

Requests to be Heard

4 April 2023

Planning and Amenity
Delegated Committee Meeting

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WRITTEN STATEMENTS

Item 4.2 265 Hampton Street, Hampton (La Cabra Modern Mexican)	Objector (O) Supporter (S) Applicant (A)
1. Ms Michelle Williamson	(O)
<p>As the owner and resident of 5/269 Hampton Street Hampton I strongly object to the Parklet Permit from La Cabra Mexican at 265 Hampton Street Hampton</p> <p>The south end of Hampton St is vibrant bustling residential and business section of Hampton. With close proximity to the beach, numerous apartment blocks, medical businesses, restaurants and the recent addition of the popular dining chain Grill'd demand for car parking in the area is very high. The small south end of Hampton St has recently lost 2 car spaces to a parklet permit approved in February 2023 at Paperboy Café which is located right across the road from La Cabra Mexican. This section of Hampton St can't afford to lose another 2 carparks.</p> <p>For the past 2+ years residents of 269 Hampton Street have had to battle with evening noise issues from La Cabra Mexican. This problem started when council created "expanded" footpath dining permits post COVID and is still a problem today. Most nights La Cabra Mexican takes over the footpath like they own it spreading across 3 shop fronts the expanded footpath permits allow them to have 30-35 dinners spanning across 265, 267 and 271 Hampton Street. This has made life unpleasant for apartment residents in the area due to evening loud music, 30+ diners talking / laughing / shouting and tables sometime hindering access to our apartment block. We have raised formal complaints to bayside council, bylaws visits have occurred, permit objections submitted but unfortunately again in 22/23 Bayside Council approved expanded footpath dining permits for La Cabra Mexican. The addition of a Parklet permit to La Cabra Mexican will increase the number of outdoor diners across an area where noise and overcrowding are already BIG problem. Would you want 50+ people eating out the front of your home 7 nights week? Try to imagine the noise.</p> <p>As a Hampton St resident for 15+ years I have always supported Hampton St restaurants I LOVE them - but the street is not all about the restaurants many people live on Hampton St, Please Bayside council show some consideration for residents</p> <p>Kind regards</p> <p>Michelle Williamson</p>	

We are the owners and residents of 10/269 Hampton Street Hampton. We strongly object to the Parklet Permit Application from La Cabra Modern Mexican situated at 265 Hampton Street Hampton for the following reasons:-

1. Due to the number of businesses and restaurants within close proximity to La Cabra, and our building, there is already a severe shortage of parking in this area. When our friends and relatives wish to visit they have very limited options. To give up two more parking spaces to a Parklet would make things even more difficult.
2. We already have a Parklet directly opposite at Paperboy Café, 370 Hampton Street. To have a Parklet for La Cabra means that the width of the street is severely compromised – this would definitely be an increased hazard particularly for bike riders.
3. We already put up with evening noise and loud music issues from La Cabra which is located extremely close to our apartment. At times it is so loud we cannot open our windows or doors onto the front balcony facing Hampton Street. This is an issue particularly on warm nights.
4. We also have a problem with La Cabra Mexican taking over the footpath – which seems to increase all the time. We often have difficulty entering and departing our apartment through our door onto Hampton Street which has La Cabra diners sitting directly in front of the entrance.
5. I feel that the local council tends to forget that there are a lot of residential properties on Hampton Street – it is not all about the businesses.

Thank you.

Jane & Freddrick Tanti

Item 4.5		Objector (O) Supporter (S) Applicant (A)
4/170 Church Street, Brighton		
1.	Ms Rhonda Burke	(O)
<p>online query about this application 23 July 2021 Unit four was guttered without any consultation with other Owners or the Owner's Corporation. The tenant, the owner (unit 4) and the builders thought that Planning Applications and Building Permits weren't needed. As a result, there are significant Privacy concerns, Compliance issues and Safety issues.</p> <p>POINTS TO CONSIDER</p> <ul style="list-style-type: none"> -The roof was altered with sky lights and some of the roof ended up in Mrs Forbe's back garden. - Significant building claim against the Owner's Corporation's Building Insurance. - Burst pipes and roof leaks, the Applicant claimed for 14 days accommodation at The Quest. <p>This Planning Application should not be granted retrospectively as this application did not receive the normal attention or scrutiny that other applications receive, such as Building inspections during the process.</p>		

Safety Issues

1. I looked out my window and was surprised that a large section of unit four's roof was into my back garden. My husband and I could have been killed by this flying metal. We had to notify the Applicant, and some of their tradesmen removed the roof. No apology from the Applicant.

2. I am concerned about the cladding material used on fence, and how long it will last. The Applicant wanted me to pay half, even though the cladding is on the Applicant's property. The extension of the boundary fence is still not finished.

Privacy Issues

I refer to item (4.5) Location of the Security Cameras. The Applicant has not altered the direction of the Cameras as stated in the document and the extension of the fence has not been finished.

Dear Bayside Councillors,

This is my objection to a request for a retrospective planning application for 4/170 Church Street, Brighton.

I am asking Bayside Councillors to assess this retrospective application considering all issues that have arisen since the property was completed with total disregard to due process which the greater majority of Bayside Ratepayers respect & follow in Council's Planning process .

I am both an adjoining neighbour & a recent purchaser of a unit at 170 Church Street, Brighton, only taking possession in January, 2023. Had I been aware that unit 4 had undergone extensive building works to the value of some \$150,000.00 without an approved Planning or Building Permit Application & therefore to my understanding, would not be compliant with Council's Planning & Building Process, I would have had reservations in making such a purchase.

Since purchasing this unit, it has come to light that Unit 4 has had an insurance claim for damage so significant the residents were paid out in an insurance claim to vacate the property for 2 weeks whilst repairs were made.

To my knowledge a large portion of the roof of unit 4 was blown into the yard of the adjoining neighbour at 59 Well Street. It was simply good fortune that no adult, child or animal was in the yard at the time & a catastrophic event did not occur. Should the roof have blown into my yard, it may have collected or taken out trees large enough to damage our fences , yard, out buildings & several other adjoining neighbours, not to mention injury to anyone who may have been in any of those yards at the time .

My concern is that, if there was damage to 4/170 Church Street , significant enough to require an insurance claim & vacating the property , how can I be assured that the reinstated works are actually any safer & Authorities compliant that the original works which have clearly failed.

I am concerned that the installation of the gas , electricity & water works are not in compliance.

Should they not be , the safety of all the residents & adjoining neighbours could be at risk. We have none of the assurances that abiding by Councils Planning & Building processes would normally offer us.

Councillors, now in full knowledge of these issues , I am asking you to make your assessment of this retrospective planning application in the light of such information which is now on public record. This knowledge cannot be 'unlearned' & it is incumbent upon you to assess all the facts before you in your determination.

It is a reality for those of us who live in close proximity to 4/170 as owners, residents & neighbours. Do we have a time bomb waiting to go off ?

Should you , Councillors, seek to approve this retrospective Planning Permit Application, at what point in this Objection Process , do we as Bayside Ratepayers have reassurance that all inspections have been made at 4 / 170 Church Street , Brighton & passed by the essential Authorities ? When can we return to quiet

enjoyment of our own properties?

Kind Regards,
Margaret Reeves

Item 4.6 22 North Road, Brighton		Objector (O) Supporter (S) Applicant (A)
1.	Ms Judith Pratt	(O)
<p>Objection: 22 North Rd Brighton (proposed new dwellings)</p> <p>The Tree Removal of tree 9 Large Oak affects my visual amenity as it and tree 13 the other large oak are in my near landscape from my north facing home that faces the southern end of 22 North rd.</p> <p>I am relieved that tree 13 is being retained. Both these trees are of a substantial size and width provide Visual bulk to the landscape</p> <p>Neighbourhood character</p> <p><u>These two trees are part of the neighbourhood character of Brighton Bayside as they are of a significant age likely 50 to 60 years old.</u> They cannot be replaced by new stock that does not have the age substance and character of these old substantial trees.</p> <p>I trust the Tree Protection Zones around the retained and planted new trees will be adhered to.</p> <p>I further note that figure 1, shows the front façade of this proposed property. It highlights the large tree to the right side that gives attractive substance to the photo. That is tree 9, large oak, that is being removed. In my view this design is not in keeping with the surrounding dwellings and stands out as a large white concrete exception.</p> <p><u>I wish to draw the Council Panels attention to the strong pattern that has emerged in the Brighton Bayside area</u> of developers buying up all the older homes that come on the market and replacing them with white concrete, two to a block town houses. This has resulted in a very sterile pattern of building and is destroying the original charm and character of the area. In addition, <u>most of the substantial trees on these blocks are being removed</u> which is further removing the ‘leafy treed suburb character’ of the Brighton Bayside area. (eg this is occurring at a rapid pace in Campbell st)</p> <p><u>I request council to provide some guidelines</u> to real estate agents outlining that these developments could well have great difficulty gaining permits in the future for this type of concrete townhouse development as they are contrary to the neighbourhood character that Bayside are trying to maintain.</p> <p>Judith Pratt</p>		

Item 4.7 2/71 Tramway Parade, Beaumaris	Objector (O) Supporter (S) Applicant (A)
1. Dr Sara and Mr Andrew Mullen	(O)
<p>Dear Councilors,</p> <p>Thank you all for the opportunity and your time to communicate our objection.</p> <p>We would like to refer to the above development which is proposed to be constructed on the west side of our property. This application we consider is not responsive to the planning scheme due to the sheer amount of construction and excavation on such a small parcel of land (approx: 420sqm)</p> <p>Excavation in depth of 3 meters for the entire block (2 swimming pools, two elevators and 6 cars) These excavation works no doubt will impact foundations and existing swimming pools which currently sit near the existing boundary.</p> <p>During the course of this application, we have raised grave concerns in relation to the following points on such a small parcel of land:</p> <p>Concerns</p> <ol style="list-style-type: none"> 1/ two x swimming/plunge pools situated at the front of both properties. 2/ two x triple car underground garages with rotating parking underneath. 3/ 2 x lifts 4/ unnecessary additional height of skylights (1 meter in height atop of roof) 5/ development should be pushed as far forward (West) as possible to allow natural light for garden growth/ energy sustainability via our recently installed double-glazed windows (current planned drawings not showing natural sunlight throughout the entire year) 6/ Visual bulk of building will impact on the outlook of all neighbors and dominate private open space. ResCode sets out setback requirements for walls of new buildings. Bulk can be reduced through design techniques such as, increasing setbacks thus alleviating several concerns. 7/ Overshadowing/light diagrams have not been supplied with the application for the two dwellings for the full year. The impact on our property will be significant, and the developer must be certain that the objectives and standards with regards to overshadowing/loss of daylight in ResCode are met. <p>We are understanding in relation to construction/development for families or investors, however during our meeting with the developers representative and Town Planner, we are dismayed to see any real changes to appease our concerns.</p>	

In order for this construction to proceed, we are prepared to accept the development provided the following points are addressed.

Solutions

a/ Both swimming pools to be situated to the rear of both townhouses to allow natural sunlight and minimal visual bulk (image attached) solution would be redrafting townhouse plans to be as legally far forward to the property as permitted.

b/ Skylights to be inbuilt to roof cavity minimizing visual bulk and sunlight.

c/ Both 3 x underground garages to be minimized to fit 2 x cars in each property (2 car garages not 3)

Again, we understand the predicament and are empathetic to this situation, however we hope commonsense prevails for all properties impacted.

Many thanks for your time and consideration.

Yours Sincerely

Dr Sara & Andrew Mullen

Written Statement – Objection**Theodora Papadakis****How the proposed development impacts my property**

The application land was previously part of a large corner property facing Tramway Parade. It was subdivided into three lots to provide infill residential development.

My home is positioned to the east of the application land on one of those infill lots. My property is not on the corner, so the secluded private open space of my property has a compromised south-westerly orientation.

The application plans misrepresent details of my property. It states “no windows” on the western side of my home. This is incorrect. I have large ground level west-facing windows that provide the only decent source of daylight and outlook to my dining room.

My modest private open space area is approximately 36 square metres when measured off the plans, however the shadow diagrams state this area is 40.9 square metres.

My modest private open space area is already enclosed on all sides by high walls or fences. The fences are currently 2200mm high and the applicant is proposing to increase that height to 2500mm by adding 300mm of lattice. Apart from making my small backyard feel even more closed in, I question whether the 2pm and 3pm shadow diagrams have been drawn correctly. The existing fence is lower than the proposed fence so the shadow cast by the proposed development will be increased by the proposal. That means my backyard will receive less sunlight.

Further, I point out that the shadow diagrams state they have been modelled on the 23rd of September, rather than the 22nd of September which is the requirement of standard B21 of Clause 55.04-5. This could impact the calculation of the shadow diagrams, and misrepresent the application.

How the proposed development does not satisfy the Bayside Planning Scheme

The proposed form of boundary-to-boundary development is contrary to Council policy.

The application proposes to introduce boundary to boundary development at basement and ground level. Considering there is a garage constructed to the boundary of No. 71A, the Cromb Avenue streetscape will have an uninterrupted length of built form from the front of the dwelling at No. 71A to the western boundary of the proposal. That is a distance of approximately 35 metres, which does not allow for canopy trees between buildings to reduce that impact. This has already occurred further west and should not be used as a justification to approve further development at this scale.

To this end, if the proposed development is approved, the only break in built form for the entire block between Tramway Parade and Banksia Avenue will be provided by the modest 1.79 metre eastern side setback of the dwelling at No. 11 Cromb Avenue. This form of development does not reflect the character of the local neighbourhood or the objectives and strategies of the Bayside Planning Scheme, in particular Clause 15.

- Clause 15.01-1L seeks to “Ensure development responds to the spacious, low scale landscaped character of residential precincts”

The proposed development does not represent spacious, low scale landscaped development.

- Clause 15.01-2S seeks *“To achieve building design and siting outcomes that contribute positively to the local context, enhance the public realm and support environmentally sustainable development”* by among other things ensuring *“development provides landscaping that responds to its site context, enhances the built form, creates safe and attractive spaces and supports cooling and greening of urban areas”*.

The proposed development does not provide landscaping that responds to its site context or enhances the built form.

- Clause 15.01-5S seeks *“to recognize, support and protect neighbourhood character, cultural identity, and sense of place”* by *“supporting development that respects the existing neighbourhood character “*

The proposal does not protect the preferred neighbourhood character of Precinct H3. This is discussed further below.

- Clause 15.01-5L is the policy that establishes the neighbourhood character objectives and strategies. The general objectives include:

“To ensure that development is responsive both to the site and the preferred future character of the area.

To maintain and enhance the garden settings of the dwellings.

To maintain and enhance the bayside vegetation character of the area.

The maintain the rhythm of spacing between dwellings.

To ensure that development does not visually dominate the streetscape

To ensure that new buildings provide an articulated and interesting façade to the street.

To encourage views of front gardens.”

The general policy guidelines for all precincts require Council to consider whether the characteristics in the immediate vicinity of the site exemplify a preferred future character that is different from the Precinct in which the site is located.

The preferred character strategies for **Precinct H3** where the application land is located state among other things:

“Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone) in order to strengthen the bushy garden character of the area.”

This character strategy clearly recognizes that the area has a bushy garden character. The Cromb Avenue streetscape between Tramway Parade and Banksia Avenue (west of the application land) is not representative of the broader precinct character, and should not be used as a reason to support the proposal. Beyond the front setback, the layout of the development does not allow sufficient room for the planting of indigenous canopy trees that would contribute to the bushy garden character.

“Site buildings to create the appearance of space between buildings and provide adequate space to accommodate substantial vegetation.”

The officer’s assessment of this aspect of the proposal states that “The development has been suitably sited from side boundaries to create the appearance of space between dwellings.” This is simply not true. The application clearly proposes boundary-to-boundary development that does not provide adequate space to accommodate substantial vegetation. The proposal will impose itself on my property by further enclosing it. It is not satisfying the intent of the precinct objectives.

A smaller building footprint that sets the building off the side boundaries, particularly at the rear would create more breathing space between buildings.

“Minimise site disturbance and impact of the building on the landscape.”

The officer’s assessment of this aspect of the proposal appears to completely ignore the fact that the proposal includes 234 square metres of basement area at a depth of 2.47 metres. The area equates to 51.3 % of the site. This does not minimize site disturbance. There is no information provided with the application about how the construction will manage or maintain the stability of soil and buildings on surrounding properties.

“Recess upper levels from the front façade.”

The officer’s assessment of this aspect of the proposal acknowledges that the upper level of the proposal has portions that are not recessed, but says the balconies would have glazed balustrades facing the street which would not be “overly prominent”. These balconies have screened balustrades to a height of 1.7 metres to prevent overlooking towards the east and west. When viewed from the east or west, these screens will be bulky upper level encroachments into the front setback.

The amended plans prepared by the applicant have done little to reduce the overall bulk and scale of this proposal, or its impact on the amenity of my property. The designer has simply cut off the corners of upper level walls to achieve ResCode compliance which is a cheap way of achieving the setback standards but it has no design merit and it does not reflect the character of the homes in the local area.

I strongly object to this proposal and believe that the changes presented in the amended plans result in a form of development that clearly represents overdevelopment and imposes its bulky robust form on neighbouring properties.

Finally, the officer’s remark at section 6.7 of the report that “overdevelopment is a commonly used expression to dismiss development proposals” is, in itself dismissive of my concerns and those of the other objectors. The site is already an infill site at 456 square metres in area (as part of the previous three lot subdivision), and this application proposes two very large houses (one x four bedroom and one x three bedroom). The houses would appear as a single three storey form due to the additional central section, all of which would be constructed over large basements with minimal side and rear setbacks.

The front setbacks should be reduced so that the private open space is positioned at the rear of the development. This would increase the space between dwellings, as required by the precinct objectives, and ensure my only source of daylight and outlook is maintained.

The proposed basements for each dwelling could clearly accommodate 3 cars each (as the plans show) which is more than the planning scheme requires, and they are also provided with large store rooms as well as a sauna. This could be significantly reduced in scale so that the basements are not constructed to the boundaries. Reducing the size of the basements would allow trees to be planted adjacent to side boundaries, and reduce the risk of disturbing the foundations of homes and garages on surrounding properties.

Alternatively, the basements could be deleted and ground level car parking provided for each unit.

I request that Councillors give due consideration to these issues and refuse to grant a permit for the development as proposed.