

Requests to be Heard

11 December 2023

Planning and Amenity

Delegated Committee Meeting



Bayside
CITY COUNCIL

Requests to be Heard

11 December 2023 Planning and Amenity Delegated Committee Meeting

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Requests to Speak		
1.	Mr William Bromhead (for Ratio)	(A)

WRITTEN STATEMENTS

Item 4.3 7 Wave Street, Hampton		Objector (O) Supporter (S) Applicant (A)
Written Statements		
1.	Ms Melany Antcliffe	(A)
<p>Dear councillors,</p> <p>Thank you for considering nominating my tree to be included in the Significant Tree Register.</p> <p>This beautiful, grand Chinese Elm (<i>Ulmus parvifolia</i>) tree is well loved for it's aesthetic and for its unique contribution to its environment. It is located in a prominent position in my backyard and is estimated to be three-storeys in height and has a canopy of around the same dimension. It has a trunk circumference of approx.: 3m and it is estimated to be 80+ years old.</p> <p>It has natural beauty and landscape value in relation to my property and my neighbouring properties in our local area. It provides significant screening and shade in summertime when it has its leaves.</p> <p>My two boys love this tree - it has a swing off its branches, and they love climbing it's base.</p> <p>It is deeply important to my family and my neighbours that this tree is protected.</p> <p>This tree has been inspected by two independent arborists, one from council and the second by an independent arborist from Arbor Survey. Both arborists have confirmed it is a significant and meets the criteria to be included in the significant tree register.</p> <p>I urge councillors to approve its inclusion at today's meeting.</p> <p>Thank you for the opportunity to put this submission forward.</p> <p>Kind regards,</p> <p>Melany Antcliffe 7 Wave St, Hampton</p>		



Item 4.5 64B Church Street, Beaumaris	Objector (O) Supporter (S) Applicant (A)
Written Statements	
1. Mr Craig Rowlands	(A)
<p>The trees we have requested to be removed are not suitable for the space where the builder originally planted them. One is now dangerously overhanging and large branch fell into next doors garden narrowly missing the property. We further believe the roots to be damaging paving and flooring in the gardens and the houses. We remain very happy to support the council regarding the correct plant life to replace the unsuitable trees.</p>	

Item 4.6 47 South Road, Brighton (2023/335/1)	Objector (O) Supporter (S) Applicant (A)
Written Statements	
1. Dr Georges Fast	(O)
<p>The density of the development will affect the amenity of the area, It will block out light and overlook our home - the drawings provided do not represent accurately the effect that the proposed development will have on adjacent properties. In fact the buildings will cause a serious loss of privacy and overshadowing. There is lack of open space. The proposed sale and later development of the blocks facing Hartley St and South Rd will further increase building density and create further traffic problems.</p>	

2.

Mrs Kate Henerson

(O)

105 objections!!!! Simply put, there are too many concerns raised by Bayside residents to support the application in its current form. Removal of access to the internal townhouses via Harley and New Streets would remove many of these objections. Should Council resolve to support the Application, access to the overdeveloped site must be via the four lanes and medium strip on South Road. Such amendment would alleviate the concerns of so many surrounding residents.

Item 4.7 47 South Road, Brighton (2023/425/1)	Objector (O) Supporter (S) Applicant (A)
Written Statements	
1. Dr Georges Fast	(O)
<p>The density of the development will adversely affect the amenity of the area and our property. The proposed blocks facing Hartley St and South Rd are very small and will congest what is already a difficult street to navigate. The visual impact will be horrendous and totally change the character of the neighborhood. If the subdivision goes ahead it further reduce the amount of green space and have a further impact on thermal issues.</p>	

Notice of objection, 47 South Road, Brighton, 3186

Application No. 5/2023/425/1

Sir / Madam

I write to you in relation to the above mentioned subdivision.

We object to the proposal, being as follows.

1. No driveways to face Hartley St, entry / exit should only be made via a right of way into South Rd or New St, Hartley St is a narrow laneway.
2. The plantation along Hartley St is to remain. It provides some screening into our property. It will provide some privacy for us.
3. Loss of amenity / enjoyment of immediate surrounds, we are some 6 feet below current level of 47 South Rd. It

Notice of objection

Ref. No. 47 South Rd. Brighton 3186

Application No. 5/2023/425/1.

Sir / Madam

I further write to you in relation of the above mentioned sub-division proposal. We object to the proposal, the reasoning being as follows

- no driveway to face Huntley St, entry exit should only be made via a right of way into South Rd or New St. Huntley St is a narrow laneway.
- The plantation along Huntley St is to remain, provide some screening into our property, we will lose our privacy
- loss of amenity / enjoyment of immediate surroundings, we are some 6 feet below current level at 47 South Rd. It should be noted that this has been built up many years ago.
- overall loss of visualisation of heritage listed "Martina", shall be built out.
- loss of a degree of natural sun, morning and evening setting sun, the visual bulk of future development.
- Congestion and additional traffic, visitor completion, not provided for.

11/12/23-2

In Summary we at 31 South Rd shall
no doubt be adversely affected.

There will be serious overlooking into our
property, our back yard, our bedrooms and
bathrooms if any curtains are left open.

The sun will rise later and set sooner.
Traffic issues already exist in Hartley St
and will no doubt get worse.

There should be a minimum setback of 9m
to Hartley St.

We further note that there is little open
space made to the overall proposed
project.

In view of Council receiving payments from
the developer, this should be open space
for park land at say 35% of overall
site.

Per Marcus Brighti



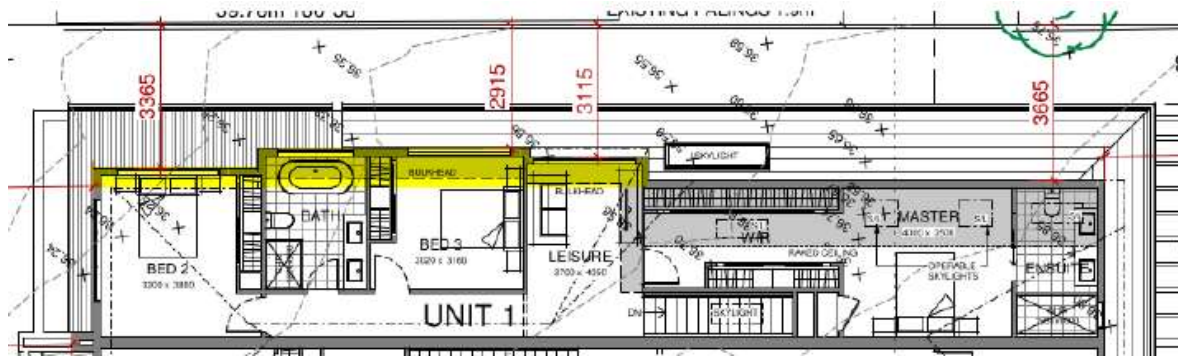
Item 4.8		Objector (O)
47 South Road, Brighton (2023/425/1)		Supporter (S)
		Applicant (A)
Written Statements		
1.	Mrs Julia Massarin	(O)
<p><u>SUMMARY</u></p> <p>We are writing as owners of 14A Besant St Hampton East. We have previously lodged an objection in respect of the proposed development at 12 Besant St.</p> <p>This application still has substantive areas of <u>non-compliance with Bayside Planning Scheme Standards</u>. The reason for our objection is in respect of 2 key areas:</p> <ol style="list-style-type: none"> 1. Significant non-compliance with the eastern side setbacks which directly impacts on the amenity of the habitable room windows of 14A Besant St (Standard B17); and 2. Overshadowing of 14A Besant St (Standard B21). <p>Both of these non-compliance issues can be addressed with setting back Bed 2, Bath, Bed 3 and Leisure of Unit 1 according to the B17 Standard requirement (as described in the side/rear setback table below) or alternatively lowering the eastern wall to match the lowered wall/roof section in the rear of the eastern wall to fit within the building envelope.</p> <p>This change can be documented by Council in an additional condition on the Planning Permit:</p> <p style="text-align: center;"><i>The side setback figure for Bed 2, Bath, Bed 3 and Leisure of Unit 1 to be increased to the minimum required by the Standard B17 of 4.34m (Bed 2), 3.54m (Bath, Bed 3), 3.46m (Leisure), without the reduction of any other setback.</i></p> <p>This mirrors Condition 1(b) of the recommended permit which reflects a correction of analogous non-compliance for Unit 2.</p> <p><u>Standard B17 decision guideline</u>: The impact on the amenity of the habitable room windows and secluded private open space of existing dwellings.</p>		

Agenda – Planning NS Amenity Delegated Committee Meeting – 11 Dec 2023 ('Agenda') – page 312.

Side and rear setbacks (Standard B17)

Ground floor		First Floor		
Requirement	Proposed	Requirement	Proposed	
East (side)	2m	2m	Bed 2 4.34m	Bed 2 <u>3.365m</u>
			Bath, Bed 3 3.54m	Bath, Bed 3 <u>2.915m</u>
			Leisure 3.46m	Leisure <u>3.115m</u>
			WIR, Master, Ens 2.83m	WIR, Master, Ens 3.665m

Proposed First Floor Plan – eastern elevation – page 313 of Agenda

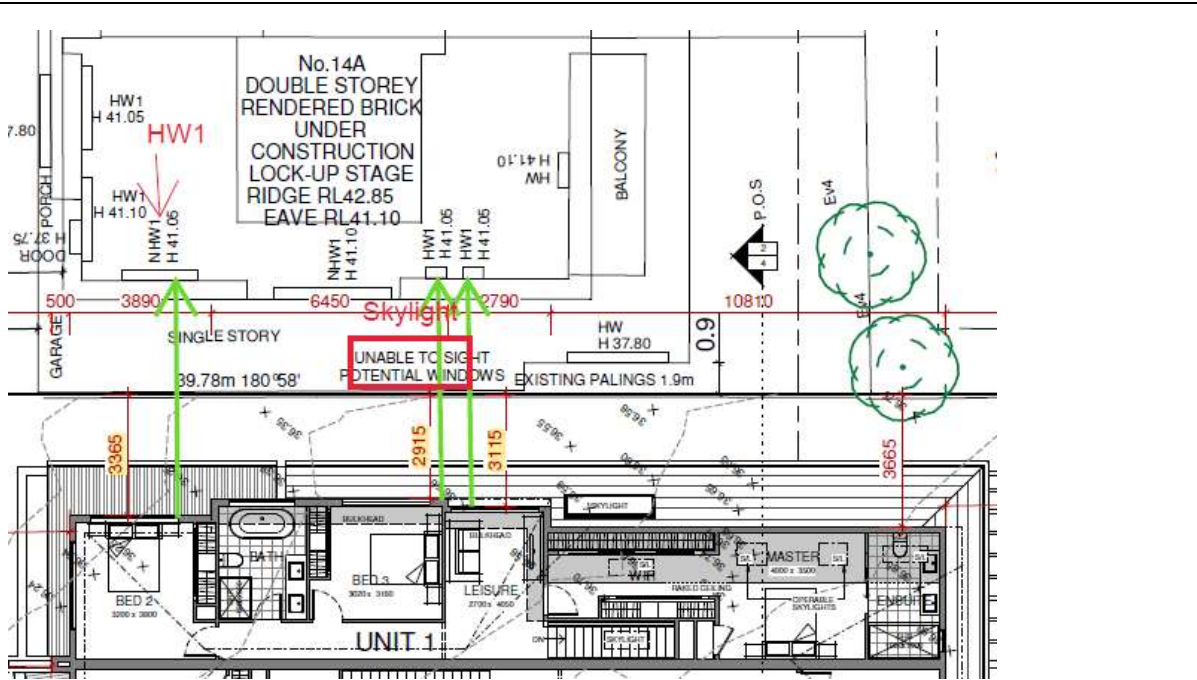


Proposed First Floor Plan – eastern elevation – with objector’s changes depicted in red and green - page 319 of Agenda.

Page 313 of the Agenda notes that *“due to the location of habitable windows on adjoining properties...there will b no unreasonable loss of amenity to the nearest habitable room windows”.*

We disagree with this. The Bed 2 side setback non-compliance aligns with 14A’s first floor bedroom window which we have corrected below to be a **habitable window** (‘HW1’ in red) and the Bed 3, Leisure side setback non-compliance aligns with a skylight over 14A kitchen (which was not depicted on the applicant’s plans – we have inserted this in red).

The encroachment causes additional visual bulk and massing and fails the objective at clause 55.04- 1 – *“To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings”.*



Overshadowing (Standard B21)

The majority of the eastern elevation (ie 13.63m of 24.44m or **56%** of the overall eastern elevation) is **not** compliant with the side setback requirements of Standard B17. This is **not** a variation for a ‘small portion of the eastern elevation’ as the applicant’s earlier responses to our objection noted, instead the portion that does not comply with Standard B17 makes up **56%** of the overall eastern elevation. This is a significant portion and the encroachment causes **overshadowing** and adds visual bulk. We cannot see a legitimate reason for why the proposal should not have to comply with the requirements in Standard B17. When we were constructing 14A and 14B, we had to strictly comply with the side setback requirements and to ensure we built within the building envelope, we had to do a significant site excavation to lower the development into the ground at a substantial additional cost of \$200,000. In addition, 14A Besant’s first floor bedroom windows and skylight over kitchen, is overshadowed at 3pm by the proposal due to the proposal’s non-compliance with the side setback requirements of Standard B17.

Standard B21 includes the important statement that:

“If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced”.

In our original objection we noted that the existing sunlight to 14A Besant St is already less than the requirements of Standard B21, therefore the proposal should not cause any additional overshadowing over 14A Besant St. This approach to assessing overshadowing is regularly adopted by the Tribunal, including in the Red Dot decision ‘Tika v Yarra CC’ where the Tribunal also noted that the *“assessment must consider the shadows cast ... by existing structures, including the dwelling on that land”.*

We also believe the representation of 14A Besant by the applicant’s drawings is not accurate. In updated drawings – Sheet 5 of 8 – ‘14 Besant St streetscape elevation’ (extracted below) – it depicts that the front parapet wall and upper gutter of the proposed dwelling as aligned with 14A Besant’s upper gutter. However, due to the difference in the site levels between 14A Besant and the proposal, 14A Besant is

significantly lower in the ground as depicted in the second photo below (Photo 2). This means the overshadowing and eastern side setback non-compliance, all of which add to the mass and visual bulk, are significant issues as described in our objection.

Sheet 5 of 8 – ‘14 Besant St streetscape elevation’ – page 320 of the Agenda



Photo 2- Depiction of 14A Besant is significantly lower in the ground relative to the proposed construction



Solar for 14A Besant

We are in the process of finalising installation of solar panels on the roof of 14A Besant St Hampton East – we had the installation of the solar system/electrical conduits completed in 2021 (photos below) and are just waiting on the install of the panels themselves.

Having regard to Clause 55.03-5 and Standard B10 of the Bayside Planning Scheme. Bullet point 3 of Standard 10 mentions that Buildings should be:

“Sited and designed to ensure that the performance of existing rooftop solar energy systems on dwellings on adjoining lots in a General Residential Zone, Neighbourhood Residential Zone or Township Zone are not unreasonably reduced....”



Canopy Tree - page 325 of Agenda

In the landscaping plan, there is a proposal for a new canopy tree in **eastern side yard**. The tree has a mature height of 8m which is typically 4 times the height of a standard fence. This will directly overshadow Secluded Private Open space of 14A Besant St.

We request that **Council impose a condition** that this tree is moved to the rear yard (as depicted by the **red** arrow). This is where both trees are positioned in Unit 2.



Dear Sir/Madam,

PLANNING AND AMENITY COMMITTEE MEETING –
AGENDA ITEM 4.8
12 BESANT STREET, HAMPTON EAST
PLANNING APPLICATION NO. 5/2022/517/1

1. Introduction

Urbis continue to act on behalf of the permit applicant with regard to the use and development of land at 12 Besant Street, Hampton East, subject to Planning Permit Application No. 5/2022/517/1. The application for the construction of two (2) dwellings on a lot is to be heard at the next Planning and Amenity Committee Meeting to be held on Monday 11 December. In response to concerns raised by Council and Objectors, the application was formally amended via a Section 57A amendment to directly address these concerns. A response to the objections received is provided below in Section 3.

2. Condition 1 Requirements

On behalf of our client, we respectfully request the deletion of Condition 1(b).

Condition 1(b):

- a) *The side setback figure for 'Bed 2' and 'Bath' of Unit 2 to be increased to match 'Bed 3' of Unit 2, without the reduction of any other setback.*

The proposed deletion is sought to ensure that the internal amenity of Unit 2 is maintained. Increasing the setback for 'Bed 2' and 'Bath' of Unit 2, to match the setback of 'Bed 3', will reduce the size of these two rooms, which will reduce the internal amenity afforded to Unit 2. If the setback for 'Bed 2' is increased to match the setback of 'Bed 3', this would result in a depth of approximately 2.83 metres for 'Bed 2'. This would not meet the minimum internal room dimensions required for *All other bedrooms* under Standards D46 (Clause 55.07-12) and D26 (Clause 58.07-1).

While it is acknowledged that the upper level setbacks do not meet the required standard of B17 (Clause 55.04-1), and a variation required, the setbacks provided are considered to meet the objective of Clause 55.04-1 which seeks to, *'...ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.'*

The setback of 2.38 metres from the boundary provided for 'Bed 2' and 'Bath' of 2.38 is considered appropriate in this context and is not considered to result in the unreasonable loss of amenity to the existing dwelling to the west.

3. Response to Objections

In response to the objector's comments received, we submit the following:

Summary of objection	Response
Objector: 43 Blaxland Ave, Frankston South (owner of 4.55 Wickham Road, Hampton East)	
<ul style="list-style-type: none"> ▪ Development overshadows POS ▪ POS overshadowing between 9am-3pm ▪ Additional overshadowing of POS of 11.10sqm at 3pm ▪ Plans do not show existing fence shadow cast onto POS (shadow cast by fence at 9, 12, 2 3 should be shown on the plans) ▪ Suggestion to reduce overshadowing of POS – setback first floor elevation to sit within building envelope, within the requirement setbacks of 4.34m (front parapet), 3.4m and 3.2m (objection to variation of Standard B17 for eastern side setback) 	<p>The shadow diagrams have been updated and now include the existing fence shadow, showing the full extent of shadow impacts to this area of SPOS.</p> <p>The proposal has been updated to ensure there is no additional overshadowing to the adjoining properties. All adjoining properties are afforded with 5 hours of sunlight, between 9am and 3pm on 22 September.</p> <p>The wall height along the rear portion of the eastern elevation has been lowered and the roof form changed to a raked form with skylight to ensure no additional shadow is cast to additional properties.</p> <p>While a variation to the Bayside NRZ3 Standard B17 is required for a small portion of the eastern elevation (along 'Bed 2' 'Bath', 'Bed 3', and 'Leisure'), due to the location of the habitable room windows of the adjoining properties to the east, the proposed varied setbacks are not considered to result in an unreasonable loss of amenity.</p>
Objector: 11 Besant Street, Hampton East	
<ul style="list-style-type: none"> ▪ Front setback – setback of only 6.8m (NRZ3 requires 9m) – not appropriate in response to character of setbacks along Besant St (min 8m); or average of adjoining sites (9.5m) ▪ Neighbourhood character - façade appears too similar to façade of neighbouring property (14A/14B Besant St) – detracts from the neighbourhood character 	<p>The NRZ3 variation to Standard B6 requires a minimum front setback of 9 metres. The proposal provides for a setback is 8.06 metres from the Besant Street boundary.</p> <p>As the setbacks of dwellings on the southern side of Besant Street are varied and closer to 8 metres the proposed setback is considered appropriate in this context.</p> <p>If the development were sited further back to increase the front setback, this would result in increased overshadowing.</p> <p>Importantly, the front setback at 8.06 metres allows for adequate space for landscaping opportunities, including canopy tree planting is considered responsive to site's context, with</p>

	<p>setbacks within Besant Street ranging from 12.4 metres to 7.6 metres.</p> <p>The site is located within Precinct G1. The proposal is consistent with the preferred character strategies for Precinct G1 as it provides for the following:</p> <ul style="list-style-type: none"> - 1 x canopy and landscaping within the front setback of. - The front facades of each dwelling provides for a porch as well as the use of a combination of varied materials, textures and colours such as rendered brickwork, timber cladding and rendered cladding in different colours, creating an articulated front façade. - The proposal includes a pitched roof form - The proposal does not include a front fence <p>The surrounding neighbourhood character is varied, with Besant Street comprising a mix of older single storey brick dwellings, and newer double and single storey rendered dwellings. A consistent theme among dwellings within Besant Street is a pitched roof form. The proposal includes a single pitched roof form, maintaining a consistent character to the surrounding dwellings.</p> <p>As the above elements are consistent with the preferred character strategies for Precinct G1, the proposal is considered to positively contribute and respond to the neighbourhood character.</p>
<p>Objector: 14A Besant Street, Hampton East</p>	
<ul style="list-style-type: none"> ▪ Overshadowing of SPOS – 3pm shadow (B21 not met) ▪ Development should not cause any additional shadowing to courtyard at any part of the day ▪ Variation to B17 (side and rear) ▪ Non compliance with B29 (solar access to open space) ▪ Windows not nominated as being fixed to 1.7m above floor level 	<p>The shadow diagrams have been updated and now include the existing fence shadow, showing the full extent of shadow impacts.</p> <p>The proposal has been updated to ensure that no additional shadow is cast to the SPOS of 14A Besant between 9am-3pm on September 22. As such Standard B21 is met.</p> <p>The wall height along the rear portion of the eastern elevation has been lowered and the roof form changed to a raked form with skylight to ensure no additional shadow is cast to additional properties.</p>

- Unclear if glazing will be film or actual obscure glazing
- Unclear whether the boundary fence shown as 1.9m high would provide a 1.7m high visual barrier to the elevated floor levels (appears visual barrier would be 1.6m high) – does not satisfy B22
- Overlooking from the ground level dining and family room windows into courtyard
- Front setback – does not satisfy B6 (reduced setback should at least match minimum setback of adjoining dwelling)
- Air conditioning condensers – sited up against the first floor walls – unsightly when viewed from the street and adjoining dwelling's first floor windows; exacerbate non compliant B17 setbacks; raise excessive noise to adjacent first floor bedroom windows – units should be located in the ground level courtyard
- Non compliance with B6, B17, B21, B29
- Dwellings are too large
- Dwellings need to be lowered, setback at first level from eastern side boundary

While a variation to the Bayside NRZ3 Standard B17 is required for a small portion of the eastern elevation (along 'Bed 2' 'Bath', 'Bed 3', and 'Leisure'), due to the location of the habitable room windows of the adjoining properties to the east, the proposed varied setbacks are not considered to result in an unreasonable loss of amenity.

The front setback of 8.06 metres is appropriate for the site's context. Refer above for further detail.

To mitigate overlooking into habitable rooms and the SPOS of 14A Besant, windows on the eastern elevation, where required, have sill heights above 1.7 metres, or have fixed obscured glazing below 1.7 metres.

Overlooking treatments are notated on the plans. Additionally, the proposed sliding doors on this eastern elevation have been changed to windows.

Regarding the fence height, as the FFL of the GF habitable windows do not exceed 0.8 metres above ground level at any point, a fence height of 1.9 metres will provide a 1.7 metre high visual barrier as required by Standard 22.

The A/C unit for Unit 1 has been relocated to the ground floor level, adjacent to the garage.

The proposal has been updated to lower the rear wall height and increase the setback of both Units to the northern wall, resulting in a minimum setback of 7.125 metres for Unit 1, and 7.255 metres for Unit 2, as required by Standard B29.

Objector: 7 Besant Street, Hampton East

- Overlooking from upstairs rooms into front bedroom and living room and POS – windows to have privacy screens covering at least on the lower half

7 Besant Street is located on the northern side of Besant Street, beyond 9 metres from the upstairs rooms. Moreover, trees and landscaping are provided for in the front setback further mitigating overlooking opportunities. The proposal is consistent with Standard B22.

4. Conclusion

Based on the above, and the planning officer's assessment of the application, it is submitted that this planning permit application reflects a well resolved proposal and warrants favourable determination.

Should you wish to discuss any matters of the application please do not hesitate to contact me.

Kind regards,

A handwritten signature in black ink, appearing to read 'Emma Klein', written in a cursive style.

Emma Klein
Consultant
+61 3 8663 4927
eklein@urbis.com.au

Item 4.9		Objector (O) Supporter (S) Applicant (A)
12 Garden Avenue, Brighton East		
Written Statements		
1.	Mr Tasman Jones (obo Little Fish Properties Pty Ltd)	(A)
<p>Dear Members of the Committee,</p> <p>5/2023/241/1 – 12 GARDEN AVENUE BRIGHTON EAST CONSTRUCTION OF TWO DWELLINGS ON A LOT IN A SPECIAL BUILDING OVERLAY</p> <p>WRITTEN STATEMENT FOR THE CONSIDERATION OF THE COMMITTEE</p> <p>We act on behalf of Little Fish Properties Pty Ltd, the permit applicant, in relation to the above application.</p> <p>We thank Council for the opportunity to provide a brief statement to discuss the history and merits of the planning application.</p> <p>The application before the Committee is by no means one that simply seeks a planning permit for the site, it also seeks to provide housing anticipated by State Planning Policy, Council's Planning Scheme, as well as providing change that is reasonable, acceptable and will sit comfortably with its neighbours.</p> <p>From the outset, Council have viewed this application favourably, having their principal supported subject to a few minor amendments. These are summarised as:</p> <ul style="list-style-type: none"> - <i>A greater staggering of front setbacks between dwellings; and,</i> - <i>A reduction in paved areas to make way for more soft soil areas to increase landscaping.</i> <p>The permit applicant made the above changes without hesitation and on this basis, Council proceeded to public notice. Public notice of the application concluded with the submission of objections from three (3) properties at 9 and 14 Garden Avenue and from 51 Comer Street.</p> <p>In response, the permit applicant sought an online Planning Consultation to engage objectors on their concerns. Those that attended where from 14 Garden Avenue and 51 Comer. It was commonly found that attending objectors considered the following concerns to arise:</p> <ol style="list-style-type: none"> 1. The overall length of the dwellings into the site would cast unreasonable overshadowing into fruit bearing trees, herb garden and pool. 2. Orally submitted where privacy concerns into a neighbouring pool. 3. Overlooking into SPOS. 4. Landscape Plan inconsistencies. 5. Orally submitted where visual bulk concerns. <p>Our replies:</p> <ol style="list-style-type: none"> 1. The length of the dwellings into the site is not unreasonable and is consistent with other recent single dwelling and side by side multiunit developments in the area. Some examples on Baird Street were offered to demonstrate, what's proposed falls within the trend of approvals for the area: 		

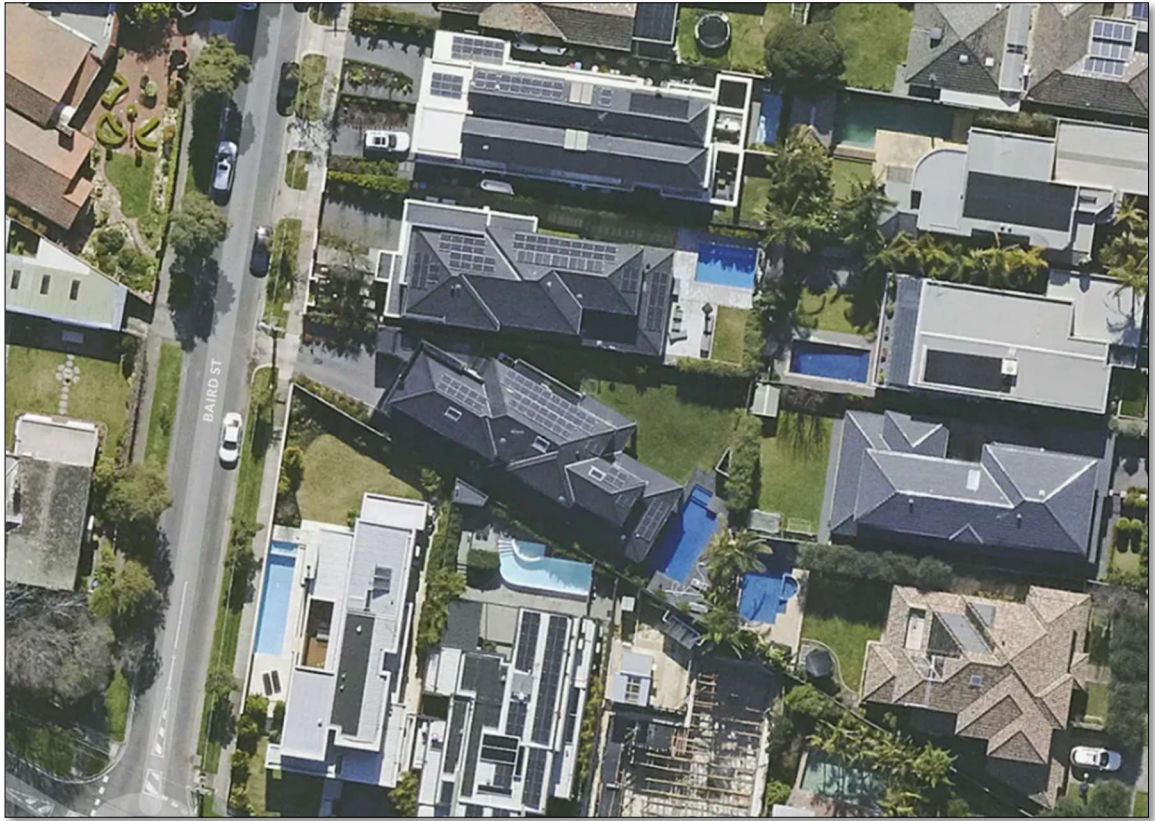


Figure 1 Side by side multiunit

developments 65m north of the subject site.

Shadow diagrams indicate that the location of fruiting trees is too far from the common boundary to fall within any overshadowing. Furthermore, length of shadows is much shorter in fruiting seasons which means referred trees are not impacted overshadowing.

- Overlooking to the pool of 14 Garden Avenue was addressed from the outset with Rescode compliant privacy screening to a height of 1.7m above finished floor level and additional screening to the bathroom which is not required but still offered:

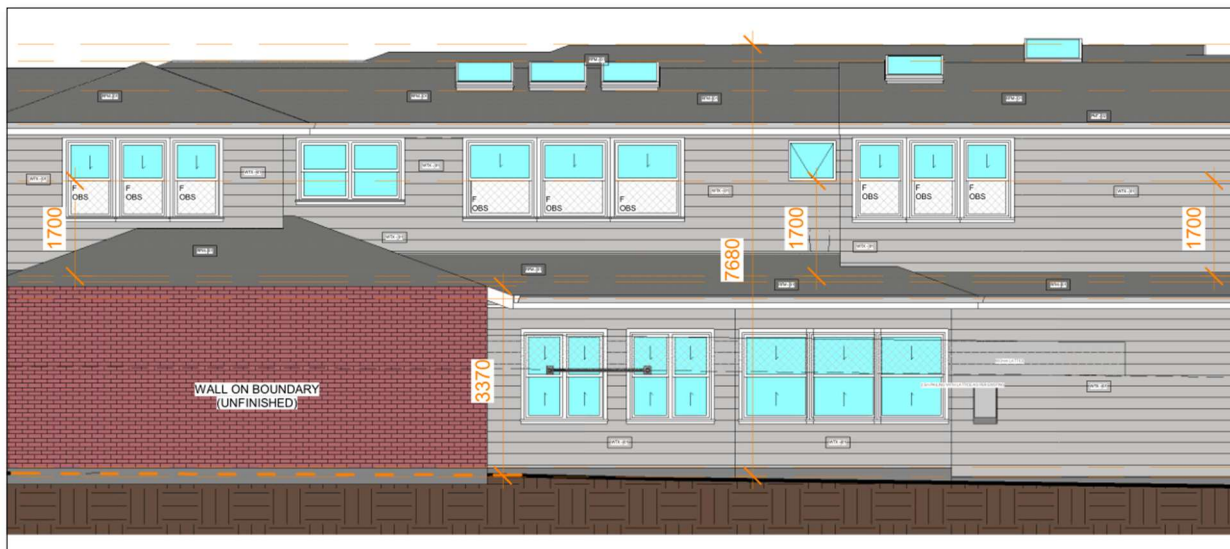


Figure 2 East elevation - upper floor

windows screened to limit overlooking into front setback of 14 Garden Avenue

- Objector at 51 Comer Street noted overlooking impacts into their SPOS. More specifically, from Unit 2 Bed 3 south facing window on the first floor. Privacy screening is intended, out of mutual

courtesy for privacy. Figure 3 shows the bedroom window annotates a 1.7m high screening to be applied however, this detail didn't carry over to the elevations. We have asked Council to apply a permit condition for consistent screening details across all relevant plans.

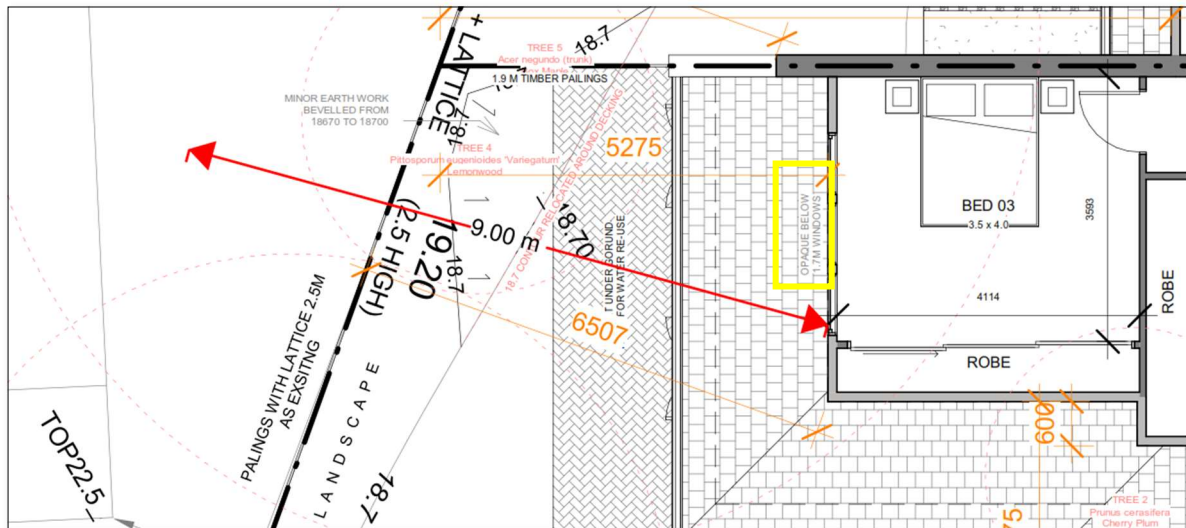


Figure 3 Overlooking from Unit 2 into 51

Comer Street, screening annotated.

4. 51 Comer Street raised inconsistencies in the landscape plan noting the selected tree in the southeast corner of the site on Page 13 that indicates a *Lagerstroemia indica* 'Natchez', a deciduous species. Concerns that the species in this location would require unwanted annual maintenance is a valid concern however, it's not what was intended. Page 6 nominates an Evergreen Tree to minimise maintenance, we seek to establish a Magnolia in this location, should Council see fit, we seek a condition of permit to clarify this on the plans.
5. 51 Comer Street orally raised visual bulk concerns, our reply to the objector at the meeting was:
 - Majority of eastern upper floor wall exceeds the varied setback requirement, sections where minor variations are sought, these are short sections compared to the overall length of the upper floor. Importantly, the proposed variations offer a visually interesting, better outcome as opposed to a compliant sheer and unarticulated wall.
 - Furthermore, the interface of where variations are proposed are not considered to incur any unreasonable off-site material detriment. The opposite upper floor wall of 14 Garden Ave has no habitable room windows. There is no direct interface to the main usable SPOS of adjacent properties. Variations are mainly visible from the front setback of 14 Garden Avenue interfacing to a driveway and pool.

In summary, this is an application which has had few items to address at the RFI stage, with only but a few changes to get it to public notice. Overall, this is the type of development Council's Planning considers is a respectable fit for the site that's acceptable to its neighbours. The permit applicant sympathises with the objectors that change is often viewed with resistance however, this is an application that does not push the boundaries with respect to neighbourhood character and off-site amenity. The permit applicant has tried their best, within reason, to address and clarify the concerns of objectors which is why we recommend the abovementioned permit conditions.

Importantly, any side-by-side townhouse development on this site is likely to have a similar siting, massing, and design response to what's proposed here. What's assured by this proposal is that any permit issued for this site will deliver a design detailing (Hampton Style) that is highly respectful of pre-world war 2 era dwelling stock of the area, as well as offering a robust landscape response to soften the built form in its setting.

We trust the enclosed information is satisfactory to the Council. If you require any further information, please do not hesitate to contact our office.

Yours faithfully,
SongBowdenPlanning

A handwritten signature in black ink, appearing to be 'TJ', written in a cursive style.

Tasman Jones
Senior Planner

Enc.

Item 4.11 355 Bluff Road, Hampton	Objector (O) Supporter (S) Applicant (A)
Written Statements	
1. Ms Shelley Brogden	(O)
<p>Good afternoon Councillors,</p> <p>Re: Application No. 5/2023/343/1 Use of land to sell and consume liquor (Liquor Licence)</p> <p>My written statement has the following concerns which increased after the Consultation meeting on 15 November 2023 as follows:</p> <ol style="list-style-type: none"> As the intended licence is for sale and consumption of liquor on the premises the applicants noted that they would be selling liquor right up to 10pm daily which is their closing time, and clients would not be allowed to stay back and drink on the premises. <p>My concern with that is that clients will be buying liquor for consumption off the premises, which is not in the licence.</p> <ol style="list-style-type: none"> They stated they would be allowing clients to take the unfinished purchased liquor away with them the same way they pack up uneaten food. <p>My concern is that it's not selling liquor for consumption on the premises. We didn't get an answer to that (cut off time for sale of alcohol) and on reflection the idea of selling alcohol to someone to have less than 10 or 15 minutes to drink a whole bottle of wine appears to me to be irresponsible vending of alcohol and I would like to think we could have some definite clarification on that and ensure responsible vending of alcohol if they are to pursue a license.</p> <ol style="list-style-type: none"> They've noted they have a good relationship with their neighbours however all the neighbours, apart from 349-351 Bluff Rd Hampton, close shops and offices at 5pm and the restaurant opens at 5pm so there is no interaction with them. Every question we asked of them was replied with a 'Not at this stage' so I feel that they are not being completely up front with us and would like a lot more clarification written into the permit to ensure they do not practice outside of the permit they are seeking. With the actions they have taken and the building they are currently doing I am concerned that they will extend out the back for cooking and clientele for smoking and drinking directly below our lounge rooms and bedrooms and also that their closing time of 10pm will not be adhered to or will be extended. What I am asking of you is to consider putting boundaries in place in the permit or recommendation to ensure that we are protected from the drinking, smoking, and music that we have been dealing with at the back of the restaurant (where they said they had no intention of allowing any of these things to happen) 	

I also note that there are two bottle shops one within 30 seconds across the road and one within 2 minutes on the same side of the road selling liquor up to the same time that the restaurant closes, so I do not see the reasoning for the Liquor Licence as if it remains BYO their clients are free to take their unconsumed liquor with them – unlike the on premise licence they are applying for.

I also note that currently they are doing building works out the back (which have nothing to do with this application) however it is worth noting that this is increasing the concern as it goes against what they told us on 15 November 2023, and I feel they have lost all credibility with us, their closest neighbour.

Regards
Shelley Brogden

Item 4.14 64 Bay Street, 329 New Street, and Tower 1 / 329T New Street, Brighton	Objector (O) Supporter (S) Applicant (A)
Written Statements	
1. Ms Julie Barker	(O)
<p>Dear Council Members,</p> <p>I am writing to express my objection to the proposed retention of the beer garden structure at New Bay Hotel, underlining the profound and lasting impact it has had on both my daily life and the residential environment.</p> <p>Since the installation of the beer garden structure during the Covid period, the noise generated by patrons has reached intolerable levels, prompting countless complaints to various authorities. Residents, including myself, have reported disturbances to the police, the liquor licensing authority, and the council, highlighting the toll this ongoing issue has taken on our community.</p> <p>The noise, including profanities, screams, and laughter, has become an ONGOING daily intrusion, affecting the peaceful enjoyment of my residence. I am unable to have my balcony doors open (this is the only fresh air access to my property) without being directly impacted by the constant noise from the beer garden. This is further exacerbated by the addition of a TV into the structure being used during sport events and rowdy gatherings. The noise level is further amplified by the concrete structures around and worse at my residence than on the ground.</p> <p>Furthermore, the installation of the beer garden structure has resulted in a loss of privacy for me, as it looks directly up to my property. The altered landscape now allows patrons an unobstructed view into my home, robbing me of the privacy I once enjoyed.</p> <p>In addition to the noise concerns, the relocation of the pub's bins to the adjacent area, originally part of the beer garden, has disrupted my mornings with early wake-ups due to the banging of the bins and the noise from garbage trucks on collection days. It has also introduced an influx of flies on my balcony, impacting my living conditions.</p> <p>It is crucial to highlight that New Bay Hotel already possesses other outdoor approved areas, that do not affect the residents, within the vicinity that remain underutilized on both New and Bay street. There has never been an overflow in these outdoor spaces so I cannot fathom that there would be a need for this beer garden based on capacity.</p> <p>The negative impact on our daily lives as residents far outweighs any perceived benefit for the pub.</p> <p>Additionally, it must be made clear to council members that the New Bay Hotel has demonstrated a clear history of disregard for minimising the impact on neighbors, as evidenced by the numerous noise complaints, the erecting of a marquee structure and outdoor music during Covid to the point that some of us were in tears on many nights having to call the Police to attend due to the noise impacting our ability to sleep or have peace in our own homes. Permanent alterations, including drilling through the</p>	

New Bay brick wall to install ranch sliders (how are these a temporary feature), I believe has always flouted the intent of the temporary restrictions allowed for during the Covid period and shows that the New Bay has intended to use the unfortunate event of Covid to their own gain. This is a slap in the face to businesses that really needed the support of these outdoor spaces and years now of pain for us as residents with noise and appalling behavior at times of patrons.

When our residence was built there was a house between my apartment and the New Bay Hotel, the council allowed a few years later the demolition of the house and building of a carpark for the New Bay Hotel which in itself caused its own issues with noise and light pollution to us as residents, now add on the noise from the beer garden that we have had to contend with for far too long already.

The responsibility of the council in allowing the construction of our residential building and collecting rates should extend to safeguarding the mental well-being, living conditions, and privacy of its residents.

I urge each council member to reflect on how they would cope if sudden and incessant noise levels of this nature, coupled with a loss of privacy, invaded their homes.

In conclusion, I implore the council to prioritise the well-being of its residents and consider the lasting detrimental implications of approving the retention of the beer garden structure at New Bay Pub. Your careful consideration of these concerns is crucial to maintaining the sanctity of our residential environment.

I appreciate your attention to this matter and trust that the council will make a decision that reflects a commitment to the welfare of its constituents.

My first contact (via email) with the Council regarding the above was early November 2020 and how it was ever allowed even as a temporary thing? I suppose only the Council and Victorian Government can answer how & why?

That said I would personally like to thank the council for the comforting emails over the past three, very difficult years which confirms at least in my own mind the the Council know this should now thankfully come to end, and affected local rate payers can get back to living a peaceful normal life as before. Thankfully the Party in Hotel car park will end. No more Sunday afternoon sessions, Friday night drinks & sporting events till gone 10pm in the evenings. Sound proofing did nothing and the plans basically are the same as before regarding sound. Sound can only be stopped by removing the structure or building a proper fully bricked structure, which defeats the objective of an out door space which the hotel already has two other outdoor spaces, they need more car parking not more outdoor spaces.

The following is five snippets of five emails from five different Council employees (I have not included the employee names)

5/11/2020 Email

“Yes totally understand yours (and others) concern over what is happening. Would have been nice for the exemptions to include some form of buffer from adjacent residentially zoned land.

I believe the beer garden would be largely unworkable if not for the door – I think you are correct that the door would likely remain moving forward however just act as an acces point from car park to the premises.

Rest assured any proposal to formalise the space would have to go through a lengthy planning process which would involve notification, and without wanting to look too far forward certainly wouldn't be approved in its current form. “

9/11/2020 - Email to Julie Lynn an apparent owner at 317

“Thank you for your email and attached photos, Council is working with the Hotel Manager to try and resolve the residents issues. I have been informed that the EPA are the lead agency in matters of noise emanating from commercial premises, Council will continue to monitor the premises and work with the Hotel Manager to work on a solution.”

17/11/2020 Email

“ The most recent weekend evening inspections on 13 and 14 November have assisted officers with evidence confirming that patron noise levels were considered to be unreasonable at the time.”

6/4/23 Email

“Thank you for your email regarding the New Bay Hotel Outdoor Structure, apologise for the delayed response, I had been on leave. The Management of the Hotel will be advised of the regulation regarding the outdoor structure, Council will be inspecting the site after the due date to ensure it is removed.”

26/4/2023 Email from Steven Boyce, Senior investigations officer

“ I checked our records this morning and undertook a site inspection.
As a result I have issued an enforcement notice to the hotel owners.

I expect that the reaction will be to lodge a planning application to retain the pergola as allowed under state planning provisions.

If that is the case with your permission I can advise the assigned town planner of your interest.

If an application is not lodged Council's enforcement actions will escalate with a likely submission to VCAT to issue an enforcement order for removal. “

1/5/23 email

Your concerns are all valid objections to the proposed application a these will be taken into consideration by the assessing planner.

In the meantime lodging complaints with Liquor Control Victoria may help “

Finally

I am aware the last minute changes by the Victorian government didn't help some of the above email responses but at long last I am sure the council will finally put an end to all this.

Regards
Mark Taylor