Agenda

for the

Planning & Amenity Committee Meeting

To be held at the Council Chambers, Civic Centre, Boxshall Street Brighton

on

Tuesday, 12 March, 2019 at 7:00pm

Chairperson:  Cr Rob Grinter
Councillors:    Cr Alex del Porto
               Cr Laurence Evans
               Cr Michael Heffernan (Mayor)
               Cr James Long BM JP
               Cr Clarke Martin
               Cr Sonia Castelli
Members of the Gallery

Your attention is drawn to Section 92 of Council’s Governance Local Law No 1.

Section 92 The Chair’s Duties and Discretions

In addition to other duties and discretions provided in this Local Law, the Chair –

(a) must not accept any motion, question or statement which is derogatory, or defamatory of any Councillor, member of Council staff, or member of the community;

(b) may demand retraction of any inappropriate statement or unsubstantiated allegation;

(c) must ensure silence is preserved in the public gallery during any meeting;

(d) must call to order any member of the public who approaches the Council or Committee table during the meeting, unless invited by the Chair to do so; and

(e) must call to order any person who is disruptive or unruly during any meeting.

An Authorised Officer must, if directed to do so by the Chairman, remove from a meeting any Councillor or other person who has committed such an offence.

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

Planning & Amenity Committee Charter
To deal with all matters relating to consideration of statutory planning, tree removal applications, traffic and parking matters.

This Committee has the full delegated authority of Council to finally determine upon planning applications.

Membership of the Committee
All Councillors

Order of Business

1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

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5. Confidential Business
# Next Meetings 2019

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<thead>
<tr>
<th>Date</th>
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</thead>
<tbody>
<tr>
<td>Tuesday 16 April 2019</td>
</tr>
<tr>
<td>Tuesday 30 April 2019</td>
</tr>
<tr>
<td>Tuesday 14 May 2019</td>
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<tr>
<td>Tuesday 11 June 2019</td>
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<td>Tuesday 16 July 2019</td>
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<td>Tuesday 30 July 2019</td>
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<td>Tuesday 13 August 2019</td>
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<td>Tuesday 10 September 2019</td>
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<td>Tuesday 8 October 2019</td>
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<td>Tuesday 22 October 2019</td>
</tr>
<tr>
<td>Tuesday 12 November 2019</td>
</tr>
<tr>
<td>Tuesday 26 November 2019</td>
</tr>
<tr>
<td>Monday 9 December 2019</td>
</tr>
</tbody>
</table>
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 26 February 2019.
## Executive summary

### Purpose and background

The purpose of this report is to present the findings of a review of car parking in Lyle Anderson Reserve, Highett following community objections to the approval of a planning permit for an aged care development at 32-40 Graham Road, Highett heard at the Planning and Amenity Committee Meeting on 20 December 2018. The objections were on the grounds of impacts of the new development to parking availability in the reserve.

As the amount of parking space provided within the boundary of the development met the requirements of the Bayside Planning Scheme, no analysis on the potential impacts to the adjacent reserve was provided to Council as part of the planning permit application.

The Planning and Amenity Committee that met on 20 December 2018 resolved (in part) as follows:

*That Council officers undertake a car parking review of the Lyle Anderson Reserve, with a view to determine the usage of the car park by various community organisations and members of the community, and the findings of the report be presented to a Councillor Briefing prior to the March 2019 Planning and Amenity Committee meeting.*

The short time frame allocated for the preparation of this report limited the scope of the investigation into existing parking occupancy in the reserve and the extent of community consultation possible given the period coincided with school holidays.

This report provides information on whether any immediate actions are warranted in relation to parking in Lyle Anderson Reserve, with consideration of the proposed building development at 32 - 40 Graham Road Highett.

### Key issues

#### Planning Permit for 32-40 Graham Road, Highett

A Planning Permit has been issued for the vacant site at 32-40 Graham Road, Highett. The permit allows: the use and development of the land for a retirement village; construction of a residential aged care facility along with ancillary café, gym, pool, wellness centre and cinema; and creation and variation of an easement and inclusion of land at 32-34 Graham Road.

The development has been approved with a surplus of 29 off-street parking spaces to cater for the visitors of residents and patrons of the café. Although it is likely that overflow parking from the development within the adjacent Lyle Anderson Reserve will occur, there is uncertainty as to the nature and extent to which this will impact on parking availability for existing users.

#### Existing Parking Demand – Lyle Anderson Reserve

Lyle Anderson Reserve contains 40 car parking spaces.
During the preparation of this report, site visits to Lyle Anderson Reserve were undertaken that demonstrated the reserve experienced low levels of parking during this period. Due to the summer school holiday period, it was not possible to undertake a comprehensive parking study or ascertain the typical existing parking demand from community users of the reserve for existing car park space in Lyle Anderson Reserve.

The Grace Heart Community Church is located within Lyle Anderson Reserve. The Church provides free community lunches on Tuesdays and Sundays and monthly movie nights requiring approximately 15 spaces within the reserve. Access to parking is also required during business hours Monday to Friday for clients to access free grocery pickups.

The Highett Bowls Club has 25 off-street parking spaces adjacent to the club house (separate from the reserve). It is understood that the bowls club utilises parking space within the reserve for occasional events.

Are Parking Restrictions Warranted?
The existing parking availability at Lyle Anderson Reserve including Highett Bowls Club has an overall capacity of 65 car spaces. This includes 21 sealed car spaces at the southern end of the Reserve adjacent to the Bowls Club, and approximately 44 unsealed car spaces adjacent to the park at the rear of the proposed development. The 44 unsealed spaces include 3 disabled car spaces.

During the construction of the development, parking demand associated with construction activities must comply with the requirements of the Construction Management Plan (CMP) approved for this development. The CMP can prohibit the parking of construction vehicles within Lyle Anderson Reserve. Parking restrictions will be required within the reserve prior to construction commencing to reinforce compliance with the CMP.

Once the aged care facility is operational, it is likely that some parking overflow into Lyle Anderson Reserve will occur due to the features of the development that are expected to attract the general public. It is noted that no on-street parking is available in Graham Road in the vicinity of the site due to existing ‘No Stopping’ restrictions installed for traffic management purposes.

Council can influence the occupancy of parking space in the reserve through the implementation of timed parking restrictions. Three-hour (3P) parking restrictions may serve to displace long-term parking from the reserve and free-up space to meet the needs of the users of the reserve, including but not limited to the Grace Heart Community Church patrons and the members of the Highett Bowls Club. However, without observed parking occupancy data on which to base the design of parking controls, there is uncertainty as to the effectiveness of these controls. It is expected that ongoing monitoring of parking conditions and further engagement with stakeholders will be required for several months after the aged care facility opens to allow appropriate controls to ensure an optimal outcome for parking in Lyle Anderson Reserve is achieved.

Furthermore, ongoing communications with the café operator and residents of the new development will be required to encourage their visitors to use the off-street visitor parking provided within the development.

Conclusion
Parking restrictions in the off-street car park in Lyle Anderson Reserve and surrounding area are required in advance of upcoming construction works at this site and at other nearby developments in the area, such as the former CSIRO property. Although 3P restrictions are considered the most appropriate to be implemented at this time, further monitoring of parking conditions and consultation with stakeholders is required to design the parking controls that will provide the optimum benefit to reserve users, patrons of the Grace Heart Community Church and members of the Highett Bowls Club.
Recommendation

That Council:

1. Implements 3P (three-hour) parking restrictions within Lyle Anderson Reserve following a period of advisory signage of this change and prior to the commencement of construction at 32-40 Graham Road Highett and authorises Council officers to review and amend this control as required;

2. Ensures the Construction Management Plan for 32-40 Graham, Highett is approved with a condition that precludes the parking of vehicles associated with construction activities within Lyle Anderson Reserve; and,

3. Continues to monitor parking conditions and consultation with stakeholders following the opening of the development and modify restrictions as required to ensure the optimal availability of parking space is achieved.

Support Attachments

Nil
Considerations and implications of recommendation

Liveable community

Social
The aim of installing parking controls in Lyle Anderson Reserve is to ensure the relevant car parking users and demands have been prioritised, with a view to determine the best usage of the car parks by various members of the community. The provision of parking controls for the existing car parks in Lyle Anderson reserve would eliminate the long-term parking overflow associated with the development at 32 – 40 Graham Road, Highett and from other future nearby developments such as the former CSIRO site.

Natural Environment
Increased car parking in Lyle Anderson Reserve will impact on the amenity for users of the reserve.

Built Environment
Increased car parking in Lyle Anderson Reserve will impact on the character of the reserve, without altering the built form or structures with the reserve.

Customer Service and Community Engagement
The report outlines the need for the installation of parking controls in Lyle Anderson Reserve in advance of construction on the building site at 32 – 40 Graham Road. Prior to the installation of any form of parking restrictions, consultation is required to be undertaken with the affected parties such as the regular users of the Reserve, tenants and staff associated with the Grace Heart Community Church and Highett Bowls Club.

Human Rights
The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights contained in the Victorian Charter of Human Rights and Responsibilities Act 2006.

Legal
Lyle Anderson Reserve is Council owned land. Therefore, Council has the authority for implementing and ongoing management of parking controls within Lyle Anderson Reserve.

Finance
The cost associated with implementation of parking controls is not considered significant and can readily be absorbed into the traffic management works budget.

Links to Council policy and strategy
The Community Engagement Policy (C/POL/EXE/016) guides and assists in undertaking the consultation process for proposed parking restrictions to ensure acceptable community engagement processes are undertaken prior to any new parking restrictions being implemented.
Options considered

The proposition to design, consult and install parking restrictions for the existing car parks in Lyle Anderson Reserve has been developed following a review of the key features of the Planning Application for 32 - 40 Graham Road, Highett and redevelopment of the former CSIRO property, and feedback from some members of the community.

No other options were considered relevant to this report.
4.2 222 RESERVE ROAD, BEAUMARIS
GRANT A PLANNING PERMIT
APPLICATION NO: 2019/4/1 WARD: SOUTHERN

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

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Grant a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Jarrad Miller</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>15 January 2019</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>37 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Site area</td>
<td>836sqm</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>0</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>No</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>No</td>
</tr>
</tbody>
</table>

Proposal
The application seeks the removal of 2 trees in a Vegetation Protection Overlay. The applicant has advised that they intend to redevelop the site with a single dwelling and while the replacement dwelling itself would not require a planning permit, the removal of two trees would be necessary to facilitate its construction.

Key details of the proposal are as follows:

- Removal of Trees 1 (Melaleuca linariifolia) and 4 (Archontophoenix cunninghamiana) which are protected by the Vegetation Protection Overlay (Schedule 3).

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

History
There is no planning permit history relevant to this application.
2. **Planning controls**

**Planning Permit requirements**

A planning permit is required pursuant to:

- **Clause 42.02-2 (Vegetation Protection Overlay - VPO3)** – A permit is required to remove, destroy or lop any vegetation native to Australia.

**Planning Scheme Amendments**

There are no Planning Scheme Amendments relevant to this application.

3. **Stakeholder consultation**

**External referrals**

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

**Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* - no objections were received.

**Consultation meeting**

A consultation meeting was not considered necessary as no objections were received.

4. **Recommendation**

That Council resolve to **Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application **2019/4/1** for the land known and described as **222 Reserve Road, Beaumaris**, for the **Removal of Native Vegetation** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Prior to the removal of vegetation, plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The following plans must be provided:
   a) A Landscape Plan in accordance with Condition 2 of this permit.
   All to the satisfaction of the Responsible Authority.

**Landscaping**

2. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
   - Replacement planting of one indigenous tree capable of reaching 12m at maturity in the front setback; and,
• Replacement planting of one indigenous tree capable of reaching 8m at maturity in the rear setback.

3. Before the occupation of the new dwelling, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

4. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Permit Expiry

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

a) The vegetation removal is not completed within two years of the date of this permit.

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

Permit Notes:
• This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:
• Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
• Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:
• Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme
• Clause 12 Environmental and Landscape Values
• Clause 13 Environmental Risks
• Clause 14 Natural Resource Environment
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.04 Environmental and Landscape Values
• Clause 21.05 Environmental Risks
• Clause 22.06 Neighbourhood Character Policy (Precinct H2)
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 42.02 Vegetation Protection Overlay (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H2. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2.

A key objective of the Precinct Guidelines is to retain large, established trees and to provide for planting of native vegetation.

Tree 1 is in poor health (with a safe useful life expectancy less than 5 years) and considered to have low amenity value. Tree 4 is considered to have low amenity value, and would barely be visible from the wider surrounds. Given the above, the removal of these two trees is considered to be acceptable subject to appropriate replanting. It is therefore recommended to require the following replanting by way of condition:

- The planting of one indigenous tree capable of reaching 12m at maturity in the front setback
- The planting of one indigenous tree capable of reaching 8m at maturity in the rear setback

Over time, these trees would provide for an enhancement to the neighbourhood character setting of the area.

6.2. Landscaping

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

The application plans show the removal of 2 trees both of which are protected by the VPO3. The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous trees are marked with a "*".

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td></td>
</tr>
<tr>
<td>Trees 1 &amp; 4</td>
<td>Tree 2*</td>
<td>Tree 3</td>
</tr>
</tbody>
</table>

From an arboricultural perspective, Council’s Arborist has reviewed the application and advised that Tree 1 is in poor health and considered to have low amenity value, and Tree 4 is considered to have low amenity value; both trees are native to Australia. Further detail of each tree is provided in Attachment 4.
An assessment against the decision guidelines of the VPO3 is provided in Attachment 3. The proposed vegetation removal is considered to be acceptable when assessed against the decision guidelines of VPO3. In terms of the character of the area along with the quality of habitat, it is considered that any impact will be appropriately mitigated by the aforementioned replating which will be secured by condition.

6.3. Street tree(s)

There is a street tree located within the nature strip which is proposed for retention.

6.4. Cultural Heritage management plan

The site is not located within an area of cultural heritage sensitivity and therefore a cultural heritage management plan is not required.

6.5. Development contributions levy

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

Support Attachments

1. Site surrounds and images
2. Neighbourhood character assessment
3. Arborist referral and VPO assessment
4. Applicant’s arboricultural assessment
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1: Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>

Figure 2: Photo of the subject site from the northwest
Figure 3: Photo of the subject site from directly in front

Figure 4: Photo of the subject site from the southwest
Neighbourhood Character Precinct H2

Preferred Future Character Statement

The low scale dwelling styles sit within established gardens that contain some substantial vegetation including trees. Front setbacks are large, and sometimes variable, and dwellings usually include a pitched roof form of some type. The streetscapes have an open feel due to buildings being offset from at least one side boundary and a lack of intrusive front fencing, complemented by wide roads and nature strips. Linkages with the remainder of the Beaumaris area are strengthened through the use of more indigenous planting in the private and public domains.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications that includes substantial trees and shrubs, preferably indigenous species.  
• Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). | Lack of landscaping and substantial vegetation  
Removal of large trees  
Planting of environmental weeds | Responds  
While the two trees to be removed are native to Australia, they are both considered to have low amenity value. In addition, it is recommended to require replacement planting of 2 indigenous trees capable of heights ranging from 6m to 12m. Given the above and subject to appropriate conditions, it is considered that the proposal would respond appropriately to the preferred character of the precinct. |
| To maintain the rhythm of spacious visual separation between buildings and allow space for trees and other planting. | • Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.  
• Buildings should be sited to allow space for a garden including trees and shrubs.  
• Minimise impervious surfaces, particularly in the front garden. | N/A | |
<p>| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports at or behind the line of the dwelling. | Car parking structures that dominate the façade or view of the dwelling | N/A |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that new buildings reflect the low scale forms of the area, and provide an articulated and interesting façade to the street.</td>
<td>• Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, pitched roof forms, combinations of materials, textures or colours or other elements providing appropriate articulation.</td>
<td>Large, bulky buildings Poorly articulated roof, front and side wall surfaces</td>
<td>N/A</td>
</tr>
<tr>
<td>To use building materials and finishes that complement the natural setting</td>
<td>• Recess upper levels from the front façade.</td>
<td>Period reproduction styles and detailing.</td>
<td>N/A</td>
</tr>
<tr>
<td>To enhance the openness and informality of the streetscape and maintain views into front gardens.</td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>• Provide open style front fencing, other than along heavily trafficked roads.</td>
<td>High or solid front fencing.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>• Use vegetation as an alternative where possible.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ARBOURIST COMMENTS / CONDITIONS:

The requirements of NCP are:

- Prepare a landscape plan to accompany all applications that includes substantial trees and shrubs, preferably indigenous species.
- Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone).
- Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.
- Buildings should be sited to allow space for a garden including trees and shrubs.
- Minimise impervious surfaces, particularly in the front garden.

Proposed tree removal

The application plans show the removal of 2 trees from the site, including 2 protected by the Vegetation Protection Overlay (VPO).

The table below identifies trees that are protected by the VPO, align with the Neighbourhood Character Policy (NCP), protected by the Local Law and those which are not protected by any statutory mechanism.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Trees that align with the NCP</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,4</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
</tbody>
</table>

Removal of the following trees is supported:

- 1 & 4

Tree 1 is in poor health with low amenity, whilst Tree 4 has low amenity.
### Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact the vegetation removal would have on the character of the area.</td>
<td>Limited amount of vegetation on the site currently</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the presence of indigenous species</td>
<td>A reduction of indigenous species in the locality will occur, however</td>
</tr>
<tr>
<td>in the locality.</td>
<td>conditions to replant with indigenous trees will be required.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the appearance of development.</td>
<td>Tree 1 removal would increase the presence of the built form. Tree 2</td>
</tr>
<tr>
<td></td>
<td>removal would not increase the presence of the built form.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the habitat quality of any</td>
<td>Possible fragmentation of wildlife corridors due to close proximity to</td>
</tr>
<tr>
<td>remaining vegetation and the fragmentation of wildlife corridors.</td>
<td>golf course.</td>
</tr>
<tr>
<td>Any proposal to regenerate or plant indigenous vegetation on the site.</td>
<td>No proposal has been put forward</td>
</tr>
</tbody>
</table>

### Support for removal

The application is supported subject to the following conditions:

- The planting of one indigenous tree capable of reaching 12m at maturity in the front set back.
- The planting of one indigenous tree capable of reaching 8m at maturity in the rear set back.

### Additional comments

The arborist plan mentions a concept plan (Latitude 47). The following reports will be required if this concept plan is to be realised:

**Tree Management Report and Tree Protection Plan**

The Tree Management Report must include:

- Details of Tree Protection Zones, as per AS4970, for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site;
- Protection measures to be utilised and when they will be implemented; and
- Stages of development at which the site arborist will inspect tree protection measures.

The Tree Protection Plan must be drawn to scale and show:
- The location of all tree protection measures to be utilised.

Any modification to the report or plan must be approved by the site arborist. Such approval must be noted and provided to the Responsible Authority within seven days.

**Adherence to Tree Management Report and Tree Protection Plans**

All actions and measures identified in the Tree Management Report and Tree Protection Plan must be implemented.

**Contact for Implementation of Tree Management and Protection Plans**

Before any works associated with the approved development, the contact details of the project arborist responsible for implementing the endorsed Tree Management Report and Tree Protection Plan must be submitted to the Responsible Authority.

**Landscape plan required**

Before the commencement of any works associated with the approved development, a landscape plan must be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Latitude 47 and be drawn to scale with dimensions. The plan must show:

a) A survey, including botanical names, of all existing trees to be retained and removed on the site.

b) A survey, including botanical names, of all existing trees on neighbouring properties where their Tree Protection Zones (calculated in accordance with AS4970-2009) encroach into the subject site.

c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. **Plantings must be 80% indigenous by species type and count.**

d) Details of all landscaping, water sensitive urban design elements (as applicable) and surface finishes.

Before the occupation of the development the landscaping on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping on the endorsed plans must be maintained. Landscaping that is dead, diseased or damaged must be replaced to the satisfaction of the Responsible Authority.

| SIGNATURE | Ronan Hamill |
| DATE      | 29/01/19     |
21 December 2018

Tree Assessment Report

222 Reserve Road
Beaumaris, Vic

Version 1

Report Reference # 18264 BEA
Commissioned By Doug MacLeod
Latitude 37 Group
Latitude Reference # 18069
Consulting Arborist Jarrad Miller dip. arb
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1. Introduction

1.1. Background

The existing dwelling at 222 Reserve Road is proposed to be demolished and replaced with a new single residence.

1.2. Objectives

- Assess four (4) nominated trees within the subject property.
- Provide information on species, origin, age, dimensions, condition, useful life expectancy and significance for each assessed tree.
- Determine the appropriateness of retaining each assessed tree.

1.3. Methodology

The trees were assessed by Jarrad Miller on 19/12/2018 and each tree was assigned an identification number ranging from 1 - 4.

DBH (diameter at breast height) was determined by measuring the circumference of the tree stems and dividing by \(\pi\) (\(\pi\)). Stem diameter was recorded as close as possible to 1m above ground level, however tree form ultimately dictated where the measurements were taken to ensure an accurate representation of DBH.

Height and canopy spread were estimated from the ground. Canopy spread was observed on the widest axis.

Tree assessments were limited to superficial observations from the ground only and based on the consulting arborist’s training and anecdotal experience.

The identification of tree species was limited to seasonal features available at the time of assessment.

Tree protection zones (TPZ) and structural root zones (SRZ) were calculated as per Australian Standards – Protection of trees on development sites (AS 4970-2009).
1.4. Statutory Controls

The subject site is covered by the Bayside City Council.

The land is included in a Neighbourhood Residential Zone – Schedule 3 (NRZ3).

This property is not in a designated bushfire prone area. No special bushfire construction requirements apply. Planning provisions may apply.

The land is subject to the following overlay(s):

- Design and Development Overlay (DDO)
  Design and Development Overlay – Schedule 3 (DDO3)
- Development Contributions Plan Overlay (DCPO)
  Development Contributions Plan Overlay Schedule (DCPO1)
- Vegetation Protection Overlay (VPO)
  Vegetation Protection Overlay – Schedule 3 (VPO3)

Within an area affected by a VPO3, a planning permit is required to remove, destroy or lop any native tree or plant (including ferns and palms) which is:

- greater than 2m high, and
- has a single trunk circumference greater than 0.5m at a height of 1m above ground level.

Trees 1, 2 and 4 may require a planning permit to remove.

You may need to apply for a local law permit if the tree doesn’t fall into the above situation and has a single or combined trunk circumference greater than 155cm measured at 1m above ground level. If the tree has several trunks, the 4 largest trunks circumference should be added together.

Tree 3 may require a local law permit to remove.

It is the consulting arborist’s interpretation of the planning scheme that other vegetation within the property does not require a permit to remove, however this should be confirmed with Bayside City Council prior to undertaking any removals. Tree species not assessed within the subject property include: Soft Tree Fern (Dicksonia antartica), Grevillea (Grevillea cv.), Photinia (Photinia robusta), Variegated Pittosporum (Pittosporum eugenioides), Silver Pittosporum (Pittosporum tenuifolium), Oriental Arborvitae (Platycladus orientalis), Protea (Protea sp.), Plum (Prunus sp.) and Queensland Umbrella Tree (Schefflera actinophylla).
2. Site Maps

2.1. Aerial View

Figure 2.1. Site map (landchecker, 2018) with approximate title boundaries in yellow (J. Miller)
2.2. Existing Features Plan with Tree Numbers

Figure 2.2. Existing features plan (Wilson Surveying, 2018) with tree numbers (J. Miller)
## 3. Recorded Tree Data

<table>
<thead>
<tr>
<th>#</th>
<th>Botanical Name</th>
<th>Common Name</th>
<th>Origin</th>
<th>Age</th>
<th>DBH (cm)</th>
<th>H x S (m)</th>
<th>Health</th>
<th>Structure</th>
<th>ULE (yrs)</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Melaleuca linariifolia</td>
<td>Flax Leafed Paperbark</td>
<td>Native</td>
<td>Mature</td>
<td>26, 33, 36, 43 (70)</td>
<td>6 x 6</td>
<td>Fair-Poor</td>
<td>Fair</td>
<td>&lt; 5</td>
<td>Moderate</td>
</tr>
<tr>
<td>2</td>
<td>Leptospermum laevigatum</td>
<td>Coastal Tea Tree</td>
<td>Indigenous</td>
<td>Semi-Mature</td>
<td>15, 18 (23)</td>
<td>4 x 4</td>
<td>Fair</td>
<td>Fair</td>
<td>10 - 20</td>
<td>Moderate</td>
</tr>
<tr>
<td>3</td>
<td>Prunus cv.</td>
<td>Cherry</td>
<td>Exotic</td>
<td>Mature</td>
<td>14, 16, 16, 21 (34)</td>
<td>5 x 5</td>
<td>Fair</td>
<td>Fair</td>
<td>10 - 20</td>
<td>Moderate</td>
</tr>
<tr>
<td>4</td>
<td>Archontophoenix cunninghamiana</td>
<td>Bangalow Palm</td>
<td>Native</td>
<td>Semi-Mature</td>
<td>18</td>
<td>4 x 3</td>
<td>Fair</td>
<td>Fair</td>
<td>10 - 20</td>
<td>Low</td>
</tr>
</tbody>
</table>

**Table 3.1. Recorded tree data**

*DBH = Diameter @ Breast Height  H x S = Height x Spread  ULE = Useful Life Expectancy*

The combined DBH as per AS 4970 for trees with multiple stems is provided in brackets.
4. Photographic Catalogue

Figure 4.1. Tree 1 (Paperbark)

Figure 4.2. Tree 2 (Tea Tree)

Figure 4.3. Tree 3 (Cherry)
4. Photographic Catalogue (continued)

Figure 4.4. Tree 4 (Bangalow Palm)
5. Observations & Discussion

Trees 1 is a Flax Leaved Paperbark (*Melaleuca linariifolia*), endemic to New South Wales and Queensland. It is located on the northern edge of the driveway entrance and the tree has reached its mature size for this area. It presents with a reduced canopy density, likely as a result of its age.

The base of the tree divides into four co-dominant stems, which is typical for the species. The basal stem junction appeared reasonably sound at the time of assessment, however stem failures occasionally occur on apparently sound mature specimens of *Melaleuca*.

Tree 1 will severely restrict development of a suitable property entrance from a busy road. The useful life expectancy (< 5 years) and declining health of the tree does not merit design concessions and it should be considered for removal prior to the construction phase.

![Figure 5.1. Poor canopy density of tree 1](image1)

![Figure 5.2. Basal stem junction](image2)
5. Observations & Discussion (continued)

Tree 2 is a Coastal Tea Tree (*Leptospermum laevigatum*), and indigenous tree to the area. It is in fair condition with long-term potential and should be considered for inclusion within the final design. Portions of the canopy overhanging the foot path on Reserve Road should be cut back* to ensure compliance with council regulations.

Tree 3 is an ornamental Cherry tree (*Prunus cv.*) of exotic origin. It is in reasonable condition with long-term potential. The tree is suitably located on the northern boundary within the front set back and should be considered for inclusion within the final design. The tree has not been maintained in previous years and has developed an unattractive shape with a reduced canopy density. Ornamental Cherries are (as the name suggests) planted for their ornamental qualities and pruning* is required to encourage a tidier appearance and denser canopy.

Tree 4 is a Bangalow Palm (*Archontophoenix cunninghamiana*), occurring naturally in New South Wales and Queensland, although prehistorically native to Indonesia (*Wikipedia, 2018*). This palm is inappropriately located in a narrow passage on the north east corner of the existing dwelling. The tree has not reached a size (approx. 4m height) that would be considered significant for the species and it does not provide a significant canopy cover (approx. 3m diam.) within the property. It would be difficult to retain this tree during the demolition and construction phase and it does not merit design concessions or onerous protection requirements. This tree should be considered for removal prior to the construction phase.

* All pruning works must be carried out by a suitably experienced and qualified arborist (minimum AQF level 5) and adhere to Australian Standards AS 4373:2007 (Pruning of Amenity Trees).
6. **Retention Value**

![Retention value map](image)

*Figure 6.1. Retention value map*

<table>
<thead>
<tr>
<th>Retention Value</th>
<th>Colour</th>
<th>Description</th>
<th>Tree #’s</th>
<th># of Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>High</td>
<td>Blue</td>
<td>Tree is a significant feature of the site and has a long ULE. The design should accommodate its retention.</td>
<td>n/a</td>
<td>0</td>
</tr>
<tr>
<td>Moderate</td>
<td>Green</td>
<td>Tree has good characteristics and should be included in the design if it is practical to do so.</td>
<td>2, 3</td>
<td>2</td>
</tr>
<tr>
<td>Low</td>
<td>White</td>
<td>Tree is suitable for retention but is of low significance and should be removed if it hampers the design intent.</td>
<td>n/a</td>
<td>0</td>
</tr>
<tr>
<td>Remove</td>
<td>Red</td>
<td>Tree should be removed regardless of how it affects the design.</td>
<td>1, 4</td>
<td>2</td>
</tr>
<tr>
<td>Off-Site</td>
<td>Orange</td>
<td>Tree is located off-site and the design must accommodate its retention.</td>
<td>n/a</td>
<td>0</td>
</tr>
</tbody>
</table>

*Table 6.2. Retention value summary*
7. Tree Protection Zones

7.1. Background

A living tree is a dynamic organism that needs specific environmental conditions to continue healthy, stable growth. It is rarely possible to repair stressed and injured trees, so substantial injury needs to be avoided during all stages of development and construction. For trees to be retained and their requirements met, procedures must be in place to protect trees at every stage of the development process. This can be achieved by establishing tree protection zones.

7.2. Definitions

Tree Protection Zone (TPZ)
The TPZ is determined by multiplying the stem diameter (DBH) by twelve (12) and is provided as radius from the centre of the tree at ground level. This area should be excluded from construction activity and soil level changes to protect existing roots and canopy (see figure 7.1.).

Structural Root Zone (SRZ)
The SRZ is determined from the basal diameter (DAB) and provided as radius from the centre of the tree at ground level. This area is often less than the TPZ and is required by the tree to maintain stability in the ground.

7.3. Root Zone Dimensions

See Appendix B. TPZ / SRZ Dimensions, page 21.

7.4. Management of the TPZ

The full extent of each TPZ should be fenced off and isolated from the construction process, unless specified within this report.

7.5. TPZ Encroachments

Encroachment
An encroachment of a TPZ is any portion that will be constructed within, subject to soil level changes and/or cannot be fenced off during the construction phase. Encroachments are calculated as percentage of area.

Minor Encroachment
Australian Standards AS 4970 defines a minor encroachment as up to 10% of the total area of the TPZ with no encroachment of the SRZ. A minor encroachment is not likely to impact on the tree’s long term health or stability.

Major Encroachment
Australian Standards AS 4970 defines a major encroachment as greater than 10% of the total area of the TPZ and/or inside the SRZ. The consulting arborist must demonstrate that the affected tree(s) would be tolerant of a proposed major encroachment. Considerations include; tree species, tree age, tree condition, existing environment, construction methods, root mapping, etc.

![Figure 7.2. Example of a minor encroachment](image1)

![Figure 7.3. Example of a major encroachment](image2)
8. Design Considerations

- The design should aim to not encroach on the TPZ of any retained tree by more than 10% of area or within the SRZ [see Appendix B. TPZ/SRZ Dimensions, page 21].

- If a major encroachment (more than 10% of a TPZ or within a SRZ) of a tree is proposed, a development impact report should be prepared by the consulting arborist.

- The impact on a tree from a major encroachment can be mitigated by utilising sensitive construction techniques such as: pier and beam, suspended slabs, cantilevered building sections, screw piles and contiguous piling.

- Tree are self-optimising structures and their roots are opportunistic. Tree roots rarely grow in a predictable, symmetrical or uniform pattern as indicated by a TPZ. If a major encroachment of a tree is proposed, root exploratory excavation may reveal little or no roots in the relevant area and therefore the actual impact would be minimal or not applicable.

![Figure 8.1. Concept plan (latitude 37, 2018) with tree numbers (#1 and #4 marked X to be removed)
9. **Summary**

- The existing dwelling at 222 Reserve Road is proposed to be demolished and replaced with a new single residence.

- Four nominated trees were assessed within the subject property.

- **Tree 1** will severely restrict development of a suitable property entrance from a busy road. The useful life expectancy (< 5 years) and declining health of the tree does not merit design concessions and it should be considered for removal prior to the construction phase.

- **Tree 2** is a Coastal Tea Tree (*Leptospermum laevigatum*), and indigenous tree to the area. It is in fair condition with long-term potential and should be considered for inclusion within the final design. Portions of the canopy overhanging the foot path on Reserve Road should be cut back to ensure compliance with council regulations.

- **Tree 3** is an ornamental Cherry tree (*Prunus cv.*) of exotic origin. It is in reasonable condition with long-term potential. The tree is suitably located on the northern boundary within the front setback and should be considered for inclusion within the final design. Pruning is required to encourage a tidier appearance and denser canopy.

- **Tree 4** is a Bangalow Palm (*Archontophoenix cunninghamiana*), occurring naturally in New South Wales and Queensland. The tree has not reached a size (approx. 4m height) that would be considered significant for the species and it does not provide a significant canopy cover (approx. 3m diam.) within the property. It would be difficult to retain this tree during the demolition and construction phase and it does not merit design concessions or onerous protection requirements. This tree should be considered for removal prior to the construction phase.

- Trees 1 and 4 require a planning permit to remove.

- Pruning of trees 2 and 3 must be carried out by a suitably experienced and qualified arborist (minimum AQF level 5) and adhere to Australian Standards AS 4373:2007 (Pruning of Amenity Trees).

- Retained trees must be protected during the demolition and construction phase. This can be achieved by establishing tree protection zones (TPZ).
10. References


Appendix A. Tree Descriptors

A.A. Botanical Name
The botanical name or binominal name of a plant, consists of the genus name followed by the species name.

Genus is the classificational term used for grouping one or a number of closely related species, all of which share the generic name.

Species is the basic unit in the classification of plants. A species is the specific type of plant within the larger grouping of a genus.

A.B. Common Name
The colloquial and informal name of a plant.

A.C. Origin
The naturally occurring origin of a plant.

| Indigenous | The plant occurs naturally within the localized environment. |
| Vic Native | The plant occurs naturally within Victoria, outside of the localized environment. |
| Native     | The plant occurs naturally within Australia, outside of Victoria. |
| Exotic     | The plant occurs naturally outside of Australia. |

A.D. Age
The general age of a plant, as determined by the consulting arborist.

| Juvenile    | The plant has been recently planted and is still establishing in the current environment. |
| Semi- Mature | The plant is established in its current environment and is actively growing. |
| Mature      | The plant has reached the expected size for the species and location. |
| Senescent   | The plant is over-mature and is in decline. |
| Dead        | The plant is dead and can no longer respond to changes in its environment. |
A.E. Health

The general health and vigour of the plant, as determined by the arborist.

<table>
<thead>
<tr>
<th>Very Good</th>
<th>The plant is exemplary of the species and performing to its full potential.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>Foliage of plant is entire, with good colour, very little sign of pathogens and of good density. Growth indicators are good i.e. Extension growth of twigs and wound wood development. Minimal or no canopy die back (deadwood).</td>
</tr>
<tr>
<td>Fair</td>
<td>The plant is showing one or more of the following symptoms; &lt; 25% dead wood, minor canopy die back, foliage generally with good colour though some imperfections may be present. Minor pathogen damage present, with growth indicators such as leaf size, canopy density and twig extension growth typical for the species in this location.</td>
</tr>
<tr>
<td>Poor - Poor</td>
<td>Tree presents a combination of characteristics of both Fair and Poor.</td>
</tr>
<tr>
<td>Poor</td>
<td>Tree is showing one or more of the following symptoms of tree decline; &gt; 25% deadwood, canopy die back is observable, discoloured or distorted leaves. Pathogens present, stress symptoms are observable as reduced leaf size, extension growth and canopy density</td>
</tr>
<tr>
<td>Very Poor</td>
<td>Tree is in severe decline; &gt; 55% deadwood, very little foliage, possibly epicormic shoots, minimal extension growth.</td>
</tr>
<tr>
<td>Dead</td>
<td>The plant is dead and can no longer respond to changes in its environment.</td>
</tr>
</tbody>
</table>

A.F. Structure

The structural integrity of the plant, as determined by the arborist.

<table>
<thead>
<tr>
<th>Good</th>
<th>Trunk and scaffold branches show good taper and attachment with minor or no structural defects. Tree is a good example of the species with a well-developed form showing no obvious root problems or pests and diseases.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fair</td>
<td>Tree shows some minor structural defects or minor damage to trunk e.g. bark missing, there could be cavities present. Minimal damage to structural roots. Tree could be seen as typical for this species.</td>
</tr>
<tr>
<td>Fair - Poor</td>
<td>Tree presents a combination of characteristics of both Fair and Poor.</td>
</tr>
<tr>
<td>Poor</td>
<td>There are major structural defects, damage to trunk or bark missing. Co-dominant stems could be present or poor structure with likely points of failure. Girdling or damaged roots obvious. Tree is structurally problematic.</td>
</tr>
<tr>
<td>Hazardous</td>
<td>Tree has a high likelihood of failure within the short term.</td>
</tr>
</tbody>
</table>
A.G. Significance

The significance of the plant, as determined by the arborist.

| High                      | The tree can be described by one or more of the following statements;  
|                           | *The tree is rare, ecologically important or botanically significant.*  
|                           | *The tree is associated with historical, commemorative or sentimental value.*  
|                           | *The tree is an important feature of the site and is visually remarkable.*  
| Moderate                  | The tree does not fulfil the criteria for high significance and can be described by all of the following statements;  
|                           | *The tree is a desirable species for the area.*  
|                           | *The tree is established in an appropriate location.*  
|                           | *The tree is in reasonable health/vigour and of sound structure.*  
|                           | *The tree could be replaced within 10 - 25 years with an advanced nursery specimen.*  
| Low                       | The tree does not fulfil the criteria for high significance and can be described by one or more of the following statements;  
|                           | *The tree could be replaced within ten years with an advanced nursery specimen.*  
|                           | *The tree is an undesirable or weed species in the area.*  
|                           | *The tree is in an inappropriate location, or requires onerous management.*  
|                           | *The tree is creating a nuisance or impacting on a fixed asset.*  
|                           | *The tree is dead, declining or adversely affected by pest/disease.*  
|                           | *The tree has developed a defective form or structural fault(s).*  

A.H. Useful Life Expectancy*  

The extent of time that the plant is expected to continue to positively contribute to the landscape, as determined by the arborist.

| 0 Years       | Trees that are dead, in severe decline, hazardous, impacting a fixed asset, presenting an obstruction, posing weed potential or a combination of these characteristics. Should be considered for immediate removal.  
| < 5 Years     | Trees that will require removal in the next 5 years for any of the reasons listed above.  
| 5 – 10 Years  | Trees that appear to be retainable for the next 5 – 10 years.  
| 10 – 20 Years | Trees that appear to be retainable for the next 10 – 20 years.  
| 20 – 30 Years | Trees that appear to be retainable for the next 20 – 30 years.  
| 30 + Years    | Trees that appear to be retainable for more than 30 years.  

* Based on the concept created by Jeremy Barrell (Barrell Tree Care, 2000)
Appendix B.  TPZ / SRZ Dimensions

The TPZ and SRZ dimensions for all assessed trees have been provided in millimetres as radius from the center of the trunk at ground level.

<table>
<thead>
<tr>
<th></th>
<th>TPZ (mm$^8$)</th>
<th>SRZ (mm$^8$)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8409</td>
<td>3091</td>
</tr>
<tr>
<td>2</td>
<td>2812</td>
<td>1879</td>
</tr>
<tr>
<td>3</td>
<td>4068</td>
<td>2228</td>
</tr>
<tr>
<td>4</td>
<td>2160</td>
<td>1708</td>
</tr>
</tbody>
</table>

Table B.A. TPZ / SRZ dimensions
Appendix C. Tree Protection Plan

C.A. Pre-Site Meeting
A site meeting with the consulting arborist must be scheduled prior to any works occurring on-site. All personnel involved in the construction process must attend this meeting or subsequent meetings.

The meeting(s) should convey the importance of the tree protection program and discuss the recommendations of this report.

Minutes from the meeting(s) must be recorded and stored appropriately.

C.B. Tree Removals
A reputable and insured contractor should be engaged to undertake the tree removals.

Tree removal methods must not impact on retained or off-site trees.

Stump removal methods must not impact on the existing roots of off-site trees.

C.C. Tree Pruning
The pruning of any tree under protection may occur on a requisite basis only.

The tree(s) must be pruned by a suitably qualified and experienced arborist and adhere to Australian Standards – Pruning of Amenity Trees (AS 4373:2007).

Pruning of trees located off-site must be undertaken in consultation with the tree’s owner or custodian.

C.D. Tree Protection Fencing
Tree protection fencing must be installed to the full extent of the recommended TPZ(s) prior to the demolition and construction phase.

The tree protection fencing must be a minimum of 1.5 metres high above ground level and be constructed of prefabricated wire mesh (or similar) with a high visibility plastic tape at the top or high visibility barricade mesh supported by a straining wire.

The tree protection fencing must be supported by steel fence posts or similar driven into the ground to create a fixed position. Fence posts and supports must have a diameter greater than 20mm and be located clear of roots.

Once erected, the tree protection fencing must be maintained in good condition.
C.E. **Variations to the Tree Protection Fencing**

It is rarely possible to install tree protection fencing on adjoining properties or public land. Therefore, only portions of the TPZ that occupy the subject property require tree protection fencing.

Where a minor encroachment of a TPZ will occur, the tree protection fencing may be reduced by a maximum of 10% of the TPZ area and **must not** be reduced within the SRZ.

C.F. **Tree Protection Fencing Signage**

Explanatory signs **must** be displayed on tree protection fencing that clearly indicate that access is prohibited.

Signs **must** be displayed on each TPZ or at intervals not exceeding five metres.

Signs **must** remain legible and visible throughout the construction phase.

C.G. **TPZ Restrictions**

Access to a TPZ by personnel, vehicles or plant is prohibited, unless specified within this report.

The base area of the TPZ(s) **must not** be altered by cut, fill, trenching, fertilizers or liquid chemical overland flow, unless specified within this report.

Building materials and waste **must not** be stored within a TPZ.

C.H. **Installation of Underground Services**

Installation of underground services within a TPZ **must** be undertaken by directional drilling.

The drilling **must not** occur below a SRZ. The drilling **must not** come within 500mm of the surface of a TPZ.

Wheeled or tracked machinery **must not** access a TPZ at any time.

If access to or excavation within a TPZ is required, it **must** only occur under the supervision of the project arborist.

C.I. **Tree Roots Located Outside of TPZs**

If tree roots are encountered outside of a TPZ, they should be protected where practical.

If the removal of a tree root outside of a TPZ is required, it **must** be severed cleanly with a sharp, disinfected hand saw.

Tree roots located outside of a TPZ **must not** be pulled, ripped, torn or smashed.
C.J. Reporting

Any physical damage to the trees under protection must be immediately reported to the project arborist and the determining authority. This may include physical damage to branches, trunks or roots.

Any noticeable change in the appearance of the trees under protection must be immediately reported to the project arborist and the determining authority. This may include dieback, discoloration, defoliation or wilting of foliage, excessive exudation of fluids, pest infestation, branch shed, root plate movement or a noticeable trunk lean.

Any confusion or uncertainty about the trees under protection or the protection program itself should be referred to the project arborist without hesitation.

C.K. Removal of Tree Protection Fencing

Upon completion of the construction phase, the tree protection fencing may be dismantled and removed from site.
Appendix D. Assumptions & Limitations

Care has been taken to obtain all information from reliable sources. All data has been verified insofar as possible; however, the consultant / appraiser can neither guarantee nor be responsible for the accuracy of the information provided by others.

Possession of this report or a copy thereof does not imply right of publication or use for any purpose by other than the person to whom it is addressed, without the prior expressed written or verbal consent.

Loss or alteration of any part of this report invalidates the entire report.

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Unless expressed otherwise, the information contained in this report covers only those items that were inspected / examined and reflects the condition of those items at the time of inspection; and the inspection is limited to visual examination of accessible items without dissection, excavation, probing or coring. There is no warranty or guarantee, expressed or implied, that problems or deficiencies of the plants of property in question may not arise in the future.

This report and values expressed herein represent the opinion of the consultant / appraiser, and the consultant / appraiser’s fee is in no way contingent upon the reporting of a specified value, a stipulated results, the occurrence of subsequent event, nor upon any finding to be reported.
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>The North Planning Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The site is subject to restrictive covenant 1496676. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>23 May 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>62 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3) Special Building Overlay Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Site area</td>
<td>579 square metres</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>3</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes - $2,020 Catchment area 15B</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>Yes, a CHMP is not required as the proposal is less than three dwellings on a lot.</td>
</tr>
</tbody>
</table>

**Proposal**

The application seeks construction of two dwellings on a lot, construction of a front fence that exceeds 1.2 metres high and buildings and works within a Special Building Overlay.

Key details of the proposal are as follows:

- Two, double storey dwellings with a maximum building height of 8.1 metres
- Site coverage 51.79%
- Permeability 39.12%
- Both dwellings include a single garage and outdoor tandem car parking

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

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

**History**

There is no relevant history relevant to the application.
2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot and construction of a front fence that exceeds 1.2 metres high.
  
  Note: Clause 32.09-4 requires that for the construction of a dwelling or residential building on a lot 500 - 650 square metres, a lot must provide a minimum of 30% garden area at ground floor level.
  
The development plans confirm that the development has a garden area of 222.02m² which equates to 46.22% and exceeds the minimum 30% garden area required by the Clause.

- Clause 44.05-2 (Special Building Overlay) – Construct a building or to construct or carry out works.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne Water</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification

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

Three objections remain outstanding at the time of this report.

The following concerns were raised:

- Overlooking from first floor rear windows to 12 and 14 Seaton Road;
- Existing boundary fencing is not high enough;
- Removal of the street tree;
- The location of the pool associated with dwelling 2 is close to a spa associated with 14 Seaton Road and may cause structural impacts; and,
- The location of the pool associated with dwelling 1 built within the TPZ of the rear tree at 12 Seaton Road.

The number of objections received for this application is consistent across Council’s
Consultation meeting

A consultation meeting was held on 3 October 2018 attended by the permit applicant and 2 objectors. As a result of this meeting, the application lodged an amended application pursuant to Section 57A of the Planning and Environment Act 1987.

The plans were amended to show the following:

- Deletion of the pool associated with dwelling 1;
- The west facing bedroom 3 windows, to both dwellings, converted to an obscured highlight window (sill height of 1.7m).
- Bedroom 3, to both dwellings, have included an additional obscured highlight window (sill height to 1.7m) to the north or south side of each respective bedroom.
- Increased setback of the first floor ensuite and dress room of dwelling 2 to 3.34 metres.

The concerns raised by objectors at 12 and 14 Seaton Road were addressed through amendments outlined in Section 2 of this report. The amended plans were recirculated to all objectors. However, no objections were formally withdrawn.

4. Recommendation

That Council resolve to Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/300/1 for the land known and described as 13 Maroona Road, Highett, for the Construction of two dwellings on a lot, construction of a front fence that exceeds 1.2 metres high and buildings and works within a Special Building Overlay in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans prepared by Roke Design Studio and dated May 2017 but modified to show:

   a) A minimum of 7 metres to be maintained in between the two crossovers to sustain one on-street car space and/or the existing power pole relocated accordingly at the developer’s cost;
   b) An internal boundary fence of at least 1.8 metres high shown on the ground floor plan between both dwellings;
   c) Garage doors must be a minimum of 3 metres wide;
   d) Both the internal driveway where it intersects with the footpath and the new crossover must be 3m wide and 1m offset from the property boundary. The new crossover must have a 1m wide separator in accordance with the Council’s Crossover Policy;
   e) Adequate sight lines must be provided where the driveways intersect with the front footpath as per Clause 52.06-9 (Car Parking) of the Bayside Planning Scheme;
   f) A Landscaping Plan in accordance with Condition 9; and,
2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s) without the written consent of the Responsible Authority.

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

Water Sensitive Urban Design

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

Landscaping

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts Landscape Design, revision A, dated June 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A survey, including botanical names, of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009;

b) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site;

c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;

d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces;

e) Details of surface finishes of pathways and driveways;

f) Two (2) small canopy tree species which will grow to a minimum 8m height at maturity; or one (1) large canopy tree species which will grow
to a minimum 12m height at maturity in the front setback of each dwelling; and,
g) Two (2) small canopy tree species which will grow to a minimum 6m height at maturity; or one (1) large canopy tree species which will grow to a minimum 10m height at maturity in the private open space of each dwelling.

10. Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

**Development Contribution**

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

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

**Drainage**

13. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

14. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s City Assets and Projects Department.

**Melbourne Water**

15. The dwellings must be constructed with finished floor levels set no lower than 28.8 metres to Australian Height Datum, which is 300mm above the applicable flood level of 28.5 metres to Australian Height Datum.

16. The garages must be constructed with finished floor levels set no lower than 28.650 metres to Australian Height Datum, which is 150mm above the applicable flood level of 28.5 metres to Australian Height Datum.

17. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water’s requirements.

18. Imported fill must be kept to a minimum on the property and only be used for the sub floor areas of the dwellings, garages and driveway ramps.

19. The decking must be constructed with unenclosed foundations and any stairs with no vertical risers to allow for the passage of overland flows.

20. Any new fence, stairs and gates must be of an open style of construction (minimum 50% open) to allow for the passage of floodwaters/overland flows.
21. The swimming pool must be constructed in-ground, finished at natural surface level and the excavated material must be removed from the property.

22. The minimum 1.2 metre setback on the northern property boundary as proposed must not be altered without prior written consent from Melbourne Water. The existing natural ground surface levels must be maintained within this setback and be kept clear of all permanent structures (i.e. no sheds or water tanks).

23. All open space on the subject site must be kept at natural ground level.

**Permit Expiry**

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

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

**Permit Notes:**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours’ notice is required.

- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.

- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

- Council records indicate that there is no easement within the property.

- Subsurface water must be treated in accordance with Council’s Policy for “Works on Assets within the Road Reserve Policy 2018”.

- Before the vehicle crossing application will be approved, the applicant must pay $3,409.63 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible authority.
5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct G1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 44.05 Special Building Overlay
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct G1. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

Maroona Road is characterised with mainly single dwellings ranging from brick to weatherboard styled houses. The street has an emerging character of larger front fences,
typically constructed with timber materials. The street also presents as well vegetated front gardens.

The proposed side by side dual occupancy development includes sufficient setbacks which will maintain the rhythm of visual separation between buildings, as well as creating space for substantial vegetation.

The design features a visually interesting façade which incorporates recessed first floor portions, a combination of materials and a pitched roof. The proposal has also included a 1.5 metre high front fence which is 50% transparent, maintaining the openness of the streetscape.

A condition has been included to amend the landscape plan to include tree plantings in accordance with the Bayside Landscaping Guidelines, further enhancing the garden settings of the dwellings.

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

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

**Street Setback (Standard B6)**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maroona Road</td>
<td>7.83m Dwelling 1: 7.83m (porch 7.11m) Dwelling 2: 6m</td>
<td>Dwelling 1: complies Dwelling 2: 1.83m</td>
</tr>
</tbody>
</table>

The objective of the standard states the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.

The required setback is 7.83 metres, the same as 11 Maroona Road to the south. Dwelling 1 adjoining 11 Maroona Road incorporates a setback of 7.83 metres, complying with the standard; Dwelling 2 features a setback of 6 metres. A variation of 1.83 metres is considered to be acceptable as the adjoining property which faces Wickham Road has a double garage setback 1.8 metres from Maroona Road. The varied setback of Dwelling 2 provides a staggered setback that appropriately transitions the dwellings and outbuildings in the streetscape.

**Site coverage (Standard B8)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>51.79%</td>
<td>1.79%</td>
</tr>
</tbody>
</table>

The objective of the standard states that site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.

The development has proposed 51.79% site coverage, a 1.79% variation to the standard. This variation is considered to be acceptable as it is generally minor and is consistent with the character of buildings within the immediate area. The proposed development does not pose as excessive nor does it impose unreasonable visual bulk. It is considered that the development will sit comfortably within its context and provide suitable area for the planting of landscaping to compliment the neighbourhood. For these reasons, a variation is supported.
Side and rear setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>2m, 1.2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>2m, 1m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
<td>Dwelling 1: 7.01m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2: 5.24m</td>
</tr>
</tbody>
</table>

*Measurements measured from east to west

The objective of the standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

As underlined above, the ground floor and first floor side setbacks include some areas of non-compliance.

A 5 metre long portion of the north side ground floor setback is 1.2 metres, where the standard requires a 2 metre setback. The 800mm variation has been considered to be acceptable as the portion of non-compliance is minor, being approximately 5 metres long and is adjacent to the large private open space area of 102 Wickham Road where the existing vegetation will soften the built form. There is no overshadowing to this area, therefore the variation is considered to be acceptable of this location.

A 5 metre long portion of the southern side ground floor setback is 1 metre, where the standard requires a 2 metre setback. A variation of 1 metre is acceptable in this location as it is adjoining 11 Maroona Road’s driveway, limiting amenity impacts to the dwelling and is approximately 5 metres long.

The northern side of the first floor of Dwelling 2 fails to comply with the minimum side setback requirement of the standard. Using the table above, the required setback is 3.539 metres from the boundary. The development proposes setbacks of 3.045m – 3.345m. A variation of 300mm - 500mm to the standard are not unreasonably impacted. The private open space areas of 102 and 104 Wickham Road adjoining the site to the north will not experience any overshadowing impacts, as shown on the shadow diagrams submitted by the applicant. Moreover, the proposed setbacks create adequate articulation to the development which will further alleviate visual bulk when viewed from the adjoining properties.

Bedroom 2, the bathroom and the ensuite/dress area associated with the master suite of dwelling 1 located on the first floor are setback 3 metres from the southern boundary. Using the above table, a setback of 3.479 metres is required to comply. A variation of 479mm is acceptable as it is located adjacent to the driveway of 11 Maroona Road, limiting amenity impacts as well as adequately providing visual separation between dwellings.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maroona Road</td>
<td>1.2m</td>
<td>1.5m</td>
<td>300 mm</td>
</tr>
</tbody>
</table>

The objective of the standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

A front fence of 1.5 metres in height is proposed to the front boundary of the site on Maroona Road. Pursuant to Standard B32, a front fence to a maximum of 1.2 metres in
height should be the maximum height. It has been considered that a 1.5 metre fence is consistent with the existing character of the area, therefore is supported.

6.3. Landscaping

The application plans show the removal of all vegetation from the site, none of which are protected by Local Laws.

Council’s Arborist in their referral response advised that the existing vegetation has a low amenity value and supports the removal of all vegetation, if replaced with new canopy tree planning in accordance with Bayside City Council Landscape Guidelines.

Tree Nos. 2, 3 and 4 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such, consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that Trees 2 and 3 will remain viable post development and Tree 4 is unlikely to be impacted as there is currently a concrete based shed covering a large portion of the tree protection zone, meaning significant roots are unlikely to be found under this surface.

Council’s Arborist has reviewed the submitted landscape plan and advised that it is not considered to be acceptable in its current form. A condition has been included to amend the landscape plan to include the planting of canopy trees in accordance with the Bayside Landscaping Guidelines.

6.4. Street tree(s)

A Lophostemon confertus (Brush Box) is located within the nature strip and is proposed for removal. Council’s Street Tree Arborist has advised that the installation of the new vehicle crossing will severely impact the street tree asset, as the design does not allow any other option for the location of the crossing the tree may be removed. A note has been included as part of the recommendation advising that the applicant must pay $3,409.63 before the vehicle crossing application is approved.

Condition 1a) of the recommendation requires the plans to demonstrate a minimum separation of 7 metres between the crossovers to allow for the provision of an on-street car space. This may subsequently require the relocation of the existing power pole along the street frontage.

Depending on the outcome proposed in response to this condition, the design may allow for the retention of the existing street tree. Notwithstanding, Council’s Open Space Arborist has not raised any objection to its removal subject to conditions.

6.5. Car parking and traffic

Pursuant to the car parking requirements at Clause 52.06, a dwelling requires car parking to be provided at a rate of 1 car space per one or two bedroom dwellings and 2 car spaces per three or more bedroom dwellings.

Dwelling 1 comprises three bedrooms and is afforded two car parking spaces in the form of a single garage and tandem outdoor parking. Dwelling 2 comprises three bedrooms and has a single garage and tandem outdoor parking. The proposed on site car parking meets the requirements of Clause 52.06-5.

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

Council’s Traffic Engineer has also requested the provision of a minimum 7 metre separation between crossovers to allow for the retention of an on-street car space. This outcome can be comfortably accommodated however may require the relocation of the power pole, subject to advice from the relevant authority. A condition has been included in the recommendation to this effect.
6.6. Cultural Heritage Management Plan

The site is located within an area of cultural heritage sensitivity, therefore an assessment as to whether the proposal is considered a high impact activity has been undertaken. Based on the Aboriginal heritage planning tool questionnaire, a cultural heritage management is not required.

6.7. Development contributions levy

The subject site is located within catchment area 15B.

Based on the proposed application and the below recommendation, a payment of $2,020.00 is required. The payment of the development contributions is included as a condition of permit.

6.8. Objector issues not already addressed

Overlooking from first floor rear windows to 12 and 14 Seaton Road

An objection from 12 and 14 Seaton Road have raised concerns with overlooking from the rear bedrooms of the proposed dwellings. The formally advertised plans showed the rear, west facing windows of bedroom 3 to both dwellings with obscured glazing below 1.7 metres high, complying with Standard B22 (Overlooking) of the Bayside Planning Scheme. The amended plans now demonstrate both of the bedroom 3 windows to be an obscured highlight window with a sill height of 1.7 metres, exceeding the requirements of Standard B22 (Overlooking) of the Bayside Planning Scheme.

The location of the pool associated with dwelling 1 built within the TPZ of the rear tree at 12 Seaton Road

An objection from 12 Seaton Road has also objected to the swimming pool associated with dwelling 1 built within their tree’s TPZ (Tree Protection Zone). The amended plans have deleted the swimming pool associated with dwelling 1.

Existing boundary fencing is not high enough

An objection from 14 Seaton Road has raised concerns regarding the height of the boundary fence and have requested for a 2.4 metre high boundary fence to be constructed between their property and the subject site. Boundary fencing cannot be considered under the Bayside Planning Scheme and is a civil matter under the Fences Act 1968.

The location of the pool associated with dwelling 2 is close to a spa associated with 14 Seaton Road and may cause structural impacts

The objector from 14 Seaton Road has also raised concerns surrounding the potential impacts to their spa which is located metres from the proposed swimming pool associated with dwelling 2. All works will be constructed in accordance with the building regulations, an engineering report may be required through the building permit stage.

Support Attachments

1. Decision Plans and Documents
2. Site and Surrounds Imagery
3. ResCode Assessment
4. Neighbourhood Character Assessment
PROPOSED DEVELOPMENT for CARTER GRANGE TOWN PLANNING DOCUMENTATION

No. 13 MAROONA ROAD, HIGHTET

Item 4.3 – Matters of Decision
Item 4.3 – Matters of Decision

1. All car parking spaces provided with lock up garage doors as per Schedule 1. All car parking access doors are to be provided with an external security entrance with one side of the concrete driveway extended and the remaining driveway area covered with asphalt. Additional car space and garage doors have been provided in Schedule 1.

2. Street setbacks:
   - The proposed building setback to Schedule 1 is 15.03m.
   - The proposed building setback to Schedule 2 is 15.03m.
   - A side setback to the boundary is proposed as per Schedule 1.
   - A side setback to the boundary is proposed as per Schedule 2.
   - A side setback to the boundary is proposed as per Schedule 3.

3. Private open space:
   - All existing trees are to be retained and any new trees to be planted adjacent to the house of the proposed building.

4. Fencing:
   - Existing side and rear timber fences to be retained.
   - Existing existing walls on the boundary are to be retained and any new fences to be constructed side of the building as per Schedule 1.

5. Design:
   - The building is in keeping with the character of the area and satisfies the Design and Development Criteria as indicated in Schedule 1.
   - The proposed building design is in accordance with the Design and Development Criteria as indicated in Schedule 1.
   - The proposed building design is in accordance with the Design and Development Criteria as indicated in Schedule 2.
   - The proposed building design is in accordance with the Design and Development Criteria as indicated in Schedule 3.
Arboricultural Assessment

Subject Site:
13 Maroona Rd, Highett VIC 3190

Report Prepared By:
Nicholas Buckley
Consulting Arborist
Certificate 5 Horticulture (Arboriculture)

Report Commissioned by:
Jimmy Stutterd of Carter Grange

Date of Assessment:
Friday, May 12, 2017

Date of Report:
Wednesday, May 17, 2017

Version: 1

Advertised Plan

[Logo of TAYLORS TREE & STUMP REMOVAL]

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Item 4.3 – Matters of Decision
1 Assignment

1.1 Author / Consulting Arborist

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nicholas Buckley – (AQF)</td>
<td>194 Canterbury Rd Bayswater North</td>
</tr>
<tr>
<td>Level 5,</td>
<td>3153</td>
</tr>
<tr>
<td>Diploma Horticulture, Arboriculture</td>
<td>Phone</td>
</tr>
<tr>
<td>Company</td>
<td>(03) 9720 6025</td>
</tr>
<tr>
<td>Taylor's Tree and Stump Removal</td>
<td>Email</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:info@taylorstrees.com.au">info@taylorstrees.com.au</a></td>
</tr>
</tbody>
</table>

1.2 Client

<table>
<thead>
<tr>
<th>Name</th>
<th>Intended Audience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jimmy Stutterd of Carter Grange</td>
<td>The property/tree owner(s)</td>
</tr>
<tr>
<td>Site Address</td>
<td>The development project manager and associated construction staff</td>
</tr>
<tr>
<td></td>
<td>Council Planning Department</td>
</tr>
</tbody>
</table>

| Site Address | 13 Maroona Rd, Highett VIC 3190 |
| Phone        | (03) 9585 6953 |

1.3 Brief

The purpose of this report is to provide an independent Arboricultural assessment of prominent trees that are located within the subject site and within three metres of adjoining properties.

Detail has been requested in relation to the following instructions:

- To provide an objective assessment of the trees in their current state.
- To provide an objective assessment of the retention value of the subject trees.
- To determine the Tree Protection Zones (TPZ) and Structural Root Zones (SRZ) of the subject trees.
- To propose tree and site management options to minimise the potential impact that development may cause on the subject trees health and/or structural integrity.
2 Data collection

2.1 Site Visit

Nicholas Buckley, of Taylors Tree and Stump Removal, visited the site for an Arboricultural assessment on Friday the 12th of May 2017 at 10.00am.

2.2 Method of data collection

- The subject trees were assessed from observations made as viewed from ground level.
- Access to neighbouring properties was not permitted therefore, assessment was limited to parts of the trees that were visible from within the subject site.
- Field notes were documented, the summary of observations is an accurate account of notes gathered whilst in the field.
- The height and spread of the trees were estimated.
- A digital camera was used at ground level to gather photographic evidence.
- A diameter tape was used to determine the trunk dimensions of trees within the subject site and council nature strip.
- Trunk dimensions of neighbouring trees were estimated (due to restricted access).

3 Site description

- The subject site is located in a residential area within the City of Bayside.
- The site falls within the Neighbourhood Residential Zone – Schedule 3 (NRZ3) of the Bayside planning scheme.
- An existing single storey weatherboard dwelling is currently situated within the site.
- The terrain of the site appeared to be predominantly flat.
- The subject trees are located within the front nature strip and within adjoining properties (102 Wickham Rd and 12 Seaton Rd).
- A mixture of small insignificant exotic vegetation is located within the front yard.
- The subject trees are located amongst a mixture of native and exotic vegetation that were not assessed as they are insignificant in size and are not suitable for retention.
3.1 Bayside Local Law

Under Clause 36 of Council's Local Law No 2, a person must not, without a Permit, "destroy, damage or remove or allow to be destroyed, damaged or removed; cut, trim, lop or prune or allow to be cut, trimmed, lopped or pruned" any Significant Tree or any other protected tree on private property.

A protected tree is:

- A tree with a single or combined trunk circumference greater than 155 centimetres measured at one metre above ground level; to reach the combined trunk circumference, the four largest trunk circumferences should be measured.
- A tree listed on Council's Register of Significant Trees.
- A tree planted in accordance with the replacement planting condition of a Local Law permit.

*Insignificant vegetation within the front yard of the subject site*
### 4 Tree data

The following tables indicates the tree data obtained during the site visit:

<table>
<thead>
<tr>
<th>#</th>
<th>Botanical Name</th>
<th>Common Name</th>
<th>Age</th>
<th>Origin</th>
<th>Trunk</th>
<th>DBH</th>
<th>Height</th>
<th>Health</th>
<th>Structure</th>
<th>Site</th>
<th>Contour</th>
<th>Value</th>
<th>Height</th>
<th>Setting</th>
<th>Value</th>
<th>Stability</th>
<th>Value</th>
<th>Value</th>
<th>Value</th>
<th>Value</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Lophodermium coniferous</td>
<td>Queensland box</td>
<td>Semi mature</td>
<td>9 m</td>
<td>N-S 3 m</td>
<td>0.64 m</td>
<td>0.32 m</td>
<td>Good</td>
<td>Good</td>
<td>20+ years</td>
<td>Moderate</td>
<td>Other person's tree</td>
<td>2.8 m</td>
<td>2 m</td>
<td>Deciduous tree located within 30m of burnt area strip.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Eucalyptus plicata</td>
<td>Spotted gum</td>
<td>Semi mature</td>
<td>3 m</td>
<td>N-S 1 m</td>
<td>0.16 m</td>
<td>0.15 m</td>
<td>Good</td>
<td>Good</td>
<td>20+ years</td>
<td>Livestock</td>
<td>Other person's tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree located within 5 m of existing tree.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Allocasuarina leathery</td>
<td>Allocasuarina leathery</td>
<td>Semi mature</td>
<td>5 m</td>
<td>N-S 3 m</td>
<td>0.10 m</td>
<td>0.17 m</td>
<td>Good</td>
<td>Good</td>
<td>20+ years</td>
<td>Low</td>
<td>Other person's tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree located within 5 m of existing tree.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Parrotia persica</td>
<td>Persian ash</td>
<td>Mature</td>
<td>12 m</td>
<td>N-S 8 m</td>
<td>0.20 m</td>
<td>0.38 m</td>
<td>Fair</td>
<td>Fertile</td>
<td>20+ years</td>
<td>Moderate</td>
<td>Other person's tree</td>
<td>3.8 m</td>
<td>2.2 m</td>
<td>Neighbouring tree located within 5 m of existing tree.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Betula pendula</td>
<td>Silver birch</td>
<td>Mature</td>
<td>7 m</td>
<td>N-S 4 m</td>
<td>0.13 m</td>
<td>0.15 m</td>
<td>Good</td>
<td>Fair</td>
<td>50-200 years</td>
<td>Low</td>
<td>Other person's tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree located within 5 m of existing tree.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Advertised Plan**
4.1 Photographic evidence

The following photographs were obtained during the site visit:

Tree 1

Advertised Plan

YAVVLO GY DITIO STUNP PROOsal
Item 4.3 – Matters of Decision
5 Site map

The following map indicates tree location in relation to existing conditions:

[Map image with labeled areas 1, 2, 3, 4, 5]
6 Discussion

6.1 Tree Protection zone

The tree protection zone is determined by multiplying the trunk diameter of the tree at breast height, 1.4m from ground level, by 12. A 10% encroachment on one side of this zone is acceptable without investigation into root distribution or offset of the lost area.

Clause 3.2 of the Australian Standard AS4970 – 2009 Protection of Trees on Development Sites states that the TPZ of Palms, other monocots, cycads and tree ferns should not be less than 1 m outside the crown projection.

6.2 Structural root zone

The structural root zone (SRZ) is the setback required to avoid damage to stabilising structural roots. The loss of roots within the SRZ must be avoided. The SRZ is determined by applying the following formula: (D X 50) 0.42 X 0.64 where D = trunk diameter in metres.

6.3 Designing Around Trees

It may be possible to encroach into or make variations to the TPZ of the trees that must be retained. Encroachment includes excavation, compacted full and machine trenching.

The following is referenced from section 3.3 of the Australian Standards AS4970 – 2009 Protection of Trees on Development Sites:

6.3.1 Minor encroachment

If the proposed encroachment is less than 10% of the area of the TPZ and is outside the SRZ, detailed root investigations should not be required. The area lost to this encroachment should be compensated for elsewhere and contiguous with the TPZ.

6.3.2 Major encroachment

If the proposed encroachment is greater than 10% of the TPZ or inside the SRZ, the project arborist must demonstrate that the trees would remain viable. The area lost to this encroachment should be compensated for elsewhere and contiguous with the TPZ. This will require root investigation by non-destructive methods.
The following is a diagram of encroachment differentials into the TPZ:

6.3.3 Root exploratory investigation

Where it is proposed that development is considered to be a major encroachment, root exploratory investigation may be required within the alignment of the proposed encroachment.

By undertaking a root exploratory investigation, the extent of roots within that particular area may be determined. If a negligible amount of roots are required to be removed in order to construct the proposed development, the tree may remain viable. If a significant amount of roots are proposed to be removed in order to construct the proposed development, the tree may not remain viable.

Root exploratory investigations should be undertaken by a suitably qualified Arborist (AQF Level 5 Arboriculture).
7 Conclusion

7.1 Tree retention value

- Tree 1 is a Council owned nature strip tree.
- Trees 2 – 5 are neighbouring trees.
- The subject trees do not belong to the property owner and should therefore be considered for retention.

7.2 Permit requirement

- Tree 1 is a Council owned tree and cannot be removed without written consent from Bayside City Council.
- The trunk dimensions of Trees 2 – 5 were estimated to be less than 155cm at 1m above ground level and subsequently do not trigger a Local Law permit (3.1).

8 Recommendations

The subject trees do not belong to the property owner and should therefore be considered for retention.

8.1 Tree retention

In the event of tree retention the following is recommended in order to ensure that retained trees are adequately protected:

- Comply with construction measures in section 8.3
- Comply with tree protection measures in section 8.4

8.2 Tree removal

In the event that the removal of a tree is undertaken, the following is recommended:

- Tree removal must be undertaken prior to construction commencing (including demolition).
- An offset planting program to accommodate the loss of the subject tree(s) should be considered.
- Written consent from the responsible authority must be obtained prior to tree removal.
8.3 Construction measures

The following construction measures must be undertaken to ensure that the health and/or structural integrity of retained trees are not compromised:

Development (including excavation) must not encroach into the SRZ, or greater than 10% into the TPZ unless the Project Arborist can determine that the trees health and/or structural integrity is not expected to be compromised.

Development must not require more than 20% of a retained tree’s canopy to be removed in order to be constructed.

Internal paths and driveways may be required to be constructed above grade and constructed via permeable materials of a pH neutral composition where an encroachment is proposed within the SRZ or greater than 10% into the TPZ or within the SRZ.
8.4 Tree Protection Measures

The following tree protection measures are expected to ensure that retained trees are adequately protected throughout the development process:

8.4.1 Pruning

- Only the minimum amount necessary for clearance in order to complete construction should be removed.
- Pruning should be undertaken by a suitably qualified Arborist (minimum AQF level 3).
- The pruning should be undertaken in accordance with the Australian Pruning Standard AS 4373 - 2007.
- Pruning should be undertaken prior to machinery being brought onto site, demolition and construction.

8.4.2 Tree protection fencing

- Tree protection fencing should be installed in pending locations that are recommended by the Project Arborist.
- TPF should be erected prior to machinery being brought onsite for the demolition of the existing dwelling.
- Fencing should be a minimum 1.8m high and comprised of wire mesh (or similar).
- Fencing should not encroach onto the footpath or roadway.
- The fencing should remain intact for the duration of the project.
- If the TPF should only be removed or shifted with the approval of the Project Arborist and the Responsible Authority.

8.4.3 Ground protection

- In the event that ground protection is recommended by the Project Arborist it must consist of a layer of permeable membrane such as geotextile fabric beneath a 100mm thick layer of mulch or single-grade (no fines) crushed rock, then cover the mulch or crushed rock with a layer of strapped rumble boards.
8.4.4 TPZ maintenance

- Soil moisture during construction should be maintained at not less than 50% of field capacity (usually 10 litres of water per 10mm of each tree DBH per week).
- Irrigation may be applied by hand, automatic or manual irrigation system, or by fine spray from water tanker located outside the previously submitted exclusion zones.
- Water is to be applied at a volume and frequency required so as to maintain turgor and leaf retention and encourage healthy root development.
- The area within the tree protection fence should be covered with a layer of organic mulch (woodchips) to a depth of 100mm prior to the commencement of the project. Mulch material should comply with Australian Standard AS 4454.

8.4.5 Tree protection signage

- The signage on the TPF should be placed on TPZ fencing at regular intervals so that it is visible from any angle outside the TPZ.
- Signage should state 'Tree Protection Zone, No Access' or similar.
- Signage should be greater than 600mm X 400mm in size.

8.4.6 Prohibitions within the TPZ

The following activities are prohibited within the TPZ:
- Machine excavation including trenching (unless approved by the Project Arborist, Arborist supervision may be required)
- Cultivation
- Storage
- Preparation of chemicals, including cement products
- Parking of vehicles
- Refuelling
- Dumping of waste
- Wash down and cleaning of equipment
- Placement of fill
- Lighting of fires
- Physical damage to the tree
- Pruning or damaging of roots greater than 30mm in diameter.
8.4.7 Scaffolding

- When scaffolding must be erected within Tree Protection Zones, cover the ground with a 10cm layer of mulch, and then cover this with boards and plywood to prevent soil compaction.

8.4.8 Drains and services

- In the event that any drains or services are required to encroach into the TPZ, the drains or services must only be implemented by non-root destructive means such as horizontal boring at greater than 1100mm depth or by low pressure hydro-excavation to ensure that the bark remains intact under Arboricultural supervision.
- This process must be conducted under the above conditions listed unless it has been shown by non-root destructive exploratory trenching that there will be minimal impact upon the tree and all roots greater than 40mm in diameter are capable of being retained.

8.4.9 Site storage

- A designated storage area where building materials, chemicals etc. can be stored should be located outside the TPZ of retained trees.
9 Limitation of Liability

Taylors Tree and Stump Removal and their employees are tree specialists who use their qualifications, education, knowledge, training, diagnostic tools and experience to examine trees, recommend measures to enhance the beauty and health of trees, and attempt to reduce the risk of living near trees. Clients may choose to accept or disregard the recommendations of this assessment and report.

Taylors Tree and Stump Removal and their employees cannot detect every condition that could possibly lead the structural failure of a tree. Trees are living organisms that fail in ways the arboriculture industry does not fully understand. Conditions are often hidden within trees and below ground. Unless otherwise stated observations have been made from ground level and limited to accessible components without dissection excavation or probing.

Taylors Tree and Stump Removal cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments cannot be guaranteed. Treatment, pruning and removal of trees may involve considerations beyond the scope of Taylors Tree and Stump Removal services, such as property boundaries and ownership, disputes between neighbours, sight lines, landlord-tenant matters, and related incidents. Taylors Tree and Stump Removal cannot take such issues into account unless complete and accurate information is given prior to or at the time of site inspection. Likewise, Taylors Tree and Stump Removal cannot accept responsibility for the authorisation or non-authorisation of any recommended treatment or remedial measures undertaken.

In the event that Taylors Tree and Stump Removal recommends retesting or inspection of trees at stated intervals or installs any cable/s, bracing systems and support systems Taylors Tree and Stump Removal must inspect the system installed at intervals not greater than 12 months unless otherwise specified in written reports. It is the client’s responsibility to make arrangements with Taylors Tree and Stump Removal to conduct the re-inspection.

Information contained in this report covers those items that were examined and reflect the condition of those items at the time of inspection. There is no warranty or guarantee expressed or implied that the problems or deficiencies of the trees or property in question may not arise in the future. Trees can be managed, but they cannot be controlled. To live or work near a tree involves a degree of risk. The only way to eliminate all risks involved with a tree is to eliminate the tree.

All written reports must be read in their entirety, at no time shall part of the written assessment be referred to unless taken in full context of the whole written report.

If this written report is to be used in a court of law or any legal situation Taylors Tree and Stump Removal must be advised in writing prior to the written assessment being presented in any form to any other party.
10 References


AS 4970-2000 Australian Standard for Protection of Trees on Development Sites

11 Definition of terms

11.1 Tree health

- Good
- Fair
- Poor
- Very poor
- Dead

Good: The tree is demonstrating good or exceptional growth for the species. The tree should exhibit a full canopy of foliage and have only minor pest or disease problems. Foliage colour size and density should be typical of a healthy specimen of that species.

Fair: The tree is in reasonable condition and growing well for the species. The tree should exhibit an adequate canopy of foliage. There may be some dead wood in the crown. Some grazing by insects or animals may be evident, and/or foliage colour, size or density may be typical of a healthy specimen of that species.

Poor: The tree is not growing to its full capacity. Extension growth of the laterals may be minimal. The canopy may be showing some minor problems. Large amounts of dead wood may be evident throughout the crown, as well as significant pest and disease problems. Other symptoms of stress indicating tree decline may be present.

Very poor: The tree appears to be in a state of decline, and the canopy may be very thin and sparse. A significant volume of dead wood may be present in the canopy, or pest and disease problems may be causing a severe decline in tree health.

Dead: The tree is no longer alive.

11.2 Structure

- Good
- Fair
- Poor
- Very poor
- Failed

The definition of structure is the likelihood of the tree to fail under normal conditions. A tree with good structure is highly unlikely to suffer any significant failure, while a tree with poor to very poor structure is likely or very likely to fail.

Good: The tree has a well-defined and balanced crown. Branch unions appear to be strong, with no defects evident in the trunk or the branches. Major limbs are well defined. The tree would be considered a good example for the species. Probability of significant failure is highly unlikely.

Fair: The tree has some minor problems in the structure of the crown. The crown may be slightly out of balance at some branch unions or branches may exhibit minor structural defects. If the tree has a single trunk, this may be on a slight lean, or be exhibiting minor defects. Probability of significant failure is low.

Poor: The tree may have a poorly structured crown, the crown may be unbalanced, or exhibit large gaps. Major limbs may not be well defined; branches may be rubbing or crossing over. Branch unions may be poor or faulty at the point of attachment. The tree may have suffered major root damage. Probability of significant failure is moderate.

Very poor: The tree has a poorly structured crown. The crown is unbalanced, or exhibits large gaps. Major limbs are not well defined. Branch unions may be poor or faulty at the point of attachment. A section of the tree has failed, or is in imminent danger of failure. Active failure may be present, or failure is probably in the immediate future.

Failed: A significant section of the tree or the whole tree has failed.
11.3 Useful Life Expectancy (ULE)

- Unsafe or 0 years
- Less than 5 years
- 5 to 10 years
- 10 to 20 years
- 20 +

Useful life expectancy is approximately how long a tree can be retained safely and usefully in the landscape providing site conditions remain unchanged and the recommended works are completed. It is based on the principles of safety and usefulness in the landscape and should not reflect personal opinions on species suitability.

Unsafe or 0 years: The tree is considered dangerous in the location and no longer provides any amenity value.

Less Than 5 years: The tree under normal circumstances and without extra stress should be safe and have value of maximum of 5 years. The tree will need to be replaced in the short term. Replacement plants should be established as soon as possible if there is sufficient space, or consideration should be given to the removal of the tree to facilitate replanting.

5 to 10 Years: The tree under normal circumstances and without extra stress should be safe and have value of maximum of 10 years. Trees in this category may require regular inspections and maintenance particularly if they are large specimens. Replacement plants should be established in the short term if there is sufficient space, or consideration should be given to the removal of the tree to facilitate replanting.

10 to 20 Years: The tree under normal circumstances and without extra stress should be safe and of value of up to 20 years. During this period, regular inspections and maintenance will be required.

20 + Years: The tree under normal circumstances and without extra stress should be safe and of value of more than years. During this period, regular inspections and maintenance will be required.

11.4 Tree Retention Value

- High
- Moderate
- Low
- Other Person’s Tree

High: The tree may be significant in the landscape, offer shade and other amenities such as screening. The tree may assist with erosion control or perform a vital function in the location (e.g. habitat, shade, flowers or fruit). The tree is free from structural defects and is vigorous.

Moderate: The tree may offer some screening in the landscape or serve a particular function in the location and have minor structural defects. The tree may enter the mature stage of its life cycle.

Low: The tree offers very little in the way of screening or amenity and may have significant structural defects. The tree may also be mature and entering the senescent stage of its life cycle.

Other Person’s Tree: The tree may be located within an adjoining property/farm or nature strip. The tree is to be protected unless written consent from the tree owner(s) and/or responsible authority is obtained.

11.5 Hazard

- High
- Moderate
- Low

High: Tree is an immediate hazard with the potential to fall; this should be rectified as soon as possible.

Moderate: Tree displays signs of structural problems, evidence of pests or disease, signs of low vigour and dead wood, may be growing into an area that can create a hazard.

Low: Trees appear to be structurally sound, is healthy with no signs of pests or disease, has good vigour and is clear of any hazards.
11.6 Age

- Young
- Semi Mature
- Mature
- Senecent

Young: Juvenile or recently planted approximately 1-7 years.
Semi-Mature: Tree actively growing
Mature: Tree has reached expected size in situation
Senecent: Tree is over mature and has started to decline

11.7 Amenity Value

Very Low: Tree makes little or no amenity value to the site or surrounding area. In some cases the tree might be detrimental to the area's amenity value (e.g. unsightly, risk of weed spread)

Low: Tree makes some contribution of amenity value to the site but makes no contribution to the amenity value of surrounding areas. The removal of the tree may result in little loss of amenity. Juvenile trees, including street trees, are generally included in this category. However, they may have the potential to supply increased amenity in the future

Medium: The tree makes a moderate contribution to the amenity of the site and/or may contribute to the amenity of the surrounding area.

High: The tree makes a significant contribution to the amenity value of the site, or the tree makes a moderate contribution to the amenity value of the larger landscape.

The amenity value rating considers the impact that the tree has on any neighboring sites as being equally important to that supplied to the subject site. However, trees that contribute to the general area (e.g. streetscape) are given a greater weight.
To be used in conjunction with drawing number:

13 Maroona Road Highett REV1
To be used in connection with drawing number:
13 Maroona Road Highett REV1

PHOTO 25

PHOTO 26
## Bayside City Council
### Planning & Amenity Committee Meeting - 12 March 2019

## Attachment 1

### Item 4.3 – Matters of Decision

#### STORM Rating Report

<table>
<thead>
<tr>
<th>Description</th>
<th>Impervious Area (m²)</th>
<th>Treatment Type</th>
<th>Treatment Area/Volume (m² or l)</th>
<th>Occupants / Number of Bedrooms</th>
<th>Treatment %</th>
<th>Tank Water Supply Reliability (%)</th>
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<tbody>
<tr>
<td>Building Footprint</td>
<td>300.60</td>
<td>Reinwater Tank</td>
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<td>Driveway &amp; Paths</td>
<td>44.73</td>
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**Data Generated:** 16-Jul-2018  
**Program Version:** 1.0.3
Attachment 2: Site and Surrounds

Figure 1 Aerial overview of the site and surrounds

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<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
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<td>Objector(s)</td>
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</table>
Figure 2 View towards the site from the south east.

Figure 3 View towards the site from the northeast.
### Attachment 4

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

<table>
<thead>
<tr>
<th>CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title and Objective</strong></td>
</tr>
<tr>
<td>-----------------------------------------------------------</td>
</tr>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
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</table>

<table>
<thead>
<tr>
<th>CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING</th>
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<tbody>
<tr>
<td><strong>Title and Objective</strong></td>
</tr>
<tr>
<td>------------------------------------------------</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
</tr>
<tr>
<td>B9 Permeability</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
</tr>
<tr>
<td>B11 Open Space</td>
</tr>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
</tr>
<tr>
<td>B12 Safety</td>
</tr>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
</tr>
<tr>
<td>B13 Landscaping</td>
</tr>
<tr>
<td>To provide appropriate landscaping. To encourage: • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site.</td>
</tr>
<tr>
<td>B14 Access</td>
</tr>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
</tr>
</tbody>
</table>
### B15 Parking Location
Provide resident and visitor vehicles with convenient parking.
Avoid parking and traffic difficulties in the development and the neighbourhood.
Protect residents from vehicular noise within developments.

| Complies | On site car parking is provided in the form of single garages and tandem outdoor car parking. |

### CLAUSE 55.04 AMENITY IMPACTS

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>Does not Comply</td>
<td>Refer to Section 6.2 of the Report.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground floor</td>
<td>First Floor</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Measurements measured from east to west*

### B18 Walls on Boundaries
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

<table>
<thead>
<tr>
<th>Complies</th>
<th>Maximum allowable length: 17m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed</td>
<td>Maximum average height: 3.2m</td>
</tr>
<tr>
<td>Maximum proposed average height: 2.96m</td>
<td></td>
</tr>
</tbody>
</table>

### B19 Daylight to Existing Windows
Allow adequate daylight into existing habitable room windows.

| Complies | The development has been sufficiently setback from all habitable room windows to abutting properties. |

### B20 North Facing Windows
Allow adequate solar access to existing north-facing habitable room windows.

| N/A | There are no north facing windows within 3m of the shared boundary. |
| B21 Overshadowing Open Space | Complies | Additional overshadowing will occur over the adjoining driveway to the south, which does not result in any amenity impacts. The overshadowing extends marginally beyond the shadow cast by the existing fence line. |
| B22 Overlooking | Complies | All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. |
| B23 Internal Views | Complies | All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. A condition has been included to add a 1.8m internal boundary fence to limit views between adjoining areas of secluded private open space within the development. |
| B24 Noise Impacts | Complies | It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses. |

**CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B25 Accessibility</td>
<td>Complies</td>
<td>Entries are accessible for people with limited mobility with a lift provided from the basement car park to first floor level. The development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Complies</td>
<td>The development fronts Maroona Road and includes a clearly identifiable entry with dedicated pedestrian pathway. The entry provides shelter, a sense of personal address and a transitional space around the building entry.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Complies</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Complies</td>
<td>Minimum: 25m² secluded, 40m² overall with a minimum dimension of 3 m; Proposed: Dwelling 1 = 52.59m², Dwelling 2 = 40.87m².</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Comments</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-------------------------</td>
<td>-----------------------------------------------</td>
</tr>
</tbody>
</table>
| **B29 Solar Access to Open Space**  
Allow solar access into the secluded private open space of new dwellings/buildings. | Yes                     |                                               |
| **B30 Storage**  
Provide adequate storage facilities for each dwelling. | Complies | Designated storage areas are provided.        |
| **CLAUSE 55.06 DESIGN DETAIL** |                         |                                               |
| **B31 Design Detail**  
Encourage design detail that respects the existing or preferred neighbourhood character. | Complies | Refer to Section 6.1 of the report.           |
| **B32 Front Fences**  
Encourage front fence design that respects the existing or preferred neighbourhood character. | Does not comply | Refer to section 6.2 of the report.          |
| **B33 Common Property**  
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.  
Avoid future management difficulties in common ownership areas. | N/A                     |                                               |
| **B34 Site Services**  
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.  
Avoid future management difficulties in common ownership areas. | Complies | All appropriate site services can be easily catered for on-site. |
Neighbourhood Character Precinct G1

Preferred Future Character Statement

The well-articulated dwellings set within landscaped gardens, some with established trees. New buildings are frequent and are designed to respond to the site, and include a pitched roof form to reflect the dominant forms in the area. Buildings are occasionally built to the side boundary, however the overall impression of the streetscape is of buildings within garden settings due to the regular front setbacks, well vegetated front yards and additional street tree planting in the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds  
A condition has been included to amend the landscape plan to include tree plantings in accordance with the Bayside Landscaping Guidelines. |
| To maintain the rhythm of visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds  
The proposal development includes sufficient setbacks which will maintain the rhythm of visual separation between buildings. |
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Use pitched roof forms with eaves. | Large, bulky buildings with poorly articulated front and side wall surfaces. | Responds  
The proposal features an interesting façade which incorporates recessed portions, a combination of materials and a pitched roof. |
| To maintain the openness of the streetscape. | | High, solid front fencing. | Responds  
The application has included a 1.5 metre front fence which is 50% transparent. |
4.4 2 MAJOR STREET, HIGHETT
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2017/563/1 WARD: CENTRAL

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/52807

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>David Lock Associates</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>5 October 2017</td>
</tr>
<tr>
<td>Amended under S57A of the Planning and Environment Act 1987 on 17 December 2018</td>
<td></td>
</tr>
<tr>
<td>Current statutory days</td>
<td>86 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 1)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 5)</td>
</tr>
<tr>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
<td></td>
</tr>
<tr>
<td>Site area</td>
<td>592m²</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>12</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes, $6,060</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>No</td>
</tr>
</tbody>
</table>

Proposal
The application seeks the construction of a two/three storey building with basement parking and a front fence in excess of 1.2 metres on a lot. Key details of the proposal are as follows:

- Four dwellings (1 x four bedrooms and 3 x two bedrooms)
- Maximum building height - dwelling 1 (three storeys) 10.055m, dwellings 2-4 (two storeys) 6.94m
- Site coverage 50%
- Permeability 26.56%
- Provision of eight parking spaces in basement (two per dwelling)
- Garden area – 41%

The application plans are provided at Attachment 1.

An aerial image and photographs of the site and surrounds are provided at Attachment 2.
History
2016/501/1 – Construction of three dwellings – Refused – 01/06/2017

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:
- Clause 32.08-6 (General Residential Zone) – Construction of two or more dwellings on a lot and a front fence exceeding 1.2 metres in height.
- Clause 43.02-2 (Design and Development Overlay) – Buildings and works.

Planning Scheme Amendments
There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

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

Following a second round of public notification on amended plans, an additional 4 objections were received, bringing the total number of objections to 12.

The following concerns were raised:
- Neighbourhood character;
- Inappropriate development – conflicts with the DDO;
- Design is bulky;
- Overlooking;
- Overshadowing;
- Parking / Traffic;
- Lack of landscaping; and,
- Noise.

The number of objections received for this application is consistent across Council’s record management systems.

Consultation meeting
A consultation meeting was held on 5 September 2018 attended by the permit applicant and six objectors. As a result of this meeting no objections were withdrawn.

Following this meeting, the plans were amended and formally substituted under Section 57A of the Planning and Environment Act 1987. All objectors and adjoining neighbours
were notified and an additional four objections were received raising the same concerns as set out above. The changes to the plans are set out below:

- Reduction in floor to ceiling heights for dwelling 1;
- Second floor southern setback of dwelling 1 increased from 3.935m to 5.935m;
- Decrease in northern setbacks as follows:
  - Second floor dwelling 1 from 3.934m to 2.475m
  - First floor dwelling 1 from 3.54m to 2.475m
  - First floor dwelling 2 from 3.8m to 3.04m
  - First floor dwelling 3 from 4.131m to 3.372m
  - First floor dwelling 4 from 3.52m to 2.78m;
- Removal of lift for dwelling 1; and,
- Reconfiguration of internal layout for dwelling 1

4. Recommendation

That Council resolve to Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/563/1 for the land known and described as 2 Major Street, Highett, for the **construction of a two/three storey apartment building with basement parking and a front fence in excess of 1.2 metres on a lot** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Shangri-La Construction, date stamped 17 December 2018 and revision number A but modified to show:
   a) The front setback of dwelling 1 increased to 6m;
   b) The Theatre/Rumpus room at second floor of dwelling 1 provided with a full height window facing Major Street;
   c) The stairs at ground floor and first floor of dwelling 1 at the front of the dwelling facing Major Street to be relocated towards the rear of the dwelling. The purpose of which is to provide an active frontage to Major Street and direct access from the living/dining area to the Garden (POS) of dwelling 1;
   d) An open pergola like structure at the pedestrian entrance (Major Street frontage) for dwellings 2-4 to highlight the entrance;
   e) An open style pergola structure to be included over each decking area as shown on the ground floor plan to provide articulation to the façade of the building;
   f) Provision of external lighting along the pedestrian accessway to dwellings 2-4;
   g) Compliance with Standard B23 (Internal views) of the Bayside Planning Scheme;
h) Reduction in overall height of the front fencing to a maximum of 1.8 metres;

i) The 1 in 8 grade at the bottom of the access ramp to have a minimum 2.5 metres in length;

j) A minimum 5.2 metre wide garage door to be provided for each garage;

k) Pedestrian sight triangles where the ramp intersects with the footpath as per AS2890.1;

l) The gate for the driveway to be set back a minimum of 5.5 metres from the front property boundary;

m) Removal of indicative landscaping from the plans;

n) Identify the level of cut and fill across the site and show the proposed ground levels;

o) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the habitable rooms of adjoining properties;

p) Material P1 to be replaced with a more durable and superior material, such as brick to compliment the neighbourhood character;

q) The ceiling of any porches, verandah or underside of any overhang must be clad in timber;

r) A schedule of construction materials, external finishes and colours (incorporating for samples of all materials on a colour and materials board);

s) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit;

t) A Landscaping Plan in accordance with Condition 10 of this permit;

u) A Tree Management and Protection Plan in accordance with Condition 13 of this permit; and,

v) Payment of Drainage Development Contributions in accordance with Condition 21.

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard
B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

Water Sensitive Urban Design

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including botanical names, of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009;
   b) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site;
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
   d) The provision of one large canopy tree capable of reaching a height of 12 metres at maturity or two smaller canopy trees capable of reaching a height of 8 metres or greater at maturity in the front garden of dwelling 1;
   e) The provision of one small canopy tree capable of reaching a height of 8 metres at maturity in the garden areas of dwellings 2 and 3 and the
provision of two small canopy trees capable of reaching a height of 8 metres at maturity in the garden area of dwelling 4;

f) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces; and,

g) Details of surface finishes of pathways and driveways.

11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Tree Management and Protection Plan

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

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

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

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site; and,

b) The location of tree protection measures to be utilised.

14. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

15. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

Waste Management Plan

16. Before the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:

a) Dimensions of storage waste areas;

b) Storm water drains in storage areas should be fitted with a litter trap;

c) The number and size of bins to be provided;

d) Facilities for bin cleaning;
e) Method of waste and recyclables collection. A private waste collection from within the basement. No on-street loading is permitted;

f) Types of waste for collection, including colour coding and labelling of bins;

g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines);

h) Method of hard waste collection;

i) Method of presentation of bins for waste collection;

j) Sufficient headroom within the basement to accommodate waste collection vehicles;

k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction;

l) Strategies for how the generation of waste and recyclables will be minimised; and,

m) Compliance with relevant policy, legislation and guidelines.

When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

Construction Management Plan

17. Prior to commencement of any building works (including demolition works in a Heritage Overlay) and / or the issue of a Building Permit, a Construction Management Plan (CMP) prepared to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will form part of this permit. The plan must provide for (but not limited to):

a) A pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure;

b) Works necessary to protect road and other infrastructure;

c) Remediation of any damage to road and other infrastructure;

d) Containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land;

e) Facilities for vehicle washing, which must be located on the land;

f) The location of loading zones, site sheds, materials, cranes and crane/hoisting zones, gantries and any other construction related items or equipment to be located in any street;

g) Site security;

h) Management of any environmental hazards including, but not limited to:

i. contaminated soil and ground water,

ii. materials and waste,

iii. dust,

iv. stormwater contamination from run-off and wash-waters,

v. sediment from the land on roads,
vi. washing of concrete trucks and other vehicles and machinery, and

vii. spillage from refuelling cranes and other vehicles and machinery;

i) The construction program;

j) Preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency;

k) Parking facilities for construction workers;

l) Measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan;

m) An outline of requests to Council / Public authorities to occupy public footpaths or roads, or anticipated disruptions to local services;

n) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced;

o) The provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads;

p) Include details of bus movements throughout the precinct during the construction period;

q) A Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:

   i. using lower noise work practice and equipment,

   ii. the suitability of the land for the use of an electric crane,

   iii. silencing all mechanical plant by the best practical means using current technology,

   iv. fitting pneumatic tools with an effective silencer,

   v. other relevant considerations, and

   vi. any site-specific requirements;

r) During the construction:

s) Any stormwater discharged into the stormwater drainage system must be in compliance with Environment Protection Authority guidelines;

t) Stormwater drainage system protection measures must be installed as required to ensure that no solid waste, sediment, sand, soil, clay or stones from the land enters the stormwater drainage system;

u) Vehicle borne material must not accumulate on the roads abutting the land;

v) The cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads; and,
w) All litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

If required, the Construction Management Plan may be approved in stages. Construction of each stage must not commence until a Construction Management Plan has been endorsed for that stage, to the satisfaction of the Responsible Authority.

**Drainage**

18. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

19. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and be approved by Council’s City Assets and Projects Department.

20. Council records indicate that there is a 150mm diameter South East Water sewer pipe running parallel to the east property boundary. Council consider this asset to be protected by an implied easement, minimum distance of 1m from the asset. The plans indicate no proposals to encroach into the implied easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

**Development Contributions**

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

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

**Permit Expiry**

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

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

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

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

**Permit Notes:**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours’ notice is required.
• Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
• A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

• Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.
• Ensure new development responds to preferred neighbourhood character in activity centres.

Bayside Planning Scheme

• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.04 Environmental and Landscape Values
• Clause 21.06 Built Environment and Heritage
• Clause 21.11 Local Areas (Highett Neighbourhood Activity Centre)
• Clause 22.06 Neighbourhood Character Policy (Precinct G1)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 General Residential Zone (Schedule 1)
• Clause 43.02 Design and Development Overlay (Schedule 5)
• Clause 45.06 Development Contribution Plan Overlay (Schedule 1)
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines
6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct G1. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The building has been designed to provide appropriate articulation through both projecting and recessive elements. The setbacks of the building appropriately respond to the context of the site ensuring that visual bulk is minimised in the rear yards of adjoining properties whilst appropriately reflecting the streetscape sought.

The proposal provides an appropriate transition from the large four storey building to the south (2A Major Street) down to the two storey residential dwelling to the north (4 Major Street). The transition is provided in both built form and setbacks, allowing sufficient spacing for visual separation to the neighbouring buildings.

The setbacks provided around the built form allow for landscaping, including the provision of canopy trees, to maintain and enhance the garden setting. Conditions requiring trees to be planted throughout the site have been included in the recommendation to improve the overall tree canopy of the site and wider area.

The colours and materials chosen are not well considered and need to be substantially improved. Conditions in the recommendation require an appropriate palette of materials and colours for the development which complement the existing and emerging character of Major Street and Highett in general.

The application proposes a 2 metre high front fence to Major Street. The 2 metres includes a 500mm rendered plinth at the base of the fence. There are varied fence heights in the vicinity of the site, with newer developments including 1.8 metre high fences with permeable sections. The materials and permeability of the fence are appropriate; however, the height should be reduced to 1.8 metres to maintain consistency with newer fences on developments in the emerging character.

6.2. Design and Development Overlay (Schedule 5)

The subject site is affected by the Design and Development Overlay Schedule 5. The design objectives set out in this schedule are:

- To encourage apartment style residential development of up to three storeys in height on consolidated lots in residential areas close to the Highett Shopping Centre and Southland.

- To retain a front setback and adequate side and rear setbacks to provide space to enable landscaping sufficient to provide a garden setting for apartment complexes.

- To encourage car parking to be provided within buildings rather than at ground level, to maximise the opportunity to use ground level open space for landscaping and communal and private open space.

- To retain the amenity of existing low density residential development by ensuring that adequate side and rear setbacks are provided to taller buildings to allow screen planting and a landscape setting, and to prevent unreasonable overlooking, overshadowing and visual bulk.

The schedule then goes on to set out the permit requirements, advising that:

‘Buildings and works should be constructed in accordance with the following requirements:’
On sites of 1,000sqm or less and with a frontage of 20 metres of less building and works should not exceed a maximum height of 7.5 metres (comprising two storeys). The preference is for villa or townhouse style developments on such lots.

Buildings should be set back a minimum of 6 metres from the front property boundary.

Buildings should be set back from side and rear boundaries in accordance with Standard 17 of Clause 55; except that:

- the lower levels of the building should be setback a distance which is the same as the setback required by clause 55 for the highest point of any wall above that lower level.

High walls should be landscaped by utilizing the increased setback at ground level along a significant proportion of the length of any high walls.

Car parking spaces should be provided primarily within buildings rather than at ground level, in order to maximise the opportunity to use ground level open space for landscaping, and communal and private open space.

The subject site is 592 square metres in size, with a frontage of approximately 15 metres. It is acknowledged that the proposed building would have a three storey height on the part of the building fronting Major Street (dwelling 1) and would then step down to two storeys (less than 7.5 metres in height) for dwellings 2-4. The additional storey is considered to provide an appropriate transition of built form from the large four storey apartment building on the corner of Major Street and Highett Road to the two storey dwelling at 4 Major Street on the other side of the site. It should be noted as well that only one of the proposed dwellings will exceed the preferred height, with the other three being lower than the preferred height. Furthermore, the development is of the preferred townhouse style, with basement parking thereby avoiding at grade parking.

In relation to the setbacks, the DDO sets out the preferred setbacks, with the requirement for the lower levels of the building to be setback the same distance as for the upper levels in accordance with Standard B17 of Clause 55. The table below sets out the setbacks (non-compliances are underlined).

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>4.19m (D1)</td>
</tr>
<tr>
<td></td>
<td>2.39m</td>
</tr>
<tr>
<td>South (side)</td>
<td>4.19m (D1)</td>
</tr>
<tr>
<td></td>
<td>2.39m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>2.69m</td>
</tr>
</tbody>
</table>

| Second floor |
|--------------|-------------|
| Requirement  | Proposed    |
| North (side) | 4.19m       | 2.47m       |
| South (side) | 4.19m       | 5.93m       |

At ground floor level, the north and south elevations do not generally meet the preferred setbacks. However, the setbacks are in the order of 2 metres or more, which is considered to be an acceptable setback. There will be no adverse impact on the
neighbouring dwellings and it should be noted that the proposed setbacks are equivalent or greater to that required under Clause 55 of the Bayside Planning Scheme.

At first floor, dwelling 1 is the only dwelling to not comply with the requirements. This dwelling fronts Major Street and is adjacent for the most part to the concrete driveway at 4 Major Street (to the north) and the basement ramp for 2A Major Street to the south. It is therefore considered that there will be no adverse impact on the neighbouring properties.

The northern elevation of dwelling 1 is also non-compliant at second floor level. Again, this is adjacent to the driveway to the north and the building has been designed in such a way as to provide an appropriate transition from the four storey bulk and 2A Major Street down to the two storey dwelling at 4 Major Street. It is a case of balancing full compliance with the preferred setbacks against getting an acceptable level of built form within the streetscape. In this instance, the transition of built form is considered acceptable and the areas of non-compliance with the setbacks will not have any adverse impact.

6.3. Local Areas

The Highett Structure Plan was adopted by Council in September 2018. It has been lodged with the Department of Environment, Land, Water and Planning (DELWP) for authorisation to exhibit the amendment. Once this is granted, community consultation will commence.

Clause 21.11-6 – Highett

This clause focuses on the local area implementation of the objectives and strategies set out earlier in the Bayside Planning Scheme. This sets out a vision for Highett which includes providing ‘an opportunity for as many people as is appropriate given the character of the area and the opportunities for change to live and work in Highett’ which includes ‘managing change in a way that responds to their character qualities’.

Some of the relevant objectives include:

- To establish a built form that respects the existing one and two storey character of the Highett Shopping Centre, while providing some limited opportunity for a higher built form to increase the intensity of activity in the centre and to facilitate residential uses in upper levels of buildings and the rear of shops.
- To recognise the character of Highett’s established residential areas and to manage change in a way that responds to their character qualities, and to their proximity to public transport and activity centres.
- To improve the appearance, amenity, attractiveness, safety and sense of security throughout the entire Highett area.
- To maximise development opportunities that exist on vacant and underutilised land with respect to the precinct’s urban quality and proximity to transport and activity centres.

Whilst there is no specific ‘strategies’ subheading, the following relevant strategies are listed under the ‘Local Area Implementation’ section of this clause:

- Encourage well designed medium density apartment style developments on consolidated lots in preferred residential development areas. Preference is for multi-level developments that include basement or in-built car parking.
- Manage residential redevelopment in areas not identified as preferred areas for medium density housing, pursuant to existing Council policies and ResCode.
- Restrict the height of commercial properties in the Highett Neighbourhood Activity Centre to three storeys.
- Allow sufficient space around new multi-level developments at ground level to provide the opportunity for landscaping that will create a garden appearance to streets and soften the building form from adjoining buildings.

- Improve the appearance, amenity, attractiveness, safety and sense of security throughout the entire Highett area.

The proposal is considered to be consistent with Clause 21.11-6. The design of the development is of a townhouse building with all resident parking being provided in the form of basement parking. The building provides an appropriate transition of the built form, with the front section being three storey and the remainder at two storeys.

Spacing is provided for sufficient landscaping within the site and the proposal will make use of a vacant, undeveloped site in the heart of the Highett Neighbourhood Activity Centre.

6.4. Compliance with Clause 55 (ResCode)

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

**Street setback (Standard B6)**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Street</td>
<td>6m</td>
<td>5.968m</td>
<td>0.032m</td>
</tr>
</tbody>
</table>

The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site. Under the DDO5, a street setback of 6 metres is required. The proposed setback is 5.968m, which is 3cm short of that required. The minor non-compliance can be readily absorbed within the design. A condition is included to require a minimum of 6m front setback be provided.

**Side and rear setbacks (Standard B17)**

Refer to Section 6.2 (Design and Development Overlay (Schedule 5) assessment above.

**Private Open Space (Standard B28)**

Dwellings 1 and 4 exceed the requirement to provide 40m$^2$ of total private open space. Whilst dwellings 2 and 3 do not quite meet the provision of the total private open space, the secluded private open space provided is in excess of the required 25m$^2$ and 3 metre dimension with access from a living area. The secluded private open space is considered to be more than useable for the occupants of these two dwellings and more than exceeds the requirements. As such, in this instance it is considered to be acceptable.

**Front Fences (Standard B6)**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Street</td>
<td>1.2m</td>
<td>2m</td>
<td>800 mm</td>
</tr>
</tbody>
</table>

Fencing within the immediate vicinity of the site is generally of the solid brick variety and exceeds 1.2m in height. The proposed fencing would have a solid 500m render plinth with open timber screen fence (height 1.5m) above and rendered piers. The timber fencing would be 50% open. The design of the fencing is considered appropriate and will integrate well within the streetscape. However, an overall height of 2 metres is considered excessive. A condition is therefore included in the recommendation requiring the height to be reduced to 1.8m in keeping with the surrounding fencing.
6.5. Landscaping

The application does not propose to remove any trees protected by the Local Law. The site is mainly devoid of any vegetation. Indicative landscaping has been shown on the development plans. Conditions are therefore included in the recommendation requiring the planting of canopy trees within the site.

6.6. Car parking and traffic

Pursuant to the car parking requirements at Clause 52.06, a dwelling requires car parking to be provided at a rate of 1 car space per one or two bedroom dwellings and 2 car spaces per three or more bedroom dwellings.

Dwelling 1 comprises four bedrooms and is afforded two car parking spaces in the form of a double garage in the basement. Dwellings 2 - 4 comprise three bedrooms. Each dwelling is also afforded a double garage in the basement. The proposed on site car parking meets the requirements of Clause 52.06-5.

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

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

6.7. Cultural Heritage management plan

The site is not located within an area of cultural heritage sensitivity and therefore a cultural heritage management plan is not required.

6.8. Development contributions levy

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

The subject site is located within catchment area 15B.

Based on the proposed application and the below recommendation, a payment of $6,060 is required. The payment of the development contributions is included as a condition of permit.

6.9. Objector issues not already addressed

Noise

The proposed residential use will have noise impacts consistent with those normal to a residential zone. Speech, laughter, music etc. are noises associated with people living their lives and are all part of life in an urban area.

Support Attachments

1. Development Plans ↓
2. Site and surrounds imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
Item 4.4 – Matters of Decision

Development Plans
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds. Other objectors are located outside of the above area.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>🌟</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site from the west.

Figure 3 View of 2A Major Street to the south.
Figure 4 View of 2A Major Street to the south.

Figure 5 View along Major Street to the north.
Figure 6.1 Major Street (opposite the subject site).
ATTACHMENT 3

Neighbourhood Character Policy (Precinct G1)

Preferred Future Character Statement

The well-articulated dwellings sit within landscaped gardens, some with established trees. New buildings are frequent and are designed to respond to the site, and include a pitched roof form to reflect the dominant forms in the area. Buildings are occasionally built to the side boundary, however the overall impression of the streetscape is of buildings within garden settings due to the regular front setbacks, well vegetated front yards and additional street tree planting in the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds  
There is sufficient space within the site to allow for substantial planting, particularly within the front setback. Whilst indicative landscaping has been shown on the plans, conditions are included in the recommendation requiring the planting of canopy trees. |
| To maintain the rhythm of visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds  
The proposed development will consist of a single building, comprising three storeys for the dwelling at the front, stepping down to two storeys for the remaining three dwellings. The building allows for visual separation between the buildings to either side, as evidenced on the submitted streetscape plan. Conditions are included in the recommendation to require landscaping and canopy trees. |
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements | Large, bulky buildings with poorly articulated front and side wall surfaces. | Responds  
The proposed building is of a contemporary design and is well articulated through a combination of recessed areas and projecting elements together with a varied |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>providing appropriate articulation</td>
<td>• Use pitched roof forms with eaves.</td>
<td>palette of materials. This combination provides visual interest and breaks up the built form. Whilst the design incorporates flat roof forms as opposed to pitched, this is in keeping with the neighbouring, much larger building to the south and is considered an appropriate response.</td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>High, solid front fencing.</td>
<td>Responds Fencing within the immediate vicinity of the site is generally of the solid brick variety and exceeds 1.2m in height. The proposed fencing would have a solid 500m render pinth with open timber screen fence (height 1.5m) above and rendered piers. The timber fencing would be 50% open. The design of the fencing is considered appropriate and will integrate well within the streetscape. However an overall height of 2 metres is considered somewhat excessive. A condition is therefore included in the recommendation requiring the height to be reduced to 1.8m in keeping with the surrounding fencing.</td>
<td></td>
</tr>
</tbody>
</table>
### Attachment 4

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

<table>
<thead>
<tr>
<th>CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title and Objective</strong></td>
</tr>
<tr>
<td>B1 Neighbourhood Character</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
</tr>
<tr>
<td>B2 Residential Policy</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
</tr>
<tr>
<td>B3 Dwelling Diversity</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
</tr>
<tr>
<td>B4 Infrastructure</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
</tr>
<tr>
<td>B5 Integration with the Street</td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title and Objective</strong></td>
</tr>
<tr>
<td>B6 Street Setback</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred</td>
</tr>
<tr>
<td>Item</td>
</tr>
<tr>
<td>------</td>
</tr>
</tbody>
</table>
| B7 Building Height | Building height should respect the existing or preferred neighbourhood character. | Complies | **Maximum:** 11m and 3 storeys.  
**Proposed:** 10.055m (3 storeys), 6.94m (2 storeys) |
| B8 Site Coverage | Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Complies | **Maximum:** 50%  
**Proposed:** 50% |
| B9 Permeability | Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Complies | **Minimum:** >20%  
**Proposed:** 26.56% |
| B10 Energy Efficiency | Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Complies | The dwellings are sited to make appropriate use of solar energy. As far as is practicable, all habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources. |
| B11 Open Space | Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A | There is no communal open space in or adjacent to the development. |
| B12 Safety | Layout to provide safety and security for residents and property. | Complies | The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street. A condition is included in the recommendation requiring internal lighting along the pedestrian accessway. |
| B13 Landscaping | To provide appropriate landscaping.  
**To encourage:**  
- Development that respects the landscape character of the neighbourhood.  
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
- The retention of mature vegetation on the site. | Complies subject to conditions | The siting of the development is generally considered to be appropriate to create opportunities for meaningful landscaping. Conditions are included in the recommendation requiring the planting of canopy trees to improve the vegetation and provide soft landscaping within the site. |
| B14 Access | The street frontage of the site is less than 20m in width and the crossovers represent 23% of the width. A single | Complies |  

Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

| B15 Parking Location | Complies | On site car parking is provided in the form of a basement parking. There are no habitable windows that would be impacted upon by the accessway. |

**CLAUSE 55.04 AMENITY IMPACTS**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td>Does Not Comply</td>
<td>Refer to the report for further discussion. Requirements are specified in Schedule 5 to the DDO.</td>
</tr>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B18 Walls on Boundaries</strong></td>
<td>Complies</td>
<td>The living room wall of dwelling 4 is located on the southern boundary. Its height and length are compliant with the standard.</td>
</tr>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Complies</td>
<td>The dwellings are appropriately setback from property boundaries to ensure daylight to existing windows on the adjoining properties are not compromised.</td>
</tr>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **B20 North Facing Windows** | Complies | Required setback (above 3.6 metres) – 2.56m
Proposed setback (above 3.6 metres) – 3.5m (min) |
| Allow adequate solar access to existing north-facing habitable room windows. | | |
### B21 Overshadowing Open Space

*Ensure buildings do not significantly overshadow existing secluded private open space.*

| Complies | The main impact is to the properties to the south. There is an existing 2.4m high fence which already casts shadows over the private open space of the ground floor dwellings. The proposed development will result in a modicum of additional overshadowing to dwelling G03 at 481 Highett Road to the south. This increase in overshadowing will be over the planter area immediately adjacent to the fence (1.2m² in total) and is therefore not considered to result in an additional detriment to this area. |

### B22 Overlooking

*Limit views into existing secluded private open space and habitable room windows.*

| Complies subject to conditions | All habitable room windows at first and second floor on the side and rear elevations, have been screened to a minimum height 1.7 metres above finished floor level. |

### B23 Internal Views

*Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.*

| Complies subject to conditions | As noted above, all habitable room windows have or will be screened to a minimum height 1.7 metres or have been sited appropriately in accordance with this Standard. No details are shown as to the screening at ground floor between the private open space of each dwelling. As such a condition is included in the recommendation requiring compliance with this standard. |

### B24 Noise Impacts

*Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.*

| Complies | It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses. |

### CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B25 Accessibility</td>
<td>Complies</td>
<td>The dwellings are provided with level accesses and have bedrooms, along with all essential amenities, at ground floor level. In addition, the development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
</tbody>
</table>
**Bayside City Council**  
**Planning & Amenity Committee Meeting**  
**- 12 March 2019**

**Attachment 4**

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Complies/Does not comply</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Complies</td>
<td>Dwelling 1 has its own pedestrian access with a covered porch at the entry. Dwellings 2-4 have a separate adjacent pedestrian access which provides a clear sense of identity. Each dwelling will have its own porch over the entry area.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Complies</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Does not comply</td>
<td>Minimum: 40m² of total private open space; with a minimum of 25m² to be secluded private open space, with a minimum dimension of 3m and convenient access from a living room. Refer report</td>
</tr>
</tbody>
</table>

**Private Open Space**

<table>
<thead>
<tr>
<th>Dwelling</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>82.54m²</td>
</tr>
<tr>
<td>2</td>
<td>31.53m²</td>
</tr>
<tr>
<td>3</td>
<td>28.21m²</td>
</tr>
<tr>
<td>4</td>
<td>47.28m²</td>
</tr>
</tbody>
</table>

| **B29 Solar Access to Open Space** | Allow solar access into the secluded private open space of new dwellings/buildings. | Complies | The bulk of the secluded private open space for all dwellings would be north facing. |
| **B30 Storage** | Provide adequate storage facilities for each dwelling. | Complies | Adequate storage is provided within the basement area for each dwelling. |

**CLAUSE 55.06 DESIGN DETAIL**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Complies</td>
<td>Refer to Attachment 3 and the report for further discussion.</td>
</tr>
</tbody>
</table>
| **B32 Front Fences** | Does not comply | Maximum: 1.2m  
Proposed: 2m  
Refer report |
<table>
<thead>
<tr>
<th><strong>B33 Common Property</strong></th>
<th><strong>Complies</strong></th>
<th>The common property is clearly delineated, being the basement area and the communal accessway to dwellings 2-4.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td><strong>Complies</strong></td>
<td>All appropriate site services can be easily catered for on-site.</td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>ProEstate Holdings Pty Ltd c/- SJB Planning</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>27 December 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>42 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 11)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td>Site area</td>
<td>2,294m²</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>Twelve (12), inclusive of one (1) petition containing 47 co-signatories.</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes, $14,140</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>No</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the construction of sixteen (16) dwellings on a lot. Key details of the proposal are as follows:

- Sixteen dwellings (16) in total, comprised of twelve (12) two bedroom apartments, three (3) three bedroom apartments and a four bedroom apartment.
- Thirty-seven (37) on site car parking spaces at basement level, inclusive of two (2) visitor car parking spaces.
- Twenty-two (22) on site bicycle parking spaces, inclusive of four (4) visitor bicycle parking spaces.
- Provision of ample external and internal of storage to each dwelling, with at least 7.6 cubic metres of external storage provided at basement level per dwelling.
- Maximum height of 11.68 metres above natural ground level.
- Building materials comprise of contrasting brickwork, concrete and black metal.
- Minimum front setback of 7.225 metres from Halifax Street, and a minimum rear setback of 4 metres, with setbacks increasing at upper levels.
- All dwellings have been designed to be accessible to people with limited mobility.
• A total garden area of 48.9%.
• Waste collected via private contractor.
• Retention of the single canopy tree that exists within the site.

The application plans are provided at Attachment 1.

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

History
Planning Permit application 2016/478/1 for the construction of a three storey building, containing 21 apartments, with basement car park, front fence exceeding a height of 1.5 metres was received by Council in August 2016 and a Section 79 Appeal (Failure to Determine within the prescribed timeframe) was lodged with the Victorian Civil and Administrative Tribunal (VCAT). At its Council Meeting on 21 December 2017, Council determined to refuse the application on the following grounds:

1. The proposed development fails to respect neighbourhood character of the area and encourage a diversity of housing types as required by the General Residential Zone.

2. The proposed built form fails to achieve the design objectives of Design and Development Overlay, Schedule 11 (Church Street Major Activity Centre) as the development:
   a) Is not compatible with the preferred future role and character of the Church Street Major Activity Centre.
   b) Does not contribute to safe and active streets.
   c) Maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.
   d) The visual bulk and dominant form as a result of the excessive height and reduced upper level setbacks proposed does not conserve or enhance the neighbourhood character.

3. The proposed development fails to provide a suitable design response to the preferred neighbourhood character as per the Objectives of the Design and Development Overlay Schedule 11 (Church Street Major Activity Centre) as the impact on the upper levels of the building results in unreasonable visual bulk and amenity impacts to adjoining properties.

4. The proposal fails to respond to the objectives of Clause 22.06 (Neighbourhood Character, Precinct B2) of Bayside Planning Scheme, on the following grounds:
   a) Neighbourhood Character – The development fails to respond to the existing and preferred neighbourhood character for this precinct and fails to demonstrate how vegetation on site and on adjoining properties can be retained.
   b) The development fails to provide sufficient opportunities for meaningful landscaping or enhance he spacious garden setting of the area.
   c) The basement car park fails to minimise the dominance of car parking facilities presented to the streetscape.
   d) The proposed setbacks are insufficient to provide an appropriate transition to the lower scale building heights.

5. The proposal fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
a) **Standard B1 – Neighbourhood Character** – The proposal fails to respond to the existing and preferred neighbourhood character for this precinct and fails to demonstrate how vegetation on site and adjoining properties can be retained.

b) **Standard B17 – Side and Rear Setbacks** – The development is insufficiently setback from the side and rear boundaries which will result in excessive visual bulk and loss of amenity to adjoining properties.

c) **Standard B29 – Solar Access to Open Space** – The proposed development does not afford areas of secluded private open space a sufficient level of solar access.

d) **Standard B32 – Front Fences** – The proposed front fence does not respect the existing or preferred character of the area.

6. **The application fails to afford a suitable level of internal amenity for future residents by way of the poor pedestrian accessway, excessive use of screening and inadequate dwelling layout.**

7. **The application fails to ensure that vehicles can safely egress to and from the site and manoeuvre within the site in accordance with Clause 52.06 (Car parking) of the Bayside Planning Scheme.**

Proceeding to a merits hearing, the Tribunal determined to refuse issue of a permit (order dated 6 July 2018) predominantly in relation to neighbourhood character concerns and lack of transition to the adjoining NRZ3. The plans associated with this development are provided at Attachment 5.

In comparison to the previous application plans (considered under 2016/478/1) and the plans as part of this application, the key differences (amongst others) are:

- Reduction of the number of dwellings from 21 to 16 dwellings;
- Removal of the central walkway in order for separation of the built form into two entirely detached forms, with a 9.0m internal setback;
- Variation to the architectural style, form and materiality;
- Reduction of the footprints of the second (uppermost) level.

2. Planning controls

**Planning Permit requirements**

A planning permit is required pursuant to:

- Clause 32.08-6 (General Residential Zone) – Construction of two or more dwellings on a lot and a front fence exceeding a height of 1.5 metres.
- Clause 43.02 (Design and Development Overlay, Schedule 11) – Buildings and works exceeding a height of 10 metres.
- Clause 44.05-1 (Special Building Overlay) – Buildings and works in a Special Building Overlay.

**Planning Scheme Amendments**

With the introduction of Amendment VC148, the site is included within the Principal Public Transport Network (PPTN) area. This means that the car parking rates of Column B of Clause 52.06-5 of the Bayside Planning Scheme apply to the site, which requires no visitor car parking to be provided on site. This will be further discussed at Section 6.5 of this report.
3. Stakeholder consultation

**External referrals**

The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne Water</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

**Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Waste Services</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and twelve (12) objections were received, including one petition with 47 co-signatories.

All objections remain outstanding at the time of this report.

The following concerns were raised:

- Inconsistent with neighbourhood character
  - Resultant visual bulk
  - Does not provide for reasonable transition between Zones
  - Incorrect Zoning of the site
  - Noncompliant overall height
  - Inconsistent with DDO11
  - Subdivision pattern
  - Noncompliant with Tribunal determination;
- Overlooking;
- Overshadowing;
- Parking / Traffic;
- Security concerns due to number of residents;
- Acoustic concerns;
- Lack of protection of trees, including street trees; and,
- Lack of consultation with residents.

The number of objections received for this application is consistent across Council’s record management systems.

**Consultation meeting**

The applicant declined a consultation meeting.
4. Recommendation

That Council resolve to Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/852/1 for the land known and described as Nos. 7-9 Halifax Street, Brighton, for the **construction of (not more than) 16 dwellings in a Design and Development Overlay (Schedule 11) and Special Building Overlay, and a front fence exceeding a height of 1.5 metres** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans but modified to show:
   a) Any changes to the plans required by Conditions 7-23 (Melbourne Water);
   b) Allocation of car parking spaces nominated on the basement plan;
   c) Dwelling 2.1 be setback a minimum of 5.3 metres from the north-eastern boundary;
   d) Dwelling 2.2 be setback a minimum of 5.8 metres from the north-eastern boundary;
   e) A schedule of construction materials, external finishes and colours (incorporating for example paint samples);
   f) Water Sensitive Urban Design measures in accordance with Condition 24 of this permit;
   g) A Landscaping Plan in accordance with Condition 26 of this permit;
   h) Tree Protection and Management Plan in accordance with Condition 29-32. Any consequential changes to facilitate the requirements of the Tree Protection and Management Plan are to the satisfaction of the Responsible Authority;
   i) A Car Parking Management Plan in accordance with Condition 36; and,
   j) Provision of a Drainage Contribution Levy in accordance with Condition 44.

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

Melbourne Water

7. Prior to the endorsement of plans, amended plans (and further information relating to a hydraulic assessment) must be submitted to Council and Melbourne Water addressing Melbourne Water’s conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:
   a) A revised hydraulic assessment to determine any afflux/impact to the surrounding properties;
   b) Natural surface levels within the south west boundary (shown South on submitted plans) graded to allow overland flows to pass through the property;
   c) The exact alignment of the Melbourne Water drain on all ground floor, section and elevation plans, in accordance with survey data submitted on 5 February 2019; and,
   d) Building footings and any ground support systems shown on all ground floor, section and elevation plans to satisfy the angle of repose relative to the drain.

8. The south-eastern apartment building must be constructed with finished floor levels set no lower than 11.52 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 11.22 metres to AHD.

9. The north-western apartment building must be constructed with finished floor levels set no lower than 11.3 metres to AHD, which is 300mm above the applicable flood level of 11.0 metres to AHD.

10. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor and surface levels (as constructed) reduced to the AHD, must be submitted to Melbourne Water to demonstrate that the floor and surface levels have been constructed in accordance with Melbourne Water’s requirements.

11. The entry / exit driveway of the basement car park must incorporate a flood proof apex constructed no lower than 11.52 metres to AHD, which is 300mm above the applicable flood level of 11.22 metres to AHD.

12. All doors, windows, vents and openings to the basement car park must be set a minimum of 300mm above the applicable flood level.

13. Prior to the endorsement of plans, a revised hydraulic assessment must be submitted to Melbourne Water showing the revised building footprint which takes into consideration, the approved development at 5 Halifax to determine any afflux/impact to the surrounding properties, in accordance with Melbourne Water's five-core requirements.

14. The layout of the site, design and location of buildings and works must not be altered without the prior consent of Melbourne Water.

15. The site along the south west boundary must be cut and regraded to allow for sufficient overland flows to pass through the property in an unobstructed manner, in accordance with the previously approved Water Management Plan prepared by Engeny.

16. Any new internal/boundary fences and/or gates must be of an open style of
17. The decks must be constructed with unenclosed foundations to allow for the passage of overland flows.

18. The proposed decks must be designed to be fully demountable, to allow Melbourne Water full access to the drain at short notice, for the full alignment of the drain in the property. The design of the decks must be to the satisfaction of Melbourne Water.

19. All works located within 1.5 metres horizontally from the outside edge of the drain and within the easement must be fully demountable, and must be covered by a Build-Over Agreement.

20. The depth of the footings must be adequate to satisfy the angle of repose relative to the drain as per Melbourne Water's specification. Refer to the Melbourne Water website for details, 'Angle of Repose - Footing Design'.

21. No stockpiling or construction machine loads are permitted over the Melbourne Water drain.

22. Prior to any works located within 5 metres of the drain, a pre works CCTV of the drain is to be undertaken and submitted to Melbourne Water. A post works CCTV must also be undertaken and submitted to Melbourne Water.

23. Prior to the commencement of works, a separate application direct to Melbourne Water must be made for approval of any new or modified storm water connection to Melbourne Water's drains or watercourses. Prior to accepting an application, evidence must be provided demonstrating that Council considers that it is not feasible to connect to the local drainage system.

24. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

   a) The type of water sensitive urban design stormwater treatment measures to be used;

   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas; and,

   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

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

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

26. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be
generally in accordance with the landscape concept plan drawn by Jack Merlo, reference TP01-08, dated 17 December 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A survey, including botanical names, of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009;

b) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site;

c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;

d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces; and,

e) Details of surface finishes of pathways and driveways.

27. Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

28. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Tree Management and Protection Plan

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

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

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

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site; and,

b) The location of tree protection measures to be utilised.

30. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

31. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.
Street tree protection

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

   a) The Tree Management Plan (report) must be specific to the site, be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009 and include;

   b) Details of Tree Protection Zones for all trees to be retained on the site and for all trees on neighbouring and public properties where any part of the Tree Protection Zone falls within the subject site;

   c) Comment on methods to be utilised and instruction on how to deploy them;

   d) Comment on when the protection measures are to be deployed;

   e) Comment on when the protection measures can be modified;

   f) Process that will be followed if any damage occurs to a tree;

   g) Process that will be followed if construction works require alteration to protection measures outlined in report; and,

   h) Stages of development at which inspections will occur.

33. Before the development starts, tree protection fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire nature strip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS 4970-2009. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover.

34. Street trees must not be removed, lopped, damaged or pruned by any party other than Bayside City Council authorised tree care contractors. There is to be no soil excavation within 3 metres of the street tree asset measured from the edge of the trunk. Any installation of services and drainage within the TPZ must be undertaken using root-sensitive, non-destructive techniques.

35. Root pruning within the TPZ (Tree Protection Zone) prior to soil excavation, a trench along the line of the proposed crossover must be dug by hand. All affected roots must be correctly pruned according to AS 4373-2007.

Car Parking Management Plan

36. Prior to the endorsement of plans pursuant to Condition 1, a traffic and parking management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Traffic and parking operations on and adjacent to the site must conform to this endorsed plan. Three copies of the plan must be submitted. The plan must be generally in accordance with the plan (specify any earlier submitted plan) but must include:

   a) The means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on- and off-site;

   b) Car parking allocations; and,
c) Servicing of the drainage and maintenance of car parking areas.

**Waste Management Plan**

37. Before the commencement of works, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:
   a) Dimensions of storage waste areas;
   b) Storm water drains in storage areas should be fitted with a litter trap;
   c) The number and size of bins to be provided;
   d) Facilities for bin cleaning;
   e) Method of waste and recyclables collection;
   f) Types of waste for collection, including colour coding and labelling of bins;
   g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines);
   h) Method of hard waste collection;
   i) Method of presentation of bins for waste collection;
   j) Sufficient headroom within the basement to accommodate waste collection vehicles;
   k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction;
   l) Strategies for how the generation of waste and recyclables will be minimised; and,
   m) Compliance with relevant policy, legislation and guidelines.

38. When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

**Construction Management Plan**

39. Before the commencement of works, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:
   a) A detailed schedule of works including a full project timing;
   b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams;
   c) The location for the parking of all construction vehicles and construction worker vehicles during construction;
   d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed;
e) Proposed traffic management signage indicating any inconvenience generated by construction;
f) Fully detailed plan indicating where construction hoardings would be located;
g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing;
h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site;
i) Site security;
j) Public safety measures;
k) Construction times, noise and vibration controls;
l) Restoration of any Council assets removed and/or damaged during construction;
m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site);
n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site);
o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience;
p) Traffic management measures to comply with provisions of AS 1742.3-2009 Manual of uniform traffic control devices – Part 3: Traffic control devices for works on roads;
q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan; and,
r) Details of crane activities, if any.

Drainage

40. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

41. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (meet Discharge of Subterranean Water from Basements policy and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

42. Council records indicate that there is a 3.05m and 1.83m wide drainage and sewerage easement along the West and North property boundary as indicated on the drawings provided. The plans indicate that some constructed items and minor earthworks shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities. The design and construction must ensure the continuation of Council rights of drainage. Minimum easement width must the greater of; 2m from the boundary or 0.5m from the asset.
43. Subsurface water must be treated in accordance with Council’s Policy for “Works on Assets within the Road Reserve Policy 2018”.

**Drainage Contributions Levy**

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

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

**Permit Expiry**

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

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

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

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

**Permit Notes:**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours’ notice is required.

- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.

- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.11 Local Areas (Church Street Major Activity Centre)
- Clause 22.06 Neighbourhood Character Policy (Precinct B2)
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 11)
- Clause 44.05 Special Building Overlay
- Clause 45.06 Drainage Contributions Plan Overlay
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines
6. Considerations

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

6.1. Strategic Justification

The Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres. The local areas policy contains a subsection relating specifically to the Church Street Major Activity Centre (Clause 21.11-3) that seeks to encourage residential development close to shops and services, to provide a transition from the business precinct to low scale residential areas; redevelopment of larger sites and grade level car parks for residential with basement car parking.

State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this. Clause 11 State Planning Framework of the Bayside Planning Scheme encourages higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport. The increase in population and density at this site is considered an appropriate response to the underutilised state of the site and the proximity of the site to public transport, shops and other services. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

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

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

Further, the Tribunal, in its decision of the previous application (Pro Estate Holdings Pty Ltd v Bayside CC [2018] VCAT 1017) noted that “the review site is within a major activity centre. It is located in an area of the municipality which is identified as a preferred location for higher density residential development to contribute to the implementation of policies aimed at accommodating future population growth and providing housing diversity to cater for differing household needs. Development is to be responsive to its context and respectful of neighbourhood character. A maximum three-storey building height is allowed for, and at the southern and eastern boundaries, a transitional building height is expected to be achieved.” [Para. 29]

Given the proposal is to replace two, single detached houses with an apartment development, it is consistent with the policies directed at achieving increased densities and more diverse dwelling forms. The three-storey height (and 11.48 metre maximum building height) is consistent with the anticipated scale of development on the site” [Para. 30]
Evidently, the Tribunal has established that the site is suitable for a medium density development, subject to an appropriate design response.

6.2. Neighbourhood Character

The site is located within Neighbourhood Character Precinct B2. The proposal is considered to demonstrate a suitable level of compliance with the preferred future character.

The site is located within an Activity Centre. There is a directive under the Bayside Planning Scheme to encourage increased densities in areas in proximity to and well served by transport and services. The proposed development achieves this objective.

The development allows for the retention of high amenity value vegetation on the site and to adjoining properties and includes opportunity to incorporate substantial landscaping. This is in part as result of the generous front, side and rear setbacks.

The proposed building height at 11.68 metres exceeds that of adjoining built forms, however the height is ameliorated through the recessed second floor and use of balconies and modularisation of the façade which facilitates the dominating built form reading as that of a two storey development. Whilst it is noted there are no other three storey buildings in proximity of the site, an increase in height of one storey is not unacceptable or unreasonable in this residential setting, particularly given the planning controls that apply to the site.

The Tribunal determined that the previous application for the site failed to satisfy the considerations of neighbourhood character, as follows:

“Having regard to the design response, including the massing of the building, the palette of materials and finishes, and the extent of meaningful landscaping which can be incorporated along the southern side of the building, I am not satisfied that the outcome is acceptable. The building is a large form, with the somewhat ‘bulky’ presentation accentuated by the sheer three-storey walls, and the minimal articulation and modulation of the wall planes. It has a dominating ‘box-like’ appearance which will stand in quite marked contrast to the conventional residential forms of the neighbouring dwellings to the south” [Para. 49].

As such, whilst the Tribunal has established that the site is suitable for a medium density development, any new application would need to satisfy the tests in relation to providing an appropriate response.

The design response utilises an expressed concrete frame to the outer walls, contributing to the layering of depth and contrast to the façades of the building. This feature is also expressed at the entry, the courtyard arbours and the open, corner apartment balconies. It also provides the opportunity for climbing/trailing plants to grow across the face of the building. Fenestration is provided throughout the facades, with butterfly windows utilised, in lieu of screening devices, to prevent overlooking to adjoining properties.

It is considered that the proposal includes appropriate articulation with the use of a recessed upper level, variations to the use of materials at the lower levels compared with the upper levels and the separation of the built form, by way of providing a genuine visual break between the forms. The building’s bulk is tempered through its articulation from front and side boundaries, further complemented by the contrasting wall materials.

The materiality of the proposal has been considered to respond to the prevailing neighbourhood character. It is considered that the use of red, horizontal ‘long-form’ bricks at ground and first floor, directly references the Edwardian and Federation homes in the local neighbourhood. The use of a darker brick laid in a contrasting bond at the recessive second floor references the tiled roof forms of the surrounding precinct. It is intended that the bricks will utilise a variety of bricklaying techniques including stretcher bond, stack bond, solider courses and ‘hit and miss’ to provide for visual interest to the facades.
The use of landscaping through the periphery and central areas of the site means that these separations of the form would be punctuated by greenery. This design characteristic would further assist with individualising the blocks and would generally reflect the fine grain pattern of the surrounds. There are other examples of three storey development further afield and the density of the development allows for generous setbacks and landscaping areas to provide a transition in building scale and the proposal is in keeping with the Neighbourhood Character Policy.

Transition to adjoining properties

It its Decision, the Tribunal was not satisfied that the previous scheme provided for an appropriate transition to the Neighbourhood Residential Zone, Schedule 3 (NRZ3) to the south-west.

It is considered that the proposal provides an improved response to the properties within the adjoining NRZ3, specifically being No. 5 Halifax Street and No. 31-33 Huntingfield Road. The southern setbacks entirely comply with Standard B17, with the podium level parapet frame to reflect the height of the approval at No. 5 Halifax Street, as shown in the figure below:

The upper level is setback from the podium level so as to read as a recessive element, providing a stepped transition down to the south. Combined with the articulated southern elevation fronting these properties, as outlined previously in this section, it is considered that the proposal provides for an appropriate transition to the NRZ3.

6.3. Design and Development Overlay, Schedule 11 (DDO11)

The design objectives of this schedule are as follows:

- To ensure that the height of new development is compatible with the preferred future role and character of the Church Street Major Activity Centre;
- To develop the centre in a way that conserves and enhances its valued urban character and heritage places;
- To ensure that new development contributes to safe and active streets; and,
- To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.

The subject site is identified as being located within the Church Street Major Activity Centre and identified as been within Precinct E of the Schedule.

Precinct E allows for a maximum building height of 11 metres (3 storeys) and 12 metres (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8 metres is 2.5 degrees or more.

It is considered that the proposed development plans comply with the Design and Development Overlay – Schedule 11 for the following reasons:
The proposed development consists of a maximum height of 11.68 metres (from the minimum finished floor level stipulated by Melbourne Water) / three storeys development. There are no portions that exceed the 12 metres limit;

The second floor is setback from the podium level to all sides and reads as a recessive element to the built form presented to Halifax Street;

The built form provides an appropriate transition to the lower scale built form to the south and west boundaries by including a generous setback to the southern boundary and the stepping down of the built form along Halifax Street adjacent to the abutting Neighbourhood Residential Zone

The bulk, location and appearance of the development is considered to be in keeping with the emerging character and appearance of buildings located within close proximity and is considered to enhance the streetscape due to its contemporary architecture and generous setbacks that will allow meaningful landscaping to establish;

The proposal does not unreasonably overshadow any public space, any adjoining streets and any additional overshadowing to adjoining properties complies with the requirements of Standard B21;

The proposed use of a mixture of building materials provides a level of articulation and breaks up any perception of visual bulk from all abutting allotments. The modularisation of the built form into two built forms with a genuine visual break between, results in an acceptable building massing;

The subject site is located within 600 metres of middle Brighton Station which encourages the use public transport as advocated by planning policies;

The proposed development will contribute to creating a vibrant residential activity centre whilst respecting the existing neighbourhood character;

The subject site does not adjoin any heritage dwellings, therefore the design, form, layout, proportion and scale of the proposed buildings is considered to be compatible with the style, form, proportion, and scale of the neighbouring properties; and,

The basement level car parking is considered to provide an appropriate design response and provides for a level of car parking that does not unreasonably impact on the availability of on-street car parking.

The proposed development is considered to be consistent with the objectives of the DDO11.

The proposed development and the dwelling diversity responsive to the requirements of State and Local Planning Policies.

Whilst it is acknowledged the proposal represents a change from single dwellings being constructed on generous lots, the zoning of the site is such that a change in the built form is to be expected. It is inherently difficult to integrate a three storey development into a streetscape dominated by single and double storey dwellings but the proposal is considered to strike a good balance between denser developments and ensuring the design is respectful to the existing and preferred character of the area.

6.4. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 4. Those non-compliant standards are discussed as follows:
Side and Rear Setback (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>South (side)</td>
<td>0 or 1m</td>
<td>5.78 – 7.5m</td>
<td>4.1</td>
</tr>
<tr>
<td>North (side)</td>
<td>0 or 1m</td>
<td>3.7m</td>
<td>3.39</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0 or 1m</td>
<td>3.99 – 4.215m</td>
<td>3.4</td>
</tr>
</tbody>
</table>

The proposal is entirely compliant with the Side and Rear setbacks pursuant to Standard B17, with exception of the northern setback of Dwellings 2.1 and 2.2. The second floor walls, with heights of between 10.3 (Dwelling 2.1) and 10.8 metre (Dwelling 2.2) fall short of the respective Standard B17 setback requires of 5.3 and 5.8 metres respectively.

It is considered that, given these walls are located adjacent to the private open spaces of the dwellings fronting Well Street (Nos. 74-80), these setbacks should be compliant to reduce the potential visual bulk to the adjacent sensitive interfaces. As such, a condition will be included requiring such.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Halifax Street</td>
<td>1.5m</td>
<td>1-1.9m</td>
<td>400 mm</td>
</tr>
</tbody>
</table>

A black metal picket front fence of 1-1.9 metres in height is proposed to the front boundary of the site on Halifax Street. Pursuant to Standard B32, a front fence to a maximum of 1.5 metres in height is provided preferred. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

Front fences within the immediate area vary in their style and construction yet are generally higher than 1.5m in height, particularly along Halifax Street. The proposed 1.0m high front fence extends in part to 1.9m due to the fall of the land. The fence consists of vertical metal pickets which will allow views to the landscaped front setback. The fence will provide a level of visual permeability so as to connect the public and private realms.

6.5. Car Parking and Traffic

Car Parking

The proposed car parking requirements are noted in the below table.

<table>
<thead>
<tr>
<th>Use</th>
<th>Quantity</th>
<th>Rate</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident</td>
<td>12 x 2 bed dwellings</td>
<td>1 per dwelling</td>
<td>12</td>
<td>35</td>
</tr>
<tr>
<td></td>
<td>3 x 3 bed dwellings</td>
<td>2 per dwelling</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 x 4 bedroom dwelling</td>
<td></td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>Visitor</td>
<td>Two (2)</td>
<td>1 to each 5 dwellings (if applicable)</td>
<td>Nil (0) – PPTN Area</td>
<td>2</td>
</tr>
</tbody>
</table>
A surplus of seventeen (17) car parking spaces is provided for the proposed development, entirely exceeding the statutory rate pursuant to Clause 52.06-5 of the Bayside Planning Scheme. In addition, visitor car parking has been provided despite the site’s location within the PPTN area (and thereby no visitor spaces are required).

The applicant has not nominated how the car parking spaces are to be allocated. A Car Parking Management Plan has been required as a condition of permit to resolve the allocations.

**Traffic Generation**

Whilst it is acknowledged that the development will generate some additional vehicle movements on the local road network, it is not considered that such additional movements would necessarily be concentrated or conflict substantially with existing traffic. Furthermore, some residents may choose to walk, cycle or use public transport which is available within a short walking distance of the site.

A traffic report accompanied the application and whilst aspects of parking demand and supply may be questioned (such as no consideration of recent approvals within the area such as the childcare centre), such concerns however have been considered and are not deemed to have any material impacts on Council’s assessment on traffic.

The applicant’s report has been reviewed by Council’s Traffic Engineer who is satisfied that the site can accommodate the traffic numbers generated by the development in a safe manner without leading to unreasonable congestion across the area.

### 6.6. Special Building Overlay (SBO)

A 3.05 metre wide easement is offset approximately 2 metres from the southern site boundary. The easement contains Melbourne Water assets.

The Melbourne Water referral dated 24 January 2019 requested further information in relation to the proposed development. A response to these concerns were provided by the permit applicant.

Melbourne Water issued a revised referral response on 22 February 2019 offering no objection, subject to conditions that have been included in the recommendation.

### 6.7. Cultural Heritage management plan

The site is not located within an area of cultural heritage sensitivity and therefore a cultural heritage management plan is not required.

### 6.8. Development contributions levy

The subject site is located within catchment area 11A.

Based on the proposed application and the below recommendation, a payment of $14,140 is required. The payment of the development contributions is included as a condition of permit.

### 6.9. Objector issues not already addressed

Inconsistent with neighbourhood character:

- Resultant visual bulk
- Does not provide for reasonable transition between Zones
- Incorrect Zoning of the site
- Noncompliant overall height
• Inconsistent with DDO11
• Subdivision pattern
• Noncompliant with Tribunal determination

Neighbourhood character, design, form and materials are addressed within the assessment section of this report with particular focus on the relevant considerations of the Planning Scheme. The proposal is considered to be consistent with Council's Neighbourhood Character Policy, satisfies Clause 55 of the Bayside Planning Scheme and provides for an appropriate transition to the NRZ3 for the reasons outlined in Section 6.2 and 6.3 of this report.

The Zoning of the subject, being General Residential Zone, Schedule 2, is the current zoning control affecting the land and must be considered as such.

The considerations and findings of the Tribunal, in relation to VCAT Ref. P2230/2017, have been considered as part of the assessment of this application.

Overlooking
The proposal has incorporated design techniques to avoid overlooking in accordance with Standard B22. To ensure compliance, a condition will be included requiring all screening be implemented as appropriate.

Overshadowing
The submitted shadow diagrams comply with the requirements of Clause 55. At least 40m², with a minimum dimension of 3 metres, of the secluded private open space located on adjacent land will receive a minimum of five hours of sunlight between 9am and 3pm on 22 September.

The shadow diagrams submitted by the applicant have been checked. Shadows cast by the development will be largely contained within the development site itself, or are cast onto adjoining existing boundary walls and fencing. The expected shadowing is within the requirement of Clause 55 of the Bayside Planning Scheme.

Security concerns due to number of residents
There is no evidence to link the development of private residential apartments with increased crime rates or reduced safety for residents. Furthermore, it is not a planning consideration.

Acoustic concerns
The consideration of this planning application is confined only to the construction of the dwellings. The residential use of the dwellings does not require a planning permit and is not a planning matter. Residential noise (speech, laughter, music etc.) associated with a dwelling is considered normal and reasonable in an urban setting.

Lack of protection of trees, including street trees
The Landscaping Objective of Clause 55 (Rescode) requires consideration to be given to the retention of existing trees and protection of any predominant landscape features of the neighbourhood. However, the land is zoned for residential purposes and there are no specific vegetation protection overlays applicable to the site.

Notwithstanding that no tree controls apply to the site, the trees on site are proposed to be retained and protected via conditions of permit. A condition on the planning permit will require a landscape plan and Tree Management Plan to be submitted and endorsed.

Lack of consultation with residents
A consultation meeting was offered to the permit applicant and was declined; however, it is noted that the Bayside Planning Scheme nor the Planning and Environment Act, 1987 require a permit applicant to consult with residents, beyond the realms of
advertising pursuant to Section 52 of the Act.

Support Attachments
1. Architectural Plans ↓
2. Site and Surrounds ↓
3. Neighbourhood Character Assessment ↓
4. ResCode Assessment ↓
5. Assessed Plans of Previous Application 2016/478/1 ↓
Design Statement

Situated within walking distance of Brighton Beach, this proposed development consists of 16 residences ranging in size from 96m² to 205m² all set in a generous landscaped garden.

A previous planning application for the site was the subject of a VCAT Order (P2235/2107) dated 06.07.18. This current application outlines a new proposal with a distinctive design approach which responds directly to issues raised in the previous VCAT decision.

Conceptually, the development is separated into two, entirely detached but forms. The three-level corridor link in the previous application has been removed and replaced with an open courtyard incorporating an anchor structure and central specimen tree. This arrangement of built forms opens up views through the site and increases opportunities for significant landscaping to contribute to the amenity of the apartments and adjoining neighbours.

In addition, the built form at the rear of the site has been moved 1m further away from the western boundaries, to ensure full compliance with the relevant Rescude envelopes on all boundaries.

A reduction in the number of apartments, from 21 to 16 provides considerable opportunity to increase the articulation of the facades to both buildings. Particular attention has been paid to eliminating all three-storey voids from the proposal and increasing the setbacks on level 2 on both the southern and western boundaries, from none to 4m and 2.5 to 3.5m respectively.

In addition to the increased setbacks to the second floor, the built form at the corner balconies has been removed on the first floor, with balconies open to the sky. The introduction of planter boxes at the perimeter of these balconies introduces a further layer of landscaping and texture in these locations.

The materials of the proposal have been carefully considered to respond to the prevailing neighbourhood character. The use of red, handmade, horizontal "long-form" bricks at ground and first floor, directly references the Edwardian and Federation homes in the local neighbourhood. As a contrast, tinted brick is used at the recessed second floor, recalling the tiled roof forms of the surrounding period. The brick walls, weathered and improved with age, allow the new development to sit comfortably within the suburb. The brick façades are detailed to introduce visual interest, using a variety of bricklaying techniques including stretcher bond, stack bond, soldier courses and "hit and miss" - a contemporary reference to the level of craft incorporated into buildings found in the surrounding streetscape. The contrasting colour and texture of the brickwork imbues the development with a sense of belonging and identity.

A classic, expressionistic concrete frame to the upper wall creates another layer of depth and contrast to the façades of the building. This feature is also expressed at the entry, the courtyard above and the open corner apartment balconies. It also provides the opportunity for climbing plants to grow across the faces of the building.

In lieu of the screening devices proposed in the previous application, a series of butterfly windows are introduced at first floor level to prevent overlooking to adjoining properties. In conjunction with the planter boxes at the perimeter of the first and second floors, these windows provide the appropriate balance between protecting neighbours' privacy and providing an acceptable level of internal amenity to the apartments as envisaged by Clause 55.04.6.

The design proposal described within this report also responds specifically to the pragmatic and technical considerations of the previous submission - traffic, waste, ESS, landscaping, etc. Most significantly, it also now responds directly to its site context and neighbourhood character, creating a contemporary, responsive and respectful design outcome.

Aperatements:
16

Carparking:
37 Spaces

Bicycles:
22 No.

Residence Storage:
16 No.

Site Area:
2294.5

* See Development Summary for further details
Site Analysis
Design Response

The site is located on North West Road in the South East area of the city. It provides excellent access to major roads and public transport infrastructure. It is also within walking distance of local amenities and is zoned for mixed-use development

Item 4.5 – Matters of Decision
Design Response:

1. Site area within existing context
2. Appropriate ground floor setbacks from each boundary
3. Ensuring building form does not distort the potential views of any existing buildings
4. Maintaining visual permeability across the site and DP World property

Item 4.5 – Matters of Decision
Design Response

5. Additional setbacks are introduced on the second floor to respect adjacent sites and provide setback from the property line. This also allows for more space on the ground level to accommodate future development.

6. An approved grid is introduced to the proposed site to provide architectural consistency and a sense of order.

7. The relationship between the buildings and the surrounding infrastructure is maintained, ensuring a cohesive and aesthetically pleasing development.

Item 4.5 – Matters of Decision
Design Response

Item 4.5 – Matters of Decision
Comparison to previous Permit Application (2016-478)

1. Scale and Mass:
   - Three-storey wall on southern facade now has substantial 4m setbacks at Level 2
   - Internal courtyard facades no longer have any 3-storey walls with setbacks introduced on both sides on Level 2
   - Corners of the second storeys have been eroded and balconies are contained within the overall building form

2. Building separation:
   - The west boundary (Dac) setback has been increased by 1m
   - 9m separation is maintained between the 2 apartment buildings
   - Removal of 3-storey link to open views through the site
   - Extensive landscaping is introduced both between the buildings and within the boundary setbacks

3. Articulation:
   - The articulation along all sides of the facade has been greatly enhanced
   - A series of “pop-up” feature windows supplement the modulation of the facade
   - Modulation and use of a grid assist in creating a broken-down scale

4. Materiality:
   - The white brick is replaced by a warm hue of residential brick
   - Highly detailed and crafted brickwork is implemented
   - The overall palette is warmer and in keeping with the neighborhood character
Item 4.5 – Matters of Decision
Design Response

Architectural stone treatment

Open to the sky balconies, horizontal eaves and projecting windows within the prevalent style of the proposal and provide

amenity significant locale. Inter alia, the use of stone, pergolas and shade provide

and relate to neighborhood character.
Design Response

Attachment 1

Item 4.5 – Matters of Decision
Design Response

Textural facades and considered residential detailing

Images (L to R)
- Concept sketch depicting brickwork details, balustrade treatments and concrete frame
- Facade detail showing palette of contrasting coloured and textured materials
- Specified brickwork has a square red loz with a recessed tease.
- Detailed facade extract of proposed brickwork coursing - a combination of stretcher and stock bond
Facade articulation and privacy amenity

Images (I. R.)
- Concept sketch indicating how butterfly window arrangement directs views away from boundaries and into landscaped zones
- Facade detail depicting butterfly bay windows at first floor level with lat and mass textured brickwork to external face
- Metal screens to control overlooking (Reference S.R project, Wynde St, Footscray point)
- Expressed concrete frame offsetting from brickwork creates additional depth
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision

BWE1 LONG FORMAT BRICK (SHADES OF RED)

GL01 CLEAR GLAZING

BWE2 LONG FORMAT BRICK (SHADES OF GREY)

MT01 BLACK METAL

CF01 CONCRETE FINISH LIGHT GREY

TM01 TIMBER BATTENS (TERNAZE BOFIT)
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
## Development Summary

<table>
<thead>
<tr>
<th>LEVEL</th>
<th>GOURMET</th>
<th>MDA</th>
<th>POS</th>
<th>TOTAL APT</th>
<th>COMMUNITY</th>
<th>DEA (TOTAL APT + COMM &amp; DEA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEVEL 01</td>
<td>124.0 m²</td>
<td>317 m³</td>
<td>257 m³</td>
<td>1.231.0 m³</td>
<td>3.291.0 m³</td>
<td>2.060.0 m³</td>
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<tr>
<td>LEVEL 02</td>
<td>329.0 m²</td>
<td>726 m³</td>
<td>350 m³</td>
<td>1.005.0 m³</td>
<td>2.033.0 m³</td>
<td>1.608.0 m³</td>
</tr>
<tr>
<td>LEVEL 03</td>
<td>569.0 m²</td>
<td>1096 m³</td>
<td>510 m³</td>
<td>2.969.0 m³</td>
<td>4.562.0 m³</td>
<td>3.562.0 m³</td>
</tr>
</tbody>
</table>

### TOTAL

| 16 APARTMENTS | 16 APARTMENTS | 2,381.15 m² | 1,976.47 m² | 3,558.52 m² | 3,376.94 m² | 3,198.77 m² |

### TYPES MIX

<table>
<thead>
<tr>
<th>TYPE</th>
<th>COUNT</th>
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<td>50%</td>
</tr>
<tr>
<td>2 BED</td>
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<td>50%</td>
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<td>3 BED</td>
<td>72</td>
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</tr>
<tr>
<td>4 BED</td>
<td>53</td>
<td>2%</td>
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</table>

### GOURMET

- 124.0 m²
- 317 m³
- 257 m³

### MDA

- 329.0 m²
- 726 m³
- 350 m³

### POS

- 569.0 m²
- 1096 m³
- 510 m³

### COMMUNITY

- TOTAL APT: 1.231.0 m³
- COMM: 3.291.0 m³
- DEA: 2.060.0 m³

### DEA (TOTAL APT + COMM & DEA)

- TOTAL APT: 1.005.0 m³
- COMM: 2.033.0 m³
- DEA: 1.608.0 m³

### TOTAL

- TOTAL APT: 2.969.0 m³
- COMM: 4.562.0 m³
- DEA: 3.562.0 m³

### SITE AREA

- 2,381.15 m²
- 1,976.47 m²
- 3,558.52 m²
- 3,376.94 m²
- 3,198.77 m²
Figure 1. Aerial Overview of subject site. Due to the number of objections received this has not been detailed on the map. All objections originate from abutting properties and those within the immediate vicinity.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>🌟</td>
</tr>
</tbody>
</table>
Figure 2: View looking north-west along Huntingfield Road.

Figure 3: 5 Halifax Street. A vacant site with approval for the construction of a double storey dwelling.
Figure 4: The subject site.

Figure 8: The subject site.
Figure 9: Directly opposite the subject site.

Figure 10: 3/72 Well Street which shares a boundary with the subject site.
Figure 11: The subject site from the common driveway of 72 Well Street.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct B2)

Preferred Future Character Statement
The diverse dwelling styles, with a continued presence of pre WW2 dwellings, sit within established gardens with occasional tall canopy trees. Side setbacks on both sides, and the setting back of car ports/garages from the dwelling, allows for vegetation to flow around the dwellings. New buildings blend with the existing, through using a variety of materials or colours within front façades, and by respecting the older building styles and scales without replicating them. Open style front fencing improves the visual connection between the dwelling and the street. Street tree planting consistency is improved to provide a unifying element to the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals</td>
<td>• To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct</td>
<td>Demolition of the existing dwelling does not require planning approval.</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large canopy trees.</td>
<td>The proposed development allows for the retention of Tree #10 (Lemon Scented Gum / Corymbia citriodora) located in close proximity to the rear setback of 33 Huntingfield Road and Tree # 8 (Spotted Gum / Corymbia maculata Tree) located within the rear setback of 80 Well Street. The proposed site layout plan demonstrates there are sufficient areas of open space in which to include canopy plantings. The proposed staggered basement profile will ensure sufficient opportunities for deep soil plantings.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Comments</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
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<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Lack of front garden space.         | Adequate visual separation and space within the front setback is provided to promote landscaping opportunities across the site. Compliant first and second floor side setbacks (via condition) and articulation along the sides to these facades offer visual interest and work to alleviate any perception of visual bulk when viewed from public vantage points and adjoining dwellings.  
The recessed second floor ensures the dominant built form presents as double storey and sits comfortably with neighbouring lower scale dwellings. The modularity of the front façade and maintains the street rhythm. |
| To minimise the loss of front garden space and the dominance of car parking facilities. | • Locate garages and carports behind the line of the dwelling.  
• Provide only one vehicular crossover per typical site frontage.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the façade or view of the dwelling. Dominance of crossovers and driveways | Basement level car parking is proposed with a basement access ramp offset 3.7 metres from the common boundary with 80 Well Street.  
Basement car parking will remove all car parking from grade level and ensure that car parking structures do not dominate the site in favour of generous side setbacks and opportunities for landscaping. This is considered to be a positive design response to the site constraints while balancing the direction of State and Local Policies to utilise larger sites for medium density housing. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
</table>
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | • Articulate the form of buildings and elevations, particularly front facades.  
• Recess upper storey elements from the front façade. | Large bulky buildings with flat, poorly articulated wall surfaces. | The proposed 6 metre wide crossover will not be dominant to the streetscape given the site width.  
The extent of proposed vegetation will assist in softening the presentation to the streetscape and ensuring the leafy character of the area is retained. |
| To respect the identified heritage qualities of adjoining buildings.      | • Where adjoining an identified heritage building reflect the dominant building form, height, materials and massing of the heritage building/s, of the heritage building/s in the new building design. | Imitation or reproduction of historic building styles and detailing. | The proposal offers a contemporary form, responsive to the mix of old and modern architectural styles featured in the area. The proposed massing, concentrated toward the north and east of the block will ensure the building does not unreasonably dominate the streetscape. |
| To use a variety of building materials and finishes that provide visual interest in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Use simple building details. | Excessive use of render on external walls. | There are no heritage properties in close proximity to the subject site but it is noted that the proposal is respectful of the prevailing neighbourhood character and provides a suitable transition in height coupled with setbacks to ensure the proposal does not dominate the streetscape. |
| To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid front fencing. | A schedule of proposed materials and finishes has been detailed and provide for a visually appealing aesthetic.  
The visually permeable front fence are reflective of other fence profiles featured along Halifax Street. The fence will be responsive to the street topography and is responds to the contemporary characteristic of fences in the streetscape. |
### ATTACHMENT 4
ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3 and Section 6.2 of this report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support the development. State Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres. Policy seeks to encourage residential development close to shops and services and the appropriate redevelopment of larger sites for appropriately designed dwellings adequate off-street car parking for all new dwellings. It is considered that the proposal meets the above policy aspirations. It is considered that the proposed development achieves the policy vision of the area by retaining its spacious and leafy character, while also appropriately integrating new housing into the streetscape. Furthermore, the interface of the proposed development with the adjoining lower scale residential development is considered to be dealt with in a sensitive manner (discussed further at Attachment 3 and at Section 6.2 of this report).</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</td>
<td>The site is located within an established residential area, consisting primarily of large single dwellings, with more contemporary apartment developments emerging in the immediate context. The provision of a mix of two, three and four bedroom dwellings to add to the diversity of housing stock in the area, with seven (7) dwellings are proposed at the ground floor.</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. It is noted that the developer will be required to pay a development</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>B5 Integration with the Street</td>
<td>Integrate the layout of development with the street</td>
<td>Yes</td>
</tr>
<tr>
<td>B6 Street Setback</td>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings.</td>
<td>Yes</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>4.5</td>
<td>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11</td>
<td>Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>B12</td>
<td>Safety</td>
<td>Yes</td>
</tr>
</tbody>
</table>
| B13  | Landscaping | Yes | To provide appropriate landscaping. To encourage:  
- Development that respects the landscape character of the neighbourhood.  
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
- The retention of mature vegetation on the site.  
The siting of the proposed basement creates sufficient opportunities for meaningful landscaping within front and rear setbacks, and centrally between the buildings, to allow for generous vegetation, including canopy tree planting. |
| B14  | Access | Yes | Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character.  
The proposed basement ramp utilises the existing crossover to provide appropriate access to/from Dendy Street. The width of the accessway complies with design standards at Clause 52.06.9. General standard traffic conditions are recommended as permit conditions.  
Refer to Section 6.3 of the report for further discussion. |
<table>
<thead>
<tr>
<th><strong>B15 Parking Location</strong></th>
<th>Yes</th>
<th>On site car parking is provided in the form of a basement carpark. Standard traffic conditions are recommended as permit conditions. Refer to the report for further discussion.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td>No</td>
<td>Refer to Section 6.2 of the report for further discussion and the Section diagrams (SD06 00 – SD03).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>South (side)</td>
<td>0 or 1m</td>
<td>5.78 – 7.5m</td>
</tr>
<tr>
<td>North (side)</td>
<td>0 or 1m</td>
<td>3.7m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0 or 1m</td>
<td>3.99 – 4.215m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B18 Walls on Boundaries</strong></th>
<th>N/A</th>
<th>No walls on boundary are proposed.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th><strong>B19 Daylight to Existing Windows</strong></th>
<th>Yes</th>
<th>The development has been sufficiently setback from all existing habitable room windows to ensure these windows achieve a minimum 1m clear to the sky which exceeds the standard.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>N/A</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
</tr>
<tr>
<td>Issue</td>
<td>Decision</td>
<td>Details</td>
</tr>
<tr>
<td>-------</td>
<td>----------</td>
<td>---------</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky or a light court with a min area of 3m.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>N/A</td>
<td>Refer to Standard B43</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Yes</td>
<td>All main areas of secluded private open space include an area of at least 25m² with a minimum 3m dimension along the eastern portion of the site. The first floor dwellings have access to balconies with a minimum area of 8m² with a minimum width of 1.6 metres. These areas are considered to receive a reasonable level of solar access throughout the day with morning solar access being optimal. Solar access to each dwellings' private open space has been maximised where possible. The building has been sited and designed to receive a high-level of sunlight either in the morning, afternoon or throughout the day. South-facing balconies have been minimised, with the generous setbacks and large internal courtyards enhancing solar access in this instance.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Yes</td>
<td>Designated 8m³ storage areas are provided for all dwellings within the basement.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Yes</td>
<td>Refer to Section 6.2 of the report for further discussion.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>No</td>
<td>See Section 6.4 of this report for further discussion.</td>
</tr>
</tbody>
</table>
| Standard B35 Energy efficiency objectives | Yes | The site orientation maximises the solar access and does not unreasonably reduce energy efficiency and solar access to adjoining properties. North-facing areas of open space have been maximised where possible and no habitable rooms rely on borrowed light.

A NathHERS Assessment has been provided within the ESD Report accompanying the application, noting that the development can achieve a maximum annual cooling load of less than 21MJ/M² for Climate Zone 62 (Moorabbin).

Therefore, it is considered that the proposed development reasonably provides for an appropriate level of energy efficiency. |
<p>| Standard B36 Communal open space | N/A | This standard relates to developments with 40 or more dwellings. |</p>
<table>
<thead>
<tr>
<th>Item 4.5 – Matters of Decision</th>
</tr>
</thead>
</table>

| Standard B37 Solar access to communal outdoor open space | N/A | There is no communal outdoor open space provided within this development. Communal areas within this development at ground floor level do not constitute recreational outdoor open space. |
| Standard B38 Deep soil areas and canopy trees objective | Yes | The size of the site (2294 square metres) requires 10% (with a minimum dimension of 6 metres) for deep soil planting. The proposal retains an existing canopy tree over 8 metres (tree 10), therefore pursuant to 55.07-4 the minimum deep soil requirement is only 7%.

The Landscape Plan TP08 prepared by Jack Merlo Design and Landscape, notes that the site achieves the following:

- 21.8% of deep soil areas with a minimum dimension of 6 metres; and
- 17.15% of deep soil area with a minimum of 3 metres.

Further, a number of canopy trees and planter boxes are provided within the ground floor and upper level setbacks. |
<p>| Standard B39 Integrated water and stormwater management | Yes | The proposal has a 32% permeability which exceeds the min 20% required by this Standard. Further two rainwater tanks are proposed to be located within the basement, capable of storing more than 15,000L of water which is consistent with the objectives of Clause 53.18 of the Bayside Planning Scheme. |
| Standard B40 Noise impacts | Yes | As previously mentioned at Standard B24 above, services and/or mechanical equipment will be stored |</p>
<table>
<thead>
<tr>
<th>Item 4.5 – Matters of Decision</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources.</strong></td>
<td><strong>within the basement.</strong></td>
</tr>
</tbody>
</table>
| **Standard B41 Accessibility**  
To ensure the design of dwellings meets the needs of people with limited mobility. | **Yes** |
|  | **Requirement:** 50 per cent of dwellings should have:  
- A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.  
- A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.  
- A main bedroom with access to an adaptable bathroom.  
- At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table B7.  
**Proposed:** All dwellings meet these minimum standards. |
| **Standard B42 Building entry and circulation**  
To provide each dwelling and building with its own sense of identity.  
To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents.  
To ensure internal communal areas provide adequate access to daylight and natural ventilation. | **Yes** |
|  | **The building entry points and pedestrian pathway is clearly visible from the street.**  
Lifts and separate stairs provided from the basement to upper floor level provide convenient movement for residents. |
| **Standard B43 Private open space above ground floor**  
To provide adequate private open space for the reasonable recreation and service needs of residents. | **Yes** |
|  | **Requirement:** An area of 15m², with a minimum dimension of 3 metres at a podium or other similar base and convenient access from a living room, or a balcony with an area of 8m² with a minimum dimension of 2 metres. Three bedroom dwellings require an area of 12m² with a minimum dimension of 2.4m.  
**Proposed:** All ground floor dwellings have in excess of 40m² (83.2-194.1m²) of open space which generously exceeds the min. 15m² requirement.  
All first floor dwellings are provided with 11.5m² – 13.7m² balconies with min dimensions exceeding |
| Standard B44 Storage | 2m.  
The roof terraces are between 111.4m² to 123.4m². |
|----------------------|--------------------------------------------------|
| To provide adequate storage facilities for each dwelling. | Yes | Required: 3 bed apartments require 18m³ total minimum storage volume and 12m³ minimum storage volume within the dwelling.  
Two bedroom dwellings require 14m³ total minimum storage volume and 9m³ minimum storage volume within the dwelling.  
Provided: Each dwelling has a designated storage area exceeding 7m³ provided within the basement. A further minimum volume exceeding 16m³ of internal storage is provided for each dwelling. |
| Standard B45 Waste and recycling | Yes, subject to a condition | As mentioned at Standard B34, a waste collection area will be provided within the basement. A Waste Management Plan is recommended as a condition of permit. |
| To ensure dwellings are designed to encourage waste recycling.  
To ensure that waste and recycling facilities are accessible, adequate and attractive.  
To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm. | |
| Standard B46 Functional layout | Yes | Requirement: Bedrooms should provide for a main bedroom with minimum dimensions of 3m x 3.4m. All other bedrooms should have a minimum dimension of 3m x 3m.  
2 or more bedroom dwellings should have a minimum living area width of 3.6m with a minimum area of 12m².  
Proposed: All apartments comply with the minimum widths and area. |
| To ensure dwellings provide functional areas that meet the needs of residents. | |
| Standard B47 Room depth | Yes | Requirement: Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.  
Proposed: The development includes a range of single aspect habitable rooms and none exceed a room depth of 2.5 times the ceiling height to comply with this standard. |
| To allow adequate daylight into single aspect habitable rooms. | |
| Standard B48 Windows | Yes | Requirement: Habitable rooms should have a window in an external wall of the building. A window may provide daylight to a bedroom from a smaller secondary area within the bedroom where the window is clear to the sky. The secondary area |
windows. should be:
- A minimum width of 1.2 metres.
- A maximum depth of 1.5 times the width, measured from the external surface of the window.

**Proposed:** All rooms have a window in an external wall of the building to achieve the standard.

| Standard B49 Natural ventilation | Yes | **Requirement:** At least 40% of dwellings should provide effective cross ventilation that has:
|                               |     | - A maximum breeze path through the dwelling of 18 metres.
|                               |     | - A minimum breeze path through the dwelling of 5 metres.
|                               |     | - Ventilation openings with approximately the same area.
|                               |     | **Proposed:** All dwellings are provided with natural ventilation. |
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Design Statement

Within walking distance to Brighton beach, this development proposal consists of a series of generous, Bayside residences ranging from 70m² to 166m².

Conceptually the building form is broken into two halves. There were a number of key reasons for this approach:
- Significant erosion in the built form to create a more contextually responsive building
- Introduction of internal gardens
- Two distinct building forms
- Significant light penetration into the development and all units
- Significant light penetration into the internal corridor avoiding the “dark” hallway experience
- Generous apartment separation and improved outlook and aspect

The broken built form creates a strong architectural expression with two defined, elements mirrored either side of a linking walkway, with the tensile roof ground level displaying a more organic form and shape combining extensive new tree planting and vegetation.

An arrangement of brick patterning and differing brick sizes creates subtle animation across the facades and a more crafted approach to this residential material. This use of brick also gives the development a sense of robustness and quality – being a material of great weathering characteristics.

Perforated screens provide both shading and privacy, with the perforation pattern mimicking the brick pattern and creating another layer of detail within the facade.

The building respects the neighbour’s setbacks and Recreates envelopes and whose critical setbacks occur a fine framing element has been introduced to avoid the ‘wedding cake’ effect.

The frame ‘sticks’ the corner and retains the integrity of the building’s form.

Both the building and the basement have been pulled back from boundaries to provide substantial deep soil planting zones and in response to boundary easements to the south and west.

Apartment:
- 21 No.

Carparking:
- 39 Spaces

Bicycle Amenity:
- 39 No.

Residence Storage:
- 21 No.

Site Area:
- 2294.5

*See Development Summary for further information
Item 4.5 – Matters of Decision
Design Response

The site is accessed from North West to South East direction allowing excellent access penetration into the site.

It also benefits from proximity to public transport and major road networks including Century Avenue, George Street and a number of local schools.
Design Response

Design Process

Infill detail: adding forms showing the development of the forms of the building.

Building forms are hidden and part of the building to allow for visual permeability and to create internal permeability.

Additional notes: on the second floor, the back edges allow the building to all dominate within the neighbouring

...
Easements

The building has been located away from the southern and western boundaries due to existing easements and to maximise the planted zone between the development and neighbouring sites.
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### Area Summary

<table>
<thead>
<tr>
<th>LEVEL</th>
<th>GFA (m²)</th>
<th>APT (NSA)</th>
<th>TCE</th>
<th>COMMON &amp; SERVICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basement 01</td>
<td>1404.4 m²</td>
<td>1104.4 m²</td>
<td>33</td>
<td>33 No. Cars</td>
</tr>
<tr>
<td>Ground</td>
<td>1390.0 m²</td>
<td>848.0 m²</td>
<td>599.0 m²</td>
<td>740.0 m²</td>
</tr>
<tr>
<td>Level 01</td>
<td>1070.0 m²</td>
<td>843.7 m²</td>
<td>106.0 m²</td>
<td>227.0 m²</td>
</tr>
<tr>
<td>Level 02</td>
<td>1070.4 m²</td>
<td>848.6 m²</td>
<td>213.6 m²</td>
<td>458.6 m²</td>
</tr>
<tr>
<td>BODY CORPORATE</td>
<td>400.1 m²</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>3739.7 m²</td>
<td>2306.5 m²</td>
<td>918.6 m²</td>
<td>1453.2 m²</td>
</tr>
</tbody>
</table>

### Apartments
- 1 BED/1 BATH: 2 No. (10%)
- 1 BED/1 BATH+ST: 1 No. (5%)
- 2 BED/1 BATH: 9 No. (42%)
- 3 BED/2 BATH: 6 No. (20%)
- 3 BED/3 BATH: 2 No. (10%)
- 3 BED/3 BATH+ST: 1 No. (5%)

TOTAL: 21 No. APARTMENTS

### Cars
- Resident: 33 No.
- Visitor: 5 No.

TOTAL: 38 No.

### Bicycles
- Basement: 38 No.

TOTAL: 38 No.

### Residential Stores
- Basement 01: 21 No.

TOTAL: 21 No.
### Area Schedule

<table>
<thead>
<tr>
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### Notes

- Common Surface
- Serviced
- Art 1.1 to 1.8
- Art 2.1 to 2.5
- Total Use
- Total GPA
- Type
- Count
- Percentage
4.6 7 TULIP GROVE, CHELTENHAM SUPPORT THE GRANT OF A PERMIT (VCAT CONSENT ORDER) APPLICATION NO. 2018/292/1 WARD: CENTRAL

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/45476

1. Application details

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<td>Applicant</td>
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<td>Title/Covenant/S173 Agreement</td>
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<td>23 May 2018, with the Substituted Plans circulated on 4 February 2019.</td>
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<td>Current statutory days</td>
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<td>Overlays</td>
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<td>Site area</td>
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<td>Nine (9) No objectors have joined as parties to the VCAT proceedings.</td>
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<td>Is a Development Contribution Levy applicable?</td>
<td>In the event of permit issue, $10,100.</td>
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<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>Yes, however a CHMP is not required.</td>
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Purpose
The purpose of this report is to endorse a consent position reached by all parties on 1 March 2019 following the circulation of substituted plans at VCAT, prior to a Merits Hearing.

History
On 27 September 2018, Council Officers determined to refuse the planning application. The grounds of refusal were as follows:

1. The development fails to adequately respond to the prevailing and preferred neighbourhood character objectives outlined in Neighbourhood Character Precinct H5.

2. The design fails to contribute to the valued character of Neighbourhood Character Precinct H5 through the combination of a contemporary built form with flat roof forms, no eaves and selection of external materials, colours and finishes evident within the streetscape and wider neighbourhood character.

3. The central crossover and driveway and extent of associated hard paving fail to respond to the preferred pattern of built form and/or open garden character of the
Tulip Grove streetscape or preferred Neighbourhood Character of Precinct H5.

4. The proposed continuous double storey built form massing adjacent to north and south side boundaries results in unreasonable visual bulk to immediately adjoining residential properties and fails to provide appropriate separation between buildings or respect the preferred pattern of development of Neighbourhood Character Precinct H5.

5. The proposed first floor side setbacks to the northern and southern boundaries fail the side setbacks required by the schedule to the General Residential Zone.

6. The development does not satisfy the requirements of Clause 55 (ResCode) of the Bayside Planning Scheme:
   - Clause 55.02-1 Neighbourhood Character (Standard B1)
   - Clause 55.02-2 Residential Policy (Standard B2)
   - Clause 55.02-5 Integration with the Street (Standard B5)
   - Clause 55.03-1 Street Setback (Standard B6)
   - Clause 55.03-8 Landscaping (Standard B13)
   - Clause 55.03-9 Access (Standard B14)
   - Clause 55.04-1 Side and Rear Setbacks (Standard B17)
   - Clause 55.04-3 Daylight to Existing Windows (Standard B19)
   - Clause 55.04-4 North Facing Windows (Standard B20)
   - Clause 55.04-6 Overlooking (Standard B22)
   - Clause 55.06-1 Detail Design (Standard B31)

VCAT

An Application for Review against the decision made by Council was lodged with VCAT pursuant to Section 77 of the Planning and Environment Act 1987.

The application is scheduled for a hearing on 22 March 2019.

Following the decision made by Council, and upon further discussions following the lodgement of the Section 77 Appeal, an agreement was reached on 1 March 2019 based on the substituted plans, circulated on 4 February 2019, which included the following changes to the decision plans:

Overall
   - Retention of tree within the front setback in front of Unit 4
   - Retention of the tree to the rear of Unit 3
   - The 1.8 metre front fence within the front setback to be deleted and the 900mm high fence on the front title boundary replaced with a 1.5 metre front fence
   - The front setbacks have increased from a front setback of 7.2-10.1 metres to 8.82 - 10.77 metres
   - The central driveway is in a similar location; however, the width within the front setback has reduced from 6.1 metres to 3 metres
   - The southern driveway to Unit 4 has been deleted
   - A new crossover and driveway is proposed on the northern side to Unit 1
• The walls on boundaries are limited only to the garage wall associated with Unit 1. All other walls / structures previously proposed on boundaries have been setback from the boundaries
• The visitor car space and turning area at the rear of the site has been deleted
• The rear setback to Unit 3 has increased at ground and first floors
• The rear setback to Unit 6 has decreased at ground and first floors
• The first floor balcony to Unit 2 has been deleted
• A low pitch skillion roof form has been added in parts to each dwelling
• The maximum overall height has increased from 6.7 to 7.15 metres
• Site coverage has increased from 47.5% to 48.4%
• Permeability has increased from 21.49% to 37.89%
• Garden area increased from 30.12% to 35%

The Substituted Plans A and a full list of the Statement of Changes are included at Attachment 1 and 2.

The permit applicant and Council all agreed to the above changes subject to further conditions as listed in the Consent Order.

If the Consent Order is not endorsed by the Planning and Amenity Committee, the application will proceed to a full merits hearing on 22 March 2019 for 1 day.

2. Recommendation

That Council resolve to **Support the Grant of a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2018/292/1** for the land known and described as **7 Tulip Grove, Cheltenham**, for the **construction of six (6) dwellings and reduction of one (1) visitor car parking** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the VCAT Substituted plans (circulated on 4 February 2019) prepared by IROAMD3 Building Consultants referenced TP00A-TP009A and dated 17 December 2018 but modified to show:

   a) The first floor southern wall associated with the Bedroom 1 ensuite and WIR of Dwelling 6 to be setback a minimum of 3.7 metres from the southern boundary;
   b) Provision of a cross-section of the central vehicle accessway notated to relevant AHD levels, grades and length of grades;
   c) Provision of a skillion roof form, or similar, to the eastern first floor façade of Dwellings 1 and 4 to the satisfaction of the Responsible Authority;
   d) Notation on all site and floor plans that the trees within the rear setback of Dwelling 3 and the front setback of Dwelling 4 are to be retained and protected in accordance with the endorsed Tree Management Plan required by Condition 13 of this permit;
e) The Tree Protection Zones within the rear setback of Dwelling 3 and the front setback of Dwelling 4, as detailed in the Tree Management Plan, notated on all site and floor plans;

f) Nomination of swept-path assessments to all garages notated on the ground floor plans;

g) A schedule of construction materials, external finishes and colours (incorporating for example paint samples);

h) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit;

i) A Landscaping Plan in accordance with Condition 10 of this permit; and,

j) Payment of Drainage Development Contributions in accordance with condition 20.

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before the operation of the site commences, or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before the operation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

Water Sensitive Urban Design

8. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must show:

a) The type of water sensitive urban design stormwater treatment measures to be used;

b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas; and,

c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban

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

**Landscaping**

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick Pty Ltd, reference L-VCAT01, dated February 2019 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) A survey, including botanical names, of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009;

   b) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site;

   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;

   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces; and,

   e) Details of surface finishes of pathways and driveways.

11. Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

**Tree Management and Protection Plan**

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

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

The Tree Protection Plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:
a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site; and,

b) The location of tree protection measures to be utilised.

14. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

15. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

16. Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified Arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified Arborist.

Street tree protection

17. The street tree asset can be removed under Clause 6.5 of the Street and Park Tree Management Policy (2016) to allow the development to proceed with the installation of the proposed vehicle crossing. See notes.

Drainage

18. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

19. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s City Assets and Projects Department.

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

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

Permit Expiry

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

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

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

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

Permit Notes:
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours’ notice is required.

- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.

- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

- The installation of the vehicle crossing at the proposed location will severely impact the Fraxinus angustifolia ssp. oxyacarpa 'Raywood' (Claret Ash) street tree asset. As the design does not allow any other option for the location of this vehicle crossing and to allow this development to proceed, the tree may be approved for removal under Clause 6.5 of the Street and Park Tree Management Policy (2016).

Before the vehicle crossing application will be approved, the applicant must pay $2,573.18 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible authority.

3. Amended Plans Assessment

This report will detail how the amended plans at Attachment 1 respond to the previous Grounds for Refusal and relevant planning policies.

1. The development fails to adequately respond to the prevailing and preferred neighbourhood character objectives outlined in Neighbourhood Character Precinct H5.

2. The design fails to contribute to the valued character of Neighbourhood Character Precinct H5 through the combination of a contemporary built form with flat roof forms, no eaves and selection of external materials, colours and finishes evident within the streetscape and wider neighbourhood character.

The first and second grounds for refusal relate to neighborhood character, in particular, the potential impacts to the streetscape character of Tulip Grove. Whilst the amended plans continue to utilise a contemporary built form, a combination of changes have contributed to the proposal satisfactorily responding to the neighbourhood character, including:

- Provision of a skillion roof form (via condition) to Dwellings 1 and 4, to provide a contemporary response to the hipped and pitched roof forms in the street;

- Increasing the front setback of Dwelling 4, with the retention of the established canopy tree within the front setback to reflect the established landscaped character of the area;
- The first floor levels of Dwellings 1 and 4 recessed from the ground floors of these dwellings to reduce their presentation to the street; and,
- Removal of all walls on boundaries (with exception of the Dwelling 1 garage) and provision of side setbacks, to follow the grain of the street.

As such, when considered on balance, it is considered that the substituted plans achieve an acceptable response to the existing and preferred character of the area.

3. The central crossover and driveway and extent of associated hard paving fail to respond to the preferred pattern of built form and/or open garden character of the Tulip Grove streetscape or preferred Neighbourhood Character of Precinct H5.

The proposal continues to utilise a central crossover and driveway to provide car parking access for the rear dwellings; however, the substituted plans incorporate changes which reduce the width of the crossover to minimise the visual hard stand dominance to the street.

The increased front setback, in combination with the retention of the established canopy tree within the front setback, provide for a well landscaped front setback, exceeding the Standard B6 front setback requirement.

The increased opportunities for landscaping within the front setback, combined with a softening of the built form, particularly at first floor, will provide an open garden design response which prevail above the hard surfacing of the driveway.

4. The proposed continuous double storey built form massing adjacent to north and south side boundaries results in unreasonable visual bulk to immediately adjoining residential properties and fails to provide appropriate separation between buildings or respect the preferred pattern of development of Neighbourhood Character Precinct H5.

The original (decision) plans included built form at first floor throughout the depth of the site with little to no variation in alignment, further to which was non-compliant with not only the Side and rear Setbacks (Standard B17) requirements, but also the Daylight to Existing Windows (Standard B19) and North-Facing Windows (Standard B20) setback provisions. As a result, the proposal was considered an unacceptable visual mass when viewed from the adjoining properties.

The substituted plans, whilst retaining two attached first floor forms, achieves better with Side and rear Setbacks (Standard B17) requirements (via condition), and is entirely compliant with the Daylight to Existing Windows (Standard B19) and North-Facing Windows (Standard B20) setback provisions.

Further, the northern and southern first floor facades will include varied alignments and materiality so as to present an articulated form to the adjoining properties which will not present as an unreasonable visual mass.

5. The proposed first floor side setbacks to the northern and southern boundaries fail the side setbacks required by the schedule to the General Residential Zone.

As outlined in Refusal Ground No. 4, via condition, the side setbacks of the substituted plans achieve more compliance with Standard B17. The non-compliances are limited in length and have non-compliances of 1m at ground floor and between 50mm and 480mm at first floor which are considered reasonable, given that the primary non-compliances are located adjacent to non-sensitive interfaces (ie. the solid wall of the dwelling at No. 9 Tulip Grove). This is further discussed in refusal ground 6 (below).

6. The development does not satisfy the requirements of Clause 55 (ResCode) of the Bayside Planning Scheme:
   - Clause 55.02-1 Neighbourhood Character (Standard B1)
   - Clause 55.02-2 Residential Policy (Standard B2)
- Clause 55.02-5 Integration with the Street (Standard B5)
  Standard B1, B2 and B5, specifically considerations in relation to
  neighbourhood character, have been discussed in the Ground for Refusal 1
  and 2.
- Clause 55.03-1 Street Setback (Standard B6)
  The front setback of Dwelling 4 has been increased to 10.7 metres, well in
  excess of the Standard B6 requirement in order to retain the existing canopy
  tree within the front setback. Whilst Dwelling 1 will have a front setback of
  8.8m (200mm non-compliant with Standard B6), the front setback provides
  ample opportunity for landscaping and will now provide a transitioned front
  setback between adjoining properties.
- Clause 55.03-8 Landscaping (Standard B13)
  Given the proposal has been reduced in its built form at the ground floor with
  the retention of the two large canopy trees on site, on balance it is considered
  that the proposed provision of landscaping is appropriate and respects the
  existing neighbourhood character.
- Clause 55.03-9 Access (Standard B14)
  Whilst a central access will be retained, the accessway and car parking areas
  (garages and carports) are now compliant with Clause 52.06-9 Design
  Standards and will provide for safe and efficient movements within the site.
- Clause 55.04-1 Side and Rear Setbacks (Standard B17)
  Whilst some non-compliances would remain, these reduced setbacks are
  limited in length and are generally directly opposite existing non-sensitive
  interfaces (i.e. the solid wall of No. 9 Tulip Grove).
  The first floor southern wall of Dwelling 6 (associated with the WIR and
  Ensuite) will be made compliant with Standard B17 in order to provide a
  staggered setback and visual interest to this façade.
  Due to the varying setbacks, the facades are now acceptably articulated and
  will present visually interesting facades. The amended plans show vast
  improvements with respect to side setbacks, and further, the affected
  property owners have not joined as parties to the proceedings, with the
  setbacks (and non-compliances underlined) as follows:

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<td>South (side)</td>
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<td>West (rear)</td>
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- Clause 55.04-3 Daylight to Existing Windows (Standard B19)
  The increase of setbacks has resulted in entire compliance with Standard
  B19.
- Clause 55.04-4 North Facing Windows (Standard B20)
  The substituted plans have amended the southern elevations in order to be
  entirely compliant with Standard B20 in relation to the north-facing windows
of the property to the south.

- Clause 55.04-6 Overlooking (Standard B22)
  The substituted plans are compliant with Standard B22.

- Clause 55.06-1 Detail Design (Standard B31)
  As outlined within this report, the substituted plans have amended the design in order to more appropriately respond to the streetscape and interfaces.

4. Conclusion

As described above, the changes to the plans are numerous, and address the previous grounds for refusal to an acceptable level.

All the concerns raised by Council and the objectors have been satisfactorily addressed by retaining the two existing canopy trees on site, reducing the footprint of the building, increasing setbacks and providing adequate landscaping opportunities to further protect the existing amenities.

The combination of the amendments results in an overall development which is considered to show an acceptable level of compliance with the Bayside Planning Scheme.

Support Attachments

1. Draft Consent Order
2. Statement of Changes
3. VCAT Substituted Plans
4. Advertised Plans
Administrative Division
Planning and Environment List

Section 77 of the Planning and Environment Act 1987

VCAT Reference No. P2019/2018

Invogue Property Pty Ltd Applicant
and
Bayside City Council Responsible Authority

Site: 7 Tulip Gve, Cheltenham

The parties in Application P2019/2018 have reached agreement and request the Tribunal to grant the following order.

1. In application P2019/2018, the decision of the responsible authority is set aside.

2. In planning permit application 5/2018/292/1 a permit is granted and directed to be issued for land at 7 Tulip Grove, Cheltenham in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

   - Construction of six (6) double storey dwellings and reduction in car parking

CONSENTS

Applicant/Permit applicant (print name and sign) ..........................................

Responsible Authority (print name and sign) ..............................................
Appendix A

Permit Preamble
Construction of six (6) dwellings and reduction of one (1) visitor car parking in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the VCAT Substituted plans (circulated on 4 February 2019) prepared by IROAMD3 Building Consultants referenced TP00A-TP009A and dated 10 April 2018 and 17 December 2018 but modified to show:
   a) The first floor southern wall associated with the Bedroom 1 ensuite and WIR of Dwelling 6 to be setback a minimum of 3.7 metres from the southern boundary.
   b) Provision of a cross-section of the central vehicle accessway notated to relevant AHD levels, grades and length of grades.
   c) Provision of a skillion roof form, or similar, to the eastern first floor façade of Dwellings 1 and 4 to the satisfaction of the Responsible Authority.
   d) Notation on all site and floor plans that the trees within the rear setback of Dwelling 3 and the front setback of Dwelling 4 are to be retained and protected in accordance with the endorsed Tree Management Plan required by Condition 13 of this permit.
   e) The Tree Protection Zones of within the rear setback of Dwelling 3 and the front setback of Dwelling 4, as detailed in the Tree Management Plan, notated on all site and floor plans.
   f) Nomination of swept-path assessments to all garages notated on the ground floor plans.
   g) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   h) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   i) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit.
   j) A Landscaping Plan in accordance with Condition 10 of this permit.
All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

4. No plant, equipment, services or architectural features other than those shown on
the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard S22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

Water Sensitive Urban Design

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick Pty Ltd, reference L-VCAT01, dated February 2019 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways.
11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

**Tree Management and Protection Plan**

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

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

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

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.

b) The location of tree protection measures to be utilised.

14. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

15. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

16. Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified Arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified Arborist.

**Street tree protection**

17. The street tree asset can be removed under Clause 6.5 of the Street and Park Tree Management Policy (2016) to allow the development to proceed with the installation of the proposed vehicle crossing.

**Drainage**

18. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.

19. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s City Assets and Projects Department.

**Permit Expiry**

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

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.
STATEMENT OF CHANGES
7 TULIP GROVE, CHELLENHAM
VCAT REF 2019/2018

The following plans all dated 10/04/18 have been superseded:
- TP03C – site design response & Area analysis,
- TP05C – ground floor plans,
- TP06C – First floor plan & overlooking screen section,
- TP07G – External finishes Schedule,
- TP08C – elevation sheet 2,
- TP09C – Schematic Section Sheet,
- TP04A – Roof plan and shadow diagram 9am,
- TP04.1A – Roof plan and shadow diagram 12pm,
- TP04.2A – Roof plan and shadow diagram 3pm,
- TP10.1A – Garden Area plan,
- TP10.2A – permeable area plan,
- TP10B – landscape plan.
- TP11C – Turning Circle diagrams,

The amended plans are as follows:
- TP000A Local Context Analysis – 10/04/18
- TP001A Neighbourhood & Site Description – 10/04/18
- TP002A Design Response – 17/12/18
- TP003B Ground Floor Plan - 17/12/18
- TP004A First Floor Plan - 17/12/18
- TP005A Elevation Sheet - 17/12/18
- TP006A Section Sheet - 17/12/18
- TP007A Shadow Diagram Sheet 1 - 17/12/18
- TP008A Shadow Diagram Sheet 2 - 17/12/18
- TP009A Garden Area Analysis Plan - 17/12/18
- Landscape Plan prepared by John Patrick Landscape Architects dated February 2019

The number of dwellings 6 remains unchanged. The key amendments are summarised as follows:
- Retention of tree within the front setback in front of Unit 4.
- Retention of the tree to the rear of unit 3.
- The 1.8 metre front fence within the front setback to be deleted and the 900mm high fence on the front little boundary replaced with a 1.5 metre front fence.
• The front setbacks have increased from a front setback of 7.2-10.1 metres to 8.82 – 10.77 metres.
• The central driveway is in a similar location however the width within the front setback has reduced from 6.1 metres to 3 metres.
• The southern driveway to Unit 4 has been deleted.
• A new crossover and driveway is proposed on the northern side to Unit 1.
• The walls on boundaries are limited only to the garage wall associated with Unit 1 – all other walls / structures previously proposed on boundaries have been setback from the boundaries.
• The visitor car space and turning area at the rear of the site has been deleted.
• The rear setback to Unit 3 has increased at ground and first floors.
• The rear setback to Unit 6 has decreased at ground and first floors.
• The first floor balcony to Unit 2 has been deleted.
• A low pitch skillion roof form has been added in parts to each dwelling.
• The maximum overall height has increased from 6.7 to 7.15 metres.
• Site coverage has increased from 47.5% to 48.4%.
• Permeability has increased from 21.49% to 37.89%.
• Garden area increased from 30.12% to 35%

Unit 1
• Total floor area decreased from 180m2 to 163.9m2
• SPOS reduced from 51 m2 to 57.5m2
• Reduced from 4 bedrooms to 3 bedrooms
• Driveway provided to the north side
• Single garage constructed to the northern boundary with a tandem car space in front.
• The garage is setback 12m from the frontage.
• SPOS within the front setback enclosed by 1.5 metre high front fence – 1.8 metre fence within the front setback deleted.
• 900mm high front boundary fence deleted and replaced with 1.5 metre high front fence on title boundary.
• First floor comprises 2 bedrooms with ensuites (previously 3 bedrooms (inc master), bathroom and retreat)
• First floor setback from the northern boundary increased from 2.5 and 2.8 metres to 3.009 metres.
• Overall height has remained the same at 6.5 metres.

Unit 2
• Total floor area increased from 179m2 to 180m2
• First floor balcony deleted.
• SPOS of 33.04m² provided at ground floor (27.15m² alfresco and 5.89m² courtyard)
• Balcony at first floor deleted.
• North wall on boundary removed.
• A ground floor setback of 3.0 and 1.5 metres provided from the northern boundary (previously zero)
• First floor setback from the northern boundary increased from 2.5 metres to 3.25-4.15 metres.
• 3 bedrooms (unchanged)
• Overall height reduce from 6.7 metres to 5.9 metres (north elevation).

Unit 3
• Total floor area reduced from 190m² to 166.68m²
• SPOS increased from 37m² to 60.87m²
• Existing tree in rear to be retained.
• North wall on boundary removed.
• Northern boundary - ground floor setback of 1.0 and 3.0 metres and first floor setback increased from 2.5 metres to 3.2 metres.
• West boundary (rear) – ground floor setback varied from 4.2 metres to 3.6 – 7.0 metres, first floor setback increased from 4 metres to 7.3 metres
• 3 bedrooms (unchanged) – living room at first floor deleted.
• Overall height has increased from 6.8 metres to 7.1 metres.

Unit 4
• Total floor area increased from 155m² to 177.22m²
• SPOS increased from 30m² to 75.79m²
• The courtyard has increased from 7.8m² to 25.97 m²
• Existing tree within front setback to be retained.
• Front setback – ground floor increased from 8.7 metres to 10.77 metres, first floor increased from 8.6 metres to 12.3 metres.
• South boundary – car port deleted and ground floor setback increased 0 – 2 metres to 2.0 metres, first floor setback increased from 3.2 metres to 3.5 – 4.1 metres.
• 3 bedroom – retreat deleted.
• Overall height has increased from 6.8 metres to 7.1 metres.

Unit 5
• Total floor area reduced from 164m² to 132.4m²
• Balcony reduced from 17m² to 12.55m²
• Ground floor courtyard increased from 16.8m² to 17.06m²
- Single carport to southern boundary removed and replaced with a single garage and laundry setback 1 metre.
- South boundary – ground floor setback varied from 2 metres to 1–2.0 metres, first floor setback increased from 3.4 metres to 3.5–3.8 metres.
- Living area provided at ground floor with access to a courtyard.
- Reduced from 3 to 2 bedrooms
- Overall height increased from 6.74 metres to 6.9 metres.

Unit 6
- Total floor area reduced from 195m2 to 161.12 m2
- SPOS reduced from 74m2 to 47.18m2
- Single carport to southern boundary removed and replaced with a double garage setback 2 metres.
- South boundary – ground floor setback varied from 2 metres to 2–2.6 metres, first floor setback increased from 3.2 to 3.4–3.9 metres.
- West boundary (rear) – ground floor setback reduced from 7.1 metres to 3.75 metres, first floor setback reduced from 7.1 to 4.9 metres.
- 3 bedrooms and the retreat area has been removed
- Height maintained at 6.6 metres

The amended plans respond to the Grounds of Refusal and to allow for the retention of the two existing trees. As a result of retaining these two trees, the layout of the dwellings have altered. The amended plans result in a development which achieve a higher level of compliance with Rescode and Council Policy.

Amendment to the Proposal:
The proposed development also amends the original planning application in that permission is required for a reduction of one visitor car space pursuant to clause 52.06 of the Bayside Planning Scheme. The reduction in the visitor car space results in additional landscaping provided for the development and reduces the extent of paving throughout the site. The visitor car space can be easily accommodated on the street in front of the site.
Item 4.6 – Matters of Decision
Item 4.6 – Matters of Decision

TP - East Elevation - Proposed
SCALE 1:100

TP - North Elevation - Proposed
SCALE 1:100

TP - South Elevation - Proposed
SCALE 1:100

Driveway Southern Elevation
SCALE 1:100

Driveway Northern Elevation
SCALE 1:100

NOTE:
ALL FIRST FLOOR WINDOWS TO HAVE TWO MIRRORED GLASS PANELS, DOORS TO BE LOW VISION TYPE.

Elevation Sheet

Tulip
7 Tulip Grove, Strathnairn

Bayside City Council
Planning & Amenity Committee Meeting
12 March 2019
Attachment 3

Page 365 of 395
Item 4.6 – Matters of Decision
Item 4.6 – Matters of Decision
4.7 VCAT REPORT - DECISIONS MADE IN FEBRUARY 2019

In accordance with Section 68(b) of the Governance Local Law No: 1 - 2013, a person is not permitted to present to this item as it is a report summarising a decision already made by another body, being VCAT.

1. Executive summary

To inform Council of Victorian Civil and Administrative Tribunal (VCAT) determinations received the previous month and to show the progress of VCAT outcomes for the financial year.

All councils are required to report to the Local Government Performance Reporting Framework (LGPRF) each year on the timeliness (SP1), service standard (SP2), cost per application (SP3) and decision quality of Statutory Planning (SP4).

The LGPRF measure SP4 used by the State Government to assess the quality of Council’s decision making is the number of decisions made by Council that were not overturned or ‘set aside’ by VCAT on appeal by either the applicant or objectors.

Council has a target for 2018/19 that 55% of all Planning & Amenity Committee and Delegated Officer decisions should not be set aside by VCAT. This is comparable with other inner urban Council’s in Melbourne such as Port Phillip and Stonnington.

The LGPRF measure does not include applications to amend VCAT issued permits (Section 87A applications), consent orders or appeals which are withdrawn by the applicant or objector prior to a hearing.

For the 2018/19 financial year, Council has received 80 decisions, of which

- 33 have been settled by consent orders; and,
- 4 have been withdrawn; 1 has been dismissed and 2 have been struck out.

The total number of LGPRF measured decisions for the year to date is therefore 40. This table below reflects the new 2018/19 LGPRF reporting requirements for Council.

<table>
<thead>
<tr>
<th>Time period</th>
<th>Decisions where the Council Delegate or Committees decision has been overturned or ‘Set Aside’</th>
<th>Decisions where the Council Delegate or Committees decision has been agreed with, either having been entirely ‘Affirmed’ or the conditions of the permit ‘varied’</th>
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</tr>
<tr>
<td>February 2019</td>
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</table>
Attachment 1 included provides a summary of each case identifying the key issues for Council policy and strategy.

2. Recommendation

That Council:

- receives and notes the report; and,
- notes the outcome of VCAT decisions on the planning applications handed down during February 2019.

Support Attachments

1. VCAT Determined Appeal - February 2019

<table>
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<tr>
<th>TOTAL DECISIONS</th>
<th>19</th>
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<tr>
<td>LGPRF Result</td>
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<td>52.5%</td>
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VCAT Determined Appeals from 1/02/2019 to 26/02/2019

<table>
<thead>
<tr>
<th>Subject land</th>
<th>695 - 707 Hawthorn RD, BRIGHTON EAST</th>
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<tbody>
<tr>
<td>Application no.</td>
<td>2017.523.1</td>
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<tr>
<td>VCAT reference no.</td>
<td>P1256/2018</td>
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<td>Applicant</td>
<td>Stockland Developments Pty Ltd</td>
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<tr>
<td>Referral Authority</td>
<td>N/A</td>
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<tr>
<td>Respondents</td>
<td>VicRoads; S &amp; C Eldridge; B Clark &amp; Others</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>G Code &amp; L Nervegna</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>12/11/2018</td>
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<tr>
<td>Date of order</td>
<td>1/02/2019</td>
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<td>Proposal</td>
<td>Use and development of land for a retirement village, buildings and works in the Design and Development Overlay Schedule 3 and the Special Building Overlay and alteration to an access in a Road Zone Category 1</td>
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<tr>
<td>Officer recommendation/Delegate determination</td>
<td>Refusal</td>
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<tr>
<td>Council determination</td>
<td>Not applicable</td>
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<tr>
<td>Appeal type</td>
<td>Refusal to Grant a Permit</td>
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<td>Plans substituted (prior to hearing)</td>
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<tr>
<td>VCAT determination</td>
<td>Permit to Issue</td>
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<tr>
<td>LGPRF outcome</td>
<td>SET ASIDE</td>
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</table>

The subject site is located within the Neighbourhood Residential Zone, the Design and Development Overlay (Schedule 3), the Special Building Overlay and the Development Contributions Overlay (Schedule 1).

A Notice of Refusal to Grant a Permit for the Use and development of land for a retirement village, buildings and works in the Design and Development Overlay Schedule 3 and the Special Building Overlay and alteration to an access in a Road Zone Category 1 was refused under delegation. An Application for Review was lodged to the Victorian Civil and Administrative Tribunal (VCAT) under Section 77 of the Planning and Environment Act 1987. Three objectors were joined as parties to the proceedings, with one objector representing a number of objectors.

A Compulsory Conference was held on 25 September 2018, however no agreement was reached between the parties. The hearing was held on 12-16 November 2018 and 19 November 2018.

The Tribunal found that the proposal did not respond well to the preferred neighbourhood character but that the Planning Scheme contains other policies and objectives that must be all be balanced. The Tribunal found that a retirement village does not contain dwellings and as such the preferred character has little relevance to the proposal as it relates to dwellings. Furthermore, the maximum building heights, minimum garden area requirements and Clause 55 do not apply.
The Tribunal gave weight to the need for aged accommodation, identifying a demand for quality, modern retirement village accommodation within the municipality. It found that the built form overall was generally acceptable, with transitions to the sensitive residential interfaces. It would respond well to the streetscape and subject to some conditions would not have an adverse impact on neighbouring amenity.

In relation to parking and traffic, landscaping and flooding, subject to conditions, the Tribunal found these to be acceptable.

The Tribunal furthermore advised that the Development Contribution Plan did not apply to this site.
Subject land

39-41 Bluff RD, BLACK ROCK

Application no.

2017.237.1

VCAT reference no.
P99/2018

Applicant

Timothy Margetts

Referral Authority

VicRoads

Respondents

J Whyte, D Dugan and R Hao

VCAT Member

Tracey Bilston-McGillen

Date of hearing

22/01/2019

Date of order

5/02/2019

Proposal

Buildings and works in a Commercial 1 Zone and a Design and Development Overlay Schedule 1, reduction in car parking requirements and the removal of native vegetation in land covered by a Vegetation Protection Overlay Schedule 3

Officer recommendation/
Delegate determination

Refusal

Council determination

Refusal

Appeal type

Refusal to Grant a Permit

Plans substituted
(prior to hearing)

No

VCAT determination

Permit to issue

LGPRF outcome

SET ASIDE

Comments:

This was the second Appeal for this site which involved the construction of a new supermarket at the subject site known as Nos. 37-41 Bluff Road, Black Rock. The use of a supermarket in Commercial 1 Zone land was “as of right.” The proposed supermarket consisted of access and egress for delivery vehicles through Council’s car park to the south and west of the subject site.

The earlier planning permit application 2015/380/1 for this site sought approval for buildings and works in a Commercial 1 Zone and Design and Development Overlay Schedule 1, removal of native vegetation, reduction in car parking and bicycle requirements associated with the “as of right use” of a supermarket at the subject site.

Council refused the application under delegation on 30 November 2015 because the proposal did not comply with the car parking and bicycle parking requirements of Clauses 52.06 and 52.34 of the Bayside Planning Scheme. Council was also concerned that the proposed 8.8m long loading vehicle would cause safety concerns for property and pedestrians and will also undermine the function of the adjacent council car park at 37 Bluff Road Black Rock. Council was also critical of some design features of the original façade treatment.

The earlier Tribunal decision in its Order dated 17 November 2016, affirmed Council’s decision and no permit was granted. The Tribunal was not supportive of the original Application as it provided no car parking for the use and it was highly critical of the proposed vehicle traffic movements necessitating reversing into the rear unloading area and then exiting the subject site in a forwards manner against the flow of traffic and egressing down the laneway to the rear of the southern most shops to Beach Road, Black Rock.
In the new Application, the Permit Applicant had addressed some of the previous issues and defects raised by the earlier Tribunal. The new Application proposed the re-alignment of the six (6) parallel spaces adjacent to the southern boundary of the proposed building, partly on the Applicant’s land and partly on Council land with fourteen (14) perpendicular spaces. This equated to the provision of eight (8) car spaces in total. However one car space in the middle of the car park would have to be removed to allow vehicles to exit the rear of the site by traversing the car park and utilizing the Bluff Road crossover. Thus, the new Application provided seven (7) car spaces in total for the supermarket use.

Council had refused this Application inter alia because despite the provision of 7 car spaces the proposed development had a statutory parking deficit of thirty nine (39) car spaces. This deficit in Council’s view would cause this supermarket to unfairly monopolize the car parking available in Council’s car park to the detriment of other businesses and users.

The Tribunal held that the new Application had successfully addressed the previous Tribunal’s concerns. With respect to car parking, the Tribunal accepted the expert evidence of the Applicant’s Traffic Witness that the correct car parking rate to be applied to this development was a rate of 2.5 car spaces per 100m² of leasable floor area should be applied, not the 5 spaces per 100m² as set out in Clause 52.06 of the Planning Scheme. The Tribunal found the egress/access arrangements for delivery vehicles were acceptable subject to the Vic Roads’ recommendation that the size of delivery vehicles be restricted from 8.8 metres to 6.4 metres which would prevent trucks exiting the subject site from crossing the dividing line in Bluff Road.

The Tribunal in its Order dated 5 February 2019 issued Planning Permit No. 2017/237 and imposed additional conditions in the Parking and Traffic Management Plan requiring the size of delivery and waste management trucks serving the supermarket be restricted to 6.4 metres in length as well as restricted times for deliveries and waste collection.
Subject land 1/27 Black ST, BRIGHTON

Application no. 2018.301.1
VCAT reference no. P2263/2018
Applicant McKimm Design
Referral Authority N/A
Respondents Ratio Consultants Pty Ltd

VCAT Member Alison Glynn
Date of hearing 13/02/2019
Date of order 13/02/2019
Proposal Construction of a three storey building (plus basement) containing no more than eight (8) dwellings

Officer recommendation/ Refusal
Delegate determination
Council determination Not applicable
Appeal type Refusal to Grant a Permit
Plans substituted No
(prior to hearing)

VCAT determination Permit to issue
LGPRF outcome N/A

Comments:
The subject site is zoned General Residential, and is also covered by the Design and Development Overlay 11 and the Development Contributions Plan Overlay.

The application was refused (under delegation) for a three storey building comprising 8 dwellings. The sole ground for refusal related solely to the applicants failure to provide a cultural heritage management plan (CHMP) with the application, which prohibited Council from approving the development.

The applicant lodged an appeal against Council’s refusal, and obtained a CHMP before the hearing date.

Given that this was the sole ground for refusal, consent orders were signed and VCAT directed that a permit issue on 13/02/2019.
**Subject Land**

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<td>Edward Haddad</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>N/A</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>J.A. Bennett</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>18/02/2019</td>
</tr>
<tr>
<td>Date of order</td>
<td>20/02/2019</td>
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</tbody>
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**Proposal**

Construction of two dwellings including basement car park and a front fence over 1.2m in height

**Officer recommendation/ Delegate determination**

Notice of decision

**Council determination**

Notice of decision

**Appeal type**

Conditions

**Plans substituted (prior to hearing)**

No

**VCAT determination**

Varied Permit to issue

**LGPRF outcome**

AFFIRMED

**Comments:**

Council issued Planning Permit No. 2018/5 for the construction of two (2) double storey attached dwellings with basement car parking and a front fence exceeding 1.2 metres at the subject site known as No. 238 Were Street, Brighton East on 26 September 2018, as no appeals had been lodged against Council’s Notice of Decision pursuant to section 82 of the Planning and Environment Act 1987.

On 23 October 2018 the Permit Applicant lodged an Application Review against certain conditions pursuant to section 80 of the Planning and Environment Act 1987. In particular, the Applicant disputed Condition 1(a) which required him to ensure that all setbacks complied with the requirements of Standard B17: Side and Rear Setbacks. The non-complying setback was on the eastern elevation and was required to be increased to 4.98 metres rather than 4.2 metres as shown in the Application Plans. This condition had been imposed by Council at its Planning & Amenities Committee Meeting held on 14 August 2018 to address the concern of the Objector at No. 240 Were Street, East Brighton.

The Tribunal in finding for the Applicant made an Order dated 20 February 2019 deleting Condition 1(a) on Planning Permit No. 2018/5. In giving oral reasons for his decision, Member Templar emphasized that the Council Planner who assessed this Application did not believe that it was necessary to increase the eastern first floor side setback. The Tribunal held that Condition 1(a) raised both neighbourhood character and amenity issues.
The Tribunal stated that the proposed side setbacks were similar to those existing in the street. As the non-complying setback was adjacent to a double garage on the boundary and a non-sensitive service yard at No. 240 Were Street, there was no justification for the Tribunal to increase the proposed setback. The Tribunal acknowledged that if it were to adopt the greater side setback as advocated by Council, it would provide greater separation in built form between the subject site and the Objector’s property furthering the Objectives of Clause 22.06 of the Bayside Planning Scheme but it was unnecessary to do so. The Tribunal held that the main secluded private open space of the Objector’s property was to the rear of the subject site and that this area was not impinged upon by the eastern side setback as proposed.

The Tribunal did note that there were several other non-complying aspects on the upper western elevation but as these was opposite a tennis court on the neighbouring property to the west this was inconsequential.
Subject land: 2/3 Banksia AVE, BEAUMARIS

Application no.: 2017.398.1
VCAT reference no.: P730/2018
Applicant: Steven & Karen Chaur
Referral Authority: N/A
Respondents: Yi Zhou, W Wu and Y Huang

VCAT Member: Bill Sibonis
Date of hearing: 20/02/2019
Date of order: 20/02/2019
Proposal: The construction of four dwellings on a lot and removal of native vegetation in a Vegetation Protection Overlay (Schedule 3)

Officer recommendation/ Delegate determination: Notice of decision
Council determination: Notice of decision
Appeal type: Notice of Decision to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Varied Permit to issue
LGPRF outcome: AFFIRMED

Comments:

The Objector who resided at the adjoining property to the east of the subject site lodged an Application against Council’s decision to Issue a Notice of Decision pursuant to section 82 of the Planning and Environment Act 1987.

The Objectors alleged that the proposed development would overshadow their living room windows and private open space. Despite this, Council’s Officer had assessed the Application as complying with the relevant Standard B21: Overshadowing of the Bayside Planning Scheme. The Objectors also had alleged that the proposed development would cause amenity impacts in terms of visual bulk to their property. Council had assessed that the eastern first floor setbacks complied with the requirements of Standard B17: Side and Rear Setbacks.

Prior to the scheduled hearing date, the Permit Applicant and the Objectors reached consent that the first floor eastern setbacks be increased from 3.5 metres to 4.6 metres. As a result of this agreement, the Objector withdrew his Appeal to VCAT and the hearing date was vacated.

The Tribunal in an Order dated 20 February 2019 directed that the Planning Permit No. 2017 /398 issue subject to the inclusion of a new Condition 1(p) requiring that the first floor eastern setback be increased from 3.5 metres to 4.6 metres which had been agreed upon by all parties.
Subject land 1a Esplanade Avenue, BRIGHTON

Application no. 2017.629.1
VCAT reference no. P1578/2018
Applicant Patricia Lim and Seng Mun Wong
Referral Authority N/A
Respondents Jacqueline Muller & Others

VCAT Member Jane Tait
Date of hearing 11/2/2019
Date of order 27/02/2019
Proposal Building and works associated with three dwellings and an office in a Commercial 1 Zone and construction of three (3) roof decks in a Design and Development Overlay Schedule 1

Officer recommendation/ Delegate determination Refusal
Council determination Not applicable
Appeal type Refusal to Grant a Permit
Plans substituted (prior to hearing) Yes

VCAT determination Permit to Issue
LGPRF outcome SET ASIDE

The subject site is located within the Commercial 1 Zone, the Design and Development Overlay (Schedule 1) and the Development Contributions Overlay (Schedule 1).

A Notice of Refusal to Grant a Permit, for buildings and works associated with three (3) new dwellings and two home offices in a Commercial 1 Zone and two roof decks and an attic in Design and Development Overlay Schedule 1, was refused under delegation. An Application for Review was lodged to the Victorian Civil and Administrative Tribunal (VCAT) under Section 77 of the Planning and Environment Act 1987. One objector joined as a party to the proceedings, representing a number of objectors.

Plans were substituted prior to the hearing in accordance with the Tribunal’s Practice Note PNPE9. Changes included, removal of the attic of Dwelling 2 and substituted with a roof terrace, modification of all roof terraces, deletion of access to VicTrack land and amended floor layout. Council had no objection to the substitution as it addressed the issues raised in Grounds 1, 3 and 4 of the Notice of Refusal. However, Council maintained the ground in relation to noncompliance with the purpose and decision guidelines of the C12, in particular the scale and interface to the residential zoning to the north and east, design details to the southern boundary and non compliance with Clause 55. Council also maintained the ground concerning inconsistency with the intent of Amendment C126.

At the hearing the applicant advised that the application now proposes a separate office facing Esplanade Avenue, not a home office ancillary to Dwelling 1 as previously discussed.

The Tribunal, in its Order dated 27 February 2019, issued Planning Permit No. 2017/629 and imposed conditions requiring that there be a greater variety of materials and finishes to the façade along the southern boundary, the plans be amended to clearly show ‘home office’ for Dwelling 3 and the ground floor entrance to Dwelling 1 to be redesigned to separate the Dwelling 1 entry from the office.
5. Confidential Business

There was no confidential business submitted to the meeting.