

WRITTEN STATEMENTS

9 February 2021

**Planning and Amenity Delegated
Committee Meeting**

Item 4.1 34 Hardinge Street, Beaumaris

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Item 4.2 142 Esplanade, Brighton

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2. Mr Kevin Riley (O)
3. Mr John Battersby (O)
4. Mr Scott Chapman (O)

Definitions

A= Applicant

S= Supporter

O= Objector

Item 4.1
34 Hardinge Street, Beaumaris

1. Ms Annie Price (O)

A new year.

Newly appointed councillors.

A new chance to send a clear message to owners/developers that they cannot buy a block full of VPO protected trees and expect to bulldoze them all.

I strongly object to the removal of VPO protected trees on this site. In particular, the ti-trees that are truly iconic to Beaumaris and provide vital habitat for micro bats, birds and insects.

It should not be up to the public to continually put in hours of their time objecting to these applications. Council needs to uphold the laws they put in place and send a strong and consistent message to property owners and developers to properly consider the block before purchase. We have lost too many important trees already. Our suburb is losing its unique character and amenity and our residents & fauna are losing out.

I urge council to uphold its laws which halt the destruction of the existing biodiversity it is trying to promote through its Urban Forest Strategy.

Furthermore:

The house, earmarked for removal, is a beautiful & intact representation of our iconic mid-century 'Beauy Classics'. Cleverly designed to sit on the block to maximise light and sit within a leafy/treed garden.

Unfortunately, my comments on the home will likely be ignored as there is no current protection for these homes. Why? Because Council's mid-century modern heritage study has not yet commenced. So, we keep losing these important built heritage icons until such a day that the study is complete and acted upon. When will that be please Councillors?

I commented on the planning application when the owner first let their intentions be known. I reached out asking them to reconsider and I offered to show them other similar era homes in Beaumaris that had undergone sympathetic renovations, in beautiful garden settings - and were now of far more value than a new build. I didn't receive a response. My offer still stands.

Back to the VPO protected vegetation - I note this statement in Council's recommendation: 'The removal of Tree 4 is considered acceptable as it in some way precludes any future development on the site.'

I dispute this statement and urge the owner if there is no saving the beautiful existing home, at least plan your new home design AMONGST and AROUND the existing trees. It can be done! The trees are not 'in the way' - rather, your new home plans don't make valuable use of the existing amenity.

Lastly, the idea of new plantings being suggested as sufficient replacement for these beautifully established trees that have stood there for years? I suggest it's not good enough. Any new plantings will take years to reach the same maturity in order to be a habitat for animals and insects and an amenity for Beaumaris residents. And that's only if they are looked after and don't die before they reach any significant height!

Thanks for your time Councillors. And I hope you will uphold the VPO on this application and every other that comes before you this year.

Annie Price.

2. Mr Jason Frost (A)

WRITTEN STATEMENT

34 Hardinge Street Beaumaris
APPLICATION NO: 5/2020/496/1

Below are the items of discussion.

Items of discussion:

- Proposed vegetation removal.
- Neighbourhood Character.
- Proposed landscape design.
- Notice of decision (permit).

Proposed vegetation removal

The proposed vegetation is considered

- There will be a total of 21 trees proposed to be removed. The reason behind the proposed removal of these trees is to accommodate the construction of a double storey dwelling and swimming pool.
- An Arboricultural Impact Assessment Report has been prepared by TMC Reports (enclosed). All 21 trees proposed to be removed have been assessed as having low retention value.
- The proposed trees to be removed include (*tree numbers as per Arborist Report*): 2, 3, 4, 5, 6, 7, 8, 9, 14, 15, 16, 17, 19, 24, 25, 26, 27, 28, 31, 32 & 33.
- From the proposed 21 trees to be removed only 7 trees (4, 8, 9, 14, 26, 27 & 31) require a Planning Permit under the Vegetation Protection Overlay (tree 28 requires a permit under Local Laws).
- Below is extract from the Arborist Report which includes the assessment of each tree proposed to be removed which requires a Planning Permit.

4	<i>Brachychiton acerifolius</i>	Mature	Native QLD NSW	7 m	N-S 7 m	0.44 m	Good	Fair	10 - 20 years	Low	Low	5.3 m	2.3 m	Multi-stemmed at 1m above ground level. DBH measured at 1m above ground level. Tree may therefore tolerate a slightly greater than 10% encroachment into the TPZ.
	E-W 7 m				1.38 m									
	Illawarra Flame Tree					0.42 m								
8	<i>Leptospermum laevigatum</i>	Mature	Native NSW VIC TAS	6 m	N-S 6 m	0.55 m	Fair	Poor	10 - 20 years	Low	Low	6.6 m	2.5 m	Larger limb propped.
	E-W 6 m				1.52 m									
	Coast Tea Tree					0.50 m								
9	<i>Acacia mearnsii</i>	Mature	Native NSW VIC TAS	9 m	N-S 9 m	0.45 m	Fair	Fair	10 - 20 years	Moderate	Low	5.4 m	2.5 m	Aphid on main stem. Sap ooze, possibly from borer activity.
	E-W 9 m				1.36 m									
	Black Wattle					0.51 m								
14	<i>Syzygium smithii</i>	Semi Mature	Native QLD NSW VIC	5 m	N-S 3 m	0.09 m 0.08 m 0.07 m (0.13 m)	Good	Fair	10 - 20 years	Low	Low	2.0 m	1.8 m	Comprises 3 stems at the base.
	E-W 3 m				0.30 m 0.25 m 0.23 m (0.78 m)									
	Lilly Pilly					0.25 m								
26	<i>Leptospermum laevigatum</i>	Mature	Native NSW VIC TAS	3 m	N-S 3 m	0.40 m	Good	Fair	20 + years	Low	Low	4.8 m	2.3 m	
	E-W 3 m				1.30 m									
	Coast Tea Tree					0.40 m								
27	<i>Callistemon salignus</i>	Mature	Native QLD NSW VIC	7 m	N-S 3 m	0.27 m	Fair	Poor	5 - 10 years	Low	Low	3.2 m	2.1 m	Previously lopped at 3.5m above ground level.
	E-W 3 m				0.87 m									
	Willow Bottlebrush					0.32 m								
31	<i>Callistemon viminalis</i>	Senescent	Native QLD NSW	4 m	N-S 3 m	0.12 m 0.15 m (0.19 m)	Very poor	Poor	0 - 5 years	Low	Low	2.3 m	1.9 m	Mostly dead. Large fungal fruiting body.
	E-W 3 m				0.40 m 0.50 m (0.90 m)									
	Weeping Bottlebrush					0.27 m								

- The seven (7) trees proposed to be removed have been identified as having Fair – Good (tree 31 very poor) health and all having low retention value. Therefore, it is considered the proposed removal of these seven (7) will ensure there will be no impact to the Landscape Character of the surrounding area.
- It is noted that Council in their assessment have stated trees 14 & 26 do not require a planning permit.

Neighbourhood Character

The site is also affected by a Vegetation Protection Overlay 3. The proposal complies to meet the objectives under the schedule to the Clause 42.02.

'To prevent the loss of native and particularly indigenous vegetation incurred by development.'

'To retain the amenity, aesthetic character and habitat value of Australian native vegetation and indigenous vegetation in particular within the Beaumaris and Black Rock area'.

'To promote the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.'

The reasons:

- Significant trees are proposed to be retained which would provide appropriate screening of any future development from the streetscape and adjoining properties. These trees include tree 1 (street tree) & 11 which are considered to be the most significant.
- Most of the existing trees within the front yard are proposed to be retained, therefore ensuring the landscape character will be maintained from the streetscape.
- Many of the existing trees located within the rear yard are proposed to be retained, therefore ensuring the landscape character will be evident and visible from adjoining rear yards.

Proposed Landscape Design

- The proposed Landscape Plan provides for a total of seven (7) new canopy trees to be planted. These canopy trees include a Lightwood (*Acacia implexa*) & Coast Banksia (*Banksia integrifolia*) to be located within the Secluded Open Space area to the rear yard and Banksia integrifolia (*Banksia integrifolia*) to be located within the front setback. There is a total of 83 canopy and small shrubs proposed within the design as well as retaining most of the existing vegetation throughout the site.
- The proposed Landscape Design/layout is considered to be consistent with the objectives of the Vegetation Protection Overlay by preventing the loss of most of the existing native vegetation and providing a suitable selection of species to enhance the overall Landscape Character.

Notice of Decision - Permit

Following on from Council's officer recommendation, the retention of trees 8 & 9 should be reconsidered.

The reasons:

- **Tree 8** has been assessed as poor structure and fair health from our consulting arborist. Council is of a different opinion and have recommended tree 8 be retained. We kindly request this recommendation be reviewed as the tree clearly appears to be in poor health and could propose a risk to property damage and person, it's currently been supported with a stake.

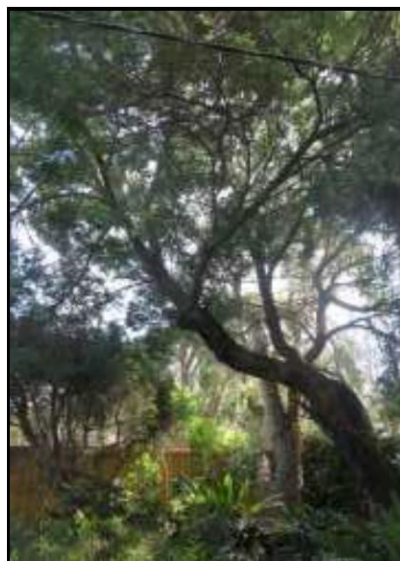
Imagine of tree 8 below.



Tree 8

- **Tree 9** has been assessed as fair in health and structure with low retention value from our consulting arborist. Council is of a different opinion and have recommended tree 9 be retained. We believe this is a conservative assessment and the landscape character of the front yard would benefit more from the removal and a replacement planting. We kindly request this recommendation been reviewed.

Imagine of tree 9 below.



Tree 9

Item 4.2
142 Esplanade, Brighton

1. Mr Mena Fekry

Reference: No. APPLICATION: 2020/178/1 WARD: DENDY
City Planning and Amenity - Development Services
File No: PSF/21/28 – Doc No: DOC/21/13403

Attention: Planning Department

BAYSIDE CITY COUNCIL

PO Box 27

Sandringham VIC 3191

Dear Anita Rozankovic-Stevens,

On behalf of Unit 1 of 140 Esplanade. I write to you to oppose the planning application for development of 142/142A Esplanade Brighton, Victoria 3186 and request that Council does not approve the permissions sought by the applicant based on the current design submission.

We believe that the proposed layouts are an **OVER DEVELOPMENT of the site** and does not fit well within the neighboring properties (see Figure 1 below, where I have marked in blue the size of the current application). In addition to the above, and considering the information in hand, our key concerns are related to (but not limited to) **OVERLOOKING** amongst the other issues **appertaining to non-compliant setbacks, Private Open Space and garden area**. It is also worth noting that the basement will only work for 4 cars and not 6 car spaces as currently designed.

Standard B22 Overlooking non-compliance

There are direct views from the south west elevation into the private open space and sensitive habitable rooms of 140 Esplanade. The proposal needs to comply with the B22 Standard requirements of “permanently fixed external screens” or “fixed, obscure glazing” to at least 1.7 metres above floor level. See Images below (Fig 2 and 3), with specific reference to:

1. There needs to be a 1.7m screen on the south west facing edge of the D2 Main Bed Balcony facing 140 Esplanade
2. Windows in the center of the first level need to be fixed, obscure glazing to at least 1.7 metres above floor level specifically in LD, Bed 2 and the corridor in the middle of D2 facing unit 1 of 140 Esplanade

It is also worth noting that with the current design and roof geometry, which we believe does not comply with permissible heights, will amplify noise transmission compromising our amenity as shown in Fig 4. Hence, acoustic barriers need to be considered.

Non-compliant minimum garden area

The garden area calculation is inaccurate and therefore does not depict “35%of each lot” needed to be set aside to meet the minimum requirement for each lot

Other issues to consider:

- Document labeled “Advertised Plans 03.pdf”, screening of 1.7m high needs to be provided on all potential areas of overlooking on to the dwellings on Unit 140. These include but not limited to all windows, doors and terraces on all 3 floors.
- Lack of detail on Plant Room location (s) and where equipment will be located for air conditioning, lifts etc
- Insufficient detail on South facing windows
- Clarity is required on height of windows labeled HLW on lower level Southern side, are they 1.7metres above proposed floor or above existing ground level?
- Side windows/balconies on Southern boundary will overlook common area, should be screened to 1.7metres
- Screens illustrated on plan to upper southern level windows for to be extended to include the south facing balcony(s) preventing overlooking

In summary, we support a re-development but consideration needs to be given to ensuring the unique existing attributes of the current residences including layout, orientation and aesthetics of the overall development is in some sort of sympathy with each other.

We believe our objection points support this and major concerns exist with excess building height (potentially), noise, loss of natural light, relocation of existing facilities, overlooking, removal of easements, loss of shared services and the stress and interruption during what will be a long construction period.

Yours sincerely

Mena Fekry

For & On Behalf of Unit 1/140 Esplanade Brighton

Figure 1: Over Development of Site



Fig 2 (Overlooking shown in Blue and Green):

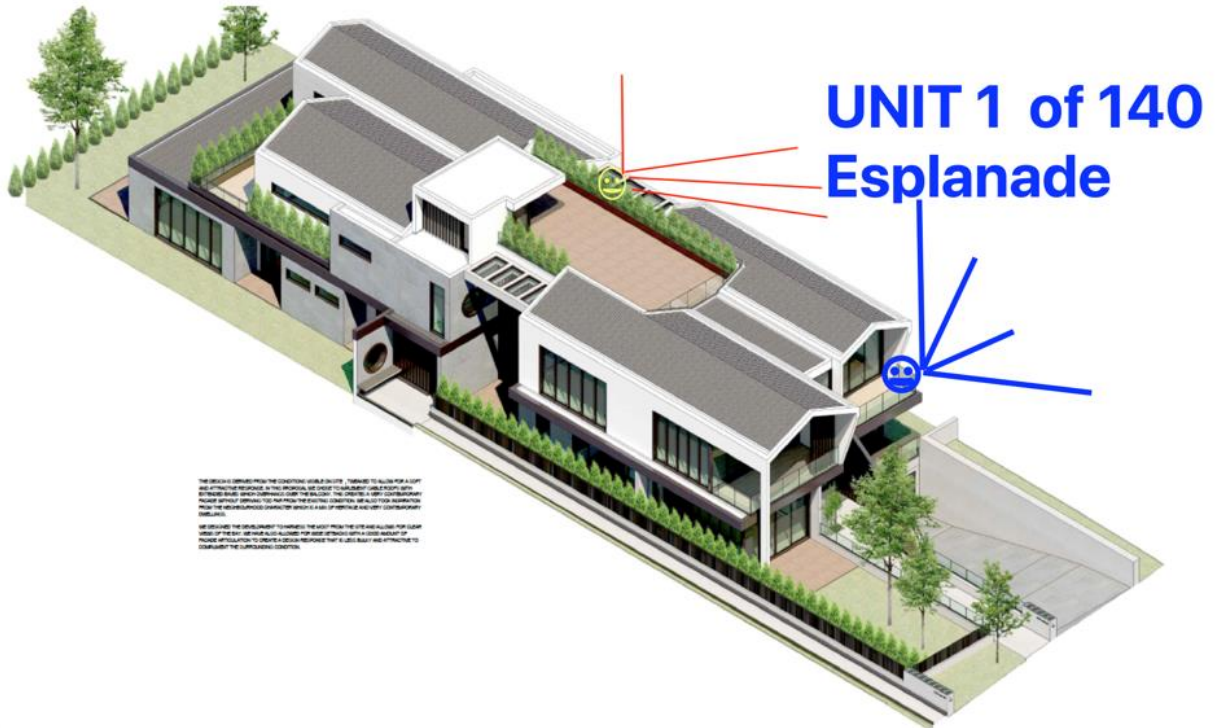


Fig 3 (Overlooking shown in Blue and Red):

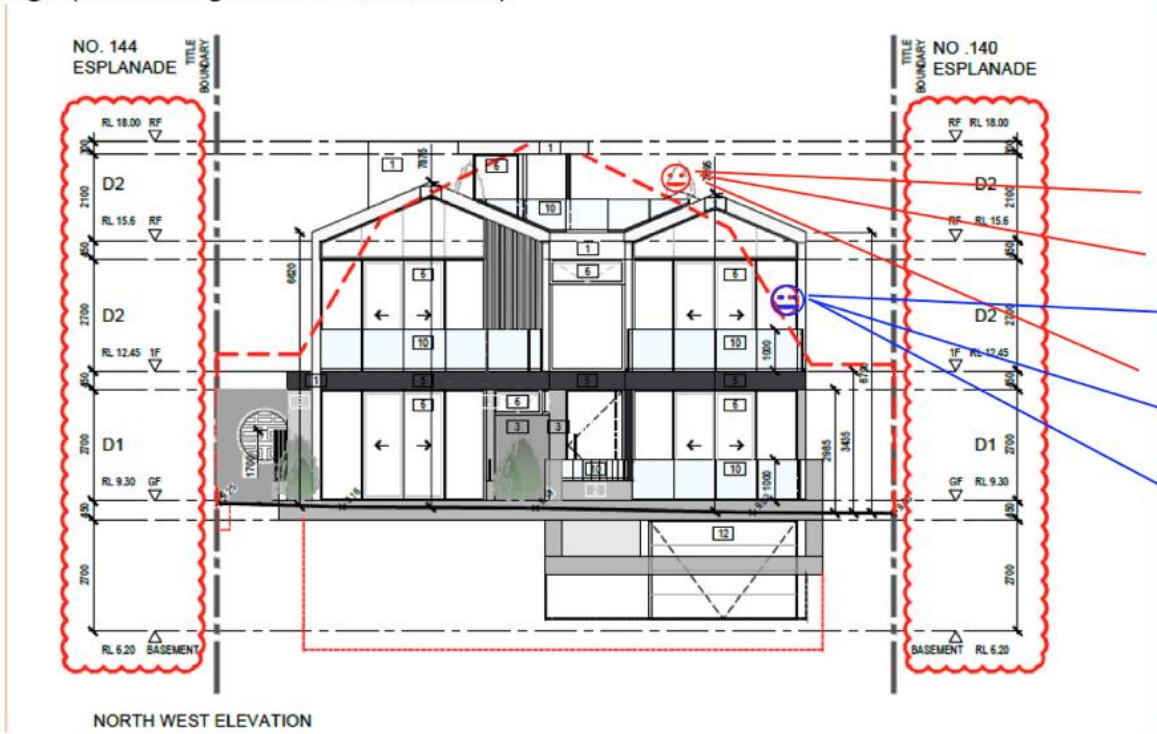


Fig 4: Noise Transmission (as shown in Red)



2. Mr Kevin Riley

The residents of unit 4/140 have objected to this planning permit on the basis of increased and unreasonable visual bulk deep into the site and into our only north facing habitable rooms and courtyard garden and loss of amenity.

It does not comply with B8, being inconsistent with the existing features of neighbourhood character with regard to the adjoining rear properties (units 3 and 4/ 140 Esplanade and 2/ 3 Wellington St) which are articulated towards the subject site. It does not comply with B17 with regard to side setbacks. The attention to the articulation of these properties is not developed in the design response, nor demonstrated in the report provided. It is therefore inconsistent with existing neighbourhood character for this area.

This is why we continue to object to the granting of this permit.

3. Mr John Battersby (O)

Written statement for a Request to be Heard

Planning and Amenity meeting on Tuesday 9 February 2021

Item 4.2 - Notice of Decision to Grant a Permit

Application number 2020/178/1 - 142 Esplanade and 142a Esplanade, Brighton.

I write to councillors of the City of Bayside who are attending the Planning and Amenity meeting on Tuesday 9 February 2021, in relation to Application number 2020/178/1 - 142 Esplanade and 142a Esplanade, Brighton.

I have lived at 144 The Esplanade, Brighton since 1941 and I wish to express my deepest concerns that a development of this scale has been endorsed by council planning. I am particularly concerned that the recorded discovery of the VCAT Senior Members R Naylor and K Birtwistle in setting aside the previous application appears to have been dismissed. In paragraph 7 of the VCAT decision, it is stated that "We find the extent of built form deep into the site will result in unreasonable visual bulk to the adjoining properties. This is inconsistent with the existing neighbourhood character and contrary to the local policy guidance about future or preferred neighbourhood character for this area. A redesign of the proposal is required to address the sensitive interfaces with the adjoining properties." This paragraph was also mentioned in the council officer's report and yet the main points mentioned in this paragraph do not appear to have been taken into consideration for reasons that remain unknown.

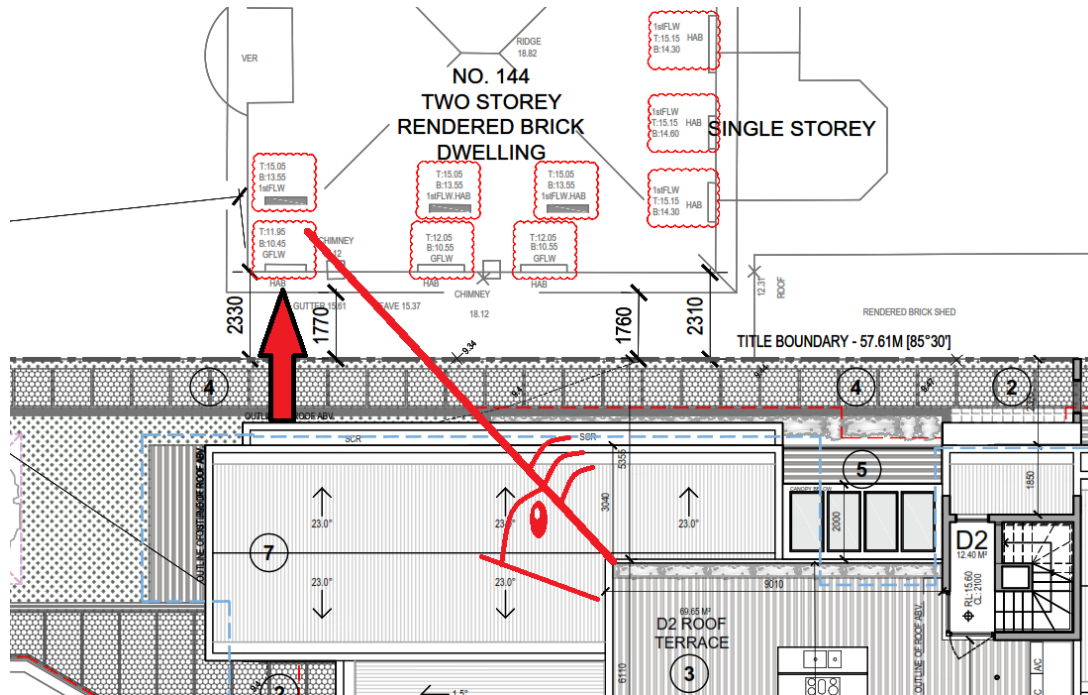
The visual bulk of the proposed development is unreasonable (even greater than the original design that was presented at the VCAT hearing) and does not fit with the surrounding neighbourhood character. I respectfully ask Council representatives why they would endorse this design response given VCAT's paragraph 7 statements above.

In addition to the matter of visual bulk, I have concerns regarding reduced amenity from the impacts of the proposal which include: -

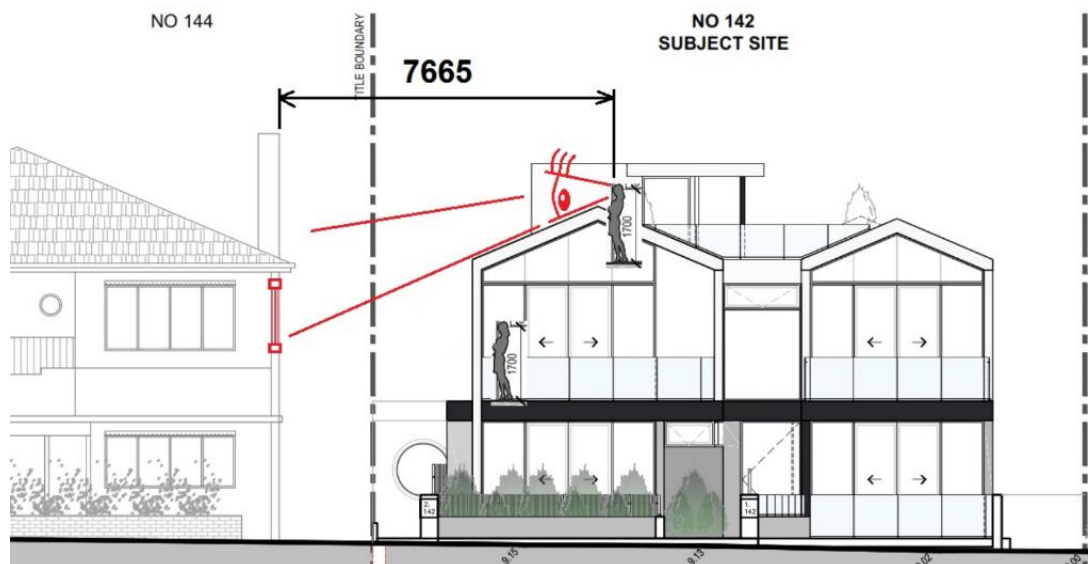
Non Compliance with the Bayside Planning Scheme as follows: -

Side setback objective – particularly at the 1st floor level in full view along a very large portion of the northern boundary, resulting in very poor articulation between the lower and upper levels which creates a dominant overwhelming rear two storey structure.

Overlooking objective – the roof top front-facing balcony has direct views into my bedroom window and is within 45 degrees of the perimeter of the north-west corner of the roof deck and within a horizontal distance of 9 metres of 144 Esplanade bedroom windows. Even if it is claimed to be more than a 9metre distance, councillors must understand the unreasonable visual intrusion that this design presents. Extending the 1700mm visual barrier along the northern roof ridge line would prevent any unsolicited visual intrusion.



PLAN VIEW



FRONT ELEVATION

The serious consideration of these matters at the meeting will be appreciated.

Yours Sincerely,

John Battersby

144 The Esplanade, Brighton

4. Mr Scott Chapman (O)

STATEMENT OF TRUTH [Request to be Heard]

Planning and Amenity Delegated Committee Meeting - Council Chamber Civic Centre – Boxshall Street Brighton, Tuesday 9 February 2021

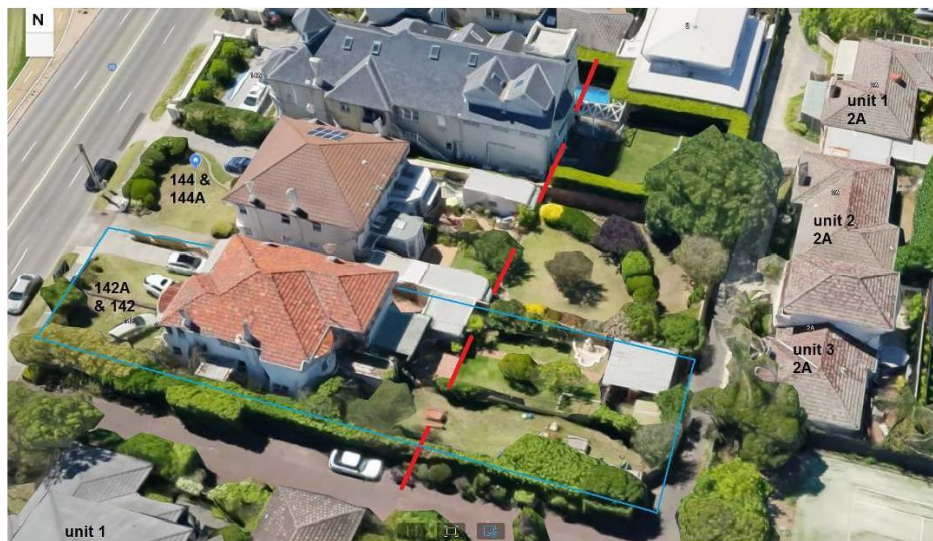
Agenda item 4.2 - Matters of Decision and a Notice of Decision to Grant a Permit to develop
Lot 1 142a Esplanade, Brighton and Lot 2 142 Esplanade, Brighton
[Application: 2020/178/1]

I write to Mr Alex del Porto, Ms Sonia Castelli, Mr Hanna El Mouallem, Mr Clarke Martin, Ms Jo Samuel-King, Ms Fiona Stiffold and Mr Laurence Evans, acting as the local representatives for the inhabitants of the City of Bayside at the aforementioned Planning and Amenity meeting.

I Scott, live in the abutting property 144a Esplanade with my family and request that the above councilors review the information to Application 2020/178/1 and ensure Bayside Council planning officer(s) have received the necessary evidence to meet the requirements to allow a Decision to Grant a Permit for the subject site.

I request that the councilors and Bayside Council planning officer(s) critique the application with respect to the overall detrimental visual bulk/impact at all the sensitive interface points of all five objectors (all the abutting properties) as it is viewed that the applicant and the Council planning officer(s) appear to have dismissed the recorded discovery of the VCAT Senior Member R Naylor and K Birtwistle.

Councilors are to note the current uniformed openness of the rear backscape conditions that maintains the rhythm of visual separation between buildings. The key reason why Senior VCAT Member R Naylor and K Birtwistle had decided to set aside the Council's decision is because of their concerns about the acceptability of the proposed building, particularly in the rear half of the site. Relevantly the members found that "A redesign is necessary".



The fact that the new proposed application 2020/178/1 is a larger wider version of the the previous 2 storey application makes a mockery of the detailed ORDER issued by the VCAT Senior member [VCAT 624, 30 April 2019]. The current design response is not the redesign VCAT required and is still a harsh design response to its sensitive interfaces as the proposed building will extend into the rear of this site with a form, height and building mass that is greater than surrounding development (as per previous design). There is no demonstrated responsiveness to the shared secluded private open space at the rear of Nos. 144 and 144A Esplanade. The rear elevated entertainment

Councilors to clarify with the planning officer(s) how approval was given to the design response with a bigger wider proposed building footprint than the previous design, which presents less opportunity for landscaping to soften the sides of the 2 storey exterior, due to reduced side setbacks as per the previous design set aside.

Councilors to note the smaller design (in blue above) was set aside by VCAT for the following recorded reasons in the VCAT 624 ORDER;

[7] *"We find the extent of built form deep into the site will result in unreasonable visual bulk to the adjoining properties. This is inconsistent with the existing neighbourhood character and contrary to the local policy guidance about future or preferred neighbourhood character for this area."* and

[7] *"A redesign of the proposal is required to address the sensitive interfaces with the adjoining properties."*

[20] *"we are of the opinion that there is more to assessing the visual bulk than just compliance with standard B17 (whether varied or not)."*

[21] *"the likelihood of being able to achieve tall trees/shrubs capable of screening the building is questionable given the difficulties faced in growing tall vegetation in this coastal environment."*

[22] *"We are not persuaded the proposed design responds in an acceptable manner to its context."*

[23] *"It is a harsh design response to its sensitive interfaces"*

[24] *"any two storey development, particularly in the rear half of this site, needs to respond to the surrounding sensitive interfaces."* and *"We also find a development on this site should demonstrate its responsiveness to the shared secluded private open space at the rear of Nos. 144 and 144A Esplanade."*

[25] *"The acceptability of a visual bulk impact can be considered having regard to a range of factors such as the setbacks of the various built form elements...."*

[26] *"The NRZ allows for change but its purpose seeks to ensure respect for neighbourhood character. Hence, this is not a residential zone where residential development change is encouraged to a greater degree than respect for neighbourhood character."* and

[26] *"The preferred future character seeks a sense of spaciousness. We are not persuaded this proposal contributes to this character outcome."*

[27] *"We reiterate that the proposed building will extend into the rear of this site with a form, height and mass that is greater than surrounding development. "*

[28] *"more is required in terms of changes to the proposal than just the provision of landscaping."*

[29] *"We considered whether the design could be modified through imposing permit conditions or issuing an interim order allowing an opportunity to redesign the development, particularly in the rear half of the site"*
[however] *"A redesign is necessary"*

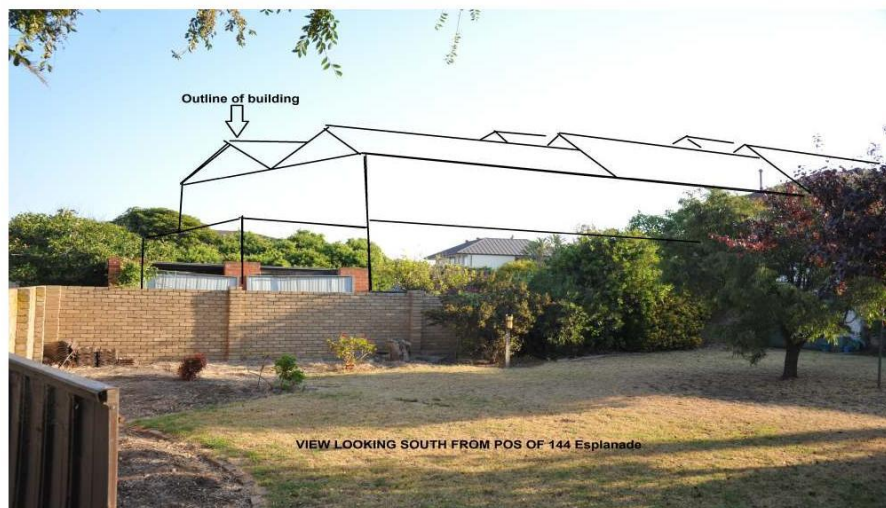
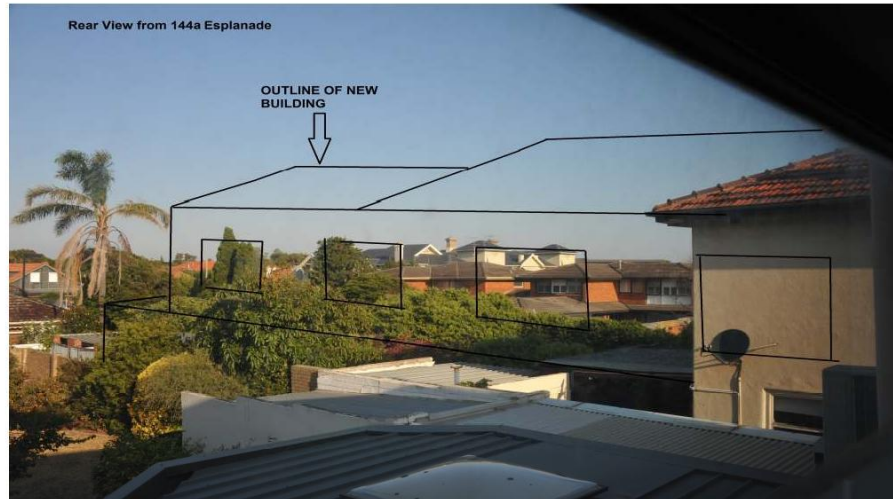
[30] *"The key reason why we have decided to set aside the Council's decision is because of our concerns about the acceptability of the proposed building, particularly in the rear half of the site."*

CONCLUSION

[45] For the reasons explained above, the decision of the responsible authority is set aside. No permit is to issue.

Councilors to request the responsible planning officer(s) to quantify how approval was given to this larger design response with the same insensitive rear building bulk and massing, for example how does

the proposal demonstrate minimal detrimental impacts on neighbouring properties given the overwhelming rear structure.
It would not be considered unreasonable for a verifiable explanation to be given during the Planning and Amenity Delegated Committee Meeting on Tuesday 9 February 2021.



Councillors to note the errors in the application process which has lead to the council officers approving plans with document numbers that do **not exist**. Relevantly, documents referenced with the drawing number **TP03, TP04, TP05, TP06, TP07** all at **Revision F** have never been published within the application process. Please refer to the Council officers planning report 4. *Recommendation*, paragraph 1. It refers to plans prepared by The Silver Arc Pty Ltd, then compare with the plan document numbers accompanying the application all dated as 17 November 2020 in Attachment 2 of the officers' report.

Councillors to clarify with the planning officer(s) how approval was given to document numbers that did not exist in the published application or public record. I believe documents have been revised or added without giving the required appropriate public notices. Council planning officer(s) to give an explanation.