could not be reached by email quoting "[nnakucminska@ak-medical.com](mailto:nnakucminska@ak-medical.com)" -Undeliverable.

This is not my email

My objections stand as per letter by Stephen O Brian dated 10th of October 2020 , who acted on my behalf at the time.

An applicant removed( illegally) protected trees from the property, and is claiming that demolisher done it without his knowledge does not stand in VCAT.

It is terrible to the foreshore. It is very disappointing as the Vegetation Protection Ovrerlay ( Schedule3) has the objective to prevent the loss of native and particularly indigenous vegetation incurred by development.

The current state of the foreshore is in the fragile state and increasing the side of development and and excavations in conjunction with removing protected trees is very dangerous to the foreshore.

He has done it to increase the development size.

I was also tricked by an applicant into believing that an applicant will pull the wall off the boundary. That was not shown on his application to VCAT.

I have a witness to his promise.

In any case the ground area consist of separate living areas of my adult son(32 y old) and my 89 y old mother.

They should not de subjected to have native trees removed and having a brick wall instead.

As mentioned before, I was not given enough time to respond, I am getting legal advise as to further VCAT hearings