Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 14 February, 2017
at 7.00pm

Chairperson: Cr Laurence Evans

Councillors: Cr Alex del Porto (Mayor)
Cr Michael Heffernan
Cr James Long BM JP
Cr Clarke Martin
Cr Rob Grinter
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

Nil

Next Meetings 2017

- Tuesday 14 March 2017
- Tuesday 18 April 2017
- Tuesday 9 May 2017
- Tuesday 13 June 2017
- Tuesday 18 July 2017
- Tuesday 15 August 2017
- Tuesday 12 September 2017
- Tuesday 17 October 2017
- Tuesday 14 November 2017
- Monday 11 December 2017
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 17 January 2017.
4. Matters of Decision

4.1 28-30 LINACRE ROAD, HAMPTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/446/1 WARD: CENTRAL

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/14843

1. Purpose and background
To report a planning permit application for the construction of a three storey building containing 23 dwellings on two lots with a combined area of 2,312 square metres (refer Attachment 1) at 28-30 Linacre Road, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Fulcrum Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>6 October 2016 (amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>5 December 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.08-5 (General Residential Zone) – Construction of two or more dwellings on a lot.

Clause 43.02-2 (Design and Development Overlay 12) – Construction of a building.

Planning scheme amendments
Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage infrastructure in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. The site is within the SBO and will continue to remain within the SBO.

3. Stakeholder Consultation
External referrals
There were 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>Traffic</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Street Trees</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 20 objections were received. The following issues were raised:

- The development does not meet the purpose of the Zone;
- Failure to integrate the development with the street and insufficient street setback;
- Neighbourhood character will be affected by the loss of the existing Victorian dwelling, excessive bulk and massing, building height (exacerbated by plant and equipment on roof), excessive site coverage and insufficient permeability;
- Overshadowing from both building and landscaping;
- Overlooking, including that the Standard is deficient and that the screens proposed are of a limited lifespan;
- Insufficient Private Open Space for new dwellings;
- Increased traffic, traffic congestion and demand for on-street parking;
- Impact on amenity of neighbouring dwellings from walls on boundaries and insufficient side and rear setbacks;
- Noise from plant and equipment;
- Lack of detail relating to screening of rooftop plant and equipment and stormwater treatment plant not being shown on the application;
- Plantings not in compliance with planting guide;
- Construction management issues, including that ground stability will be affected; development may damage surrounding properties and that dust and debris from construction will have a detrimental effect on amenity.

Consultation meeting

The applicant declined a consultation meeting as it was considered that successful mediation would be unlikely given the large number of objectors to the proposal.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/446/1 for the land known and described as 28-30 Linacre Road, Hampton for the construction of a three-storey building containing 23 dwellings in accordance with the endorsed plans and subject to the following conditions from the standard conditions:
1. Before the use and/or development start/s, 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 plans (Fender Katsalidis TP000 to TP409) Council date stamped 15 September 2016 but modified to show:
   a) The setback of the second floor increased to a minimum of 4m from the wall of the floor below.
   b) The ground floor front setback increased to a minimum of 6m, measured to the front of the electricity substation.
   c) The western side setback at first floor level increased to accord with Standard B17 of Clause 55 of the Bayside Planning Scheme.
   d) The western side setback at ground floor level increased to a minimum of 1m.
   e) Rear setbacks increased in accordance with Standard B20 of Clause 55 of the Bayside Planning Scheme.
   f) Additional treatment measures to strengthen the visual identity of the pedestrian entrance to the building in accordance with Standard B26 of Clause 55 of the Bayside Planning Scheme.
   g) Additional access to daylight for the kitchens of dwellings G-06 and G-07 in accordance with Standard B27 of Clause 55 of the Bayside Planning Scheme.
   h) A reduction in hard surface at ground floor level and basement level to provide for the planting of:
      i. A canopy tree of 8m height and 4m spread at maturity in each rear corner of the site.
      ii. A canopy tree of 8m height and 4m spread at maturity between dwellings G-04 & G-05 and G-06 & G-07 or other locations as agreed with the responsible authority.
   i) Landscaping plan in accordance with Conditions 1h) and 15 of this permit.
   j) 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.
   k) Provision of a traffic management signal system within the ramp to the basement.
   l) A schedule of construction materials, external finishes and colours (incorporating for example paint samples), including for screens provided on the roof of the building.
   m) A reduction in the amount of timber in the front fence to provide varied materials in the front elevation.
   n) The redesign of the apartments adjacent to the substation or mitigation of the potential adverse amenity impacts of the substation on the surrounding habitable rooms and redesign of all other apartment to accommodate this change.
   o) Relocation of the bedroom of apartment G.01, 01-01 and 01-10 to ensure it and no other habitable rooms adjoin the substation.
p) Water sensitive urban design measures in accordance with condition 8.
   All to the satisfaction of the Responsible Authority.

2. The development as shown on the endorsed plans must not be altered 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. Noise emanating from the subject land must not exceed the permissible noise
   levels when determined in accordance with State Environment Protection Policy
   (Control of Noise from Commerce, Industry and Trade) No. N-1, to the satisfaction
   of the Responsible Authority.

6. All pipes, 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.

7. Before occupation, 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.

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

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.

10. Before the occupation of the development starts, the area(s) set aside for vehicle
    parking and accessways must be constructed, drained and line marked to the
    satisfaction of the Responsible Authority. Such areas must be kept available for
    these purposes at all times.

11. Before the occupation of the development starts, new or altered vehicle
    crossing(s) servicing the development must be constructed to the satisfaction of
    the Responsible Authority and any existing disused or redundant crossing or
    crossing opening must be removed and replaced with footpath/nature strip/ kerb
    and channel, to the satisfaction of the Responsible Authority.
12. Any security boom, barrier or similar device controlling vehicular access to the premises must be located a minimum of six metres inside the property to allow vehicles to prop clear of Linacre Road.

13. The ‘STOP-GO’ signal system must give priority to vehicles entering from the street and be to the satisfaction of the Responsible Authority.

14. Before the use starts, 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 basement plan dwg no. TP100 and include:

a) The allocation of car parking spaces to each apartment with the building.
b) The allocation of visitor car parking spaces.

15. 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 LBA Design, reference TP/001 & 002, dated June 2016 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.

16. 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.

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

18. Before the development starts, 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.

19. 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.
20. 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.

21. 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.

22. 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.

23. Before the development starts tree protection fencing is to be established around the street trees marked for retention 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 naturestrip 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.

24. Prior to soil excavation for a Council-approved crossover within the Tree Protection Zone of the street trees marked for retention, a trench must be excavated along the line of the crossover adjacent to the tree using root-sensitive, non-destructive techniques. All roots that will be affected must be correctly pruned.

25. Any installation of services and drainage within the Tree Protection Zones of the street trees marked for retention must be undertaken using root-sensitive, non-destructive techniques.

26. 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.

27. 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.

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.

28. 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.


q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.

r) Details of crane activities, if any.

29. No polluted and/or sediment laden run-off is to be discharged directly or indirectly any drains or watercourses to the satisfaction of the Responsible Authority.

30. 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
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

- 3.1.3 Advocating Council’s planning and urban design objectives.

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 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.09 Transport and Access
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 Direction

The site is located in the Hampton Activity Centre and pursuant to Map 2 of Clause 21.02, has been identified as a moderate residential growth area. The development of the Activity Centre is further emphasised under Clause 21.03-1, which seeks to direct new medium density development to large Major Activity Centres, particularly those with good access to public transport.

Within Major Activity Centres, encouragement is given to the redevelopment of larger sites for higher density residential dwellings, along with the more efficient use of built form through the consolidation of sites and the construction of basement car parks, as proposed in this instance.

It is noted that the construction of larger buildings is envisaged by the increased maximum heights provided for in the residential precincts of the Hampton Activity Centre and by providing additional opportunities for people to live near the centre. This should be achieved while retaining a spacious and leafy character. It is considered that the proposal responds appropriately to these objectives.

6.2. Height and the Design and Development Overlay, Schedule 12 (DDO12)

It is considered that the proposed development demonstrates general compliance with the design objectives and built form provisions contained within the Overlay, which is to set design parameters suitable for the area and its role within the Hampton Structure Plan.

Further refinement of the proposal ought to result in a scheme that responds appropriately to this and other provisions of the Scheme. Of note, the second floor is setback 3.5m from the front wall of the floor below. This falls short of the requirement of 4m, for which a condition has been included in the recommendation, to ensure that the building does not dominate the streetscape and appropriately responds to the neighbourhood character.

The Hampton Street Activity Centre is broken up into built form precincts with preferred and maximum heights. These precincts are reflected in the Design and Development Overlay (DDO) and, in this case, a maximum height of three storeys / 12m is allowed, due to the slope of the site. The building has a maximum height of 11.85m, measured from natural ground level, compliant with the requirement.

6.3. Neighbourhood character

The site is located within Neighbourhood Character Precinct F1 and the proposal is
considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3, provided that certain alterations are made.

The building, while obviously of a larger scale than many in the immediate area, will maintain the garden character of the area. The front setback provided is sufficient to ensure that the building does not dominate the streetscape once the additional setbacks are provided. The sympathetic range of materials proposed are suitable.

A condition has been included in the recommendation to increase the setback on the western side of the building to 1.0m on the ground floor to ensure that there is sufficient visual separation between the proposed building and the neighbouring residence at 26 Linacre Road.

Further large landscaping is required to ensure that the garden setting of the area is maintained and enhanced. It is considered that, with these changes, the proposal would demonstrate a high level of compliance with the precinct guidelines, with appropriate balance struck with the objectives of the Hampton Structure Plan and the design objectives of the Design and Development Overlay.

6.4. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 3. Those non-compliant standards are discussed below:

Street Setback (Standard B6)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
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</thead>
<tbody>
<tr>
<td>9m</td>
<td>5.2m</td>
</tr>
</tbody>
</table>

This non-compliance is due to the location of the electricity substation, which has been incorporated into the fabric of the building to lessen its impact on the streetscape. It is considered that it is currently located too far forward on the site. An appropriate setback is considered to be 6m, as per the front setback of the dwelling at the front of 32 Linacre Road. Although this would still not be in compliance with the Standard, it is noted that the substation has a curved frontage to lessen its visual impact, and that this part of the site is approximately 18m from the western boundary of the development parcel and the greater setback of the dwelling at 26 Linacre Road. That part of the development closer to 26 Linacre Road has a front setback of 11.5m, with front terraces protruding to 8.3m.

A condition has been included in the recommendation to take account of the above. It is considered that this reaches an appropriate balance by making appropriate reference to existing patterns of development while also making efficient use of the site.

Landscaping (Standard B13)

The subject site is part of a leafy neighbourhood with substantial established vegetation. It is considered that additional landscaping is required to ensure that the landscape character of the neighbourhood is appropriately respected, especially given that all vegetation on-site is to be removed to make way for the development. The following ought to be provided:

- A canopy tree in each rear corner of the site.
- Additional space for a canopy tree on each side of the building.

This will necessitate an alteration to the layout of the ground floor and basement to provide sufficient soil volume for the trees. A condition has included in the recommendation to this effect.

Side and Rear Setbacks (Standard B17)
<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
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</thead>
<tbody>
<tr>
<td>West (side)</td>
<td>0m or 1m</td>
<td>0m or 1m</td>
<td>2.99m</td>
<td>2m (1.5m</td>
<td>5.89m</td>
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<tr>
<td></td>
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<td>1.5m</td>
<td>to edge of</td>
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<td>balcony</td>
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<td>above)</td>
<td>above)</td>
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<tr>
<td>East (side)</td>
<td>0m or 1m</td>
<td>1m</td>
<td>2.79m</td>
<td>2m (1.5m</td>
<td>5.79m</td>
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<td>above)</td>
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<tr>
<td>South (rear)</td>
<td>0m or 1m</td>
<td>2.05m</td>
<td>1.81m</td>
<td>2.05m</td>
<td>4.19m</td>
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</table>

It is considered that the encroachments on the eastern side of the site are acceptable. The site at 32 Linacre Road features a driveway on its western side, meaning that there is some physical separation between the proposed development and the existing dwellings. Furthermore, this non-compliance is restricted to the front segment of the building. The remainder of the building on this side is compliant with the Standard.

On the west side, it is considered that further separation is required, as the house at 26 Linacre Road is close to the common boundary between the sites. That separation should be in accordance with the Standard. A condition has been included in the recommendation to that effect.

**Walls on Boundaries (Standard B18)**

To take appropriate account of neighbourhood character, the western side setback at ground floor level should be at least 1m. This will ensure that the development contains appropriate visual separation from the adjoining property at 26 Linacre Road. A condition has been included in the recommendation to this effect.

**North Facing Windows (Standard B20)**

The windows affected are located in an outbuilding at 29 Alicia Street. This particular building is located at the rear of the site, with the main dwelling existing located at the front. The use of the building has not been established as part of this application. It appears from aerial imagery that the structure may be a Dependent Person’s Unit. Consequently, in the absence of any evidence suggesting otherwise, it is assumed that these are habitable room windows.

Light ought to be maintained to these windows. A condition has been included in the recommendation requiring the southern side of the building to be setback from the southern boundary in accordance with this Standard.

**Dwelling Entry (Standard B26)**

The dwelling entry is obscured to a degree by the substation that has been proposed at the front of the building, as demonstrated by the perspectives submitted with the application. This will be mitigated to a degree by requiring the setback to this substation to be increased. Further treatment is required to ensure that the dwelling entry has a sufficient sense of identity. A condition has been included in the recommendation requiring such. Such further treatment could be in the form of a framed doorway, similar to the way the windows on the front elevation are framed.

**Daylight to New Windows (Standard B27)**

The main concern here are the ground floor kitchens of dwellings G-06 and G-07, the edge of which are some 8.0m from the windows which are to provide them light. This is considered to be too distant from those windows. It is noted that this layout would not comply with the new Apartment Design Guidelines soon to be incorporated into planning
schemes throughout Victoria. A condition has been included in the recommendation requiring adequate daylight into these areas.

Private Open Space (Standard B28)

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>40m² of Private Open Space (POS), including 25m² of Secluded POS with min dimension of 3m</td>
<td>There are five units with &lt;25m² (22, 23 x3, 24) of Secluded POS, with areas likely to shrink to provide additional soil volume for trees.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Upper Floors</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>8m² of Private Open Space with min dimension of 1.6m</td>
<td>All balconies &gt;8m² with min dimension &gt;1.6m</td>
</tr>
</tbody>
</table>

It is considered that the areas are sufficient given that the accommodation is apartment-style and storage spaces are to be located in the basement. It is noted that the deficient units are two bedroom units which are likely to have a lesser need for private open space than a three bedroom unit is likely to have. It is noted that there is an area of Communal Open Space provided for the development and that the nearest area of public open space is less than 300m away.

6.5. **Car parking and traffic**

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Quantity / Size</th>
<th>Statutory Parking Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Three or more bedroom dwelling</td>
<td>11 dwellings</td>
<td>22 spaces (2 per dwelling)</td>
</tr>
<tr>
<td>Two or more bedroom dwelling</td>
<td>12 dwellings</td>
<td>12 spaces (1 per dwelling)</td>
</tr>
<tr>
<td>Visitor Parking</td>
<td>4</td>
<td>1 per 5 dwellings</td>
</tr>
<tr>
<td><strong>Total car spaces required</strong></td>
<td></td>
<td>38</td>
</tr>
<tr>
<td><strong>Total car spaces proposed</strong></td>
<td></td>
<td>43</td>
</tr>
</tbody>
</table>

The proposed car parking provision complies with Clause 52.06 of the Bayside Planning Scheme.

A condition requiring the installation of a ‘stop-go’ signal system has been included in the recommendation to ensure safe access and egress to and from the site. Additionally, a car parking management plan should be devised to ensure that car parking is suitably allocated.

There is expected to be an increase in traffic as a result of the development. According to the Traffic Engineering report submitted with the application, this would equate to approximately 120 vehicle trips per day. This is not considered to be an unacceptable burden on the local road network. It is noted that Linacre Road is a collector road and capable of accommodating the higher volumes of traffic expected. Advice from Council’s Traffic Engineer indicates that the road still has substantial available capacity.

6.6. **Street tree removal**

Council’s Street Tree Arborist has advised that street trees are not likely to be affected by the proposed development. Conditions have been included in the recommendation to ensure the protection of such assets.

6.7. **Vegetation & Landscaping**

None of the trees on site are proposed for retention. Council’s Arborist has inspected the site and considers the removal of the trees is acceptable, provided suitable new
plantings are provided as a replacement, as existing trees on-site are semi-mature, and provide low amenity values. There are trees on neighbouring properties that may be affected by the proposal. Consequently, the implementation of tree protection measures may be required. A condition has been included in the recommendation requiring such.

Council’s Arborist has recommended that the extent of built form be reduced to increase the amount of green space that can be provided. A condition has been included in the recommendation to ensure that this is achieved.

6.8. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**The development does not integrate with the street**

It is considered that the development, with the recommended changes, will integrate appropriately with the street.

**Excessive site coverage**

Site coverage has been calculated at 60%, in accordance with Standard B7 of Clause 55 of the Bayside Planning Scheme.

**Insufficient permeability**

Permeability has been calculated at 20%, in accordance with Standard B8 of Clause 55 of the Bayside Planning Scheme.

**Overshadowing**

Shadow diagrams submitted with the application demonstrate that neighbouring sites will receive sufficient solar access in accordance with Standard B21 of Clause 55 of the Bayside Planning Scheme. The landscaping proposed may add to overshadowing, however, it is considered that the sites nearby will receive the necessary amount of sunlight and that trees provide a “less-solid” shadow than does a building. It is considered that what trees add to amenity offsets any loss to amenity from the shadows they cast.

**Overlooking**

The cross sections submitted with the application demonstrate that potential overlooking into secluded private open space and habitable room windows has been appropriately limited. There has been some suggestion that the screening techniques specified under Standard B22 of Clause 55 of the Bayside Planning Scheme are insufficient. It is noted, however, that the objective of that Standard seeks to limit overlooking, not to eliminate it entirely.

**Demolition of the existing Victorian dwelling**

This building is not subject to any heritage designation under the Planning Scheme. Although it is acknowledged that it is a pleasant building that offers a high level of amenity, it has no statutory protection under the Planning Scheme and could be demolished without a planning permit.

**Increased demand for on-street parking**

The proposal provides for off-street parking in excess of the car parking required by Clause 52.06 of the Planning Scheme.

**Increased noise from plant and equipment**

It is noted that this concern was considered by VCAT in relation to the recently-approved development at 24 Linacre Road. Consequently, a condition has been included in the recommendation that noise from the site not exceed levels specified in State Environment Protection Policy N1.
Effect on neighbouring amenity from wall on boundary
Concern was raised with the wall on the boundary between 28 & 26 Linacre Road. A condition has been included on the recommendation to set this wall back from the boundary in order to address this concern.

Plant and equipment on roof add to bulk
The plant and equipment on the roof will be generally obscured by screening and by the shape of the building.

Lack of detail relating to screening of rooftop plant and equipment
Details relating to materials of these screens have been included in a condition on the recommendation.

Stormwater treatment plant not shown on the application
This level of detail exceeds what is required for a project of this scale.

Plantings not in compliance with planting guide
A condition on permit requires the submission of a further landscape plan which will be subject to assessment by Council’s Arborist in accordance with the planting guide.

Excessive visual bulk
It is considered that the development, following the changes included in the recommendation, will sufficiently respect neighbourhood character, while also providing additional housing promoted by the Planning Scheme.

Limited life span of overlooking screens
The overlooking screens are required to be maintained and / or replaced if no longer performing to achieve compliance with the planning permit.

Ground stability will be affected / development may damage surrounding properties
Building work can sometimes affect adjoining properties. An owner who is proposing building work has obligations under the Building Act 1993 to protect adjoining property from potential damage from their work. If building work is close to or adjacent to adjoining property boundaries, then the relevant building surveyor may require the owner to carry out protection work in respect of that adjoining property. Any damage that did occur would be dealt with through civil processes. This is consequently not a planning consideration.

Dust and debris from construction will have a detrimental effect on amenity
A condition requiring the submission and approval of a Construction Management Plan has been included in the recommendation. Construction Management Plan’s typically contain measures to control impacts on neighbouring properties, including dust.

Support Attachments
1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. ResCode Assessment ↓
Item 4.1 – Matters of Decision
Item 4.1 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>★</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td></td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the northwest

Figure 3 View towards the site from the northeast
Figure 4 View of 28 Linacre Road from the northeast

Figure 5 View of the boundary interface between 30 & 32 Linacre Road
ATTACHMENT THREE

Neighbourhood Character Precinct F1

Preferred Future Character Statement

The dwellings, including a continued frequent presence of pre WW2 dwellings, sit within garden settings. Buildings are occasionally built to the side boundary, however the impression of the streetscape is of informality and openness due to the open front fencing, and well articulated building designs. Buildings and gardens are clearly visible from the street despite the presence of front fences, and these are appropriate to the building era. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | * Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
  * Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Although the existing dwelling at 28 Linacre Road is an attractive building of some age, it has no heritage designation. |
| To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character. | * Retain established trees and vegetation.  
  * Replace any trees removed with species that will grow to a similar height.  
  * Encourage replanting of indigenous sandbelt vegetation.  
  * Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation. | Lack of landscaping and substantial vegetation.  
  Removal of trees.  
  Planting of environmental weeds. | No trees on site are particularly worthy of retention. Suitable replacement vegetation will ensure that the garden setting of the area will be maintained. Additional planting is required beyond what has been proposed by the applicant. |
| To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting. | * 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. | Loss of front garden space. | The front setback contains sufficient space to enable the planting of suitably sized trees. An increase in the setback to the western boundary will ensure that there is separation from all boundaries to aid in the creation of the appearance of space between buildings. Further alterations to the building will mean |
## Objectives

<table>
<thead>
<tr>
<th>To minimise the loss of front garden spaces and the dominance of car parking structures.</th>
<th><strong>Design Responses</strong></th>
<th><strong>Avoid</strong></th>
<th><strong>Planning Officer Assessment</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>substantial vegetation can be accommodated between the building and side boundaries.</td>
</tr>
<tr>
<td></td>
<td>• 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.</td>
<td>The garage doors will not dominate the façade or view of the building. The front setback is reserved predominantly for garden space.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>To ensure that new buildings and extensions do not dominate the streetscape.</th>
<th><strong>Design Responses</strong></th>
<th><strong>Avoid</strong></th>
<th><strong>Planning Officer Assessment</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Recess second storey elements from the front façade.</td>
<td>High pitched or mansard roof forms with dormer windows.</td>
<td>The second storey component of the building is recessed from the front façade. This setback should be increased in accordance with the Design and Development Overlay to ensure that the building does not dominate the streetscape.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>To respect the identified heritage qualities of adjoining buildings.</th>
<th><strong>Design Responses</strong></th>
<th><strong>Avoid</strong></th>
<th><strong>Planning Officer Assessment</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.</td>
<td>Large bulky buildings with flat, poorly articulated front wall surfaces.</td>
<td>No heritage buildings adjoin the site.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes.</th>
<th><strong>Design Responses</strong></th>
<th><strong>Avoid</strong></th>
<th><strong>Planning Officer Assessment</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Incorporate a variety of timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing (eg. Large masonry columns and piers).</td>
<td>The building makes use of timber elements and other materials and finishes to ensure that the lightness of the streetscape is not compromised.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>To maintain the openness of the streetscape and views to the dwellings.</th>
<th><strong>Design Responses</strong></th>
<th><strong>Avoid</strong></th>
<th><strong>Planning Officer Assessment</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>The proposed front fence is high, but not solid. It is to be constructed from timber with gaps between the strips to ensure that there is a degree of transparency to and from the street.</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>To create a visually interesting and attractive built form interface with the foreshore reserve.</th>
<th><strong>Design Responses</strong></th>
<th><strong>Avoid</strong></th>
<th><strong>Planning Officer Assessment</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.</td>
<td>Buildings that have no relationship to the foreshore setting. Poorly articulated roof and building forms.</td>
<td>The proposed building has no interface with the foreshore.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
<td>------------------</td>
<td>-------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td></td>
<td>• Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Highly reflective materials or glazing.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
ResCode Assessment (Clause 55)

<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 Attachment 2.</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 twenty three dwellings.</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 proposal contains twelve three bedroom units and eleven two bedroom units.</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>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td><strong>Minimum:</strong> 9m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood</td>
<td></td>
<td><strong>Proposed:</strong> 5.2m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>4.1</td>
<td>Character and make efficient use of the site.</td>
<td>Partly addressed by condition.</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></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><strong>B9 Permeability</strong></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><strong>B10 Energy Efficiency</strong></td>
<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>
<td>Yes</td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<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</td>
<td>No</td>
</tr>
</tbody>
</table>
vegetation on the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B14 Access</td>
<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>
<td>Yes</td>
<td>Appropriate vehicular access is provided. <strong>Maximum:</strong> 33% of street frontage <strong>Proposed:</strong> 15% of street frontage</td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>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.</td>
<td>Yes</td>
<td>The proposed car parking areas are appropriately located.</td>
</tr>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td>No</td>
<td>Refer report and table below. Areas of non-compliance are underlined. Partly addressed by condition.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>West (side)</strong></td>
<td></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 1m</td>
<td>0m or 1.5m</td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td></td>
</tr>
<tr>
<td>0m or 1m</td>
<td>1m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td></td>
</tr>
<tr>
<td>0m or 1m</td>
<td>2.05m</td>
</tr>
<tr>
<td><strong>Second Floor</strong></td>
<td></td>
</tr>
<tr>
<td>5.89m</td>
<td>6.25m</td>
</tr>
<tr>
<td>5.79m</td>
<td>5.58m</td>
</tr>
<tr>
<td>4.19m</td>
<td>6.05m</td>
</tr>
</tbody>
</table>

<p>| B18 Walls on Boundaries | No | <strong>Maximum Height:</strong> 3.6m <strong>Proposed:</strong> 3.84m <strong>Maximum Average Height:</strong> 3.2m <strong>Proposed:</strong> 3.73m <strong>Maximum Length:</strong> 23.5m |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>4.1</strong></td>
<td><strong>Matters of Decision</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Proposed:</strong> 8.3m</td>
<td>Addressed by condition.</td>
<td></td>
</tr>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td>Yes</td>
<td>There are windows within the relevant distance at 26 Linacre Road. These are unlabelled on the diagrams as to whether they are habitable or otherwise. Consequently, they are considered for the purposes of this assessment to be habitable windows. Regardless, each window has access to a light court of 3 square metres with min dimension of 1m.</td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>No</td>
<td>The windows affected are located in an outbuilding at no. 29 Alicia Street. This particular building is located at the rear of the site, with the main dwelling existing located at the front. The status of the building has not been established. It appears from aerial imagery that the structure may be a Dependent Person’s Unit of some sort. Consequently, in the absence of any evidence suggesting otherwise, it is assumed that these are habitable room windows. Proposed height = 6.6m (measured to NGL) Setback required = 3m Setback proposed = 2.08m Addressed by condition.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>Screens have been provided to balconies to ensure that overlooking is appropriately limited.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></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>
<td>A condition needs to be applied to show fencing at ground level to prevent internal overlooking between areas of secluded private open space. Windows at first floor have been adequately located and designed to limit internal overlooking to lower levels.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building. Conditions are to be imposed to ensure such impacts can be monitored.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Recommendation</td>
<td>Reason</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------------</td>
<td>--------</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>No</td>
<td>The entry to the building should be provided with more emphasis. It lacks identity next to the substation. Addressed by condition.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>No</td>
<td>Habitable areas near to the common corridor are distant from the windows that serve them and don’t meet the criteria used to judge sufficient daylight devised for the new Better Apartment Guidelines. Addressed by condition.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>No</td>
<td>Minimum: 25m² secluded, 40m² overall at ground level. 8m² at upper levels. Proposed: Smallest SPOS at ground level is 22m². All upper floor levels feature balconies with an area greater than 8m².</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>A storage shed of 6m² in size is provided in the basement for each dwelling.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Required: 1.2m Proposed: 1.2m</td>
</tr>
<tr>
<td>B33 Common Property</td>
<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>Yes</td>
<td>It is clear which areas will be maintained in common ownership.</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and</td>
<td>Yes</td>
<td>Appropriate services are shown.</td>
</tr>
</tbody>
</table>
facilities can be installed and easily maintained and are accessible, adequate and attractive.
4.2 9 THOMAS STREET, HAMPTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/32/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/9266

1. Purpose and background
To report a planning permit application for the construction of a three storey building consisting of three dwellings on a lot with an area of 557 square metres (refer Attachment 1) at 9 Thomas Street, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>C &amp; A Parnham C/- Urbis Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>19 January 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>17 March 2016</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements
Clause 32.08-4 (General Residential Zone – Schedule 2) – Construction of two or more dwellings on a lot.

Clause 43.02 (Design and Development Overlay – Schedule 12) – Construct a building or construct or carry out works.

Planning scheme amendments

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the amendment.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. The site is not impacted by this amendment.

3. Stakeholder Consultation

External referrals
There were 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>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>Requested further information, addressed via conditions.</td>
</tr>
<tr>
<td>Open Space 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 and four objections were received. The following concerns were raised:

- Overdevelopment of the site.
- Overlooking
- Overshadowing
- Inconsistent with Neighbourhood Character
- Property devaluation.
- Additional noise and air pollution will impact upon people’s health.
- Lack of open space.
- Parking congestion and traffic safety issues.
- Construction will take a long time to complete.

Consultation meeting

A consultation meeting was not held for this application, instead the applicant provided a written response to the concerns raised by the objectors.

4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/32/1 for the land known and described as **9 Thomas Street, Hampton**, for the **construction of a three storey building consisting three dwellings** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and/or development start/s, 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 plans submitted advertised Council date stamped 01 July 2016 but modified to show:
   a) Reconfiguration of the second floor of Unit 3 to allow for a minimum 5.09 metre setback from the western site boundary without changing any other setback;
   b) The wall on the west boundary deleted and replaced with a maximum three post structure (i.e. carport).
c) A reduction in the extent of paving within the rear private open space of Units 2 and 3 in order to increase the landscaped area.

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

e) The basement plan amended to show:

i. The minimum width of the ramp to be 3.6m as per the AS2890.1.

ii. The flat grade/transition at the top prior to 1 in 8 grade to be 2m long. A longitudinal section of the ramp is to be provided that shows all grades, length of grades and levels in accordance with AS2890.1.

iii. The minimum headroom at the entrance (measured perpendicularly to the ramp) and throughout the car park to be 2.2m as per the AS2890.1.

iv. A 0.8m x 0.8m corner splay to be provided at the northeast corner of the ramp at the bottom for convenient access/egress.

v. The column locations to be 0.25m offset from the aisle for a 4.9m long bay in accordance with AS2890.1. This is to be indicated on the plan.

vi. The ramp where it intersects with the footpath to be 3.6m wide and is to have 1m offset from the western property boundary.

vii. A 3.6m wide new crossover to be constructed with 1m offset from the western property boundary. The redundant crossover to be removed.

viii. The sight triangles at the top of the ramp need to comply with AS2890.1.

f) Provision of a Water sensitive urban design measures in accordance with condition 6.

g) Provision of an amended Landscape plan in accordance with Condition 8 of this permit.

h) Provision of an Arborist Report and Tree Management and Protection Plan in accordance with Conditions 9 and 16 of this permit.

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, 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 development starts, 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.

7. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

8. Prior to the endorsement of plans pursuant to Condition 1, an amended 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 Memla Pty Ltd, Drawing LC1, dated 22/06/18 and be drawn to scale with dimensions and three copies must be provided. The plan be amended to 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. Plantings must be 70% indigenous by species type and count.

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

e) Replacement of the two Tilia cordata ‘Greenspire’ in the Thomas Street front setback with an indigenous tree capable of reaching minimum dimensions at maturity of 12 metres in height and 6 metres wide and a small indigenous tree capable of reaching 6 metres.

f) Replacement of the trees along the Ocean Street frontage with indigenous trees capable of reaching similar dimensions as the trees proposed.

g) Details of surface finishes of pathways and driveways.

9. 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.

10. 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.

11. 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.

12. 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.

13. Before development commences the applicant must pay $3,178.33 to the Responsible Authority for the removal and replacement of the existing street tree. This amount has been determined in accordance with Council’s current policy for the removal of street tree. 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.

14. 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.

15. 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 Infrastructure Assets Department.

16. 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

- 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.
- Council must be notified of the vehicular crossing and reinstatement works.
- 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.
- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- Council records indicate that there is no easement within the property.
• Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

• The applicant must clearly identify what impact, if any, the proposed vehicle crossing or footpath construction will have Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan.

• The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required traffic or pedestrian access to the proposed development.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

- 3.1.3 Advocating Council’s planning and urban design objectives.

**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 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 21.11 Local Areas
- Clause 22.06 Neighbourhood Character Policy F1
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 12)
- 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 provision of Clause 65.
6.1 Strategic Justification

Clause 21.02 (Bayside Key Issues and Strategic Vision) of the Bayside Planning Scheme includes the site within a ‘Moderate Residential Growth Area’. The site is located within an area where three storey built form is supported due to its location within Precinct ‘E’ of DDO12. DDO12 establishes the need to ensure new development is compatible with preferred future role and character of the Hampton Street Activity Centre, development contributes to safe and active streets and maintains a strong landscape character.

The site is located within Precinct E of the Hampton Street Activity Centre. The proposed building is responsive to the objectives of Clause 21.11-2 (Hampton Street) which encourages increased housing densities and a diversity of housing types. The scale and height of the building is considered to demonstrate compliance with the maximum building height as outlined in the Design and Development Overlay Schedule 12 being 11 metres (3 storeys) which is at the maximum mandatory height allowed.

6.2 Neighbourhood character

The site (9 Thomas Street) is located within Neighbourhood Character Precinct F1 and the proposal is considered to demonstrate compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2.

It is considered that the proposed development provides suitable areas within the front and sides of the site to maintain and enhance the garden settings of the surrounding area. An amended landscape plan will ensure that a sufficient level of planting will be achieved throughout the site.

Being on a corner lot, the proposed building complies with the front setback (7.7 metres) and side setback (2.0 metres) requirements. These setbacks will further ensure that sufficient visual separation between the adjoining dwellings is maintained. In addition, the basement car parking and front setback will allow for further planting, and the minimisation of car parking structures.

The recessed upper floor and high prevalence of timber within the development will ensure that the building will not unreasonably dominate the streetscape, as well as appropriately reflecting the ‘lightness’ of the surrounding precinct and presenting as a visually interesting and attractive building.

It is considered that the proposed building sufficiently complies with the preferred future character of ‘Precinct F1’ and also the character envisaged by DDO12.

6.3 Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 3.

Pursuant to Clause 55, a development must meet all of the objectives of this clause and should meet all of the standards of this clause.

Those non-compliant standards are discussed below, noting the corresponding objectives have been achieved.

Landscaping (Standard B13)

The subject site is currently devoid of trees and through further planting will achieve a positive outcome. That said, the proposed landscape plan is considered to lack indigenous planting, as this is reflective of the surrounding precinct. The above will form a condition of the planning permit, which will then result in the proposal achieving the requirements of Standard B13.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
</tr>
<tr>
<td>Proposed</td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
</tr>
</tbody>
</table>
Side and Rear Setbacks (Standard B17)

The proposed first and second floor of the development includes non-compliances with Standard B17.

The non-compliances at first floor level are considered to be acceptable and will not cause any unreasonable visual bulk of overshadowing impacts given the proposal is located to the south of the adjoining properties.

At second floor level, both walls have a maximum height of 10 metres which requires a minimum building setback of 5.09 metres from the boundaries. In its current form, the northern wall of the building is setback 4.218 metres, and the western wall is setback 3.6 metres. The main dwelling that these non-compliances will impact upon is 7 Thomas Street to the west. Therefore, a condition will be placed upon the planning permit requiring the upper floor western wall of Unit 3 be setback a minimum of 5.09 metres from the western boundary, which will result in the development meeting the requirements of the Standard.

The non-compliance related to the uppermost floor north facing wall of Unit 3 is not considered to cause any significant amenity impacts upon the adjoining property at No. 15 Ocean Street, particularly due to the dwellings secluded private open space remaining unaffected.

Walls on Boundaries (Standard B18)

The proposed development includes the construction of a 7.262 metre long wall along the western boundary. The proposed maximum wall height is 3.76 metres, with an average wall height of 3.3 metres which results in a non-compliance with Standard B18.

The impacts of this wall on the neighbouring property at No. 7 Thomas Street are significant and also cause daylight to existing window issues, therefore, a condition will be placed upon the permit requiring the wall to be deleted and converted to a post structure (i.e. carport). Whilst this will still result in a minor Standard B17 non-compliance, it is submitted that this is a more suitable resolution with lesser impacts upon the adjoining property and maintains the architecture of the building.

Daylight to Existing Windows (Standard B19)

The proposed wall on the western site boundary results in a non-compliance with Standard B19 due to its impacts upon the adjoining property (No. 7 Thomas Street) and its habitable room windows.

The above conditional requirements related to Standard B18 will also result in the development complying with Standard B19.

Front Fences (Standard B32)

A portion of the side boundary fence (Ocean Street) has a maximum height of 1.62 metres which exceeds the maximum height requirements of 1.2 metres. This is acceptable in this case due to the minor non-compliance, with the majority of the fence largely complying with the Standard.

6.4 Car parking and traffic

Each dwelling is provided with two car spaces in accordance with Clause 52.06. Council's Traffic Engineer has reviewed the application and raised no objection subject to conditions.
The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.5 **Street Trees**

One street tree is located within the nature strip in the location of the proposed crossover, and has been proposed for removal. Council’s Street Tree Arborist has advised that if the crossover cannot be moved, the removal of the tree is acceptable if the required fee is paid. A condition is included to require the payment for removal of the tree.

6.6 **Vegetation and landscaping**

There are no existing trees on the subject site.

A Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure the trees on neighbouring properties remain viable both during and post construction. A condition to this effect is included in the recommendation.

In addition to the above assessment, Council’s Arborist Council’s Arborist in their referral response advised that an amended landscape plan is required which shows:

> “…The landscape plan is to replace the two Tilia cordata ‘Greenspire’ in the Thomas Street front setback with an indigenous tree capable of reaching minimum dimensions at maturity of 12 metres in height and 6 metres wide and a small indigenous tree capable of reaching 6 metres; and replacement of the trees along Ocean Street frontage with indigenous trees capable of reaching similar dimensions as the trees proposed. The plant schedule is to be predominately indigenous coastal plants in keeping with the Neighbourhood Character Policy”.

A condition of the permit will require this.

6.6 **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Property Devaluation**

Property devaluation is not a legitimate planning consideration.

**Overdevelopment of the site**

The development proposes site coverage at 51% and has a maximum overall building height of 10.265 metres. This complies with the height requirements of the GRZ2 and Standard B8. As such, it is not considered that the proposed is an overdevelopment of the site.

**Overlooking**

The development has taken sufficient measures to limit unreasonable overlooking opportunities to surrounding properties through the use of 1.7 metre high window sills, screening and obscure glazing.

The proposal complies with the overlooking Standard.

**Overshadowing**

Upon review of the submitted shadow diagrams and due to the subject site being located on a corner lot, there are minimal shadow impacts on adjoining properties, with compliance with the standard achieved.

The shadow impacts upon the property at No. 7 Thomas Street are minimal, with minor overshadowing to the rear, front and side setbacks at 9am. It is not considered that these impacts are unreasonable and should warrant refusal of the application.

**Property devaluation**
This is not a relevant planning consideration.

**Additional noise and air pollution will impact upon people’s health**

This is not a relevant planning consideration, and there is no evidence to suggest this will occur.

**Lack of open space**

The development meets the requirements of Standard B28 ‘Private Open Space’.

**Parking congestion and traffic safety issues**

The proposal provides adequate on site car parking in the basement level to comply with the requirements of Clause 52.06.

**Construction will take a long time to complete**

Construction times will be conditioned upon the planning permit, with the development having to start within 2 years and completed within 4 years.

### Support Attachments

1. Development Plans 
2. Site and Surrounds Imagery 
3. Neighbourhood Character Assessment Precinct F1 
4. Clause 55 (ResCode) Assessment
**ATTACHMENT 2**

**Site and Surrounds Imagery**

---

**Figure 1 Aerial overview of the site and surrounds**

Note: Objections from 18 Foam Street and 2/26 Ludstone Street are beyond the scope of the image.

<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 the subject site from Thomas Street

Figure 3 View towards the site from the south-west

Figure 4 View towards the site from the south-east
ATTACHMENT 3
Neighbourhood Character Policy (Precinct F1)

Preferred Future Character

The dwellings, including a continued frequent presence of pre WW2 dwellings, sit within garden settings. Buildings are occasionally built to the side boundary, however the impression of the streetscape is of informality and openness due to the open front fencing, and well-articulated building designs. Buildings and gardens are clearly visible from the street despite the presence of front fences, and these are appropriate to the building era. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | It is not considered that the existing building on site contributes to the valued character of the Precinct. |
| To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character. | • Retain established trees and vegetation.  
• Replace any trees removed with species that will grow to a similar height.  
• Encourage replanting of indigenous sandbelt vegetation.  
• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation. | Lack of landscaping and substantial vegetation.  
Removal of trees.  
Planting of environmental weeds. | In its current form, the subject site is devoid of any trees and has a lack of vegetation.  
An amended landscape plan will form a condition of the permit and will result in both an improvement to the existing conditions on site, and will assist in enhancing the garden settings of the precinct. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting.</strong></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>The proposed building setbacks are considered sufficient, and with minor conditional requirements, will allow for the planting of trees and shrubbery within the side setbacks, and will provide visual separation between adjoining buildings.</td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To minimise the loss of front garden spaces and the dominance of car parking structures.</strong></td>
<td>• Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>The proposed front setback of the development is 7.638 metres which is considered sufficient to allow for the planting of canopy trees. The basement car parking entrance will not have a dominant impact upon the dwelling and will be read as a secondary element to the building.</td>
</tr>
<tr>
<td></td>
<td>• 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.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To ensure that new buildings and extensions do not dominate the streetscape.</strong></td>
<td>• Recess second storey elements from the front façade.</td>
<td>High pitched or mansard roof forms with dormer windows.</td>
<td>The development incorporates recessive upper floor levels which assists in reducing the dominance and weight of the upper floors. The angled roof form assists in the development incorporating the pitched roof elements of the precinct, and through the use of appropriate building materials this allows the development to appropriately reflect the surrounding area and not have a dominant impact when viewed from the streetscape.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To respect the identified heritage qualities of adjoining buildings.</strong></td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.</td>
<td>Large bulky buildings with flat, poorly articulated front wall surfaces.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Item 4.2 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes.</td>
<td>• Incorporate a variety of timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing (e.g. Large masonry columns and piers).</td>
<td>The proposal incorporates a variety of external building materials including timber cladding, dark and light renders and glazing. Upon review of the elevations, it is clear that timber is the predominant building materials, and this will ensure the lightness of the streetscape is maintained.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape and views to the dwellings.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>The proposed front fence includes a 1.5 metre rendered fence, with timber pickets incorporated throughout. The 1.5 metre height and various timber picket elements of the fence will ensure that the proposal maintains the openness of the streetscape and views to the front yard are retained.</td>
</tr>
</tbody>
</table>
| To create a visually interesting and attractive built form interface with the foreshore reserve. | • Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.  
  • Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.  
  • Provide articulated roof forms to create an interesting skyline when viewed from the beach. | Buildings that have no relationship to the foreshore setting.  
  Poorly articulated roof and building forms.  
  Highly reflective materials or glazing. | The design of the building offers an innovative and attractive built form when viewed from the streetscape. The main façade is well articulated through the use of recessive elements, a variety of building materials, and a slightly pitched roof form.  
  All of the above helps to off a visually interesting and attractive development when viewed form the public realm. |
## 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 Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
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<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to features</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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</td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td>facilities to support three dwellings.</td>
</tr>
<tr>
<td>consistent with housing policies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>in the SPPF, LPPF including the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>MSS and local planning policies.</td>
<td></td>
<td></td>
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<tr>
<td>Support medium densities in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>areas to take advantage of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>public transport and community</td>
<td></td>
<td></td>
</tr>
<tr>
<td>infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling</td>
<td></td>
<td></td>
</tr>
<tr>
<td>sizes and types in developments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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 not overload existing infrastructure provisions.</td>
</tr>
<tr>
<td>Provides appropriate utility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services and infrastructure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and the entries are not</td>
</tr>
<tr>
<td>Integrate the layout of</td>
<td></td>
<td>clearly identifiable from the streetscape.</td>
</tr>
<tr>
<td>development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>The setbacks of buildings from a</td>
<td>Thomas Street</td>
<td></td>
</tr>
<tr>
<td>street respect the existing or</td>
<td>Minimum: 7.64m</td>
<td></td>
</tr>
<tr>
<td>preferred neighbourhood character</td>
<td>Proposed: 7.7m</td>
<td></td>
</tr>
<tr>
<td>and make efficient use of the</td>
<td>Side Street</td>
<td></td>
</tr>
<tr>
<td>site.</td>
<td>Minimum: 2m</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>B7 Building Height</td>
<td>B8 Site Coverage</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------</td>
<td>------------------</td>
</tr>
<tr>
<td></td>
<td>Proposed: 2m</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Required: 11m</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Proposed: 10.265m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
</tr>
</tbody>
</table>
### B14 Access
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

- **Yes**: Appropriate vehicular access is provided.
  - **Maximum**: 33% of street frontage
  - **Proposed**: 22.97% of street frontage

### 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.

- **Yes**: The proposed car parking areas are appropriately located.

### B17 Side and Rear Setbacks
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.

- **No**: Refer report and table below. Areas of non-compliance are underlined.
  - This can be dealt with by way of permit condition.
  - See report for discussion.

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
</tr>
<tr>
<td>West (side)</td>
<td>0 – 1m</td>
<td>4m</td>
<td>3.6 m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>1m</td>
<td>2.5m</td>
<td>4.218 m</td>
</tr>
</tbody>
</table>

### 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.

- **No**: Maximum Height: 3.6m
  - **Proposed**: 3.760m
  - **Maximum Average Height**: 3.2m
  - **Proposed**: >3.2m
  - **Maximum Length**: 13.64m
  - **Proposed**: 7.262m
  - A condition will be placed upon the planning permit requiring the wall to be setback 1 metre from the site boundary.

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

- **No**: The garage wall on boundary is not sufficiently setback from property boundaries to ensure daylight to existing windows is maintained.
  - A condition will be placed upon the permit requiring the garage be set off the boundary by 1 metre which will result in compliance with the Standard.

### B20 North Facing Windows
Yes

No north facing windows on adjoining properties.
<table>
<thead>
<tr>
<th>Item</th>
<th>Bayside City Council Planning &amp; Amenity Committee Meeting - 14 February 2017 Attachment 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>are affected.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong>&lt;br&gt;Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong>&lt;br&gt;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><strong>B24 Noise Impacts</strong>&lt;br&gt;Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong>&lt;br&gt;Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong>&lt;br&gt;Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong>&lt;br&gt;Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong>&lt;br&gt;Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong>&lt;br&gt;Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B30 Storage</strong>&lt;br&gt;</td>
<td>Yes</td>
</tr>
<tr>
<td>Item</td>
<td>4.2 – Matters of Decision</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong>&lt;br&gt;Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong>&lt;br&gt;Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>No</td>
</tr>
<tr>
<td><strong>B33 Common Property</strong>&lt;br&gt;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>N/A</td>
</tr>
<tr>
<td><strong>B34 Site Services</strong>&lt;br&gt;Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report a planning permit application for the construction of two double storey dwellings and a front fence greater than 1.2 metres in height on a lot with an area of 704 square metres (refer Attachment 1) at 48 Binnie Street, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr Barovich, Low Cost Draftsman</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>13 January 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>15 March 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of a front fence within 3 metres of a street exceeding 1.2 metres in height.

**Planning scheme amendments**

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage infrastructure in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that the subject site is not within the SBO area and is not proposed to be included in the SBO area.

3. **Stakeholder Consultation**

**External referrals**

There were 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>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Street Numbering</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 five objections were received. The following concerns were raised:

- Overlooking.
- Traffic congestion and safety.
- Replacement side boundary fence requested.
- Impact/loss of street trees
- Insufficient open space proposed
- Variations to setback standards
- Variations to overlooking standards.

Consultation meeting

The applicant declined Council’s offer to facilitate a consult meeting with objectors.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/321/1 for the land known and described as 48 Binnie Street, Brighton East, for the construction of two double storey dwellings and a front fence greater than 1.2 metres in height in accordance with the plans date stamped 16 January 2017 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 with date stamped 26 September 2016 but modified to show:

   a) Additional fenestration to bedroom two to the Binnie Street elevation of dwelling one at first floor.

   b) All south and west facing first floor windows within 9 metres of neighbouring open space or habitable windows to be annotated as either featuring fixed, obscure glazing or screening to 1.7 metres in height or have a sill height of at least 1.7 metres in height above finished floor level, in accordance with standard B22.
c) Screening to 1.7 metres above finished floor level to be provided to the southern and western edges of both roof decks, in accordance with Standard B22.

d) All site services to be located on plans, including bins, air conditioning and hot water systems. Plant and equipment should be located sensitively in relation to habitable room windows on the subject site and neighbouring properties.

e) Driveway to dwelling two where it intersects the Canberra Grove footpath to be 3 metres wide.

f) Binnie Street crossover and the driveway where it intersects the Binnie Street footpath to be 3 metres in width and offset from the western boundary by 4 metres.

g) Both double garage doors to have a minimum internal width of 4.8 metres.

h) All pedestrian doors to open outwards from the garages.

i) Adequate sight lines must be provided where each driveway intersects with the footpath in accordance with AS2890.1. Accordingly, all structures including foliage and fences within these sightlines to be a maximum height of 1 metre.

j) The pool in the front setback of dwelling one to be relocated to the south by a minimum of 4 metres.

k) An amended landscape plan in accordance with Condition 10 of this permit.

l) A schedule of construction materials, external finishes and colours.

2. The development as shown on the endorsed plans must not be altered 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, 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 occupation, screening of windows and roof decks 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 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.

8. Before the occupation of the development starts, the areas set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

9. Before the occupation of the development starts, new or altered vehicle crossing servicing the development must be constructed to the satisfaction of the
Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/ kerb and channel, to the satisfaction of the Responsible Authority.

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) 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) One tree capable of reaching 12 metres in height at maturity in the northwest corner of the site and one tree capable of reaching 14 metres in height at maturity in the northeast corner of the site.

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.

13. Before development commences the applicant must pay $7,183.88 to the Responsible Authority for the removal and replacement of the existing Lophostemon confertus (Brush Box) street tree. This amount has been determined in accordance with Council’s current policy for the removal of street tree. 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.

14. Before the development starts tree protection fencing is to be established around the street trees marked for retention 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 naturestrip 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. Soil excavation must not occur within 2.8 metres of the Box Elder (Acer nenundo) street tree’s stems at ground level.

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

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

17. The driveway / Parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge onto the front footpath and into adjacent properties.

18. 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.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- Dwelling one should be addressed 48 Binnie Street BRIGHTON EAST VIC 3187 and dwelling two 31B Canberra Grove BRIGHTON EAST VIC 3187.
- The applicant must clearly identify what impact, if any the proposed vehicle crossing will have Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:
- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme
- 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 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy
• 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 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 E1 and 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.

In particular, the existing post-war single storey dwelling is considered to make a limited contribution to the character of the area and therefore its removal is considered acceptable. Sufficient space is retained around the dwellings to achieve a meaningful level of vegetation and planting, and a landscape plan with canopy tree planting is recommended as a condition of approval. The proposal is considered to achieve the appearance of separation between buildings and sufficient permeable space is retained for the establishment of vegetation.

While both dwellings feature flat roofs and projecting cantilever elements to the first floor of both street frontages, contrary to the preferred future character, the existing neighbourhood includes examples of such design features. As such the proposal is considered to respond to the existing neighbourhood character. The proposal includes a combination of projecting and recessed elements clad within horizontal timber and render to the elevations to provide interest to the streetscape. The Binnie Street elevation would benefit from additional fenestration at first floor level, which has been recommended as a condition of approval.

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:

<table>
<thead>
<tr>
<th></th>
<th>Required (Minimum)</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Binnie Street</td>
<td>9m</td>
<td>7.5</td>
<td>1.5m</td>
</tr>
<tr>
<td>Canberra Grove</td>
<td>1.99m</td>
<td>4.2m</td>
<td>None</td>
</tr>
</tbody>
</table>

A street setback from Binnie Street of 7.5 metres is proposed, when a setback of 9 metres is required to achieve this standard. 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.

The proposal would be adjacent to a carport at No. 46 Binnie Street which is setback 4.6
metres from the street. While the dwelling at No.46 Binnie Street is setback 9 metres, the street setbacks of No.40, 42 and 44 Binnie Street range down to 6 metres. As such, while the proposal does not comply with Standard B6, it would respect the existing setback character at this end of Binnie Street and sit comfortably within the streetscape. Given the above, the proposal is considered to achieve the objective of this standard.

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>West (side)</td>
<td>0m or 2m</td>
<td>Dwelling 1 =</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2m - 4.3m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2 =</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2m - 4.3m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>3m</td>
</tr>
</tbody>
</table>

Bedroom one and two of dwelling two does not comply with the side setback standard in relation to the western boundary. Bedroom two and the associated walk in robe of dwelling two does not comply with the rear setback standards in relation to the southern boundary. 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.

Bedroom one and two of dwelling two would be setback in excess of 23 metres from the Binnie Street frontage of the proposal. As such this element of the proposal would have limited visibility from Binnie Street and is not considered to detract from the existing or preferred neighbourhood character of the area. An existing outbuilding at No.46 Binnie Street is located adjacent to bedroom one and two of dwelling two and as such the setback variation would not unreasonably impact on the amenity of this property.

Bedroom two and the associated walk in robe on the first floor of dwelling two would vary the rear setback standard in relation to the southern boundary by 0.86 metres. Given the ground floor of the proposal would be setback from this boundary and as the neighbouring property at No.31A Canberra Grove is setback 3 metres from the subject site, the proposal is considered to maintain a sufficient visual separation between these buildings. As such, the proposal is considered to respond to the preferred future neighbourhood character of the area.

The habitable room windows at No.31A Canberra Grove adjacent to bedroom two are setback 3 metres from the southern boundary of the subject site. It is noted the proposal complies with the north facing windows control (Standard B20) in relation to the property to the rear. The proposal is not considered to result in unreasonable visual bulk and amenity impacts on this neighbouring property. Given all of the above, the proposed variation of the rear setback control is considered to achieve the objective of the standard.

Officers note the storage sheds proposed for the side and rear yards of dwelling one and two respectively would vary the side and rear setback controls at ground floor level. Given the small scale of the sheds and as they are set significantly back from the frontages to Binnie Street and Canberra Grove, they would not impact on the amenity of any neighbouring property and would not undermine the existing or preferred neighbourhood character.

Overlooking (Standard B22)
The proposal includes a number of first floor windows serving habitable rooms that are within 9 metres of the secluded private open space (SPOS) and habitable room windows at No.46 Binnie Street and 31A Canberra Grove. The proposed elevations include a general note that all first floor windows are translucent to 1.7 metres. For clarity it is considered appropriate for screening measures to be required for all first floor windows within 9 metres of neighbouring windows or SPOS and to be directly annotated on the proposed elevations as a condition of approval.

The proposed roof deck to both dwellings would be within 9 metres of neighbouring windows and SPOS. The proposal would include timber balustrades to the roof decks; however no detail has been provided regarding whether they would screen overlooking to neighbouring properties. A condition of approval is recommended for the balustrades to provide an effective visual screen to a minimum of 1.7 metres in height above the finished floor level of the roof decks. The screening is also recommended to be included to the southern edge of the roof deck to dwelling one and the western edge of the roof deck to dwelling two. The western and southern boundary fencing would be to 1.8 metres and as such all ground floor windows would comply with the overlooking standard.

Front Fences (Standard B32)

A timber paling front fence to the boundary of dwelling one with Canberra Grove and part of Binnie Street is proposed to be 1.8 metres in height. Pursuant to standard B32 a front fence to a maximum of 1.2 metres in height is provided for. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

The proposed front fence would replace an existing 1.8 metre timber paling fence at the property. A 1.2 metre front fence is proposed to a portion of the Binnie Street and Canberra Grove frontages, which is considered to improve the visual permeability of the site with the street. Furthermore, a number of properties in the immediate vicinity exhibit front fences that exceed Standard B32 and limit views to the front garden from the street, including at No.54 and 56 Canberra Grove. Given all of the above, the proposal is considered to improve the visual connection between the site and the street and reflects the existing character of the area.

Site Services (Standard B34)

Bins, air conditioning, hot water systems and clothes lines have not been indicated on the plans. There is sufficient space around the two dwellings to accommodate all services; however given the proximity to neighbouring properties, a condition of approval is recommended to ensure the locations of all services are appropriately located away from habitable room windows to minimise noise impacts.

6.3. Car parking and traffic

Each dwelling is provided with two car spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions, including removing and replacing the existing crossover to Canberra Grove and alterations to the crossover proposed to Binnie Street. Given the proximity of the existing *Acer negundo* (Box Elder) to the Canberra Grove crossover, it is considered appropriate to retain this crossover to ensure the continued longevity of this street tree.

Council’s Traffic Engineer has requested the crossover to Binnie Street to be 3 metres in width and offset from the boundary by a minimum of 0.8 metres. As detailed in the Vegetation and Landscaping section of the report, Council’s Arborist has requested the driveway to Binnie Street be minimised to provide sufficient soil volume for a canopy tree in the North-western corner of the site. In this context it is considered appropriate for the crossover and driveway where it intersects with the footpath to be 3 metres in width and offset from the western boundary by a minimum of 4 metres. All other recommendations are included as conditions of approval.
The level of increased traffic and parking demand generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.4. **Street Trees**

Council’s Open Space Arborist has reviewed the application and advises there is a *Lophostemon confertus* (Brush Box) street tree on Binnie Street and three *Acer negundo* (Box Elder) fronting Canberra Grove adjacent to the property. The Brush Box is proposed for removal to accommodate a new crossover. Council’s Open Space Arborist has advised of support for the removal of the Brush Box under Clause 6.5 of the *Street and Park Tree Management Policy* (2016), subject to the conditions requiring the application to bear the reasonable cost under Council’s current policy for removal and replacement of street trees. This advice has been adopted as a recommended condition of approval. Council’s Open Space Arborist has advised the proposal will not impact on the Box Elders.

6.5. **Vegetation & Landscaping**

From an arboriculture perspective Council’s Arborist has reviewed the application and visited the site, and advises that the following on site trees would require removal:

- 6 x Cypress
- 4 x Silver Birch
- 8 x Cupressus
- 3 x Lilly Pilly
- 2 x Pyrus

Council’s Arborist has advised that all trees on site are in fair to good health and good structure; however they provide limited amenity value due to their small size. Removal of all trees on the development site is acceptable, subject to suitable new plantings.

Council’s Arborist has requested a landscape plan with one canopy tree capable of reaching 12 metres in height at maturity and one canopy tree capable of reaching 14 metres in height at maturity in the north-west and north-east corner of the site respectively. To provide sufficient soil volume to ensure the successful establishment and continued longevity of these canopy trees, Council’s Arborist has requested the pool is relocated to the south and the driveway to Binnie Street is reduced in width. Conditions of approval are recommended for all of the above. Council’s Arborist has advised there are no trees on neighbouring properties with tree protection zones that extend into the subject property.

6.6. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Boundary Fencing**

An objector has requested the side boundary fencing be replaced. The sturdiness of side boundary fencing is generally beyond the scope of a planning application and is considered a civil matter between adjoining property owners.

**Open Space**

The proposal comfortably complies with the secluded private open space and permeability ResCode standards. The development is considered to provide adequate private open space for the reasonable recreation and service needs of future residents.
Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment Precinct E1 ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.3 – Matters of Decision
Item 4.3 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Note: Objections from 6 and 15 Binnie Street not shown above.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>![Star]</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>![Circle]</td>
</tr>
</tbody>
</table>
Figure 2 View from Binnie St towards the site from the North

Figure 3 View along Binnie St towards the site from Northeast
Figure 4 View along Canberra Gr towards the site from Northeast

Figure 4 View from Canberra Grove towards the site from the West
Figure 5 View of 56 Canberra Grove
ATTACHMENT 3
Neighbourhood Character Policy (Precinct D4)

Preferred Future Character

The well articulated dwellings with roof eaves are set within spacious landscaped grounds. In some streetscapes, there is a continued presence of pre WW2 era dwellings, with complementary new development. Dwellings do not dominate the streetscape and vegetation appears to wrap around the buildings. The sense of spaciousness is retained by the dwellings being set back from front and side boundaries, which also provides space for garden planting. Buildings incorporate a variety of materials or design details providing visual interest within the streetscape.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in the design of new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct.          | The existing dwelling is set behind a close boarded 1.8 metre fence and substantial boundary planting that obscures much of the view from the street.  
The preferred future character for the area seeks to retain a continued presence of pre-WW2 era dwellings. The existing post-war single storey dwelling is considered to make only a limited contribution to the character of the area and its removal is considered acceptable. |
| 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 shrubs.  
• Retain large trees and provide for additional trees wherever possible.    | Lack of landscaping and substantial vegetation. Removal of large trees.                   | A landscape plan has been recommended as a condition of approval, including the planting of two canopy trees capable of reaching a height at maturity of 12 and 14 metres respectively. Sufficient space is |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide space for front gardens.</td>
<td>Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>The proposal is set off the western boundary by 2 metres and the southern boundary by 3 metres. The proposed 4 metre setback from the Canberra Grove frontage is considered generous. 37.34% of the site would be retained in permeable surfaces. The proposed dwellings are sited to allow sufficient space for meaningful planting.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td>Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>As discussed above, the proposal would be setback from the western and southern boundaries. The two dwellings would also be separated at first floor level. The proposal is considered to achieve a visual separation between buildings and sufficient permeable space is retained for substantial vegetation.</td>
</tr>
</tbody>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | Locate garages and carports behind the line of the dwelling. 
Minimise paving in front garden areas including driveways and crossovers. | Car parking structures that dominate the façade or view of the dwelling. Front setbacks dominated by impervious surfaces. | The proposed garage to dwelling one would be set 500mm forward of the ground floor frontage to Binnie Street; however it would be set behind the projecting first floor bedroom and associated walk in robe. The proposed garage to dwelling two would be in line with the ground floor frontage of both dwellings to Canberra Grove; however it would be set behind the projecting first floor studies to both properties. Neither garage is considered to dominate the frontage of the dwellings. |
**Objectives** | **Design Responses** | **Avoid** | **Planning Officer Assessment**
---|---|---|---
**To ensure new development respects the dominant building form and scale of buildings in the Precinct.** | • Recess second storey elements from the front façade.  
• Articulate front facades, and provide roofs with eaves. | Reproduction of historic building styles. | Beyond the driveways and paving to the pedestrian entrance to the dwellings, paving has been minimised in the front garden areas. 

**To respect the identified heritage qualities of adjoining buildings.** | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design. | Buildings that dominate heritage buildings by height, siting or massing. Period reproduction detailing. | The proposed first floor to both the Binnie Street and Canberra Grove frontages include elements cantilevered over the ground floor elevations. Both dwellings feature flat roofs. It is noted that the existing neighbourhood character of the area includes examples of projecting first floors and flat roofs, including No.56 Canberra Grove and 2A/2B Garden Avenue. As such, while this aspect of the proposal does not meet the objectives of the preferred future character, it is considered to respond appropriately to the existing neighbourhood character of the immediately surrounding area. 

**To encourage building facades to add visual interest to the streetscape.** | • Use a mix of materials, colours and finishes in building facades, drawn from the palette commonly found in the area. | Excessive use of render or one material on external wall surfaces. | The proposal would employ a combination of projecting and recessed elements clad with horizontal timber and render to the elevations to provide interest to the streetscape. Limited detail has been provided regarding the finish and colour of the materials and as such this information is sought as a condition of approval. The visual interest to the Binnie Street frontage
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>would be improved with the addition of fenestration to bedroom two. This is recommended as a condition of approval.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong>&lt;br&gt; Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong>&lt;br&gt; 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>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong>&lt;br&gt; Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong>&lt;br&gt; Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>The dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong>&lt;br&gt; Integrate the layout of development with the street</td>
<td>Yes</td>
<td>The development will integrate appropriately with the street. One dwelling would be oriented to Binnie Street and the other Canberra Grove and both would feature clearly defined pedestrian entries and vehicle access.</td>
</tr>
</tbody>
</table>
| **B6 Street Setback**<br> The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | No | Binnie Street  
**Required:** 9m  
**Proposed:** 7.5m  
Canberra Grove  
**Required:** 1.998m  
**Proposed:** 4.1m  
Refer to report |
<p>| <strong>B7 Building Height</strong> | Yes | <strong>Maximum:</strong> 8m |</p>
<table>
<thead>
<tr>
<th>Building height should respect the existing or preferred neighbourhood character.</th>
<th><strong>Proposed: 6.7m</strong></th>
</tr>
</thead>
</table>
| **B8 Site Coverage**  
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | **Yes**  
**Maximum: 50%**  
**Proposed: 48.18%** |
| **B9 Permeability**  
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | **Yes**  
**Minimum: 20%**  
**Proposed: 37.34%** |
| **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. | **Yes**  
All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site. |
| **B11 Open Space**  
Integrate layout of development with any public and communal open space provided in or adjacent to the development. | **N/A** |
| **B12 Safety**  
Layout to provide safety and security for residents and property. | **Yes**  
Both dwellings entries would be clearly recognisable while the upper storeys would allow for the passive surveillance of the street. |
| **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. | **Yes**  
The proposal allows for the provision of meaningful landscaping opportunities across the site. Refer to report. |
| **B14 Access**  
Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. | **Yes**  
**Maximum: 40% of street frontage**  
**Proposed:**  
Canberra Grove - 14.1% of street frontage  
Binnie Street – 33% |
**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.

| Yes | On site car parking is provided with a double garage for each dwellings. The proposed parking location is secure and convenient for future residents. |

**B17 Side and Rear Setbacks**

Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

| No | Refer to table below and report. Non-compliances are underlined below. |

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

**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.

| N/A | No walls of boundaries proposed |

**B19 Daylight to Existing Windows**

Allow adequate daylight into existing habitable room windows.

| Yes | All setbacks are consistent with the requirements of Standard B19. |

**B20 North Facing Windows**

Allow adequate solar access to existing north-facing habitable room windows.

| Yes | Setbacks of dwelling one from the southern boundary are consistent with the requirements of Standard B20. |

**B21 Overshadowing Open Space**

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

| Yes | A review of the existing and proposed shadow diagrams demonstrates that the adjoining secluded private open space areas will receive sufficient solar access in accordance with the Standard. In particular, at least 75% of the SPOS for No.31A Canberra Grove would receive sunlight for a minimum of 5 hours between 9am and 3pm on 22 September. |

**B22 Overlooking**

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

<p>| No | Refer to report. Addressed by condition. |</p>
<table>
<thead>
<tr>
<th>B23 Internal Views</th>
<th>Yes</th>
<th>All habitable room windows have been sited appropriately in accordance with this Standard. Timber paling fencing to 1.8 metres in height will be used between the SPOS of dwelling 1 and 2.</th>
</tr>
</thead>
<tbody>
<tr>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>The level of noise associated with the two dwellings is not anticipated to exceed that expected of a residential use.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Yes</td>
<td>Both dwelling entries are accessible for people with limited mobility.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Yes</td>
<td>Both dwelling entries are easily identifiable from the street and provide a sense of identity.</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.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 26m² and 116m² for dwelling 1 and 37m² and 117m² for dwelling 2. Adequate private open space is provided for the reasonable recreation and service needs of residents.</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Yes</td>
<td>Designated 6m³ storage areas are provided in each rear yard.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>No</td>
<td>Maximum: 1.2m Proposed 1.2m – 1.8m Refer report</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

**Item 4.3 – Matters of Decision**
| **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.  
| No | Refer to report. Addressed by condition. |
4.4 20 ARKARINGA CRESCENT, BLACK ROCK
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2015/552/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/21101

1. Purpose and background
To report a planning permit application for the construction of two double storey
dwellings on a lot and removal of vegetation in a Vegetation Protection Overlay,
Schedule 3 (refer Attachment 1) on a lot with an area of 817 square metres at 20
Arkaringa Crescent, Black Rock (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Grollo Homes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>20 June 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>19 August 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on
a lot.
Clause 42.02-2 (Vegetation Protection Overlay) – Removal of native vegetation.

Planning scheme amendments
Planning Scheme Amendment C139 has been prepared by Council and requires
development to provide a financial contribution for drainage in this area. Council has
adopted Amendment C139 and has submitted it to the Minister for Planning for approval.
Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet
made a decision on the Amendment. Stakeholder Consultation.

Planning Scheme Amendment C153 has been initiated by Council and proposes to
modify the boundaries of the Special Building Overlay (SBO) and remove the Land
Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition
process will conclude on 16 January 2017 and a report considering submissions will be
presented to Council early in 2017. Case law confirms that proposed amendments to
Planning Schemes are not considered to be ‘seriously entertained’ and applied in the
assessment of permit applications until such time as they have progressed beyond a
Panel and Adopted. As such, there is no statutory weight which can be given to
Amendment C153. It is noted that the site is not located in a Special Building Overlay
and no change is proposed.

3. Stakeholder Consultation
External referrals
There were 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>
<tr>
<td>Drainage 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 Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and four objections were received. The following concerns were raised:

- Neighbourhood character;
- Overlooking;
- Overshadowing;
- Traffic and Safety;
- Landscaping;
- Plan errors;
- Noise; and
- Solar access.

Consultation meeting

A consultation meeting was held on 31 August 2016 attended by the permit applicant and four objectors. As a result of this meeting no objections were withdrawn. Further overshadowing analysis was provided to Council officers to assist in the assessment. These drawings are included at Attachment 1.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of the land known and described as 20 Arkaringa Crescent, Black Rock, for the construction of two dwellings on a lot and removal of vegetation in a Vegetation Protection Overlay, Schedule 3 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 advertised plans prepared by Grollo Homes Reference ARGERES Drawing No: A-101 to A109, A201-205, A-901, A902 all Issue D23, and A901A to A901B, all Issue D25 but modified to show:
   a) Each double garage to have a minimum width of 5.5 metres internally with a 4.8 metre wide garage door.
   b) The driveway to Dwelling 1 offset 1 metre from the eastern title boundary and a 1 metre landscaping strip tapering to the garage door entry.
c) The crossover to Dwelling 1 offset 1 metre from the eastern title boundary with the vehicular separator strip to be centred to the crossover.

d) The garage doors to be finished in timber.

e) Dulux ‘Sunlounge’ render to be replaced by timber cladding.

f) Pedestrian access paths from Arkaringa Crescent to each dwelling entry. The access paths are to be positioned so as to not restrict the establishment of canopy trees.

g) All first floor windows to demonstrate compliance with Standard B22, Overlooking.

h) The boundary fence to the east and west side boundaries and the southern rear boundary to demonstrate compliance with Standard B22, Overlooking.

i) Storage areas for each dwelling in accordance with Standard B30, Storage.

j) The internal fence to the rear setback to demonstrate compliance with Standard B23, Internal Views.

k) The first floor bathrooms to both dwellings recessed by an additional 1 metre.

l) Further articulation to the first floor side elevations of both dwellings through introducing additional materials including timber cladding.

m) Deletion of roofing to the alfresco area to both dwellings.

n) Water Sensitive Urban Design Measures in accordance with Condition 7 of this permit.

o) A Landscape Plan in accordance with Condition 10 of this permit.

2. The development as shown on the endorsed plans must not be altered 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 buildings without the written consent of the Responsible Authority.

5. All pipes, 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. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Prior to endorsement of plans and 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.

8. Before the occupation of the development starts, the areas set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

9. Before the occupation of the development starts, new or altered vehicle crossings servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

10. Prior to the endorsement of plans and 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) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) The lawns proposed for the front setbacks are to be deleted and replaced with gardens.
   f) The Eucalyptus viminalis subsp. pryoriana proposed for the rear setback of Unit 1 is to be moved to the front setback and the Leptospermum laevigatum (Coast Tea Tree) moved to the rear.
   g) A Banksia integrifolia (Coast Banksia) and Eucalyptus pauciflora (Snow Gum) are to be added to the front setback of Unit 2.
   h) The canopy trees proposed for the front setbacks are to be planted in the areas previously proposed to have been lawn.
   i) Details of surface finishes of pathways and driveways
   j) Notation of all tree protection measure required in accordance with the Tree Protection Plan required in Condition 13.

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.

13. Prior to 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 including:

   (i) The neighbouring property to the west, 18 Arkaringa Crescent:
       - row of maturing Olea europea (Olive) adjacent to the shared boundary fence, to the front of the property; and
       - a row of Syzygium floribundum (Weeping Lilly Pilly) adjacent to the shared boundary fence to the rear of the site.

   (ii) The neighbouring property to the east, 22 Arkaringa Crescent:
       - a row of semi-mature Magnolia grandiflora ‘Little Gem’ (Little Gem Magnolia) adjacent to the shared boundary fence.

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

c) The applicant must demonstrate to the satisfaction of the Responsible Authority that all trees on neighbouring properties, which have any part of their Tree Protection Zone within the subject site will remain viable post-construction.

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, 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.

16. 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 Infrastructure Assets Department.

17. 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**

- 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.
- This permit does not constitute any authority to carry out any buildings works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- 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 21.04 Environmental and Landscape Values
- Clause 21.05 Environmental Risks
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct E4)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development 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 E4 and 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 proposal is designed to integrate with the existing and preferred built form character of the area and adopts a building height of 7.4 metres which provides a comfortable transition between the taller buildings at No. 22, 22A and the single storey dwelling at No. 18. The generous side setbacks at first floor level sensitively address the street rhythm and the central massing of the building ensures amenity impacts to adjoining properties are minimised. A high level of articulation ensures the dwellings are responsive to the existing site context and the emerging trend of modern built forms within the area.

The development incorporates appropriate boundary setbacks to reflect the development pattern within the area. These dwellings will sit comfortably within their context due to their site responsive design, generous front setbacks and requirement for a palette of materials that are complementary to the architecture of the dwellings along with the existing and preferred character of the coastal setting.

The dwellings are setback from the side boundaries to allow suitable landscaping opportunities to enhance the landscaping character of the area, the absence of a solid high front fence further maintains the openness of the streetscape.

Overall, the proposed development is well articulated and offers a contemporary form which is responsive to the character of development featured within the immediate site context.

6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 3. Those non-compliant standards are discussed below.

### Side and Rear Setbacks (Standard B17)

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

The proposed side and rear setbacks are fully compliant with the quantitative requirements of Clause 55 (Standard B17) as varied by Schedule 3 to the Neighbourhood Residential Zone.

Concerns regarding the length of the built form and lack of articulation have been raised by adjoining neighbours. At first floor level the development presents 27.5 metres of unobstructed built form constructed on the same plain. The side elevations rely on brick edges to the window surrounds to articulate the facades. It is considered that a visual break in the built form would assist in reducing the perception of visual bulk to adjoining properties whilst the introduction of additional materials such as timber cladding would add further articulation. The wall associated with first floor bathrooms to both dwellings should be recessed by an additional 1 metre in order to provide some relief to the built form. It is noted this requirement can be accommodated with minor internal changes to generously proportioned rooms. These recommendations have been at Condition 1(k)
Overlooking (Standard B22)

At ground floor level the height of the boundary fence has not been provided to confirm compliance with this Standard. At first floor level, most windows have been annotated with ‘F’ and illustrated with hatched shading to a minimum height 1.7 metres. A plan legend has not been provided to confirm if this reference is for ‘Fixed’ or ‘Frosted’ glazing, noting that some windows have an annotated with an obscure reference. Further some windows have been shown as openable, the extent of which has not been detailed and as such could afford the opportunity for overlooking. For clarity a condition has been included requiring compliance with Standard B22 at Condition 1(g) and (h).

Internal Views (Standard B23)

Further to the above comments regarding confirmation of screening to the south / rear facing windows, there are no opportunities for internal looking at first floor level subject to compliance with the requirements of Condition 1(g). A condition has also been included to ensure the height of the internal fence complies with Standard B23 at Condition 1(j).

Dwelling Entry (Standard B26)

The design has sought to maximise the areas set aside for landscaping within the front setback resulting in the dwelling entries and sense of address to both dwellings being screened by dense vegetation. The entries are recessed from the front façade and it is considered that the inclusion of pedestrian entry paths will assist in improving the sense of address. It is noted these accesses should be appropriately located to offer views of the front door whilst not restricting landscaping opportunities. A condition requiring these changes is included at Condition 1(f).

Storage (Standard B30)

Designated storage areas have not been provided. A condition requiring a minimum area of 6 cubic metres is included at Condition 1(i).

6.3. Car parking and traffic

Each dwelling is provided with two car spaces in accordance with Clause 52.06. Both dwellings are provided with a double garage to be accessed directly off Arkaringa Crescent. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions which are included as part of the recommended permit conditions, these include appropriate offsets and crossover separators to ensure no traffic conflicts arise. Vehicles reversing from both driveways into Arkaringa Crescent, a residential street with typically low traffic volumes, is not uncommon within the street or wider area and exit from the site in a forward motion is not specifically required by Clause 52.06.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.4. Vegetation & Landscaping

On-site vegetation

It is noted that a permit was issued for the removal of three native trees and a tree stump (Permit 2015/139/1) on the 29 June 2015 (see Attachment 5). The replacement planting specified in this permit has not been undertaken.

At the time of the site inspection for the above permit it was noted that there was also a Eucalyptus leucoxylon (Yellow Gum, T4), Leptospermum laevigatum (Coastal Tea Tree,
T5) and an Agonis flexuosa (Weeping Willow Myrtle, T3) all protected by the VPO located in the front setback. These trees are no longer on site. A plan detailing all trees to be removed is contained at Attachment 6 (plan prepared by Council Officers for clarification and details confirmed by Applicant).

The applicant now proposes to remove one tree requiring a planning permit (T2). A summary of vegetation to be removed on site is detailed in the below table.

<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>Proposed for removal</td>
</tr>
<tr>
<td>T2</td>
<td>Nil</td>
<td>Nil</td>
</tr>
</tbody>
</table>

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 objectives of the VPO3 must be considered in association with the other statutory controls governing the site and relevant State and Local Planning Policies. This includes the overarching purposes of the relevant zone and overlays and the need to ensure decisions reflect broader strategic policy objectives. Such strategic policy objectives include encouraging urban consolidation and the efficient use of established residential land to reduce the outward expansion of the metropolitan area.

Council’s Arborist have reviewed the proposed landscape plan and advised that it will be considered acceptable with respect to the decision guidelines of the VPO3, subject to it being amended to provide for an increased level of replacement planting, sufficient to compensate for the loss of trees on the site. A revised landscape plan should be submitted, demonstrating that it meets the preferred character provisions and the landscape guidelines for the VPO. Conditions have been included to ensure the landscaping design is responsive to the preferred neighbourhood character guidelines which advocates for informal gardens with traditional coastal vegetation and new developments to provide for the planting of indigenous coastal trees. The conditions of the permit also acknowledge concerns from the adjoining neighbour at 17 Seaview Crescent regarding tree species selection within the rear setbacks.

Vegetation on adjoining properties

The neighbouring property to the west, 18 Arkaringa Crescent has a row of maturing Olea europea (Olive) adjacent to the shared boundary fence with the subject site near the front of the property and a row of Syzygium floribundum (Weeping Lilly Pilly) adjacent to the shared boundary fence near the rear of the site. These trees are unlikely to be impacted by the built form but may require protection measures during the development.

The neighbouring property to the east, 22 Arkaringa Crescent has a row of semi-mature Magnolia grandiflora 'Little Gem' (Little Gem Magnolia) adjacent to the shared boundary fence with the subject site. In places the built form of Unit 1 extends to the shared boundary fence adjacent to these trees however due to the existing site conditions such as the carport and an exterior structure being built to the boundary, provided the trees are managed the impact on them should be minimal.
To ensure the retention of these trees a condition requiring a Tree Management Plan (report) and Tree Protection Plan (drawing) is required for the trees on neighbouring properties whose tree protection zone extends into the subject site.

6.5. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Overshadowing**

The applicant provided additional overshadowing analysis in response to concerns that the development will result in an unreasonable level of overshadowing to adjoining properties. The proposed development will not unreasonably overshadow existing secluded private open space of the adjoining properties. All additional overshadowing associated with the proposed development will largely fall within the existing overshadowing cast by the boundary fencing.

**Noise**

The level of noise associated with the two dwellings is not anticipated to exceed that expected of a residential use.

**Plan detail discrepancies**

It is noted that the existing fence line and title boundaries do not align. All dimensions are taken from the title boundaries.

It is also noted that there is an omission of habitable room windows to the east elevation of 18 Arkaringa Crescent. There are a total of nine windows located along the boundary which have not been illustrated on the plans.

Concerns regarding solar access to these windows, as the only light source to rooms along this boundary have been raised. The development proposes to construct walls opposite the existing habitable room windows but provides for a light court to these windows that have a minimum area of 3 square metres and a minimum dimension of 1 metre clear to the sky in accordance with the requirements of Standard B19, Daylight to existing windows. This standard allows for the calculation of the area to include land on the abutting lot.

The height of the garage wall exceeds 3 metres but is sufficiently setback in accordance with the requirements of the standard and largely abuts the adjoining carport constructed to the boundary. The ground and first floor setbacks are recessed to comply with this Standard and will continue to provide for reasonable daylight access to adjoining east facing habitable room windows as per the decision guidelines of Standard B19. Whilst it is acknowledged that there will be some reduction in daylight access, policy directs that the extent proposed continues to allow for adequate daylight to these windows.

The covered alfresco area to both dwellings is considered to add an unreasonable level of visual bulk to sensitive interfaces with adjoining properties. It is noted that the roof height does not exceed the maximum height required by the Standard 18, if applied, but the deletion of these elements will facilitate a reduction in the perception of visual bulk and improve daylight access to windows on the adjoining properties.

**Location of services**

A condition has been added requiring the appropriate location of services away from adjoining habitable room windows.

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**Support Attachments**

1. Development Plans ▼
2. Site and Surrounds Imagery ▼
3. Neighbourhood Character Assessment (E4)
4. ResCode (Clause 55) Assessment
5. Planning Permit 2015/139/1
6. Tree Location Plan
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial Overview of subject site and objector map.

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
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<tr>
<td>Objectors</td>
<td>⬤</td>
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</table>
Figure 2. View looking south towards subject site with 22 Arkaringa Crescent in the background.

Figure 3. View looking south towards the subject site with 18 Arkaringa Crescent in the background.
Figure 4. Vegetation on site

Figure 5. Vegetation on site
Figure 6. Vegetation on site

Figure 7. Vegetation on site
Figure 8. Vegetation on site
ATTACHMENT 3
Neighbourhood Character Policy (Precinct E4)

Preferred Future Character Statement

The diverse dwelling styles sit within informal coastal gardens with large trees. There is a lightness to the structures and streetscapes due to the use of lighter building materials, colours and design detailing. The informal coastal feel is enhanced by street treatments including informal coastal street trees and the retention of the wide nature strips. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
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</thead>
<tbody>
<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.</td>
<td>The proposed development allows space for sufficient planting. It is noted that the proposed landscaping plan includes sufficient landscaping to offset that which has already been removed. A condition of permit however requires changes to the species selection and location of trees to accommodate an informal garden setting indicative of this coastal location.</td>
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</tbody>
</table>
| To enhance the bayside vegetation character of the area through the retention and planting of appropriate coastal species. | • Retain established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees.  
• Minimise paving in front garden areas including driveways and crossovers. | Removal of large, native trees.  
Front setbacks dominated by impervious surfaces.  
Planting of environmental weeds. | The subject site only includes one tree protected by the Vegetation Protection Overlay, all remaining vegetation is not worthy of retention and does not contribute to the amenity of the area.  
The proposal has been designed with sufficient setback so as to allow adequate space for planting in both the front and rear setback. |
<table>
<thead>
<tr>
<th>Objectives</th>
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<th>Avoid</th>
<th>Planning Officer Assessment</th>
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</table>
| To ensure that building setbacks from boundaries contribute to the informality and spaciousness of the area and visual separation of the buildings. | • 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. | Loss of front garden space. | The Landscape Plan, subject to conditions, will provide a suitable level of replacement planting of species which are appropriate to the coastal setting. It is acknowledged this vegetation will take time to establish but once grown to maturity will enhance the vegetative character of the streetscape and result in a high level of amenity to Arkaringa Crescent. |
| To minimise the dominance of car parking facilities.                      | • Locate garages and car ports behind the line of the dwelling.                  
• 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 | Car parking facilities that dominate the façade or view of the dwelling. | The garage to Dwelling 1 is proposed to be constructed to eastern title boundary, adjacent to the pedestrian entry to 22 Arkaringa Crescent, beyond this lies the basement access ramp. Construction to the boundary is considered acceptable as it is sufficiently recesses so as to allow for landscaping within the 1m wide landscaping buffer which is required as a condition of permit (see condition 1(b) and (c)). Further to this the curved profile of the driveway will facilitate screening oblique views of construction to the boundary and retain the presentation of separation with the neighbouring built forms. The side setback to Dwelling 2 is offset 2.2 metres from the western title boundary which provides opportunities to incorporate meaningful landscaping. As noted above the front façade largely consists of parking facilities. The presentation of the garages subject to a condition requiring the material finish of the garage door to be timber to better respond to the preferred neighbourhood character. As previously noted the driveway profiles coupled with the conditions requiring |
**Objectives** | **Design Responses** | **Avoid** | **Planning Officer Assessment**
---|---|---|---
the façade and the front setback area is retained as predominantly garden space. |  |  | additional planting within the front setback will largely screen the presentation of the garages to the streetscape.

**To encourage innovative architecture that reflects the coastal setting.**
- New buildings should be individually designed to respond to the characteristics of the coastal location and the site.
- Incorporate building elements and details that contribute to a lightness of structure.

Large bulky buildings Flat, poorly articulated front wall surfaces. High pitched roof forms with dormer windows. | The proposal is well articulated and introduces a site responsive design. The front façade incorporates elements which are consistent with the costal setting.

**To respect the identified heritage qualities of adjoining buildings.**
- Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.

Period reproduction detailing. No heritage buildings adjoin the site.

**To use lighter looking building materials and finishes that complement the vegetation and coastal setting.**
- Incorporate timber or other no masonry wall materials where possible.
- Use lighter coloured building materials and finishes.

Heavy materials and design detailing (eg. Large masonry columns and piers) Excessive use of render on external wall surfaces. | The proposal has a limited palette of materials and finishes and includes varying colour samples. It is recommended that where Dulux ‘Sunlounge’ is proposed this be replaced by timber cladding. This has been included as a recommended condition of permit at Condition 1(e).

**To create a visually interesting and attractive built form interface with the foreshore reserve.**
- Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light transparent balustrading.
- Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.
- Provide articulated roof forms to create an interesting skyline when viewed from the beach.

Buildings that have no relationship to the foreshore setting. Poorly articulated roof and building forms. Highly reflective materials or glazing. | The proposal remains relatively subservient at ground floor level and is considered acceptable given its presentation will largely be screened by dense vegetation required by conditions of permit. At first floor level the roof profile incorporates a skillion roof profile central to the front façade. Framed first floor windows consist of protruding beams which wrap the corner to Dwelling 1 and extend into a statement wall to Dwelling 2. These will provide some weather protection to the north facing windows and create a well-articulated façade with recesses and
<table>
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<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
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<tbody>
<tr>
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<td></td>
<td>changes in materials to add depth and visual interest to the front elevation. The proposal in contemporary in design and introduces a well composed, site responsive built form to the area which responds to coastal setting and sits comfortably with adjoining properties.</td>
</tr>
</tbody>
</table>
# ATTACHMENT 4
ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer to Attachment 3. |
| **B2 Residential Policy**  
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. | Yes | The subject site is appropriately located with regard to services and facilities to support the construction of two dwellings on the lot. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Yes | The dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street | Yes | The development will integrate appropriately with the street. The proposed dwellings are site responsive and introduce a contemporary design that draws upon the costal setting and sits comfortably with adjoining properties to the east and west. Both dwellings are orientated to front Arkaringa Crescent and a condition requiring pedestrian access paths will assist in providing clearly identifiable entries. |
| **B6 Street Setback**  
The setbacks of buildings from a street respect the existing or preferred | Yes | **Requirement**: 9m  
**Proposed**: 9m to 9.2m at ground floor and 9m to 10.23m at first floor. |
neighbourhood character and make efficient use of the site.

| **B7 Building Height** | Yes | **Maximum:** 8 metres  
Proposed: 7.4 metres |
<table>
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<tbody>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
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</tbody>
</table>

| **B8 Site Coverage** | Yes | **Maximum:** 50%  
Proposed: 46.6% |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B9 Permeability** | Yes | **Minimum:** >20%  
Proposed: 44% |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B10 Energy Efficiency</strong></th>
<th>Yes</th>
<th>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access.</th>
</tr>
</thead>
</table>
| 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. |

<table>
<thead>
<tr>
<th><strong>B11 Open Space</strong></th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B12 Safety</strong></th>
<th>Yes</th>
<th>The first floor levels allow for the passive surveillance of the street whilst Condition 1(f) requires pedestrian access paths that will assist in delineating the boundary between public and semi-private space.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B13 Landscaping** | Yes | The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions relating to species selection and location. A condition of permit will require a landscape plan to be submitted to the satisfaction of the responsible Authority.  
See Section 6.4 of the report for further discussion. |
|---------------------|-----|------------------------------------------------------------------|
| 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. |

<table>
<thead>
<tr>
<th><strong>B14 Access</strong></th>
<th>Yes</th>
<th>A crossover is proposed to each dwelling accessed directly off Arkaringa Crescent.</th>
</tr>
</thead>
</table>
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**
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.

Yes
On site car parking is provided in the form of a double to each dwelling. Standard traffic conditions are included as permit conditions.
Refer to Section 6.4 of the report for further discussion.

**B17 Side and Rear Setbacks**
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

Yes
Refer to Section 6.3 of the Report for further discussion.

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

**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.

Yes
Maximum length of wall: 18.82m
Proposed length of wall: 6.23m
**Maximum wall height: 3.6m**
Proposed wall height: 3.32.
**Maximum average wall height: 3.2m**
Proposed average wall height: 2.98m

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

Yes
The development is located opposite habitable room windows but are recessed from the common boundary to provide an appropriate light well.
See Section 6.5 of the report for further discussion.

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

Yes
There are no north facing windows within 3m of the shared boundary.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>The proposed development will not overshadow existing secluded private open space of the adjoining properties. All additional overshadowing associated with the proposed development will largely fall within the existing overshadowing cast by the boundary fencing. See Section 6.4 of report for further discussion.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>See Section 6.2 of report for further discussion. Can be addressed through permit condition.</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>No</td>
<td>See Section 6.2 of report for further discussion. Can be addressed through permit condition.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>No</td>
<td>See Section 6.2 of the report for further discussion. Can be addressed through permit condition.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky or a covered external space which itself is open to the sky.</td>
</tr>
</tbody>
</table>
| B28 Private Open Space | Provide reasonable recreation and service needs of residents by adequate private open space. | Yes | Minimum: 25m² secluded, 40m² overall  
Dwelling 1: 103.85 m² secluded, 141.7 m² overall.  
Dwelling 2: 107.16 m² secluded, 163.12 m² overall  
Adequate private open space is provided for the reasonable recreation and service needs of residents. |
<table>
<thead>
<tr>
<th>B29 Solar Access to Open Space</th>
<th>Yes</th>
<th>Appropriate solar access to the areas of secluded private open space are provided.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B30 Storage</th>
<th>No</th>
<th>See Section 6.2 of the report for further discussion.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide adequate storage facilities for each dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B31 Design Detail</th>
<th>Yes</th>
<th>Refer to Section 6.1 of the Report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B32 Front Fences</th>
<th>Yes</th>
<th>No front fence is proposed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B33 Common Property</th>
<th>N/A</th>
<th>No areas of common property are proposed.</th>
</tr>
</thead>
</table>
| Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.  
Avoid future management difficulties in common ownership areas. |

<table>
<thead>
<tr>
<th>B34 Site Services</th>
<th>Yes</th>
<th>All appropriate site services can be easily catered for on-site subject to a condition requiring the appropriate location of letter boxes and gas metres to be provided.</th>
</tr>
</thead>
</table>
| 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. |
### PLANNING PERMIT

**2015/139/1**

**Address Of The Land:** No. 20 Arkaringa Crescent BLACK ROCK

**The Permit Allows:** Removal of three trees and one stump in a Vegetation Protection Overlay in accordance with the endorsed plans and subject to the following conditions.

**The Following Conditions Apply To This Permit:**

1. Before the removal of any vegetation, three copies of a plan drawn to scale and dimensioned 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 generally in accordance with the application but modified to show to the satisfaction of the Responsible Authority:
   a) The trees for removal and the replacement tree to be identified by Genus and species.
   b) One (1) replacement tree - *Leptospermum laevisatum* (Coast Tea tree) in the front setback.
   c) One (1) replacement tree *Eucalyptus viminalis* subsp. *Pryoriana* in the rear setback.

2. The extent of vegetation removal as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. Unless otherwise agreed, planting as shown on the endorsed plan must be undertaken to the satisfaction of the Responsible Authority within 6 months of the trees being removed.

4. This permit will expire if the vegetation removal is not completed within 12 months of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within 6 months afterwards.

---

**Date issued:** 29 June 2015

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

**Note:** Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
Item 4.4 – Matters of Decision
A new Heptacodium l-a e vigmum at a approximate dimension at this stage.

No 20 House

A Eucalyptus is to be planted at position "B" - approximately 1 metre.
1. **Purpose and background**

To report a planning permit application for the construction of two dwellings on a lot with an area of 667 square metres (refer Attachment 1) at 1 Charlotte Street, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr A Chung</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>16 December 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>14 February 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.

**Planning scheme amendments**

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage infrastructure in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered 'seriously entertained', the Minister has not yet made a decision on the Amendment.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be 'seriously entertained' and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that the subject site is not within the SBO area and is not proposed to be included in the SBO area.

3. **Stakeholder Consultation**

**External referrals**

There were 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>Traffic</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Drainage</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 four objections were received. The following concerns were raised:

- Increase in traffic and demand for on-street parking;
- Loss of sunlight to 114 Centre Road; and
- Loss of views.

Consultation meeting

A consultation meeting was not held as the objectors concerns were unlikely to be resolved by such a meeting.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/317/1 for the land known and described as 1 Charlotte Street, Brighton East, for the construction of two dwellings 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 generally be in accordance with the advertised plans prepared by ONS Architects, Drawings TP – 005 to 009 and 013, but modified to show:

   a) Rooms in each house labelled as to their purpose (eg Bedroom 1).
   b) The garages modified to show minimum internal dimensions of 6m (depth) x 5.5m (width).
   c) The crossover to Dwelling 2 to have a maximum width of 3.6m.
   d) A schedule of colours, materials and finishes.
   e) The proposed meter in the north east corner of the garden of Dwelling 1 relocated outside of any Tree Protection Zones.
   f) Screening techniques in accordance with Standard B23 for the first floor bedroom of Dwelling 2 to prevent overlooking into the habitable room windows on the south elevation on the ground floor of Dwelling 1.
   g) Screening techniques in accordance with Standard B23 for the first floor bathroom and stairs of Dwelling 1 to prevent overlooking into the Secluded Private Open Space of Dwelling 2.
h) Six cubic metres of externally accessible storage space in accordance with Standard B30.

i) Clotheslines for each proposed dwelling in accordance with Standard B34.

j) A minimum 2m x 2m corner splay at the southern corner of the site where the laneway intersects with the footpath to Charlotte Street. The splay is to be in-filled with concrete to match the existing footpath.

k) Adequate sight lines where the proposed driveways intersect with the front footpath and the rear laneway in accordance with Australian Standard 2890.1. All structures including foliage, front fences etc within the triangle must be limited to a maximum height of 0.9m or kept clear.

l) A Landscape Plan in accordance with Condition 11 of this permit.

m) A Tree Protection Plan in accordance with Condition 16 of this permit.

2. The development as shown on the endorsed plans must not be altered 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, 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. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before occupation, 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.

8. Before the development starts, 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.
10. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

11. 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 plan drawn by John Patrick Pty Ltd, reference 16-292, dated April 2016 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) One tree in the front setback of each dwelling capable of reaching 10m at maturity.

f) One tree in the front setback of each dwelling capable of reaching 8m at maturity.

g) One tree in the rear setback of Dwelling 2 capable of reaching 6m at maturity.

h) Details of surface finishes of pathways and driveways.

12. 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.

13. 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.

14. 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.

15. Before the development starts, 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 Infrastructure Assets Department.

16. 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 Protection Plan (report) must be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009, and include:

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a) Details of Tree Protection 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) Comment on methods to be utilised and instruction on how to deploy them;
c) Comment on when the protection measures are to be deployed;
d) Comment on when the protection measures can be modified;
e) Process that will be followed if any damage occurs to a tree;
f) Process that will be followed if construction works require alteration to protection measures outlined in the report; and

g) Stages of development at which inspections will occur.

Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist.

Any damaged tree must be inspected by the site arborist without any delay and remedial actions undertaken. Such actions must be documented.

The Tree Protection Plan must be drawn to scale and show:

- The location of all tree protection measures to be utilised.

If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.

17. 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.

18. 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.

19. 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

- Council records indicate that there is a 1.83m wide wide drainage and sewerage easement along the northern property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the 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.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water associated with Basements or Below Ground Structures”.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:
3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme

- 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
- 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 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 D2 and 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 development maintains and enhances the garden settings of the dwellings while maintaining the rhythm of visual separation between buildings and the openness of the streetscape. The development proposes the use of brick in a black tone which is not consistent with other brick on the street. A condition is included in the recommendation requiring the submission of a schedule of materials to ensure such materials are of suitable tonings.

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:

Access (Standard B14)

The crossover to Dwelling 2 is proposed to be 5.4m wide. The Standard states that no more than one single-width crossover should be provided for each dwelling fronting a street. There does not appear to be any pressing reason to provide a wider crossover in this instance. A condition is included in the recommendation requiring the crossover to be no more than 3.6m wide.

Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
It is considered that the encroachments on the south side meet the objective considering the context of the site. The south side of the site adjoins a laneway across from which are the rear of commercial buildings. The encroachments do not affect existing dwellings. Furthermore, the laneway has low amenity and the setback does not offend the preferred neighbourhood character.

The encroachments on the north side have the potential to affect existing dwellings. They are, however, considered acceptable. There are two separate areas of encroachment as the middle part of the building has a greater setback to provide secluded private open space. The front part of the encroachment occurs to the south of an existing garage on the adjoining land to the north (116 Centre Rd). The view of that part of the building from the private open space of 116 Centre Rd will therefore be heavily obscured.

The rear part of the encroachment is minor (9cm). It is to the south of 114 Centre Rd. That dwelling has the benefit of screening vegetation along its southern boundary, thereby obscuring views of the site. Consequently, it is considered that the extent of visual bulk will not have an unacceptable impact on the amenity of that dwelling.

It is considered that the proposed encroachments will not offend the preferred neighbourhood character.

Walls on Boundaries (Standard B18)

Part of the wall of the bathroom at the rear of the first floor of dwelling 1 adjoins the southern property boundary, as does a corner of the first floor of dwelling 2. The ground floor components also exceed an average height of 3.2m. This boundary is to a laneway, across from which are the rear of commercial buildings. The laneway has little amenity value. Additionally, the laneway runs at an angle to the street of approximately 45°, meaning that this wall would be visible only from the laneway. The wall would not be visible from the streetscape and would not offend preferred neighbourhood character. In addition, the wall will no cause unreasonable visual bulk or detrimentally affect the adjoining properties. Consequently, it is considered that non-compliance is acceptable in this particular instance.

Internal Views (Standard B23)

At ground level, fencing to a height of 1.8m will prevent internal overlooking. There is the potential for overlooking of the Secluded Private Open Space of dwelling 2 from the bathroom on the first floor of dwelling 1 and from the stairs.

There is also the potential for overlooking from the bedroom on the first floor of dwelling

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>2.02m</td>
<td>3.47m – 3.56m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>Ranges between 0m &amp; 2m (walls not setback perpendicular to the boundary)</td>
<td>dwelling 1: 4.5m, dwelling 2: 5.58m, Ranges between 0-3m (Walls not setback perpendicular to the boundary) One segment of the wall of dwelling 2 is parallel to the boundary at 1.05m</td>
</tr>
</tbody>
</table>
2 into the south facing habitable windows on the ground floor of dwelling 1. Such overlooking could be prevented with appropriate screening techniques. A condition is included in the recommendation to show such screening.

Storage (Standard B30)
These areas have not been shown on the plans. There is substantial space within the garden of each lot or even within the garage to provide 6m³ of externally accessible storage space. A condition is included in the recommendation to show such storage space.

Site Services (Standard B34)
A clothesline is shown for each dwelling on the plan, although it is not completely clear. The clothesline needs to be labelled to ensure compliance with this Standard, for which a condition is included in the recommendation.

6.3. Car Parking and Traffic
Two off-street parking spaces are to be provided for each dwelling, as per the rate required by the Planning Scheme. It is noted that no off-street parking is currently provided for the existing dwelling, meaning that there is likely to be a decrease in the demand for on-street parking as a result of the development.

Council’s Traffic Engineer has raised a concern with the internal dimensions of the garages proposed to accompany the dwellings. Neither garage meets the minimum internal dimensions of 6m (depth) x 5.5m (width). There is scope for each garage to be increased in size to meet the minimum dimensions without substantial alteration to the remainder of the design. This is included as a condition in the recommendation.

Council’s Traffic Engineer also raised concerns with the accessway to dwelling 2 being too wide, which has been considered, and with the access to dwelling 1 being provided by the rear laneway. Such access is not considered to be inappropriate for this site or neighbourhood. Furthermore, having the access at the rear provides for a more sympathetic architectural and landscaped response to the front elevation.

Council’s Traffic Engineer has also requested that a corner splay be provided at the southern corner of the site to enable adequate visibility between the laneway and footpath users. This has been included as a condition in the recommendation.

The development is likely to result in a marginal increase in traffic, but can be accommodated within the surrounding street network.

6.4. Street tree removal
No street trees are proposed for removal.

6.5. Vegetation & Landscaping
Sufficient space has been set aside to provide substantial trees and vegetation to maintain the garden setting of the neighbourhood. Council’s Arborist has raised a concern with a proposed utility meter in the north east corner of the property. This has been discussed with the applicant and there is scope to relocate the meter to a less-sensitive location. Council’s Arborist has reviewed the plans and has requested conditions relating to landscaping and tree protection measures. These are included in the recommendation.

6.6. Objections received
Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Loss of sunlight to 114 Centre Road

Item 4.5 – Matters of Decision  Page 186 of 429
114 Centre Road is to the north of the subject property. The development will not result in the loss of any sunlight on the spring equinox and complies with Standard B21 of ResCode.

**Loss of views**

The loss of views is not a planning consideration.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. ResCode Assessment ↓
1 CHARLOTTE STREET
BRIGHTON EAST VIC 3187

2 X NEW DOUBLE STOREY TOWNHOUSES DEVELOPMENT

DRAWING LISTS
TP000 - COVER SHEET & DRAWING LISTS
TP001 - EXISTING SITE PLAN
TP001a - SITE CONTEXT PLAN
TP002 - DEMOLITION PLAN
TP003 - SITE ANALYSIS
TP004 - PROPOSED SITE PLAN
TP005 - PROPOSED GROUND FLOOR PLAN
TP006 - PROPOSED FIRST FLOOR PLAN
TP007 - PROPOSED ROOF PLAN
TP008 - ELEVATIONS - DWELLING 01
TP009 - ELEVATIONS - DWELLING 02
TP010 - SHADOW DIAGRAMS
TP013 - MATERIAL SCHEDULES

DEVELOPMENT SUMMARY

TOTAL SITE
Total Site Area 685 sqm
Total Building Footprint 277 sqm
Driveway Area 18 sqm
Total Permeable Area 234.9 sqm (33.5%)

Percentage Site Coverage by Buildings 41.05%

DWELLING 01
Site Area 357 sqm
Ground Floor Area 136 sqm
First Floor Area 123 sqm
Garage Area 31 sqm
Total Unit Area 279 sqm
Front Garden Space 41 sqm
Private Open Space Combined 100.3 sqm

DWELLING 02
Site Area 307 sqm
Ground Floor Area 88 sqm
First Floor Area 60 sqm
Garage Area 32 sqm
Total Unit Area 205 sqm
Front Garden Space 50 sqm
Private Open Space Combined 73.2 sqm
Item 4.5 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>⬜</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the northeast

Figure 3 View towards the site from the east
Figure 4 View of the alleyway along the southwest of the site
ATTACHMENT 3

Neighbourhood Character Precinct D2

Preferred Future Character Statement

The simple, articulated dwellings sit within landscaped gardens. Buildings are occasionally built to the side boundary; however the overall impression of the streetscape is of buildings within a garden setting due to the regular front setbacks and additional tree planting within the area. New buildings blend with the existing, by following these patterns and using materials that harmonise, where brick colours are consistent in a street. Front fences are low or open retaining the openness of the streetscape and view of the front gardens. On properties that adjoin the golf course, buildings are sited and designed so as not to overwhelm the open space. Consistent street tree planting has assisted in unifying the appearance of the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<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 vegetation.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>There is sufficient space to provide substantial trees and to maintain and enhance the garden settings of the dwellings.</td>
</tr>
<tr>
<td></td>
<td>• Retain existing large trees, wherever possible.</td>
<td>Removal of large trees.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space</td>
<td></td>
</tr>
<tr>
<td>To maintain the rhythm of visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>The dwellings are appropriately setback from side boundaries to maintain the rhythm of visual separation between buildings.</td>
<td></td>
</tr>
<tr>
<td>To ensure that buildings do not dominate the streetscape.</td>
<td>• Incorporate articulated roof forms, plan form and wall surfaces in new buildings visible from the street.</td>
<td>Large bulky buildings with poorly articulated front or side wall surfaces.</td>
<td>The dwellings feature articulated forms and second storey elements are recessed from the front façade.</td>
</tr>
<tr>
<td></td>
<td>• Recess second storey elements from the front façade.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To reflect the building materials in locations where there is a particular consistency.</td>
<td>• Where consistent brick colours are present in the streetscape, use similar tonings in the colours of new buildings.</td>
<td>Brightly coloured external building materials in areas of consistent brick materials.</td>
<td>Orangey-red brick is consistent in the streetscape. Additional brick has been incorporated into the design to reference neighbourhood character. A condition is required to ensure that the brick matches in colour. The roof is predominantly flat and will largely not be visible from the street.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fencing, other than along heavily trafficked roads. Where no front fencing predominates, use vegetation as an alternative.</td>
<td>High, solid fencing.</td>
<td>No front fence is proposed.</td>
</tr>
<tr>
<td>To encourage development that responds to its location adjacent to the golf course.</td>
<td>• Where development directly borders the golf course, recess upper levels from the boundary nearest the open space.</td>
<td>Poorly articulated or dominating development fronting the golf course.</td>
<td>The nearest golf course is over 600m away from the property.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### ResCode 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 Attachment 2.</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 two dwellings.</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>N/A</td>
<td></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>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 4m&lt;br&gt;Proposed: 4m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</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. 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 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<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</td>
<td>Yes</td>
</tr>
</tbody>
</table>
vegetation on the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>B14 Access</td>
<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>
<td>No</td>
<td>Maximum: 33% of street frontage <strong>Proposed crossover:</strong> 15% of street frontage Although the proposal meets the Standard in terms of proportion of frontage utilised for crossovers, the crossover onto Charlotte Street is double-width instead of single-width. No justification has been provided for a double-width crossover. Addressed by condition.</td>
<td></td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>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.</td>
<td>Yes</td>
<td>The proposed car parking areas are appropriately located.</td>
<td></td>
</tr>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td>No</td>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
<td></td>
</tr>
</tbody>
</table>

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

<p>| 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 | No | Maximum Height: 3.6m <strong>Proposed:</strong> 7.64m <strong>Maximum Average Height:</strong> 3.2m <strong>Proposed:</strong> Approx 3.6m |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td>Yes</td>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>The only interface that could be subject to overlooking would be to the north. Windows on this elevation have a sill height of at least 1750mm.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></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>No</td>
<td>At ground level, fencing to a height of 1.8m will prevent internal overlooking. There is the potential for overlooking of the SPOS of Dwelling 2 from the bathroom on the first floor of Dwelling 1 and from the stairs. There is also the potential for overlooking from the bedroom on the first floor of Dwelling 2 into the south facing habitable windows on the ground floor of Dwelling 1. Addressed by condition.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New</strong></td>
<td>All habitable windows have direct access to amenity impacts on existing dwellings.</td>
<td>Maximum Length: 20.5m Proposed: 21.6m</td>
<td></td>
</tr>
</tbody>
</table>

<p>| <strong>Maximum Length:</strong> | 20.5m |
| <strong>Proposed:</strong> | 21.6m |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td></td>
<td>daylight.</td>
</tr>
</tbody>
</table>
| **B28 Private Open Space** | Provide reasonable recreation and service needs of residents by adequate pos. | Yes | **Minimum:** 25m² secluded, 40m² overall  
**Proposed:** 82m² secluded for Dwelling 1, 62m² for Dwelling 2, plus other private open space for both |
| **B29 Solar Access to Open Space** | Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Appropriate solar access to the private open space areas is provided. The plans were amended to ensure that the SPOS for Dwelling 2 received sufficient solar access as according to this Standard. |
| **B30 Storage** | Provide adequate storage facilities for each dwelling. | No | This has not been shown on the plans. There is substantial space within the garden of each lot or even within the garage to provide 6m³ of externally accessible storage space. Addressed by condition. |
| **B31 Design Detail** | Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer Attachment 2. |
| **B32 Front Fences** | Encourage front fence design that respects the existing or preferred neighbourhood character. | Yes | **Required:** 1.2m  
**Proposed:** 0m |
| **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. | Yes | It seems as though a clothesline is shown for each dwelling on the plan, although it is not completely clear. The clothesline needs to be labelled to ensure compliance with this Standard, for which a condition can be attached to any permit issued. |
1. **Purpose and background**

To report a planning permit application for the construction of two dwellings on a lot within a Special Building Overlay with an area of 1,154 square metres (refer to Attachment 1) at 7-9 Raymond Court, Brighton East (refer to Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Dragan Jovanovic, Victorian Drafting and Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>18 April 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>18 December 2016</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.

Clause 44.05-2 (Special Building Overlay) – Construction of a building.

**Planning scheme amendments**

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage infrastructure in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. The site is within the SBO and will continue to remain within the SBO.

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>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Street Trees</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</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 two objections were received. The following concerns were raised:

- Impact on Neighbourhood Character;
- Overlooking;
- Overshadowing;
- Removal of carport forming boundary fence between 5 & 7 Raymond Court.

Consultation meeting

It was considered the concerns raised by the objectors could not reasonably be mediated and as such a consultation meeting with the stakeholders was not offered.

4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/302/1** for the land known and described as **7-9 Raymond Court, Brighton East**, for the **construction of two dwellings on a lot and in 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 generally be in accordance with the advertised plans prepared by Victorian Design and Drafting Sheets 3, 4 & 5 of 12, but modified to show:
   a) The front fence reduced to a maximum height of 1.2m.
   b) The garage of Unit 2 setback a minimum of 8.49m from the street.
   c) The garage of Unit 1 setback a minimum of 2m from the southern boundary.
   d) A 1.8m high fence separating the rear gardens of the proposed units.
   e) A schedule of materials, external finishes and colours (incorporating for example paint samples).
   f) A Landscape Plan in accordance with Condition 16 of this permit.
   g) A Tree Management Plan in accordance with Condition 19 of this permit.

2. The development as shown on the endorsed plans must not be altered without
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, 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. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before occupation, 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.

8. Before the development starts, 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.

10. The development must be managed so that the amenity of the area is not detrimentally affected, through the:

    a) Transport of materials, goods or commodities to or from the land.

    b) Appearance of any building, works or materials.

    c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.

    d) Presence of vermin.

11. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

12. 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.

13. 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.

14. 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.

15. Before the development starts, 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 Infrastructure Assets Department.

16. Prior to 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 plan drawn by John Patrick Pty Ltd, reference 16-292, dated April 2016 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.

17. Soil excavation must not occur within 2.9m of the edge of the Lagunaria patersonii (Norfolk Island Hibiscus) street tree asset’s stem at ground level.

18. Prior to 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.
19. 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.

20. 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.

21. Before the development starts tree protection fencing is to be established around the street trees marked for retention 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 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.

22. Prior to soil excavation for the proposed crossover within the Tree Protection Zone, a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected must be correctly pruned. Any installation of services and drainage within the Tree Protection Zone must be undertaken using root sensitive non-destructive techniques.

23. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water’s drains or waterways.

24. The dwellings must be constructed with finished floor levels set no lower than 25.4 metres to Australian Height Datum.

25. The garages must be constructed with finished surface levels set no lower than 25.25 metres to Australian Height Datum.

26. 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.

27. The dwellings must be set back a minimum of 1.0 metres from both the northern and southern property boundaries to allow for the passage of overland flows.

28. Any new fencing must be of an open style of construction to allow for the passage of floodwaters/overland flow.

29. All open space within the property must be set at the existing natural surface level so as not to obstruct the passage of overland flows.

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

31. 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 connect to Melbourne Water’s drains or watercourses.

32. 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**

- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water associated with Basements or Below Ground Structures”.
- The applicable flood level for the property is 25.1 metres to Australian Height Datum.
- If further information is required in relation to Melbourne Water’s permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water’s reference 277297.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- 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 21.11 Local Areas
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 44.05 Special Building 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. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct D2 and the proposal is considered to demonstrate an acceptable level of compliance with the preferred future
character statement and precinct guidelines as contained in Attachment 3.

The proposal generally maintains the garden setting of the neighbourhood and ensures that the building does not dominate the streetscape. Additional separation ought to be provided to achieve compliance with these objectives, while there are some minor areas of non-compliance in terms of the front fence and the materials for the building which can be dealt with by way of permit condition.

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>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.49m</td>
<td>7.85m</td>
<td>0.64m</td>
</tr>
</tbody>
</table>

The existing house has a front setback of 7.2m at the southern end of the house and 8.5m at the northern end of the house. The site to the south has a front setback of 7.2m. The site to the north has a front setback of 8.49m. Consequently, the Standard requires a setback of 8.49m. Porches can encroach into the required setback by 2.5m. The building has a minimum front setback of 7.85m, measured from the study of Unit 1 to the street boundary. In this instance, the proposed dwellings are not set square to the street due to the frontage not being perpendicular to the side boundaries, meaning that frontage of the building is staggered between Unit 1 and Unit 2. The parts of the building that encroach into the front setback are the north-east corners of the garages of both Units and the study of Unit 1.

It is considered that some encroachment into the Standard is justified to ensure the efficient use of the site and given that the existing house, and neighbouring property at 5, is setback 7.2m. This is particularly so in respect to the proposed Unit 1 which is to be located in the position where the existing house has that 7.2m setback. Consequently, a condition is proposed to meet the objective that would require the garage of Unit 2 to be setback a minimum of 8.49m, similar to the setback of the northern part of the existing house. This is a difference of approximately 50cm. This will not result in consequent changes to the remainder of the house as the garage exceeds the minimum depth required by the Planning Scheme by some 2m.

Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></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>
</tbody>
</table>

*Ground floor*

The garages for each unit encroach into the side setback. They should be located 2m away from the respective boundaries, whereas they are proposed to be 1m from the proposed boundaries. The existing house is setback from the southern by approximately 2m and from the northern boundary by less than 2m. Consequently, it is considered the encroachment on the north side is justifiable as this somewhat reflects the existing character and is unlikely to impact the amenity of the dwelling to the north. On the other hand, it is considered that the garage should be setback 2m from the southern boundary in accordance with the Standard as this would respect the existing and preferred neighbourhood character. A condition has been proposed to reflect this. Such a change
would be likely to result in the garage being changed to a single garage (minimum internal width of 3.5m). There is sufficient space provided on the driveway to provide a second car parking space for the dwelling in accordance with the Planning Scheme.

First floor
Non-compliance with this Standard is mainly due to the architectural feature which extends around the front of the roof at first floor level, the height of which increases the setback required in comparison to the remainder of the building. This results in an encroachment into the side setback on the southern side of approximately 82cm and into the side setback on the northern side of approximately 42cm. The remainder of the building is just about setback the required amount (there is an encroachment of 1cm at another point of the southern side). This non-compliance occurs in an area proximate to the dwellings on the adjoining sites to north and south. There is little in the way of habitable windows on these elevations and hence, it is considered that there will be little impact on the amenity of existing dwellings.

Internal Views (Standard B23)
Details of internal fencing between the two sites have not been provided. A condition has been included requiring a 1.8m high fence between the rear gardens of each of the proposed dwellings to ensure that internal overlooking does not occur between gardens.

Design Detail (Standard B31)
The Neighbourhood Character Precinct Guidelines seek that tonings be similar where consistent brick colours are present in the streetscape. There is a consistency to the orange / red coloured brick used in the streetscape. A condition has been included requiring the submission of a schedule of colours and materials to seek compliance with this Standard.

Front Fences (Standard B32)
The front fence has been designated at 1.5m in height. This did not form part of the permit application. A condition has been included requiring that the height of the fence be reduced to 1.2m in accordance with the Planning Scheme.

6.3. Compliance with the Special Building Overlay
Melbourne Water have consented to the development, subject to nine conditions. It is considered that the development makes appropriate provision to meet the purpose of the Overlay, which is to ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage and is compatible with flood hazard and local drainage conditions.

6.4. Car Parking and Traffic
Each space has been provided with two off-street car parking spaces, including at least one undercover parking space, in accordance with Clause 52.06 of the Planning Scheme.

Council’s Traffic Engineer has examined the proposal and does not object to the proposal on parking or traffic grounds, subject to conditions. The development will have only a minor effect on traffic generation. Condition 1 part c) requires the garage of the southern unit to be setback 2m from the boundary. This is likely to result in the garage reducing in size to a single garage, with additional car parking space provided on the drive in front of the garage. This is compliant with the Planning Scheme.

6.5. Street trees
No street trees are proposed for removal. Conditions are included in the recommendation to protect the street tree in front of the property.

6.6. Vegetation & Landscaping
There are some trees on the property to be removed which are small ornamental plantings, species including camellia, oleander, michelia scented pearl and broad-leaved privet. Council’s Arborist has advised that the removal of these trees is acceptable if replaced by suitable new plantings. Trees on neighbouring properties are unlikely to be affected if appropriate tree protection measures are implemented. Conditions have been requested to ensure that a suitable landscape plan is devised and implemented.

6.7. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Overlooking**

Screening of first floor windows on the southern elevation has been proposed to limit overlooking of adjoining secluded private open space.

At ground floor level, the respective rooms are approximately a maximum of 0.65m above ground level, with a 2m paling fence shown between the properties. Consequently, there will be no overlooking in this instance.

Properties to the rear of the subject site are at least 11m away, exceeding the overlooking distances specified in the scheme.

**Overshadowing**

There is some overshadowing of the Secluded Private Open Space (SPOS) of the dwelling at 5 Raymond Court. Notwithstanding this, 40m² of the SPOS of this dwelling receives five hours of sunlight as required by Standard B21.

**Removal of carport forming boundary fence between 5 & 7 Raymond Court**

This is not a planning issue; it is dealt with by the *Fences Act*.

**Support Attachments**

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment
4. ResCode Assessment
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>†</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the ENE

Figure 3 View towards the site from the E
ATTACHMENT 3
Neighbourhood Character Assessment

Neighbourhood Character Precinct D2

Preferred Future Character Statement

The simple, articulated dwellings sit within landscaped gardens. Buildings are occasionally built to the side boundary; however the overall impression of the streetscape is of buildings within a garden setting due to the regular front setbacks and additional tree planting within the area. New buildings blend with the existing, by following these patterns and using materials that harmonise, where brick colours are consistent in a street. Front fences are low or open retaining the openness of the streetscape and view of the front gardens. On properties that adjoin the golf course, buildings are sited and designed so as not to overwhelm the open space. Consistent street tree planting has assisted in unifying the appearance of the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<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 vegetation.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large trees. Loss of front garden space</td>
<td>Sufficient space has been provided to enable suitable landscaping to be planted, including substantial trees and vegetation.</td>
</tr>
<tr>
<td></td>
<td>• Retain existing large trees, wherever possible.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the rhythm of visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>The building is separated from both side boundaries to maintain the rhythm of visual separation between buildings.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that buildings do not dominate the streetscape.</td>
<td>• Incorporate articulated roof forms, plan form and wall surfaces in new buildings visible from the street.</td>
<td>Large bulky buildings with poorly articulated front or side wall surfaces. While the building is relatively bulky and of a contemporary design, it is considered that is appropriately articulated and setback</td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Recess second storey elements from the front façade.</td>
<td></td>
<td></td>
<td>from boundaries to ensure it does not dominate the streetscape.</td>
</tr>
<tr>
<td>To reflect the building materials in locations where there is a particular consistency.</td>
<td>Where consistent brick colours are present in the streetscape, use similar tonings in the colours of new buildings.</td>
<td>Brightly coloured external building materials in areas of consistent brick materials.</td>
<td>The use of orange / red brick is consistent in the streetscape, where brick is utilised. Some form of similar toning should be utilised in the front elevation. A condition has been added requiring the submission of a schedule of materials to ensure compliance with this objective.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>Provide open style front fencing, other than along heavily trafficked roads. Where no front fencing predominates, use vegetation as an alternative.</td>
<td>High, solid fencing.</td>
<td>Although the front fencing style is open, it is high. A condition has been applied requiring the front fence to be no higher than 1.2m.</td>
</tr>
<tr>
<td>To encourage development that responds to its location adjacent to the golf course.</td>
<td>Where development directly borders the golf course, recess upper levels from the boundary nearest the open space.</td>
<td>Poorly articulated or dominating development fronting the golf course.</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

Item 4.6 – Matters of Decision
## ATTACHMENT 4
ResCode Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 3.</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 two dwellings.</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>N/A</td>
<td></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>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Minimum: 8.49m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood</td>
<td>Proposed: 7.85m</td>
<td></td>
</tr>
</tbody>
</table>
character and make efficient use of the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Yes/No</th>
<th>Requirement</th>
<th>Value</th>
</tr>
</thead>
</table>
| B7     | Building Height  
Building height should respect the existing or preferred neighbourhood character                                                   | Yes    | Required: 8m                 | Proposed: 8m   |
| B8     | Site Coverage  
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.        | Yes    | Maximum: 50%                 | Proposed: 47.5%|
| B9     | Permeability  
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.          | Yes    | Minimum: 20%                 | Proposed: 45%  |
| 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. | Yes    | The proposal provides appropriate solar access to the dwellings. |
| B11    | Open Space  
Integrate layout of development with any public and communal open space provided in or adjacent to the development.           | N/A    |                              |                |
| B12    | Safety  
Layout to provide safety and security for residents and property.                                                                         | Yes    | No safety issues are considered to be likely to arise. |
| 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 | Yes    | Refer report.                |
vegetation on the site.

**B14 Access**
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

<table>
<thead>
<tr>
<th>Item</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B14 Access</strong></td>
<td>Yes</td>
<td>Appropriate vehicular access is provided.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum: 33% of street frontage</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 30% of street frontage</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.

<table>
<thead>
<tr>
<th>Item</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B15 Parking Location</strong></td>
<td>Yes</td>
<td>The proposed car parking areas are appropriately located.</td>
</tr>
</tbody>
</table>

**B17 Side and Rear Setbacks**
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.

<table>
<thead>
<tr>
<th>Item</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td>No</td>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
</tr>
</tbody>
</table>

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

**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>Item</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B18 Walls on Boundaries</strong></td>
<td>Yes</td>
<td>No walls on boundaries are proposed.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Yes</td>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</td>
</tr>
</tbody>
</table>

**B20 North Facing Windows**
Allow adequate solar access

<table>
<thead>
<tr>
<th>Item</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Yes</td>
<td>There are no north facing windows within 3m of the relevant boundary.</td>
</tr>
<tr>
<td>Item</td>
<td>4.6 – Matters of Decision</td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>--------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong>&lt;br&gt;Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December. The diagrams were for the previous design submitted. There were minimal changes to that design and hence, the shadow diagrams can still be relied upon to demonstrate the amount of overshadowing.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>Each proposed window within 9m of a habitable room window or the Secluded Private Open Space of an adjoining dwelling is screened or obscured in accordance with the Standard.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>No</td>
<td>Windows at first floor have been adequately located and designed to limit internal overlooking to less than 50%. Addressed by condition.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong>&lt;br&gt;Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong>&lt;br&gt;Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong>&lt;br&gt;Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong>&lt;br&gt;Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong>&lt;br&gt;Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
<td><strong>Minimum:</strong> 25m² secluded, 40m² overall&lt;br&gt;<strong>Proposed:</strong> 188m², 189m²</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>4.6</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
</tr>
<tr>
<td>B30</td>
<td><strong>Storage</strong>&lt;br&gt;Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td>B31</td>
<td><strong>Design Detail</strong>&lt;br&gt;Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B32</td>
<td><strong>Front Fences</strong>&lt;br&gt;Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>No</td>
</tr>
<tr>
<td>B33</td>
<td><strong>Common Property</strong>&lt;br&gt;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>N/A</td>
</tr>
<tr>
<td>B34</td>
<td><strong>Site Services</strong>&lt;br&gt;Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
4.7 117 ROSLYN STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/184/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/15965

1. Purpose and background
To report a planning permit application for the construction of two double storey dwellings on a lot (refer Attachment 1) on a lot with an area of 810 square metres at 117 Roslyn, Street Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>The North Planning Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>17 March 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>22 May 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.

Planning scheme amendments
Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered 'seriously entertained', the Minister has not yet made a decision on the Amendment.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be 'seriously entertained' and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that no change is proposed in respect of the subject site.

3. Stakeholder Consultation
External referrals
There were 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:
Internal Referral | Response
---|---
Arborist | No objection, subject to conditions
Street Tree Arborist | No objection, subject to conditions
Drainage Engineer | No objection, subject to conditions
Traffic Engineer | No objection, subject to conditions

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. The following concerns were raised:

- Overlooking;
- Overshadowing;
- Solar access;
- Fencing details are absent;
- Noise;
- Additional traffic movements within the street due to the additional dwelling; and
- Property values.

Consultation meeting

A consultation meeting was held on 7 September 2016 attended by the permit applicant and two objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/184/1 for the land known and described as 117 Roslyn Street, Brighton, for the construction of two double storey dwellings 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 Finlay Roberts Design and dated March 2016 but modified to show:

   a) The partition wall to Dwelling 1 (extending into the front setback) be setback an additional 2 metres. The porch, study and garage must also be setback an additional 2 metres. The remaining wall is to be articulated with a change in materials.

   b) Notation of tree protection measures for trees on adjoining properties growing near the common boundary, including the Ficus carica (Common Fig) located to the north-west property boundary with 2/119 Roslyn Street as identified in the Tree Protection Plan required at Condition 14 of this permit.
c) All boundary fencing to be in accordance with Standard B22, Overlooking and B23, Internal Views of the Bayside Planning Scheme

d) Notation of the reconstruction of the existing crossing for dwelling 2 to Council's current standard drawings (minimum 3m wide and roll over kerbs).

e) Landscaping plan in accordance with Condition 10 of this permit.

f) A Tree Management Plans (report) and Tree Protection Plan (drawing) in accordance with Condition 13 of this permit.

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) Water sensitive urban design measures in accordance with Condition 7 of this permit.

i) A schedule of construction materials, external finishes and colours (incorporating for example paint samples)

2. The development as shown on the endorsed plans must not be altered 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 buildings without the written consent of the Responsible Authority.

5. All pipes, 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. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Prior to endorsement of plans and 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.

8. Before the occupation of the development starts, the areas set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

9. Before the occupation of the development starts, new or altered vehicle crossings servicing the development must be constructed to the satisfaction of the
Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

10. Prior to the endorsement of plans and 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) 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) Reduce the extent of paving/consolidated subsoil in the private open spaces of both dwellings to allow for increased planting of trees, shrubs and ground cover

g) One canopy tree in the front setback of each dwelling which has the capacity to reach a height of 8 metres and spread of 6 metres at maturity

h) Notation of all tree protection measure required in accordance with the Tree Protection Plan required in Condition 13.

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.

13. Prior to 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.

14. 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.
c) The applicant must demonstrate to the satisfaction of the Responsible Authority that all trees on neighbouring properties, which have any part of their Tree Protection Zone within the subject site will remain viable post-construction.

15. 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.

16. 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.

17. 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 Infrastructure Assets Department.

18. 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
- 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.
- This permit does not constitute any authority to carry out any buildings works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:
- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme
- 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 21.04 Environmental and Landscape Values
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 B2 and 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 development incorporates appropriate boundary setbacks to reflect the development pattern within the area whilst achieving an adequate level of visual separation between the adjoining properties. These dwellings will sit comfortably within their context due to their site responsive design, staggered front setback, well-articulated front facade and palette of materials that are complementary to the existing and preferred character of the area.

Whilst the proposal is to stagger the front setback of both dwellings and represents a site responsive design, it is considered that the setback to dwelling 1 should be increased by 2 metres. The additional setback will reduce the perception of visual bulk presented to the south facing double storey party wall of the entry and first floor master bedroom and also increase the opportunity for establishing two canopy trees within the front setback.

The setback of the entry and porch to dwelling 1 at its closest is 5.42 metres from Roslyn Street and increasing this setback will reduce the wing wall protrusion to 2.5 metres forward of the entry to dwelling 2. It is recommended that a condition also be included requiring the remaining wall to be appropriately articulated with materials complementary to the architectural style of the dwellings.

Subject to conditions, the dwellings are setback from the side boundaries to allow suitable landscaping opportunities to enhance the landscaping character of the rea, the absence of a solid high front fence further maintains the openness of the streetscape.

Overall, the proposed development is well articulated and offers a contemporary form which is responsive to the character of development featured within the immediate site context. The design details of the façade offers a modern response to the existing built form character and is an acceptable outcome for this precinct.

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:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>B6</td>
<td>Street Setback</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The setback of both dwellings to Roslyn Street is staggered between 5.42 metres and 10.6 metres at ground floor level and 5.46 metres and 11 metres at first floor level in lieu of 9 metres required pursuant to the street setback variation required by Schedule 3 to the Neighbourhood Residential Zone.

Dwelling 1 is proposed to be setback approximately 6.6 metres behind the front façade of the dwelling immediately to the north at 1/119 Roslyn Street. Dwelling 2 is proposed to be located approximately 9 metres forward of the front façade of the adjoining dwelling at 3/115 Roslyn Street. The proposed setbacks whilst technically non-compliant with the standard are generally indicative of the setbacks commonly found along both sides of Roslyn Street. It is noted that from a neighbourhood character perspective and detailed design review as discussed in Section 6.1 of this report, a condition has been included requiring the street setback to dwelling 1 at ground and first floor level be increased by 2 metres to assist with reducing any perception of visual bulk associated with the double storey party wall to dwelling 1 when travelling north along Roslyn Street. This condition will maintain the street rhythm and development pattern of the area whilst also ensuring efficient site planning.

Subject to conditions discussed above, the setbacks will provide a site responsive design to the site constraints and the road alignment of Roslyn Street

**Side and Rear Setbacks (Standard B17)**

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>East (Front)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East (Front)</td>
<td>9m</td>
<td><strong>5.42m to 10.6m</strong></td>
<td>9m</td>
</tr>
</tbody>
</table>

Overlooking (Standard B22)

All first floor habitable room windows have been screened and have a minimum sill height of 1.7 metres or have been sited appropriately in accordance with this Standard. The boundary fencing at ground floor level has not been nominated on the floor plans but due
to the site topography and site cuts to the rear of the site it is unlikely that there will be overlooking opportunities over the existing 2 metre high boundary fencing. Notwithstanding this, the boundary fencing details have not been nominated on the proposed plans and as such a condition has been included requiring all boundary fencing to be in accordance with Standard B22, Overlooking and B23, Internal Views of the Bayside Planning Scheme.

6.3. Car parking and traffic
Each dwelling is provided with two car spaces in accordance with Clause 52.06. Dwelling 1 is provided with a double garage to be accessed directly off Roslyn Street and dwelling 2 with a single garage and uncovered tandem space. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions which are included as part of the recommended permit conditions.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.4. Vegetation & landscaping
The application shows the removal of 36 small trees and shrubs from the subject site. Council’s Arborist has noted that there is no vegetation on site that provides sufficient amenity to the area to warrant retention. Council’s Arborist has raised concerns regarding opportunities for replacement plantings. Pursuant to the additional front setback requirements to respond to the preferred neighbourhood character assessment, there is considered to be sufficient opportunities for replacement replanting including canopy trees within the front setback. A condition has been included requiring the inclusion of two canopy trees within the front setback capable of reaching a mature height of 8 metres.

Council’s Arborist has reviewed the plans and recommended that a Tree Management Plan be implemented as a condition of approval that requires the applicant to demonstrate to the satisfaction of the Responsible Authority that all trees on neighbouring properties, which have any part of their Tree Protection Zone within the subject site will remain viable post-construction. The proposal is unlikely to impact of the *Ficus carica* (Common Fig) located to the north-west property boundary with 2/119 Roslyn Street. However, as there is a site cut close to the tree it is recommended tree protection measures be required for the retention of this tree. It is noted that due to species tolerance the impact is likely to be low and the tree is capable of remaining viable post construction.

Council’s Arborist has reviewed the plans and recommended that a Tree Management Plan be implemented as a condition of approval that requires the applicant to demonstrate to the satisfaction of the Responsible Authority that all trees on neighbouring properties, which have any part of their Tree Protection Zone within the subject site will remain viable post-construction.

6.5. Street Trees
No street trees are proposed for removal.

There is a *Cinnemonum camphora* (Camphor Laurel) street tree located on the nature strip near to the crossover. Conditions have been supplied by Council’s Open Space Arborist to ensure its continued viability.

6.6. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Overshadowing
Due to the site topography and site cuts the proposed development is sunken and will not result in an unreasonable level of overshadowing to adjoining properties. In the morning any additional overshadowing will be restricted to within the site with a minor encroachment into the secluded private open space associated with No. 20 Hall Street to the west. By 12 noon and extending to 3pm, some additional overshadowing will fall over the common boundary to 3/115 Roslyn Street. It is noted that these shadows fall within those cast by the existing fence line and as such no additional amenity detriment will result.

The overshadowing associated with the proposed development fully complies with the requirements of Standard B22, Overshadowing.

**Solar access**

The proposed development provides a high level of compliance in respect of Standard B18, Daylight to existing windows and Standard B21 Overshadowing Open Space and will not result in an unreasonable reduction in solar access to adjoining properties.

**Noise**

The level of noise associated with the two dwellings is not anticipated to exceed that expected of a residential use.

**Property values**

This is not considered to be a planning issue.

---

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Precinct B2 Assessment ↓
4. ResCode (Clause 55) Assessment ↓
Figure 1. Aerial Overview of subject site and objector map. One additional objection has been received from outside the map boundaries.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2. View looking west towards subject site.

Figure 3. View looking south-west towards the unit development at 115 Roslyn Street.
Figure 4. View looking west towards two dwellings on a lot at 119 Roslyn 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 site layout plan demonstrates there are sufficient areas of open space in which to include canopy plantings. Landscaping requirements will include two canopy trees in locations highly visible to the adjoining streetscape ensures that the garden setting is maintained.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens.</td>
<td>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.</td>
<td>Lack of front garden space.</td>
<td>Adequate visual separation and space within the front setback is provided to promote landscaping opportunities across the site. First floor setbacks and articulation along the side and rear boundaries offer visual interest and work to reduce the</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Comments</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To minimise the loss of front garden space and the dominance of car parking facilities.</td>
<td>• Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the facade or view of the dwelling.</td>
<td>A double garage is proposed to Dwelling 1 and a single garage is proposed to Dwelling 2. These parking structure are located to the side setbacks of the dwellings, facing Roslyn Street. The garage doors and surrounding walls are to be treated with timber gladding and will present as secondary elements to the front façade. The requirement to plant canopy trees within the front setbacks will assist in softening the presentation to the streetscape and ensuring the appearance of landscaping to the streetscape dominates.</td>
</tr>
<tr>
<td></td>
<td>• Provide only one vehicular crossover per typical site frontage.</td>
<td>Dominance of crossovers and driveways</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• 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.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses.</td>
<td>• Articulate the form of buildings and elevations, particularly front facades.</td>
<td>Large bulky buildings with flat, poorly articulated wall surfaces.</td>
<td>The dwellings offers a contemporary form, responsive to the modern developments featured in the street and will work to ensure the dwelling does not unreasonably dominate the streetscape.</td>
</tr>
<tr>
<td></td>
<td>• Recess upper storey elements from the front façade.</td>
<td></td>
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<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• 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.</td>
<td>Imitation or reproduction of historic building styles and detailing.</td>
<td>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</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Comments</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>--------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To use a variety of building materials and finishes that provide visual</td>
<td>• Incorporate a variety of building materials such as brick, render, timber and</td>
<td>Excessive use of render on external walls.</td>
<td>A schedule of proposed materials and finishes has been detailed and comprises of render</td>
</tr>
<tr>
<td>interest in the streetscape.</td>
<td>non-masonry into the building design.</td>
<td></td>
<td>and timber cladding which are commonly found within the area.</td>
</tr>
<tr>
<td></td>
<td>• Use simple building details.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To improve the visual connection between the dwellings and the streetscape</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>No front fence is proposed and as such ensures that views of the well vegetated front</td>
</tr>
<tr>
<td>and encourage views to front gardens.</td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td>garden are maintained.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 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.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character or contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to features of the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>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</td>
</tr>
<tr>
<td>Residential development is consistent</td>
<td></td>
<td>facilities to support the construction of two dwellings on the lot.</td>
</tr>
<tr>
<td>with housing policies in the SPPF,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>LPPF including the MSS and local planning</td>
<td></td>
<td></td>
</tr>
<tr>
<td>policies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support medium densities in areas to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>take advantage of public transport and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>types in developments of ten or more</td>
<td></td>
<td></td>
</tr>
<tr>
<td>dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The dwellings will make use of existing infrastructure servicing the</td>
</tr>
<tr>
<td>Provides appropriate utility services</td>
<td></td>
<td>development. The developer will be responsible for upgrading this</td>
</tr>
<tr>
<td>and infrastructure without overloading</td>
<td></td>
<td>infrastructure if necessary to accommodate the development.</td>
</tr>
<tr>
<td>the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The development will integrate appropriately with the street. The</td>
</tr>
<tr>
<td>Integrate the layout of development</td>
<td></td>
<td>proposed dwellings have a staggered front setback frontage which</td>
</tr>
<tr>
<td>with the street</td>
<td></td>
<td>addresses the street alignment. Both dwellings are orientated to front</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Roslyn Street and incorporate clearly identifiable entries.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Requirement: 9m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street</td>
<td></td>
<td>Proposed: 5.42m to 11m</td>
</tr>
<tr>
<td>respect the existing or preferred</td>
<td></td>
<td>See Section 6.2 of report.</td>
</tr>
<tr>
<td>neighbourhood character and make efficient</td>
<td></td>
<td></td>
</tr>
<tr>
<td>use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 9 metres as the slope of the natural ground level at any cross</td>
</tr>
<tr>
<td>Building height should respect the</td>
<td></td>
<td>section wider than 8 metres is 2.5 degrees or</td>
</tr>
<tr>
<td>existing or preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## B8 Site Coverage
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Yes</th>
<th>Maximum: 50%</th>
<th>Proposed: 49.4%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site coverage</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## B9 Permeability
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Yes</th>
<th>Minimum: &gt;20%</th>
<th>Proposed: 39.49%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permeability</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## B10 Energy Efficiency
Achieve and protect energy efficient dwellings and residential buildings.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Yes</th>
<th>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy efficiency</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## B11 Open Space
Integrate layout of development with any public and communal open space provided in or adjacent to the development.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>N/A</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Open space</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## B12 Safety
Layout to provide safety and security for residents and property.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Yes</th>
<th>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## B13 Landscaping
To provide appropriate landscaping.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Yes</th>
<th>The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions relating to the front setback. A condition of permit will require a landscape plan to be submitted to the satisfaction of the responsible Authority. See Section 6.4 of the report for further discussion.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landscaping</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## B14 Access
Ensure the safe, manageable and convenient vehicle access to and from the development.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Yes</th>
<th>A 3 metres wide crossover is proposed to each dwelling accessed directly off Roslyn Street. Standard traffic conditions are included as permit conditions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Ensure the number and design of vehicle crossovers respects neighbourhood character.

**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.

Yes
On site car parking is provided in the form of a double and single garage with tandem space. Standard traffic conditions are included as permit conditions. Refer to Section 6.4 of the report for further discussion.

**B17 Side and Rear Setbacks**
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

No
Refer to Section 6.3 of the Report.

<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>0, 2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0, 2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0, 3m</td>
</tr>
</tbody>
</table>

**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.

Yes
Maximum length of wall: 16.84m
Proposed length of wall: 7.95m
Maximum wall height: 3.6m
Proposed wall height: 3.38
Maximum average wall height: 3.2m
Proposed average wall height: 3.2m

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

Yes
The development is not located opposite any existing habitable room windows.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>There are no north facing windows within 3m of the shared boundary.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>The proposed development will not overshadow existing secluded private open space of the adjoining properties. All additional overshadowing associated with the proposed development will largely fall within the existing overshadowing cast by the boundary fencing. See Section 6.4 of report for further discussion.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>All habitable room windows have been screened, have a minimum sill height of 1.7 metres or have been sited appropriately in accordance with this Standard.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></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>
<td>All habitable room windows have been screened and sited appropriately in accordance with this Standard.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
<td>Both dwellings have been designed with a pedestrian access off the driveway in order to maximise landscaping opportunities within the front setback. The entries are framed by a porch and are easily identified from the streetscape whilst also establishing a sense of personal address and transitional space around the entry.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky or a covered external space which itself is open to the sky.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
<td>Notes</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
<td>-------</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Yes</td>
<td><strong>Minimum</strong>: 25m² secluded, 40m² overall&lt;br&gt;Dwelling 1 is proposed with 56m² and dwelling 2 with 95.6m² of secluded private open space.&lt;br&gt;Adequate private open space is provided for the reasonable recreation and service needs of residents.</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the areas of secluded private open space are provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>Designated storage areas are provided within garage and have a minimum area of 6 cubic metres.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer to Section 6.1 of the Report.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>No front fence is proposed.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.&lt;br&gt;Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
<td>No areas of common property are proposed.</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.&lt;br&gt;Avoid future management difficulties in common ownership areas.</td>
<td>Yes</td>
<td>All appropriate site services can be easily catered for on-site subject to a condition requiring location of letter boxes and gas metres to be provided.</td>
</tr>
</tbody>
</table>
1. Purpose

To report a planning permit application for a Section 72 Amendment to Planning Permit 2001/6699 issued on 16 January 2002 for the development of two (2) double storey dwellings with basement garage (refer Attachment 1) at 42A and 42B Beach Road, Brighton (refer Attachment 2).

This application seeks retrospective approval for the installation of air conditioning units and shade sails to the rear of the dwellings approved as part of the existing permit.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Geoffrey Brown &amp; Associates Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>12 December 2005</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>10 February 2006</td>
</tr>
</tbody>
</table>

2. Background

On 16 January 2002, Council issued Planning Permit 2001/6699 for the development of two, double storey dwellings with basement garage. Plans endorsed in accordance with the planning permit conditions were approved by Council on 22 February 2002.

On 27 May 2003, the endorsed plans were amended pursuant to Section 72 of the Planning and Environment Act 1987 to show the following changes:

- Deletion of lifts;
- Reconfiguration of the stairwell to reflect the removal of the lifts;
- Provision of a separate wall to divide the basement car park area and storage / stairwell area;
- Providing storage cupboards between the stairs and the basement car parking area;
- Addition of a drain at the base of the basement car parking area; and
- Repositioning of the ‘dumb waiters’.

In October 2005, Council’s Building and Investigations Department received an anonymous complaint regarding the installation of air conditioning units and shade sails which were not shown on the endorsed plans. Council subsequently undertook an inspection of the site on 18 October 2005 with photos taken from the rear of the property. A copy of which is included in Attachment 2.

Between October 2005 and 2016, there has been no activity on this land that has resulted in amenity complaints to Council. This application had arisen as a result of new amenity complaints in 2016.

This application involves an amendment to the planning permit pursuant to Section 72 of the Planning and Environment Act 1987 to include the location of air condition units and shade sails in accordance with the existing site conditions.
3. **Policy implications**

**Planning permit requirements**

Pursuant to Section 72 of the *Planning and Environment Act 1987*, the ambit of discretion is limited to the proposed changes sought by the applicant. Consideration cannot be given to elements approved as part of the original application and not sought to be amended.

**Original planning permit requirements**

A planning permit was originally required pursuant to Clause 32.01-4 (Residential 1 Zone) of the Bayside Planning Scheme.

The site is now zoned Neighbourhood Residential Zone Schedule 3.

**Planning scheme amendments**

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment. Stakeholder Consultation.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that the subject site is not within the SBO area and is not proposed to be included in the SBO area.

4. **Stakeholder Consultation**

**External referrals**

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

**Internal referrals**

The application was not required to be referred to any internal Council departments for comment.

**Public notification**

On 11 January 2006, the amendment application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* to the following properties:

- 41B Beach Road, Brighton;
- 43 Beach Road, Brighton; and
- 55 Orlando Street, Brighton.

Council received two objections. The following concerns were raised:

- Visual impact by the location of air conditioning units;
- Increased noise impact on neighbouring properties;
- Request for screening to minimise impact of air conditioning units; and
- Colour and height of shade sails affects the amenity of adjoining properties.

**Consultation meeting**

A consultation meeting has not been held for this application. It is considered that the recommended permit conditions would satisfy the concerns raised by the above objections.

5. **Recommendation**

That Council:

Issues a **Notice of Decision to Amend a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning Application 2001/6699 for the land known and described as **42A and 42B Beach Road, HAMPTON**, for **development of two (2) double storey dwellings with basement garage** in accordance with the endorsed plans and subject to the following conditions:

1. Before the use and/or development starts, three copies of amended plans drawn to scale and dimensioned, 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 generally in accordance with the plans submitted with the application, or some other specified plans, but modified to show to the satisfaction of the Responsible Authority:

   a) Levels to A.H.D and finished floor levels to be submitted.
   b) All walls heights above ground level to be nominated on the plans.
   c) All paving (except driveways) to be porous – pavers to be laid on a compacted sand base.
   d) A schedule of all external materials and finishes showing the materials, colour and finish of all external walls, roof, fascias, window frames and paving (including car park surfacing).
   e) All plant and equipment (including air conditioning units, heating units, hot water systems, etc.) are to be identified and located to the satisfaction of the Responsible Authority.
   f) The proposed landscape treatment of the site including the location of all existing and proposed species.
   g) The proposed crossover relocated to the satisfaction of the Responsible Authority.
   h) The provision of external screening of the air conditioning units to the satisfaction of the Responsible Authority.

2. A schedule of all external materials and finishes shall be submitted to the satisfaction of the Responsible Authority prior to the commencement of any buildings and works on the land. The schedule shall show the materials, colour and finish of all external walls, roof, fascias, window frames and paving (including car park surfacing).

3. The use and/or development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

4. Before the use and/or development starts, a site layout plan drawn to scale and dimensioned must be approved by a Building Practitioner registered under the Building Act 1993 and submitted to the Responsible Authority.
The plans must show:

a) A drainage scheme providing for the collection of stormwater within the site and for the conveying of the stormwater to Council’s nominated point of discharge to the satisfaction of the Responsible Authority.

5. Before the occupation of all buildings and works specified in this permit must be completed to the satisfaction of the Responsible Authority. The Responsible Authority must be advised in writing when all construction and works are completed to enable the site to be inspected.

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

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

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

   The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

7. Street numbers contrasting in colour to the background shall be fixed at the front boundary of the property as near as practicable to, or on the letterboxes. Separate unit numbers shall be placed adjacent to the front entrance of each dwelling, such numbers to be clearly legible from the access driveway.

8. All service pipes, (excluding downpipes) fixture and fittings must be concealed on exposed elevations to the satisfaction of the Responsible Authority.

9. The alterations of soil levels involving an increased or decreased level at the boundaries must be retained by the provision of an adequate retaining wall, constructed of brick or masonry or other suitable alternative approved by the Responsible Authority, to buttress the soil against the possibility of shift. The construction of this retaining wall shall be the sole responsibility of the developer.

10. All brickwork on or facing the boundaries of the site must be raked and cleaned or rendered or bagged and painted to the satisfaction of the Responsible Authority.

11. All plant and equipment (including air conditioning units, heating units, hot water systems, etc.) which is proposed to be located externally shall be identified on plans and located to the satisfaction of the Responsible Authority and on endorsed copy of such plan shall form part of this permit. Such plan must be endorsed prior to commencement of construction and shall include plan and elevation details.

12. Before the use and/or development starts, areas set aside for parked vehicles and access lanes as shown on the endorsed plans must be:

   a) Constructed to the satisfaction of the Responsible Authority;

   b) Properly formed to such levels that they can be used in accordance with the plans;

   c) Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority; and

   d) Drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority.

   Parking areas and access lanes must be kept available for these purposes at all times.

13. Before the development hereby permitted starts three copies of a site layout plan drawn to scale and dimensioned must be submitted to and approved by the
Responsible Authority. The plan must show the proposed landscape treatment of the site including the location of all existing and proposed species. When approved the plan will be endorsed and will then form part of the permit.

14. Prior to the use allowed by this permit starting or the occupation of the building hereby permitted, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

15. All existing vegetation shown on the endorsed plans must be marked before demolition of the existing dwelling and before any development starts on the site and that vegetation must not be removed, destroyed or lopped without the written consent of the Responsible Authority.

16. All basic services, including water, electricity, gas, sewerage and telephone, shall be installed underground and located to the satisfaction of the Responsible Authority.

17. Before any construction or demolition works commence on the site, to the extent that the site perimeter is unfenced and/or is not fenced to the satisfaction of the Responsible Authority, a secure fence is to be erected around the perimeter of the site to prevent access to the site from unauthorised persons. This fence is to be maintained for the duration of the construction and demolition, to be a minimum height of 1.8m, or such alternative height as is approved in writing by the Responsible Authority and be constructed and sited to the satisfaction of the Responsible Authority. The gate or opening to the fence must be securely locked at all times when work has ceased on the site.

Permit notes
- A permit must be obtained from Council for all vehicle crossings.
- These must be constructed under Council’s supervision for which 24 hours notice is required.
- Building approval must be obtained prior to the commencement of the above approved works.
- Consultation should take place with Council respect of the removal of the vehicular crossing and reinstatement works.
- The existing street tree/s must not be removed or damaged.
- Reticulated sewerage must be provided to the requirements of the Sewerage Authority.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 February 2017</td>
<td>Amendment to the permit and plans pursuant to Section 72 of the Planning and Environment Act 1987 to include:</td>
</tr>
<tr>
<td></td>
<td>- The installation of air conditioning units and shade sails to the rear of the existing dwellings on the floor plans and elevations.</td>
</tr>
<tr>
<td></td>
<td>- Addition of Condition 1h) requiring appropriate screening of the air conditioning units to the satisfaction of the Responsible Authority.</td>
</tr>
</tbody>
</table>

6. Council Policy
Council Plan 2013-2017
Relevant strategies of the Council plan include:
3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

3.1.3 Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- 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 F1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 55 Two or More Dwellings on a Lot
- Clause 65 Decision Guidelines

7. **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.

The application proposes retrospective approval for the installation of air conditioning units to the first floor level of each dwelling, along with the installation of shade sails to the rear of the each dwelling.

The endorsed plans approved under Planning Permit 2001/6699 have not included the provision of air conditioning units or shade sails to the rear of each dwelling. This is inconsistent with Conditions 1e) and 11 of the permit which requires all plant and equipment to be identified and located to the satisfaction of the Responsible Authority. It is the intention of this application to bring all works constructed into compliance with the endorsed plans and permit conditions.

The proposed amendments are discussed in turn below.

7.1. **Installation of air conditioning units and shade sails**

Pursuant to Section 72 (General Terms) of the Bayside Planning Scheme, domestic services normal to a dwelling are defined as:

> A domestic appliance or apparatus that is normal to and services a dwelling. It includes disabled access ramps and handrails, an air conditioner, cooling or heating system, a hot water service, security systems and cameras, shade sails, a barbeque, downpipes and flues, a skylight, security screens, and the like.

In accordance with Clause 62.02-2 of the Bayside Planning Scheme domestic services normal to a dwelling do not require a planning permit in their own right unless specifically required by the Bayside Planning Scheme. In this instance there is no such specific requirement. As such no planning permission is required for the proposed works under the Bayside Planning Scheme.

The installation of the air conditioning units do not require primary consent and can be considered under the original approval of the planning permit. However it is noted that
the location of the air conditioning units has caused concern to adjoining property owners with particular regard to visual impacts from the adjoining northern property. Importantly, Condition 1e) and 11 of the existing permit requires all plant and equipment identified and located to the satisfaction of the Responsible Authority.

While the general siting of the air conditioning units is acceptable, additional screening would mitigate concerns raised by objectors and would visually improve the existing outcome of the site. In addition, a concern raised by the objector has indicated that the existing permit requires screening of the air conditioning units. However no conditions to this effect are noted on the permit. A condition is recommended as part of the amended permit to require appropriate screening of the air conditioning units to the satisfaction of the Responsible Authority.

The existing shade sails are located to the rear of each dwelling and are constructed to a height of 3.26 metres. The shade sails are considered acceptable having regard to the character of the overall approved development. Approval of these shade sails will not result in a transformation of the development originally approved. The proposed amendments are consistent with all of the existing permit conditions and will work to improve the usability of the site and on site amenity for the occupants of the site without unreasonably compromising the amenity of adjoining properties.

Accordingly, the proposed air conditioning units and shade sails are considered to be acceptable, subject to conditions requiring appropriate screening of the air conditioning units.

7.2. **Objections received**

The issues raised by objectors have been addressed throughout the report.

**Support Attachments**

1. Site and Surrounds Imagery
2. Development Plans
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial image of the subject site and surrounding context

<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 1. Image of air conditioning units and shade sails, taken by Council’s Compliance and Investigations Officer, dated 18 October 2005.
4.9 57 CHARLES STREET BRIGHTON EAST  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2015/592/1 WARD: NORTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/16/78816

1. Purpose and background

To report a planning permit application for the construction of two double storey dwellings on a lot and a two lot subdivision (refer Attachment 1) on a lot with an area of 667 square metres at 57 Charles Street, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Mr A Ramage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received:</td>
<td>19 January 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired:</td>
<td>20 March 2017</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 32.09-2 (Neighbourhood Residential Zone) – Subdivision of land
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.

Planning scheme amendments

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment. Stakeholder Consultation.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that no change is proposed in respect of the subject site.

3. Stakeholder Consultation

External referrals

There were 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>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Drainage 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 two objections were received. The following concerns were raised:

- Overdevelopment;
- Non-compliant setbacks and resultant visual bulk;
- Overshadowing of adjoining properties;
- Overlooking of adjoining properties;
- Garage to be located within 1 metre of the easement at rear of 51 Hodder Street;
- Impact on adjoining vegetation;
- Removal of on-site vegetation;
- Damage to boundary fencing; and
- Amenity impacts on adjoining properties during construction.

The applicant submitted amended plans on 19 January 2017 which included the following changes:

- Increased ground floor front setbacks to both dwellings by 1 metre. Dwelling 1 to have a front setback of 6.39 metres and Dwelling 2 to have a front setback of 6.84 metres.

- Amendments to the first floor front setbacks. The front setback to dwelling 1 has decreased from 7.98m to 7.43 metres and 9.71 metres to 9.25 metres. Dwelling 2 to have an increased front setback from 7.91 metres to 8.96 metres and 9.71 metres to 10.16 metres.

- Increased ground floor side and rear setbacks to both dwellings. To dwelling 1, the side setbacks to the master bedroom and associated ensuite have increased from 2.00 metres to 2.45 metres and 2.9 metres, and the kitchen / meals area increased from being constructed on the boundary to being offset 2 metres. The rear setback to dwelling 1 has increased from 6.4 metres to 7.20 metres.

- To dwelling 2, the side setbacks to the master bedroom and associated ensuite and laundry have increased from 2.00 metres to 2.9 metres and 3.37 metres. The wall associated with the kitchen and meals area is now proposed to be relocated 2 metres off the boundary. The rear setback has increased from 5.37 metres to 5.57 metres.

- Increased first floor side and rear setbacks to both dwellings. To dwelling 1, the first floor side setback to bedroom 2 and associated ensuite has increased from 2.69 metres to 3.33 metres. The rear setback has increased from 9.54 metres to 9.62 metres.

- To dwelling 2, the first floor side setbacks remain unchanged with the rear setback increasing from 8.01 metres to 8.23 metres.

Consultation meeting

It was considered the concerns raised by objectors could not reasonably be mediated, as such a consultation meeting with the stakeholders was not offered.
4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning Permit application number 2015/592/1 for the land known and described as **57 Charles Street Brighton East**, for the **construction of two double storey dwellings and a two lot subdivision** in accordance with the amended plans TP1, TP2, and TP3 prepared by Andrew Ramage Design and Drafting dated 29/09/2015 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 plans dated 18 February 2015 but modified to show:
   
   a) Notation of tree protection measures for trees on adjoining properties growing near the common boundary, including the Olive trees in the rear yard of No. 51 Hodder Street, Lemon and Orange trees growing in the rear yard of No. 53 Hodder Street and at 55 Charles Street as identified in the Tree Protection Plan required at Condition 14 of this permit.
   
   b) The nomination of the gradient of each driveway that does not exceed 1 in 16 as per AS2890.1 along the entire length.
   
   c) The driveway for dwelling 1 where it intersects with the footpath and the new crossover to be 3m wide with 0.8m offset from the western property boundary. The pit and lid in the crossover must be reset at the new crossover levels. A heavy duty trafficable lid shall be installed on the pit and approved by the Responsible Authority.
   
   d) Notation of the reconstruction of the existing crossing for dwelling 2 to Council’s current standard drawings (minimum 3m wide and roll over kerbs).
   
   e) Adequate sight lines must be provided where the proposed driveways intersects with the front footpath as per the diagram shown in the AS2890.1
   
   f) Landscaping plan in accordance with Condition 10 of this permit.
   
   g) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 13 of this permit.
   
   h) 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.
   
   i) Water sensitive urban design measures in accordance with condition 7 of this permit.
   
   j) A schedule of construction materials, external finishes and colours (incorporating for example paint samples)

2. The development as shown on the endorsed plans must not be altered 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 buildings without the written consent of the Responsible Authority.
5. All pipes, 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. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before the development starts, 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.

8. Before the occupation of the development starts, the area(s) set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

9. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

10. Prior to the endorsement of plans and 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 plan drawn by Point Five Design, dated 18th February, 2016 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) Dwellings numbered as Dwelling 1 and Dwelling 2 as per Ground Floor Plan.
   b) 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.
   c) 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.
   d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   e) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   f) Details of surface finishes of pathways and driveways.
g) Reduce the extent of paving/consolidated subsoil in the private open spaces of both dwellings to allow for increased planting of trees, shrubs and ground cover

h) One canopy tree in the front setback of each dwelling which has the capacity to reach a height of 10 metres and spread of 6 metres at maturity

i) One drought tolerant canopy tree in the rear private open space of each dwelling which has the capacity to reach a height of 8 metres and width of 4 metres at maturity.

j) Notation of all tree protection measure required in accordance with the Tree Protection Plan required in Condition 13.

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.

13. Prior to the endorsement of plans and 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.

14. 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.

   c) The applicant must demonstrate to the satisfaction of the Responsible Authority that all trees on neighbouring properties, which have any part of their Tree Protection Zone within the subject site will remain viable post-construction.

15. 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.

16. 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.

17. 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 Infrastructure Assets Department.

18. 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.

**Subdivision Conditions**

19. The subdivision on the endorsed plans must not be altered without the written consent of the Responsible Authority.

20. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authority’s requirements and relevant legislation at the time.

21. All existing and proposed easements and sites for existing and required utility services and roads must be set aside in favour of the relevant authority for which the easement or site is to be created on the plan of subdivision submitted for certification under the Subdivision Act 1988.

22. The owner of the land must enter into an agreement with:
   - A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and
   - A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

23. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
   - A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunication services in accordance with the provider’s requirements and relevant legislation at the time; and
   - A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

24. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

25. Prior to the Plan of Subdivision being certified by the Responsible Authority, unless otherwise agreed in writing by the Responsible Authority, the owner of the land must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987 with the Responsible Authority to the effect that:
   a) The development of the land indicated on the plan of subdivision shall be in accordance with approved plans forming part of Planning Permit No.
5/2015/592/1 or any amendment to the plans approved by the Responsible Authority.

b) The agreement shall be prepared and executed at the owners cost.

26. The developer is to construct a stormwater drain from the South West corner of Lot 1 of 57 Charles Street to the Council drain in the South West corner of No 55 Charles Street, in accordance with plans and specifications prepared by and at the cost of the developer and approved by Bayside City Council. The developer is to pay Bayside City Council a plan checking fee and construction supervision fee in accordance with The Subdivision Act 1988.

27. This subdivision permit will expire if one of the following circumstances applies:
   a) The plan of subdivision is not certified with compliance within two (2) years of the date of this permit.
   b) The registration of the subdivision is not completed within five (5) years of the date of this permit.

The Responsible Authority may extend the time if a request is made in writing before the permit expires or within six months afterwards.

**Permit Notes**

- 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.
- This permit does not constitute any authority to carry out any buildings works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638

5. Council Policy

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- 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 21.05 Environmental Risks
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct D1)
- Clause 22.08 Water Sensitive Urban Design
6.0 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 D1 and 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 development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. The dwellings will sit comfortably within their context largely due to the articulated facades, appropriate front setbacks, materials and finishes that are complementary to the existing and the preferred character of the area.

Concerns have been raised in relation to the site's suitability for the construction of two double storey dwellings; however the Neighbourhood Residential Zone Schedule 3 allows for the construction of two dwellings not exceeding an overall height of 8 metres on the subject land. In addition, the proposal comfortably achieves a high level of compliance with Clause 55 which further demonstrates the site's suitability for the construction of a dual occupancy development.

Subject to conditions, the buildings setback from the side boundaries allows suitable landscaping opportunities to enhance the landscaped character of the area. The absence of solid high front fencing further maintains the openness of the streetscape.

Overall, the proposed development is well articulated and offers a contemporary form, responsive to the emerging character of development featured within the immediate context. The design detail of the façade offers a modern response to the existing built form character and is an acceptable outcome for this precinct.

6.2 Compliance with Clause 55 (Res Code)

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

<table>
<thead>
<tr>
<th>Site Coverage (Standard B8)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
</tr>
<tr>
<td>50%</td>
</tr>
</tbody>
</table>

The site coverage of 50.1% fails the varied standard by 0.1%. This variance is considered to be inconsequential and acceptable as it does not result in excessive visual bulk, a lack of permeable surfaces; or restricted opportunities for private open space, site permeability and landscaping.

**Side and Rear Setbacks (Standard B17)**

The below table highlight the required and proposed setbacks as varied by Schedule 3 to the Neighbourhood Residential Zone. Areas of non-compliance are underlined.
Standard B17 seeks to ensure that the heights and setbacks buildings from boundaries respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The first floor east elevation of dwelling 1 is proposed to be setback 2.53 metres to 3.33 metres from the east boundary in lieu of the 3.65m requirement. Similarly, the first floor elevation to the rear of the site is setback between 3.33 metres and 4.53 metres in lieu if 4.53 metres.

These setbacks are considered to be acceptable as the non-compliant sections of wall are not excessively long or high and adjoin existing garages on the properties immediately to the east at 51 and 53 Hodder Street. It is noted that the more recessed elements are located centrally to the site to ensure that oblique views of the development looking north from Charles Street will be minimised whilst also ensuring that the massing presented to the rear gardens of 51 and 53 Hodder Street is sufficiently articulated.

The first floor west elevation of dwelling 2 is proposed to be constructed between 2.95 metres and 3.75 metres in lieu of 3.67 metres. To the rear of the site, the first floor side setback is at 3.11 metres in lieu of 3.38 metres.

These setbacks are considered acceptable and provides an appropriate level of visual relief to the adjoining neighbour to the west at 55 Charles Street. The 0.72 metre variation sought to the setback of bedroom 4 of dwelling 2 extends for a length of 4.2 metres and is located opposite a garage constructed on the boundary and a service area behind. Further to the rear of the site, a 0.27 metre variation is sought to the ensuite associated with bedroom 2. Whilst this wall is located opposite north-facing secluded private open space over-shadowing diagrams demonstrate compliance with Standard B21, Overshadowing open space objective.

It is considered that the areas of non-compliance discussed above are acceptable due to their locations opposite non-sensitive interfaces with adjoining properties and are balanced with generous setbacks elsewhere along the facades.

Overall the setbacks proposed are considered to provide an appropriate level of articulation to respect the existing and preferred neighbourhood character whilst limiting impacts on the amenity of existing neighbouring dwellings.

### 6.3 Car parking and traffic

Each dwelling is provided with two car spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions which are included as part of the recommended permit conditions.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in
this regard.

6.4 **Vegetation and landscaping**

The application plans show the removal of four trees from the site, including one native tree. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with an ‘*’.

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed retention</td>
</tr>
<tr>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Proposed for retention</td>
<td>Proposed removal</td>
</tr>
<tr>
<td>Proposed for retention</td>
<td>Proposed retention</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Proposed for removal</th>
<th>Proposed retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – Date Palm (13m)</td>
<td>0</td>
</tr>
<tr>
<td>2 – Blue Spruce (6m)</td>
<td>0</td>
</tr>
<tr>
<td>3 – Lilly Pilly (5m)*</td>
<td>0</td>
</tr>
<tr>
<td>4 – Pittosporum (7m)</td>
<td>0</td>
</tr>
<tr>
<td>6 – Oleander (5m)</td>
<td>0</td>
</tr>
</tbody>
</table>

Council’s Arborist, in their referral response, advised that removal of trees 2, 3, 4 and 6 is acceptable on the basis of their low amenity value and if replaced by suitable new plantings.

The Date Palm (13m) is a prominent feature in the streetscape given its location in the frontage setback. Council’s Arborist has noted the tree as having a moderate level of amenity and removal is acceptable subject to the replanting of a large canopy tree in the frontage setback. This has been included as a recommended condition to the permit.

The garage for the eastern dwelling is adjacent to two Olive trees (Trees 14) growing in the rear yard of the objector’s property at 51 Hodder Street. The applicant’s Arborist Report has noted these trees will be adversely affected and should be removed. Given the trees are located on an adjoining property, protection of the objector’s trees is required.

Council’s Arborist has reviewed the plans and recommended that a Tree Management Plan be implemented as a condition of approval that requires the applicant to demonstrate to the satisfaction of the Responsible Authority that all trees on neighbouring properties, which have any part of their Tree Protection Zone within the subject site will remain viable post-construction.

There are also other trees in 53 Hodder Street (east) that will require protection in a Tree Management Plan, including Tree 12 – Lemon. Tree 5 – Lemon and growing at 55 Charles Street is also required to be protected.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised the proposed landscape plan does not include tree plantings of sufficient size in the front setbacks or rear private open spaces of the proposed dwellings. Amendment of the landscape plan to show larger canopy trees will be required as a condition of approval that includes one tree capable of reaching 10 metres in height to the front of each dwelling and one tree capable of reaching 8 metres in the rear yards of each dwelling.

There is no street tree fronting the site.

6.5 **Subdivision Assessment**

The application also includes subdivision of the land into two lots that corresponds with the proposed development.

Clause 32.01-2 sets out requirements to be met when subdividing land. The following is an assessment of these standards:
<table>
<thead>
<tr>
<th>Standard</th>
<th>Summary</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>56.03-5 (C6)</td>
<td>To design subdivisions that respond to neighbourhood character.</td>
<td>The proposed subdivision is in accordance with the development application which has responded to neighbourhood character (see Section 6.1 of the report).</td>
</tr>
<tr>
<td>56.04-2 (C8)</td>
<td>To provide lots with areas and dimensions that enable the appropriate siting and construction of a dwelling,</td>
<td>The proposed subdivision is in accordance with the development plans.</td>
</tr>
<tr>
<td>56.04-3 (C9)</td>
<td>To provide good solar orientation of lots and solar access for future dwellings.</td>
<td>The proposed subdivision is in accordance with the development permit and will provide adequate solar access to northern windows.</td>
</tr>
<tr>
<td>56.04-5 (C11)</td>
<td>To ensure the provision of common area is appropriate and that necessary management arrangements are in place.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>56.06-8 (C21)</td>
<td>To provide for safe vehicle access between roads and lots.</td>
<td>The proposed subdivision is in accordance with the development application and provides safe vehicle access between roads and lots.</td>
</tr>
</tbody>
</table>

The proposed subdivision meets the relevant objectives of Clause 56 of the Bayside Planning Scheme and is considered appropriate.

**Open Space Contribution**

Pursuant to Clause 52.01-1 of the Bayside Planning Scheme, a two lot subdivision is exempt from making an open space contribution as it is considered each lot will be further subdivided.

**Section 173**

Given construction has not commenced, it is recommended that a Section 173 agreement be required to ensure that the dwellings are constructed in accordance with the approved development plans. This is included as a condition of the recommendation.

### 6.6 Objections received

Issues raised by the objectors that have not been addressed in the assessment above, are discussed below.

**Overdevelopment**

The proposed development of two double storey dwellings on a lot is not prohibited on the site and is consistent with the purpose of the Neighbourhood Residential Zone. In particular the development respects the neighbourhood character and is generally consistent with the Standards of Clause 55.

**Overshadowing of adjoining properties**

Overshadowing in winter is not part of the ResCode assessment that is based on the average shadow impact of the Equinox shadows at March/September only.
The diagrams indicate overshadowing of approximately half of the solar panels on the objector’s garage roof occurs at 3.00pm at the Equinox. There is minimal or no impact on these panels at other times of the day. It is not considered the minor extent of overshadowing of the panels in the afternoon on the Equinox is excessive or would significantly reduce the viability of the panels for the objector’s dwelling.

**Overlooking**

The first floor windows to the east and west facing façade are to non-habitable rooms and therefore not required to be screened in accordance with the requirements of Standard B22 of the Bayside Planning Scheme.

**Garage to be located within 1 metre of the easement at rear of 51 Hodder Street**

The location of the garage on the east boundary adjacent to drainage easement is satisfactory provided the built form does not extend into the adjoining property and easement. The garage of dwelling 2 is proposed to partially face the objector’s rear yard. This structure will not fully enclose this area and includes a maximum height of 3.05 metres in accordance with the ResCode standard. It is not considered there will be unreasonable visual bulk impacts from the garage on objector’s rear yard.

**Damage to boundary fencing**

The securing of fencing and adjoining properties during construction is dealt with as part of the building application process.

**Amenity impacts on adjoining properties during construction**

Building work can sometimes affect adjoining properties. An owner who is proposing building work has obligations under the Building Act 1993 to protect adjoining property from potential damage from their work. If building work is close to or adjacent to adjoining property boundaries, then the relevant building surveyor may require the owner to carry out protection work in respect of that adjoining property. It is a matter addressed at the building permit stage.

The potential for damage arising to the property during construction are outside the scope of the planning process and are not sufficient to warrant the refusal of the application. These matters are dealt with by the building surveyor. Some noise and other off site impacts are inevitable when any construction occurs. The developer will be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

---

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Precinct D1 Assessment ↓
4. Clause 55 (ResCode) Assessment ↓
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial overview

<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 looking north

Figure 3. View of subject site looking north with the common boundary with 51 Hodder Street to the right of the photograph.
Figure 4. View of the subject site looking north-west with No. 55 Charles Street in the background.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct D1)

Preferred Future Character Statement
The low lying dwellings with pitched roof forms and articulated front wall surfaces sit within established garden settings. There is a continued frequent presence of California Bungalow style dwellings, however, new buildings respect, without replicating, this style. The lightness in the streetscapes is maintained by the use of lighter building materials in building facades, particularly in the streets dominated by timber materials. Medium height, open style front fences assist in retaining an open streetscape.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comment</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 shrubs.  
• Retain existing large trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Loss of front garden space. | The dwellings are proposed to be setback 6.34 metres from the frontage. Whilst the site layout includes two driveways in the frontage, there is sufficient space between the dwellings for landscaping to maintain the garden character of the area. This will ensure the garden setting of the dwellings are maintained. |
<p>| To maintain the rhythm of spacious visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Dwelling 1 is proposed to be setback 2 metres from the west boundary but for the open profile of the carport which will facilitate oblique views of vegetation on the adjoining property to the east. Dwelling 2 is proposed to be offset 2 metres from the western boundary. These setbacks provide adequate spacing to the adjoining dwellings and will maintain the existing dwelling spacing. |
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling. | Car parking structures that dominate the | The development facilitates a double width carport to the east and double garage to the west. As these are recessed from the entry doors and porch they will |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comment</th>
</tr>
</thead>
</table>
| To ensure new development respects the low scale horizontal forms within the streetscape. | • Minimise paving in front garden areas including driveways and crossovers.     | façade or view of the dwelling. Front setbacks dominated by impervious surfaces. | not dominate the presentation to the streetscape when coupled with the first floor articulation.  
There is sufficient space between the driveways for planting to soften the expanse of paving in the frontage.                                                                                                                                                                                                                     |
| To ensure new development respects the low scale horizontal forms within the streetscape. | • Recess upper storey elements from the front façade.                            |                                                                      | The dwellings proposed an overall height of 6.8 metres.  
The design includes recessed upper levels from the front and side boundaries and frontage to ensure the built form is not obtrusive in the landscape.  
The design of the dwellings include flat roofing.  
Whilst pitched roof forms represent the dominant profile in the area, flat roof profile regularly found within the immediate area including for example 50 Hodder Street.                                                                                                                                               |
| To ensure new development respects the low scale horizontal forms within the streetscape. | • Incorporate pitched roof forms with eaves.                                    |                                                                      |                                                                                                                                                                                                                                                                                                                                          |
| To ensure that new dwellings present an interesting façade to the streetscape. | • 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. | Large, bulky buildings with poorly articulated front and side wall surfaces. | The dwelling façades are sufficiently articulated and show a mix of materials, textures and colours so as not to present as large or bulky within the streetscape.  
Buildings that dominate heritage buildings by height, siting or building massing.  
Period reproduction detailing.                                                                                                                                                                                                                                                                 |
<p>| To respect the identified heritage qualities of adjoining buildings.       | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design. |                                                                      | The site does not adjoin any sites protected under a Heritage Overlay.                                                                                                                                                                                                                                                                  |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To reflect the building materials in locations where there is particular consistency.</td>
<td>• Where consistent brick colours are used in the streetscape, use similar toning in the colours of new buildings. Use simple building details without replication of older styles.</td>
<td>Brightly coloured external building materials in areas of consistent brick materials.</td>
<td>The first floor contains rendered walls with muted (Pale Earth) colours at first floor level and face brickwork at ground floor level. The dwellings are of a contemporary design that does not replicate but rather complements older styles found within the immediate site context.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads. • Front fence style should be appropriate to the building era.</td>
<td>High, solid front fencing</td>
<td>No front fence is proposed.</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Comments</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td><strong>B1 Neighbourhood Character</strong>&lt;br&gt;Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.&lt;br&gt;Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong>&lt;br&gt;Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.&lt;br&gt;Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong>&lt;br&gt;Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong>&lt;br&gt;Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.&lt;br&gt;A condition to upgrade the stormwater system is required as a condition of approval.</td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong>&lt;br&gt;Integrate the layout of development with the street.</td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape and the pedestrian accesses.</td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong>&lt;br&gt;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>
<td><strong>Minimum: 6.3m</strong>&lt;br&gt;<strong>Proposed:</strong>&lt;br&gt;Dwelling 1 = 6.34m, 7.43m and 9.25m&lt;br&gt;Dwelling 2 = 6.84m, 8.96m and 10.16m</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>B7 Building Height</td>
<td>B8 Site Coverage</td>
<td>B9 Permeability</td>
</tr>
<tr>
<td>------</td>
<td>--------------------</td>
<td>-----------------</td>
<td>----------------</td>
</tr>
<tr>
<td></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Required: 8m Proposed: 6.8m</td>
<td>Maximum: 50% Proposed: 50.1%</td>
<td>Minimum: 20% Proposed: 34.7%</td>
</tr>
</tbody>
</table>
**B14 Access**
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

<table>
<thead>
<tr>
<th>Item</th>
<th>Yes</th>
<th>Appropriate vehicular access is provided.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td><strong>Maximum:</strong> 40% of street frontage</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Proposed:</strong> 33% of street frontage</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.

<table>
<thead>
<tr>
<th>Item</th>
<th>Yes</th>
<th>The proposed car parking areas are appropriately located.</th>
</tr>
</thead>
</table>

**B17 Side and Rear Setbacks**
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.

<table>
<thead>
<tr>
<th>Item</th>
<th>No</th>
<th>Refer report and table below. Areas of non-compliance are underlined.</th>
</tr>
</thead>
</table>

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

**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>Item</th>
<th>N/A</th>
<th>There are no walls proposed to be constructed on the boundary. An open wall is proposed to the eastern site boundary associated with the carport of dwelling 1.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
<td>Description</td>
<td>Option</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>-------</td>
</tr>
<tr>
<td>B19</td>
<td>Daylight to Existing Windows</td>
<td>Yes</td>
</tr>
<tr>
<td>B20</td>
<td>North Facing Windows</td>
<td>Yes</td>
</tr>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td>Yes</td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>Yes</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>Yes</td>
</tr>
<tr>
<td>B25</td>
<td>Accessibility</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>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>N/A</td>
</tr>
<tr>
<td>B33 Common Property</td>
<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>N/A</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
4.10 26 CLONMULT AVENUE, HIGHTET
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/200/1  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/11894

1. Purpose and background

To report a planning permit application for the construction of a two storey dwelling to
the rear of an existing single storey dwelling (refer Attachment 1) on a lot with an area of
601 metres square at 26 Clonmult Avenue, Hightett (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr Dragan Jovanovic, Victorian Drafting and Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>21 July 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>19 September 2016</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a
lot.

Planning scheme amendments

Planning Scheme Amendment C139 has been prepared by Council and requires
development to provide a financial contribution for drainage in this area. Council has
adopted Amendment C139 and has submitted it to the Minister for Planning for approval.
Whilst the Amendment is now considered 'seriously entertained', the Minister has not yet
made a decision on the Amendment.

Planning Scheme Amendment C153 has been initiated by Council and proposes to
modify the boundaries of the Special Building Overlay (SBO) and remove the Land
Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition
process will conclude on 16 January 2017 and a report considering submissions will be
presented to Council early in 2017. Case law confirms that proposed amendments to
Planning Schemes are not considered to be 'seriously entertained' and applied in the
assessment of permit applications until such time as they have progressed beyond a
Panel and adopted. As such, there is no statutory weight which can be given to
Amendment C153. The site is not located within the SBO and will not be included within
the SBO.

3. Stakeholder Consultation

External referrals

There were 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>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space</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 four objections were received. The following concerns were raised:

- Site coverage;
- Concerns with the internal spaces of the dwellings;
- Traffic and car parking;
- Neighbourhood character;
- Overdevelopment of the land;
- Overlooking;
- Location of bins, clothes lines, storage shed;
- Site permeability; and
- Suitability of two double storey dwellings on the lot.

Consultation meeting
A consultation meeting was held on 13 October 2016 attended by the permit applicant and three objectors. A resolution was not able to be reached and as such, all objections remain outstanding.

4. Recommendation
That Council:
Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/200/1 for the land known and described as 26 Clonmult Avenue, Highett, for the construction of a two storey dwelling to the rear of an existing single storey dwelling 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 decision.
plans prepared by Victorian Drafting and Design, received by Council on 16 July 2016 and 20 January 2017, but modified to show:

a) All plant, equipment, services and architectural features to be included on the plans and located appropriately to avoid impacts on the adjoining dwellings.

b) A schedule of construction materials, external finishes and colours (incorporating example paint samples), ensuring there is a mixture of materials and finishes at ground and first floor level.

c) The carport to have a dimension of 6 metres long by 3.5 metres wide.

d) The existing crossover to be removed and reconstructed to 3.4 metres and entire crossover to be replaced.

e) The gradient of the driveway for the single car garage must comply with AS2890.0 and have a gradient of not more than 1 in 16.

f) The existing crossover is to be removed and a new 3.5 metre wide crossover constructed with a 0.485 metre offset from the southern property boundary.

g) Adequate sightlines must be provided where the proposed driveway intersects with the front footpath as per the diagram shown in AS2890.0.

h) Partial deletion of existing timber paling fence located along the eastern boundary (facing Middleton Street) in line with the north eastern most corner of the existing dwelling and if replaced (i.e. not left open to the street) with another fence, then that fence must not exceed a maximum height of 1.2 metres.

i) Relocation of waste bins such that it will not be seen from the street.

j) A landscape plan in accordance with Condition 8 of this permit.

k) Detailed plans to the satisfaction of the Responsible Authority drawn to scale with dimensions to show:

i. The type of water sensitive urban design stormwater treatment measures to be used.

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

iii. 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.

2. The development as shown on the endorsed plans must not be altered without the 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 and the conditions of this permit must be carried out and completed to the satisfaction of the Responsible Authority.
4. All pipes, 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.

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

6. 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.

7. Before the development starts tree protection fencing is to be established around the street trees marked for retention 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 naturestrip 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.

8. 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 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) Include one tree in the private open space of both dwellings which can reach a mature height of 8 metres. These trees must be drought tolerant species.

9. 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.

10. 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.

11. Before the occupation of the development starts, new or altered vehicle crossings servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

12. 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.
13. 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 Infrastructure Assets Department.

14. Any subsurface water captured on site must be treated in accordance with Council’s Policy for “Discharge of pumped Subterranean Water Associated with Basement or Below Ground Structures”. Any seepage/agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain/Pit and not be discharged to the kerb and channel unless directed otherwise.

15. The driveway / Parking areas / paved courtyards / paths and pervious pavements must be graded / drained to prevent stormwater discharge onto the front footpath and into adjacent properties.

16. 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:
- 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.
- This permit does not constitute any authority to carry out any buildings works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:
- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme
- 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)
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 and 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 development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. The dwellings will sit comfortably within its context largely due to the articulated facades, appropriate front setbacks, materials and finishes that are complementary to the existing and the preferred character of the area.

Subject to conditions, the buildings setback from the side boundaries allows suitable landscaping opportunities to enhance the landscaped character of the area. The existing dwellings already addresses Middleton Street and it is proposed to have the proposed new dwelling address the same street. The absence of solid high front fencing to the new dwelling further maintains the openness of the streetscape for the proposed new dwelling.

Existing housing stock is being replaced with newer dwellings and the area is undergoing a transition whereby sites are developed as a multi-unit site or existing dwellings are being replaced with newer two storey forms.

The proposed retention of the high timber paling fence along the frontage of the existing dwelling is considered to be inappropriate taking into consideration the prominence of garden characteristics which positively contribute to the neighbourhood character and define the neighbourhood character. As such, a condition has been included in the permit requiring removal of the high timber paling fencing along the Middleton Street frontage and replacing this fencing style with one that is open to the street or with a low front fence with a height which does not exceed 1.2 metres, in accordance with the requirements specified under the Schedule. This will allow any planting within the front yard to be visible from the streetscape, in accordance with both the prevailing and preferred neighbourhood character and will provide a streetscape presence for the existing dwelling.

The carport proposed for the existing dwelling is a relatively visually low-key element which will sit below the eave line of the existing dwelling and will thus present subordinately to the dwelling. The carport will be open to the street and will not dominate either the streetscape or the existing dwelling at the site.

Overall, the proposed development is well articulated and offers a contemporary form, responsive to the emerging character of development featured within the immediate context. The design detail of the façade offers a modern response to the existing built form character and is an acceptable outcome for this precinct.

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:

**Site Coverage**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>51.3%</td>
<td>1.3%</td>
</tr>
</tbody>
</table>

It is noted that the proposed site coverage of 51.3% does not comply with the site coverage requirements pursuant to Schedule 3 to Clause 32.09 Neighbourhood Residential Zone which specifies a maximum of 50%. It is noted that this is the only area of non-compliance with regard to Clause 55 and that a reduction, although minor, would not result in a discernible difference to the development as seen from the streetscape and more specifically in terms of visual bulk. Additionally, the proposal has sufficient areas to accommodate for landscaping features which contribute to the valued garden characteristics prevalent in the area.

On balance, the area of non-compliance of 1.3% is considered minor and will not result in a discernible difference in terms of amenity impact or neighbourhood character.

**Overlooking**

All habitable room windows have been screened and sited appropriately in accordance with this Standard. The proposal incorporates either the use of obscure, fixed glazing to any part of the window located within 1.7 metres of the floor level and other windows are highlight windows with the exception of the bedroom 2 window on the west elevation which is unscreened but nonetheless complies with Standard B22 (Overlooking). Views from that window are directed over an existing driveway and garages and taking into consideration the existing 2.35 metre high timber paling fence, all direct and unreasonable views are negated from this window.

**6.3. Car parking and traffic**

Pursuant to the car parking provisions of Clause 52.06-5, the proposal generates a demand of three on site car parking spaces for both dwellings. Dwelling 1 is provided with a single car carport accessed via Middleton Street. Dwelling 2 is serviced by a single width garage located along the southern boundary.

The site currently has two points of access, one to Clonmult Avenue and the other to Middleton Street, along the respective side and rear boundaries. A number of permit conditions have been included at the request of Council’s Traffic Engineer which largely pertain to vehicle access and sight distances at the property boundary.

The proposal provides for an adequate number of car spaces per dwelling located adjacent to each dwelling they serve and swept path diagram demonstrate ease of access to the car parking spaces.

**6.4. Vegetation & Landscaping**

Council’s Arborist has attended the site and has advised that the existing vegetation on the site is generally insignificant and has little amenity value that would require retention. Further, there are no significant trees located within 3 metres of any property boundary. Removal of the low amenity trees is acceptable if replaced by suitable new planting in the landscape design.

Tree protection measures are required to ensure that these trees remain viable post-construction and appropriate permit conditions have been included requiring an Arboricultural response with regard to their retention. As discussed, there are no significant trees located on the adjacent land.

With regards to future planting on the site, the development incorporates landscaping opportunities to achieve an outcome consistent with the existing and preferred character
of the area. The Bayside City Council Landscape Guidelines (2015) specify that for low
density applications, one large canopy tree (8 to 15 m height and greater than 4 m canopy
spread) should be planted in the front of a dwelling and one large tree or two small (6 to
8 m height) trees are planted in the rear the site.

The proposed landscape plan does not include planting of canopy trees in the rear of the
proposed dwellings. It is considered appropriate to include permit conditions requiring
the planting in accordance with the Bayside City Council Landscape Guidelines (2015).

A condition is included in the recommendation to amend the landscape plan in the
following ways:

- Include one tree in the private open spaces of both proposed dwellings which can
reach a mature height of 8 m. These trees must drought tolerant species.

The landscape plan must also include a variety of shrubs and ground covers within the
front and rear setbacks, and along the side boundaries. These requirements will achieve
an outcome consistent with the preferred landscaped character of the area.

6.5. **Street Trees**

It is noted the existing crossover and associated upgrades are sufficiently offset from the
street tree so as to avoid any impacts during construction. Council’s Street Tree Arborist
has viewed the proposal and has recommended that Tree Protection measures are
included to safeguard the retention of those trees.

6.6. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are
discussed below.

**Internal layout**

Concerns have been raised with regard to the internal layout of the proposed dual
occupancy. The internal layout of both dwellings is considered acceptable and it is
expected will provide an alternative form of accommodation that is respectful of the
existing and preferred neighbourhood character. Further, the internal arrangement of
spaces is considered typical to the form of the development and has been arranged
appropriately to meet the needs of the future occupants.

**Overdevelopment of the land**

Concerns have been raised with regard to the development representing an
overdevelopment of the site. Pursuant to the Neighbourhood Residential Zone Schedule
3, the site is able to be developed for the purposes of a dual occupancy development
where compliance can be achieved with the various clauses within the Planning Scheme,
including Clause 55. The proposal is considered appropriate taking into consideration
the zoning of the land and the particular opportunities presented by a corner site.

**Location of bins, clothes lines and storage shed.**

Currently there is a 1.65 timber picket fence facing Clonmult Avenue and a high timber
paling fence defining the boundary facing Middleton Street. It is proposed to retain the
existing high timber paling fence arrangement to Middleton Street. Taking into the
consideration the fencing arrangement, the location of the storage shed and bins is
considered to be appropriate and will be screened from the street view. As discussed,
conditions requiring the removal of the high timber paling fence for the existing dwelling,
facing Middleton Street would also necessitate the relocation of the bins from what will
present as the front yard area for the existing dwelling.

**Suitability of two double storey dwellings on the lot**

Concerns have been raised in relation to the site’s suitability for the construction of two
double storey dwellings. However the Neighbourhood Residential Zone Schedule 3
allows for the construction of two dwellings not exceeding an overall height of 8 metres on the subject land. In addition, the proposal comfortably achieves a high level of compliance with Clause 55 which further demonstrates the sites suitability for the construction of a dual occupancy development on a corner site.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. ResCode (Clause 55) Assessment ↓
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Location of objectors (no all objectors shown for purposes of clarity)

<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 as seen from Clonmult Avenue

Figure 3. View of subject site looking down Middleton Street.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct G1)

Preferred Future Character

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>
<tbody>
<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 vegetation.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large trees. Planting of environmental weeds.</td>
<td>The development involves the retention of one dwelling and the construction of a new two storey dwelling to the rear, on a corner site. The setback of dwelling 1 will be retained and the setback of the proposed dwelling accords with the setback requirements for corner sites. Both dwellings are offset from the side boundaries to again provide opportunities for landscaping.</td>
</tr>
<tr>
<td>To maintain the rhythm of visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large trees. Planting of environmental weeds.</td>
<td>The proposed siting of both dwellings ensures that the built form is sited to maintain sufficient visual separation between buildings and accommodate vegetation as noted above.</td>
</tr>
<tr>
<td>To ensure that new buildings 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, combinations of materials,</td>
<td>Large, bulky buildings with poorly articulated front and side wall surfaces.</td>
<td>The development proposes pitched roof forms which are characteristic in in the precinct. The dwellings feature a variety of materials and finishes which are commonly</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>textures or colours or other elements providing appropriate articulation.</td>
<td>High, solid front fencing.</td>
<td>It is proposed to retain the existing fencing along Middleton Street and introduce new (high) fencing along Clonmult Avenue. A condition has been included requiring that the fencing along Middleton Street is revised to allow an improved sense of address and streetscape presentation.</td>
</tr>
<tr>
<td></td>
<td>• Use pitched roof forms with eaves.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</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 construction of two dwellings on the lot.</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>N/A</td>
<td></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 dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The development will integrate appropriately with the street. Both dwellings are oriented towards Middleton Street and incorporates a clearly defined pedestrian entry and vehicle access from Middleton Street.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Requirement: 3.0m Proposed: 3.008m</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>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 8m Proposed: 7.85m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Item 4.10 – Matters of Decision</td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------------------------</td>
<td>---</td>
</tr>
</tbody>
</table>
| Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | No | Maximum: 50%  
Proposed: 51.3% |

| **B9 Permeability** |  | Minimum: >20%  
Proposed: 48.7% |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B10 Energy Efficiency</strong></th>
<th></th>
<th>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access.</th>
</tr>
</thead>
</table>
| 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. | Yes |  |

<table>
<thead>
<tr>
<th><strong>B11 Open Space</strong></th>
<th>N/A</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B12 Safety</strong></th>
<th>Yes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td>The pedestrian entry point is clearly recognisable while upper levels allow for the passive surveillance of the street and common areas.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B13 Landscaping</strong></th>
<th>Yes</th>
<th></th>
</tr>
</thead>
</table>
| 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 development creates the opportunity for the provision of meaningful landscaping across the site. A condition of permit will require a landscape plan to be submitted to the satisfaction of the Responsible Authority. |

<table>
<thead>
<tr>
<th><strong>B14 Access</strong></th>
<th>Yes</th>
<th></th>
</tr>
</thead>
</table>
| Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. |  | A 3m wide crossover is proposed along the eastern corner of the site via Middleton Street. Standard traffic conditions are included as permit conditions. |

<table>
<thead>
<tr>
<th><strong>B15 Parking Location</strong></th>
<th>Yes</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking.</td>
<td></td>
<td>On site car parking is provided in the form of a single garage and single carport with tandem space. Standard traffic conditions are included as permit conditions.</td>
</tr>
</tbody>
</table>
Avoid parking and traffic difficulties in the development and the neighbourhood.
Protect residents from vehicular noise within developments.

**B17 Side and Rear Setbacks**
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>South (Side)</td>
<td>0 or 2m</td>
<td>0m and 2m</td>
<td>3.44m</td>
</tr>
<tr>
<td>West (Side)</td>
<td>0 or 2m</td>
<td>0m and 1.8m (existing setback)</td>
<td>3.44m</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Refer to the report.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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.

N/A
There are no walls to be constructed on the boundary.

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

Yes
The development is not located opposite any existing habitable room windows.

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

Yes
The proposed development will result in some additional overshadowing to areas of secluded private open space in the morning to the properties to the west. The extent of additional overshadowing is considered reasonable and in accordance with the requirements of this Standard.
To the afternoon some additional showing will result to the south over existing shed and garaged areas. The extent of overshadowing is again compliant with this standard.
<table>
<thead>
<tr>
<th>B22 Overlooking</th>
<th>Yes</th>
<th>All habitable room windows have been screened and sited appropriately in accordance with this Standard. It is noted that a sectional overlooking diagram was submitted to demonstrate compliance with the standard with particular regard to the first floor Bedroom 2 window of Dwelling 2.</th>
</tr>
</thead>
<tbody>
<tr>
<td>B23 Internal Views</td>
<td>Yes</td>
<td>There are not any habitable room windows which overlook internally within the site.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required by any future occupant.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Yes</td>
<td>The townhouse are designed with pedestrian access via Middleton Street. The entries provide a sense of personal address to the townhouses and a transitional space around the entry. The entry to the existing dwelling will be retained.</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 covered external space which itself is open to the sky.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall. Dwelling 1 is provided with 135.25m² private open space located to the north. This is area is currently being used for the purposes of private open space and it is proposed to continue to use this area for the same purpose. The area is enclosed by a high timber paling fence. Dwelling 2 is provided with a total of 39.91m² with a northerly orientation. There is an additional area of 9.23m² of secluded private open space, which only has a width of 1.3 metres and which will be partially used as a service yard.</td>
</tr>
<tr>
<td>Item</td>
<td>4.10 – Matters of Decision</td>
<td>Page 329 of 429</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriately solar access the areas of secluded private open space is provided.</td>
</tr>
</tbody>
</table>

B29 Solar Access to Open Space
Allow solar access into the secluded private open space of new dwellings/buildings.

| B30 Storage | Yes | Designated storage areas are provided within the ground floor level and have a minimum area of 6 cubic metres. It is noted that storage associated with Townhouse 1 is located above the bonnet area of the carport within the easement. Melbourne Water have included a condition seeking this element to be relocated. |

B30 Storage
Provide adequate storage facilities for each dwelling.

| B31 Design Detail | Yes | The proposal is of a scale (in terms of height and setbacks) that is reflective of the streetscape rhythm. The retention of the existing dwelling ensures a continuation that the existing neighbourhood characteristics are retained and the new dwelling will present in a contemporaneous manner in accordance with the emerging neighbourhood character. The development is well articulated and uses materials and finishes which can be evidenced in the street and the first floor footprint is recessed against the ground floor footprint to reduce any perceived visual bulk which may be associated with a two storey form. |

B31 Design Detail
Encourage design detail that respects the existing or preferred neighbourhood character.

| B32 Front Fences | Yes | No front fence is proposed for Dwelling 2 and it is proposed to retain the existing fencing arrangement for Dwelling 1 (the existing dwelling). |

B32 Front Fences
Encourage front fence design that respects the existing or preferred neighbourhood character.

| B33 Common Property | Yes | There are no communal areas proposed. |

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.

| B34 Site Services | Yes | All appropriate site services have been catered for including letter boxes and gas meters. |

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.
4.11  3B, 5 & 7A KEYS STREET, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/443/1  WARD: SOUTHERN

1. Purpose and background
To report a planning permit application for the sale of packaged liquor in association with a supermarket (as of right use) and a reduction in car parking requirements (refer Attachment 1) on a lot with an area of 255 square metres at 3B, 5 & 7A Keys, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Tonlan Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>29 June 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>1 December 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 52.06 (Car Parking) - Reduce the number of car parking spaces required under Clause 52.06-5.
Clause 52.27 (Licensed Premises) - Use of land to sell liquor.
Planning scheme amendments
Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. Amendment C153 does not impact the site and continues to not apply.

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic Engineer</td>
<td>No objection.</td>
</tr>
<tr>
<td>Social Planner</td>
<td>No objection.</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. The following concerns were raised:

- Commercial competition;
- Potential excess of supermarkets and liquor stores in area;
- Parking congestion and traffic safety issues;
- Access for loading/unloading facilities;
- Lack of business diversity;
- Impacts to streetscape amenity;
- Inconsistent with the character for Keys Street;
- Unclear business use;
- Compromised lane way access to adjoining residential properties;
- Noise impacts from delivery vehicles, garbage collection and sale of liquor into the evening.

Consultation meeting

It was considered that the concerns raised by objectors could not be reasonably mediated, as a result a consultation meeting was not offered.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application No. 2016/443/1 for the land known and described as 3B & 5-7 Keys Street, Beaumaris for the sale of packaged liquor in association with a supermarket and a reduction in car parking requirements in accordance with the endorsed plans and subject to the following conditions:

1. The licenced area as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
2. The sale of liquor may only occur within the licenced area as shown on the endorsed plan.
3. The sale of liquor may only occur between the following hours:
   - Monday to Saturday 9:00am to 10:30pm.
   - Sunday 10:00am – 10.30pm
   - Anzac Day 12:00pm - 10.30pm.
   - No trading on Good Friday and Christmas Day.

No amendment to these hours of operation is to occur without the prior written consent of the Responsible Authority.

4. This permit will expire if one of the following circumstances applies:
   a) The premises is not licenced under the Liquor Control Reform Act 1998 within two (2) years of the date of this permit.
   b) The use is not started within two years of the date of this permit.
c) The use is discontinued for a period of two years or more.

In accordance with Section 69 of the Planning and Environment Act 1987, the Responsible Authority may extend the periods referred to if a request is made in writing within the prescribed timeframes, where the use allowed by the permit has not yet started.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme

- Clause 17 Economic Development
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 34.01 Commercial 1 Zone (Schedule 1)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 52.27 Licenced Premises
- 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 Liquor Licence

Pursuant to Clause 52.27 provides that a Planning Permit is required if a license is required under the Liquor Control Reform Act 1998. A planning permit to sell packaged liquor from the subject site is sought by the applicant. In addition to the guiding principles of Bayside’s Alcohol Harm Minimisation Policy, Clause 52.27 of Bayside’s Planning Scheme sets out the following Decision Guidelines to consider when determining the appropriateness of an application:

The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies
The business objective of Clause 17.01 states that use and development should be managed to provide new commercial facilities for the needs of the local population in new residential areas and within, or immediately adjacent to, existing commercial centres and to encourage development which meet the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

Although the subject site is not located in a Major Activity or Neighbourhood Activity Centres as defined by Clause 21.11 (Local Areas) and its immediate interfaces are predominately zoned Neighbourhood Residential Zone, Schedule 3 (Clause 32.09), the new small scale supermarket (as of right use) is to be located within an existing strip shopping area that services the needs of local residents in a convenient location whilst providing for local employment opportunities. The consolidation of the three sites for the proposal located in a Commercial 1 Zone is considered to have support from the State and Local Planning Policy Frameworks and is considered to be appropriate.

*The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*

Council’s Social Planner has reviewed the proposal and is satisfied that there is no evidence to suggest that the introduction of a packaged liquor licence to the area will result in an increased risk of harm due to alcohol consumption. It was suggested that potential amenity impacts due to the sale of packaged liquor does not generate the same affects as sale and consumption of liquor on site.

*The impact of the hours of operation on the amenity of the surrounding area.*

The proposed hours of operation are considered reasonable and are unlikely to create undue detriment to the amenity of surrounding land users on the basis that consumption will occur off site. The proposed trading hours are in line with VicHealth evidence and are not associated with increased alcohol related harms.

*The impact of the number of patrons on the amenity of the surrounding area*.

The sale of packaged liquor is ancillary to the use of the site as a small scale supermarket, where packaged liquor will be purchased to be consumed off the licenced premises in private settings. Accordingly, potential amenity impacts due to patron numbers as a result of the packaged liquor licence is considered to be negligible.

*The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*

Pursuant to Bayside’s Alcohol Harm Minimisation Policy, locations at risk of harms associated with cumulative impact have been identified as three or more licensed premises within a radius of 100 metres of the proposed land; or 15 or more licences premises (including the proposed premises) within the a radius of 500 metres from the subject land.

There are an estimated 3 liquor licences within 100 metres of the proposed venue. Two liquor licenses are located on Keys Streets (1 limited – associated with a restaurant and one restaurant and café licence). A further restaurant and café licence is located on Beach Road. This exceeds the recommended threshold of increased alcohol related harms.
However, the cumulative impact is varied by the variety and number of venues and destination points for activities associated with the supply of alcohol and whilst packaged liquor licenses clustered near bars is associated with ‘pre-loading’, the absence of late night, high capacity venues within close proximity to the venue will reduce potential amenity impacts. The existing liquor licences are associated with restaurants and cafes whose predominant activity, at all times, is the preparation and serving of meals. Accordingly, it is considered that packaged liquor license will not negatively impact upon the amenity of the surrounding area.

It is considered that packaged liquor license will not contribute to an increase in alcohol consumption nor create negatively impact upon the amenity of the surrounding area. The proposed packaged liquor licence has been assessed against the relevant Decision Guidelines of Clause 52.27 and it is considered acceptable.

### 6.2 Car Parking and Traffic

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Quantity / Size</th>
<th>Statutory Parking Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supermarket</td>
<td>5 spaces to each 100sqm of leasable floor area</td>
<td>12 spaces (256sqm)</td>
</tr>
<tr>
<td><strong>Total car spaces required</strong></td>
<td></td>
<td>12</td>
</tr>
<tr>
<td><strong>Total car spaces proposed</strong></td>
<td></td>
<td>2</td>
</tr>
</tbody>
</table>

The proposal seeks to reduce the number of car parking spaces required under Clause 52.06-5 (Car parking) for the use of the land as a licenced supermarket.

The proposal generates a statutory requirement of 5 car parking spaces to each 100m² of leasable floor area. Accordingly, 12 car spaces are required. Two (2) car spaces are provided on title (5 & 7A). Consequently a waiver of ten (10) car parking spaces is being sought.

Although the applicant proposes that only 188.8 m² of the subject site is to be calculated in determining the applicable car parking rate (requiring 9 spaces), the leasable floor area of 3B (67.2 m²) must be also included in the calculation.

Before granting a permit to reduce the number of spaces, Council must consider the following relevant decision guidelines of Clause 52.06-6 - Car parking.

- The availability of alternative car parking in the locality of the land.
- On street parking in residential zones in the locality of the land that is intended to be for residential use.
- Any car parking deficiency associated with the existing use of the land.
- The impact of fewer car parking spaces on local amenity, including pedestrian amenity and the amenity of nearby residential areas.
- Access to or provision of alternative transport modes to and from the land.
- The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.

<table>
<thead>
<tr>
<th>Historical car parking credits</th>
<th>Required</th>
<th>Waived</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supermarket (5- 7 Keys)</td>
<td>7 (2 on site)</td>
<td>5</td>
</tr>
<tr>
<td>Medical centre (3B)</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td><strong>Total car spaces required/Waived</strong></td>
<td>12</td>
<td>10</td>
</tr>
</tbody>
</table>
As outlined in *Maurici v Moonee Valley CC & G&M Constructions Pty Ltd* (2000), car parking ‘credits’ may on occasions be justified for a change in commercial use and whilst consideration must be given to the equity of reducing the car parking requirement having regard to any historic contributions by existing businesses, ‘an assessment must be made having regard to the particular attributes of the area’. Accordingly, it is considered inequitable to apply the historical 10 ‘credits’ applicable to the site without due consideration of amenity impacts of waiving a maximum of ten (10) car parks.

Situated within a small cluster of commercial properties comprising a mixture of retail and commercial services in close proximity to the foreshore, Keys Street is characterised by restricted on-street parking with a total of 23, 2 hour spaces are provided. An unrestricted council car park is located 30 metres north-west from the subject site and provides 34 unrestricted car spaces. Located within 100m of the site, Tramway Parade and Martin Street also provide unrestricted car parking spaces. Two (2) restricted ¼ hour car spaces are located immediately adjacent to the site and provide for loading and unloading of delivery vehicles (it is noted that the provision of loading and unloading is outside the ambit of discretion for this application as it does not trigger the need for a planning permit). As outlined in the accompanying report two (2) car spaces for the exclusive use of employees are provided on site for the supermarket. This provision is consistent with the maximum number of staff on site at any given time.

The submitted car parking demand assessment indicates availability of spaces during various periods on Keys Street. Whilst it is noted that the periods of the desk top assessment was intermittent and considerations of peak demand times have not been explicitly stated, it is considered that 10 car spaces have been demonstrated to be readily absorbed within the surrounding road network without detrimentally impacting upon pedestrian amenity and the amenity of nearby residential areas. Further, it is considered that the car parking demand generated by the proposed use and its associated waiver of 10 spaces would have negligible impacts upon the street parking in residential zones in the locality of the land that is intended to be for residential use.

The site benefits from convenient access to public transport (bus) and services a local ‘walk-up’ catchment of visitors and locals due to its proximity to the foreshore and residential area. Expected to attract between 10 and 15 patrons per hour and up to 30 during peak periods, the supermarket will serve a convenience role. Larger full scale supermarkets are available within 1.2km and 3km of the subject site, reducing the demand on long stay trips to Keys Street.

Council’s traffic engineer provides support for the waiver of 5 spaces. On balance, impacts of the waiver of 10 spaces is considered reasonable and it is considered that the level of increased traffic and short stay car parking requirements generated by the proposal will not adversely impact the immediate environs due to;

- The capacity of Keys Street, Martin Street and Tramway Parade to absorb the increased car parking demand generated by the proposal.
- The capacity of the unrestricted council car park located on Keys Street to absorb the increased car parking demand generated by the proposal.
- Access to public transport.
- Convenience role of the supermarket to service ‘walk-up’ catchment of visitors.

### 6.3 Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below:

**Commercial competition**

This is not a valid statutory planning consideration and outside the ambit of discretion for this application.
Potential excess of supermarkets and liquor stores in area

The supermarket is ‘as of right’ in the Commercial 1 Zone and considerations of excess of supermarkets are outside the ambit of discretion for this application. The existence of other liquor stores in the area has been addressed in the assessment for the packaged liquor.

Lack of business diversity

The use of a supermarket is as of right in the Commercial 1 Zone.

Impacts to streetscape amenity

Streetscape amenity is outside the ambit of discretion for this application.

Inconsistent with the character for Keys Street

Streetscape character is outside the ambit of discretion for this application.

Unclear business use

The advertised planning application documents identified the use of the subject site which is as of right and outside the ambit of discretion for this application.

Compromised lane way access to adjoining residential properties

Loading and unloading is proposed to be undertaken on Keys Street.

Noise impacts from delivery vehicles and garbage collection

Noise impacts associated with the as of right use is outside the ambit of discretion for this application.

Support Attachments

1. Site and Surrounds Imagery
2. Development Plans
Figure 1. Objector map.

<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. Aerial image of the subject site and wider surrounding context.
Figure 3. View towards the site from the north.
4.12 1/12 ARKARINGA CRESCENT, BLACK ROCK
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO.: 2016/127/1  WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/16/220480

1. Purpose and background
To report a planning permit application for alterations and additions to a single dwelling on a lot less than 500 square metres, construction of a front fence exceeding 1.2 metres in height and removal of native vegetation, on a lot with an area of 428 square metres (refer Attachment 1) at 1/12 Arkaringa Crescent, Black Rock (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Karl Degering &amp; Associates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>13 September 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>13 November 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-4 (Neighbourhood Residential Zone Schedule 3) – Extension of one dwelling on a lot less than 500 square metres and construction of a front fence within 3 metres of a street.
Clause 42.02-2 (Vegetation Protection Overlay Schedule 3) – Removal of native vegetation.

Planning scheme amendments
Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the amendment.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that whilst the subject site is located within the SBO area, no change is proposed in respect of the subject site.

3. Stakeholder Consultation
External referrals
There were 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 and two objections were received. The following concerns were raised:

- Excessive demolition of the existing dwelling;
- Excessive length and height to eastern wall;
- Extension of the garage on rear boundary will reduce sunlight to adjoining property;
- Design does not comply with English Common Law of Ancient Light (United Kingdom, *Prescription Act 1832* and *Australian Courts Act 1828*);
- No details of the demolition contractor have been supplied;
- Power runs under ground to 2/12 Arkaringa, this will result in unacceptable disruption of electrical power during construction;
- The main water supply is located in 1/12 Arkaringa and this will result in an unacceptable disruption of water during construction;
- Excavation for the underground water tank will result in an unacceptable disruption to the common driveway during construction;
- Overlooking;
- The existing structure against the front fence of 2/12 Arkaringa on the south side is to remain;
- The overshadowing diagrams were completed as north and not true north;
- Neighbourhood Character not met;
- Impacts of construction will be detrimental to the health of adjoining neighbours;
- The front setback of the first floor is too close to the street;
- Excessive visual bulk; and
- Increased reduction in setbacks around sunroom unacceptable.

Consultation meeting
A consultation meeting was held on 22 July 2016 and a subsequent meeting was held on 24 August 2016 for those parties who could not attend the first meeting. The meetings were attended by the permit applicant and objectors. As a result of these meeting no objections were withdrawn.

4. Recommendation
That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of the land known and described as 1/12 Arkaringa Crescent, Black Rock, for the alterations and additions to a single dwelling on a lot less than 500 square metres, construction of a front fence exceeding 1.2 metres in height and removal of native vegetation 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 two copies must be provided. The plans must be generally in accordance with Karl Degering & Associates Revision B, plot date 12 September 2016 and Faulkner & Chapman landscape design Landscape Plan dated 9 September 2016 but modified to show:
   a) The ground floor front setback must be no more than the existing ground floor setback being 5.97 metres.
   b) The first floor south and west habitable room windows to be screened in accordance with Standard A15 (Overlooking) of the Bayside Planning Scheme.
   c) Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   d) Location of all plant and equipment, including hot water services and air conditioners etc.
   e) A schedule of construction materials, external finishes and colours that incorporate building elements and details that contribute to a lightness of structure.
   f) A landscape plan generally in accordance with the landscape plan dated 9 September 2016 but modified to show:
      i. a survey including botanical names of all existing vegetation to be retained and/or removed;
      ii. buildings and trees including botanical names on neighbouring properties within three metres of the boundary.
      iii. details of surface finishes of pathways and driveways;
      iv. a planting schedule of all proposed trees, shrubs and ground covers including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant;
      v. 80% of all vegetation (existing and proposed) to be indigenous;
      vi. landscaping and planting within all open areas of the site;
      vii. reduction of the proposed paving in the front setback by 50% to allow for the planting of indigenous coastal trees;
      viii. removal of the Ulmus glabra ‘Lutescens’ (Goldern Elm) and replacement with an indigenous canopy tree in the front setback capable of reaching a height of 10 metres and a canopy width of 6 metres at maturity;
      ix. provision of an indigenous coastal canopy tree in the front setback capable of reaching a height of 6 metres and a canopy width of 4 metres at maturity; and,
   g) A Tree Management Plan and Tree Protection Plan in accordance with Condition 8 and 1 (e).

2. The development as shown on the endorsed plans must not be altered 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, 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. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

8. Before the endorsement of plans at Condition 1, 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.

9. 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.

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

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. Before the occupation of the development starts, the area(s) set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.
17. 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.

18. 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 Infrastructure Assets Department.

19. 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:
- 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.
- Council must be notified of the vehicular crossing and reinstatement works.
- 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.
- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- Council records indicate that there is no easement within the property.
- Consent is required from the Owners Corporation Plan no. RP019045 before the development commences in accordance with the Owners Corporation Act 2006.
- Appropriate indigenous coastal canopy tree species include the banksia integrifolia (Coast Banksia) and leptospermum laevigatum (Coast Tea-tree)

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:
- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme
- 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
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 E4 and 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 proposal includes alterations to the ground floor, including landscaping and the construction of a swimming pool. The ground floor alterations include alterations to the front entrance, changes to the front bay window (from round to square), widening of the garage towards the rear boundary, construction of a pergola to the east and internal layout changes. The first floor extensions include internal changes and an increase to the floor size. The proposal also includes changes to the existing materials and colours.

The proposed alterations and additions to the existing dwelling allow for retention of some vegetation and space for replacement planting that maintains and enhances the garden setting of the dwelling and streetscape. Three trees protected by the Vegetation Protection Overlay have been proposed for removal. Council’s Arborist has recommended the provision of two indigenous trees to increase the coastal species numbers on site, as such conditions have been included in the recommendation. Refer to conditions 1 (f) (viii) and (ix).

The proposed alterations and additions have been sited to allow for the retention of the front garden space. The proposal includes an increase to the garage area, this alteration will not dominate the façade or view of the dwelling as the garage exists to the rear of the dwelling. The design includes a number of materials and light colours that respects the existing neighbourhood character while responding to the coastal location.

An objector has raised concerns with the level of demolition proposed to the existing dwelling. Neighbourhood Character Precinct E4 is silent in regards to retention or demolition of existing buildings. The proposal demonstrates a high level of compliance with the Neighbourhood Character objectives and is therefore deemed to be an acceptable outcome for this neighbourhood.

6.2. Compliance with Clause 54 (ResCode)

An assessment against the requirements of Clause 54 is provided at Attachment 4. Those non-compliant standards are discussed below:

Street Setback (Standard A3)
The existing front setback is 5.97 metres. The proposal includes an increase to the front porch creating a setback of 5.89 metres, a variation of 2.11 metres to the required setback is proposed, but only 80mm from the existing building setback.

As the existing setback is a variation, a condition has been included in the recommendation, allowing the alterations and additions to maintain the existing setback of 5.97 metres. Please refer to condition 1 (a).

These maintained street setback, as per the existing dwelling, will ensure that the proposed design is acceptable, does not impact the setback character in the streetscape and preserves the existing neighbourhood character.

### Side and Rear Setbacks (Standard A10)

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

The west ground floor setback exists at 0.75 metres and is not proposed to be changed.

The existing first floor west side setback is 1.9 metres, with the proposal to be setback 0.77 metres, an encroachment into the stipulated 3.89 metres by 3.12 metres. This increase is due to the relocation of the staircase to the west side. Due to the location of the common driveway and the driveways large width (just below 5 metres), the proposed encroachment is seen as non-detrimental to the character of the area, maintains the visual separation and will not impact on the amenity of adjoining properties from an overshadowing or visual bulk.

### Overlooking (Standard A15)

The proposed first floor south and west windows include obscure glazing or screening, but do not include notations that show the obscuring to be fixed and non-openable. A condition has been included in the recommendation to ensure the windows are fixed and non-openable to a height of 1.7 metres in accordance with Standard A15 to limit overlooking. Please refer to condition 1 (b).

### Front Fence (Standard A20)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2 metres</td>
<td>2 metres</td>
<td>0.8 metres</td>
</tr>
</tbody>
</table>

A variation of 0.8 metres to the preferred height of 1.2 metres has been proposed for the front fence to allow for the provision of adequate pool fencing. The proposed fence is a frameless glass fence that will allow for adequate visual surveillance between the dwelling and the streetscape.

The existing character within the streetscape is predominately high masonry and picket front fences. While there are some low scale fences within the streetscape, it is not the predominate character and many of these lower fences include hedging beyond the
height of the fence.

6.3. **Car parking and traffic**

The provisions of Clause 52.06 (Car parking) of the Bayside Planning Scheme do not apply to the extension of one dwelling on a lot in the Neighbourhood Residential Zone.

However, the garage will still allow for the parking of one vehicle. The proposed changes increase the size of the garage to allow for additional storage.

6.4. **Street tree removal**

No street trees will be impacted by the proposal.

6.5. **Vegetation & 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 objectives of the VPO3 must be considered in association with the other statutory controls governing the site and relevant State and Local Planning Policies. This includes the overarching purposes of the relevant zone and overlays and the need to ensure decisions reflect broader strategic policy objectives. Such strategic policy objectives include encouraging urban consolidation and the efficient use of established residential land to reduce the outward expansion of the metropolitan area.

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 objectives of the VPO3 must be considered in association with the other statutory controls governing the site and relevant State and Local Planning Policies. This includes the overarching purposes of the relevant zone and overlays and the need to ensure decisions reflect broader strategic policy objectives. Such strategic policy objectives include encouraging urban consolidation and the efficient use of established residential land to reduce the outward expansion of the metropolitan area.

<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>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tree 1 (Melaleuca bracteata), located south-east boundary.</td>
<td>1 Tree 4 (Ulmus glabra), located north-west boundary.</td>
<td>0 Tree 8 (Pittosporum undulatum), located north-west boundary.</td>
</tr>
<tr>
<td>Tree 2 (Pittosporum undulatum), located north-east boundary.</td>
<td>4 Tree 5 (Ligustrum lucidum), located north-east boundary.</td>
<td>0</td>
</tr>
<tr>
<td>Tree 3 (Ficus)</td>
<td></td>
<td>2 Tree 6 (Alnus jorlilenis), located north-east boundary.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tree 7 (Syagrus romanoffian), located south-west boundary.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tree 9 (Ficus microcarpa var hillii), located south-west boundary.</td>
</tr>
</tbody>
</table>
For the purpose of this assessment, Council has numbered the landscape plan as no numbered landscape plan had been supplied.

Council's Arborist has reviewed the provided landscape plan and supports the removal of Trees 1, 2 and 3, subject to conditions. Further information about each tree is provided below.

- Tree 1 is a Melaleuca bracteata ('Revolution Gold' Black Tea-tree), a Western Australian native, is located in the rear setback of 1/12 Arkaringa beside the existing carport. The tree is of a mature age with fair health, however, it has poor structure, a low amenity value and a life expectancy of less than 9 years. The retention value is low and as such, removal is supported.

- Tree 2 is a Pittosporum undulatum (Sweet Pittosporum), native to the Australian East coast, located to the east of the dwelling along the boundary fence and to the south of tree 3.

- Tree 3 is also located on the east boundary, a Ficus microcarpa var hillii (Hill's Weeping Fig), and native to Queensland. Both trees 2 and 3 are of semi-mature health, low amenity value and low retention value, with life expectancies of less than 20 years. Council’s Arborist supports the removal of both trees, subject to replacement planting. Conditions have been included in the recommendation requiring an indigenous coastal canopy tree capable of reaching a height of 10 metres and a canopy width of 6 metres at maturity and a coastal indigenous tree capable of reaching a height of 6 metres and a width of 4 metres at maturity.

Council’s Arborist further reviewed the Ulmus glabra 'Lutescens' (Goldern Elm) proposed for retention. The tree is a German cultivated species of good health. However, the proposed design would negatively impact the tree, with the probability of the tree remaining viable post construction being low. Removal and replacement has been included as conditions in the recommendation, which has been discussed with the permit applicant.

Retention of the tree would require a design modification to the front entrance and pedestrian entry, arboricultural impact assessment and tree protection plan.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape concept plan and advises the following condition should be included in the recommendation, the submitted landscape plan must include 80% indigenous species.

6.6. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Excessive length and height to eastern wall**

The proposed eastern wall complies with Standard A11, please refer to Attachment 4. The adjoining wall on the eastern boundary has a length of 3.15 metres, which does not exceeds the standard.

**Extension of the garage on rear boundary will reduce sunlight to adjoining property**
A racked roof line has been proposed as part of the amended plans to alleviate impact on sunlight to the front garden of the adjoining property. The adjoining house is located 4.5 metres from the boundary.

Design does not comply with English Common Law of Ancient Light (United Kingdom, Prescription Act 1832 and Australian Courts Act 1828)

The English Common Law of Ancient Light refers to the right of a long standing owner to maintain the level of illumination to windows that have existed for a period of 20 years. This timeframe was briefly extended to 27 years for building destroyed by bombing in World War II.

The English Common Law of Ancient Light was included in the Australian Courts Act 1828, and later the Legislation Act 2001. As per Part 15.4 of the Legislation Act 2001 only some common law privileges were preserved.

The test used for a beneficiary of a light and air easement, as per cases Higgins v Betts [1905] 2 Ch 210 at 215 per Farwell J. In Colls v Home and Colonial Stores Ltd [1904] AC 179 Lord Davey set out the following test, which has been widely applied:

“The owner or occupier of the dominant tenement is entitled to uninterrupted access through his…windows of a quantity of light, the measure of which is what is required for the ordinary purposes of inhabitancy or business of the tenement according to the ordinary notions of mankind.”

The location of the proposed buildings and the existing north-east windows have been reviewed against Clause 54, Standard A12 (daylight to existing windows) and A13 (north facing windows). It is considered that solar access to the existing north-east facing windows is considered acceptable for ordinary purposes of inhabitancy.

No details of the demolition contractor have been supplied

The details of the demolition contractor are not required to be supplied at planning permit stage. It is a matter controlled through the Building permit stage.

Power runs under ground to 2/12 Arkaringa, this will result in unacceptable disruption of electrical power during construction

Construction management processes and procedures are required at a building permit stage and are not a requirement of the Bayside Planning Scheme.

The main water supply is located in 1/12 Arkaringa and this will result in an unacceptable disruption of water during construction

Construction management processes and procedures are required at a building permit stage and are not a requirement of the Bayside Planning Scheme.

Excavation for the underground water tank will result in an unacceptable disruption to the common driveway during construction

Construction management processes and procedures are required at a building permit stage and are not a requirement of the Bayside Planning Scheme.

The existing structure against the front fence of 2/12 Arkaringa on the south side is to remain

The section of the boundary fence between 2/12 Arkaringa and 1/12 Arkaringa containing the existing structure is to be retained.

The over shadowing diagrams were completed as north and not true north

Amended shadow diagrams were included in the September amendment showing true north. These have been assessed as part of this report. Please refer to Attachment 4, Standard A14.

Impacts of construction will be detrimental to the health of adjoining neighbours
Construction management processes and procedures are required at a building permit stage and are not a requirement of the Bayside Planning Scheme.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Policy (Precinct E4) ↓
4. Clause 54 (ResCode) Assessment ↓
5. Decision Guidelines of the Vegetation Protection Overlay (Schedule 3) ↓
ALTERATIONS & ADDITIONS
AT 1/2 ARKARINGA CRESCENT,
BLACK ROCK
FOR
GAIL KELEHER

NOTES

1/1/00 X008 - COVER SHEET
1/1/00 X008 - SITE CONTEXT
1/1/00 X008 - DESIGN RESPONSE
1/1/00 X008 - GROUND FLOOR PLAN
1/1/00 X008 - FIRST FLOOR PLAN
1/1/00 X008 - ELEVATIONS
1/1/00 X008 - STORM WATER MANAGEMENT
1/1/00 X008 - LOR YARD DETAILS
1/1/00 X008 - LOR YARD DETAILS

Item 4.12 – Matters of Decision
Item 4.12 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

<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 south towards the site

Figure 3 View south towards the site common property
ATTACHMENT 3
Neighbourhood Character Policy (Precinct E4)

Preferred Future Character Statement

The diverse dwelling styles sit within informal coastal gardens with large trees. There is a lightness to the structures and streetscapes due to the use of lighter building materials, colours and design detailing. The informal coastal feel is enhanced by street treatments including informal coastal street trees and the retention of the wide nature strips. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<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.</td>
<td>The proposed development allows space for sufficient planting, subject to reduction of paved area in the front setback. This reduction has been included in the recommendation.</td>
</tr>
<tr>
<td>To enhance the bayside vegetation character of the area through the retention and planting of appropriate coastal species.</td>
<td>• Retain established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees.</td>
<td>Removal of large, native trees. Front setbacks dominated by impervious surfaces. Planting of environmental weeds.</td>
<td>The proposal allows adequate space for planting in the front setback, subject to the reduction of paved area in the front setback. This reduction has been included in the recommendation.</td>
</tr>
</tbody>
</table>
| To ensure that building setbacks from boundaries contribute to the informality and spaciousness of the area and visual separation of the buildings. | • 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. | Loss of front garden space.                   | The proposed alterations have been appropriately sited. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To minimise the dominance of car parking facilities.</td>
<td>• Locate garages and car ports behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>The location of the garage has not been altered. It is not visible from the street.</td>
</tr>
<tr>
<td></td>
<td>• 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.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To encourage innovative architecture that reflects the coastal setting.</td>
<td>• New buildings should be individually designed to respond to the characteristics of the coastal location and the site.</td>
<td>Large bulky buildings Flat, poorly articulated front wall surfaces. High pitched roof forms with dormer windows.</td>
<td>The proposal includes a flat roof with a well-articulated first floor and a mixture of timber paling, render and face brickwork in a mixture of colours. There is no direct contact between the subject site and the coast.</td>
</tr>
<tr>
<td></td>
<td>• Incorporate building elements and details that contribute to a lightness of structure.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.</td>
<td>Period reproduction detailing.</td>
<td>No heritage buildings adjoin the site.</td>
</tr>
<tr>
<td>To use lighter looking building materials and finishes that complement the vegetation and coastal setting.</td>
<td>• Incorporate timber or other no masonry wall materials where possible.</td>
<td>Heavy materials and design detailing (eg. Large masonry columns and piers) Excessive use of render on external wall surfaces.</td>
<td>The proposal includes timber cladding as well as masonry elements (incorporating face brick and render) in a mixture of colours.</td>
</tr>
<tr>
<td></td>
<td>• Use lighter coloured building materials and finishes.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with the foreshore reserve.</td>
<td>• Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light transparent balustrading.</td>
<td>Buildings that have no relationship to the foreshore setting. Poorly articulated roof and building forms. Highly reflective materials or glazing.</td>
<td>The proposal includes a flat roof with a well-articulated first floor and a mixture of timber paling, render and face brickwork in a mixture of colours. The design is contemporary, but will not overwhelm the adjoining dwellings.</td>
</tr>
<tr>
<td></td>
<td>• Use a mix of contemporary and traditional coastal materials, textures and finishes,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
<td>------------------</td>
<td>-------</td>
<td>----------------------------</td>
</tr>
<tr>
<td></td>
<td>including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### ResCode (Clause 54) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer 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>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>No</td>
<td>Minimum: 8m</td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</td>
<td>Proposed: 5.89m</td>
<td>The existing street setback is 5.97m, please refer to condition 1 (a).</td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Required: 9m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td>Proposed: 6.76m</td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Proposed: 47.20%</td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Proposed: 22.84%</td>
<td></td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwelling.</td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.

**A8 Significant Trees**
Development respects the landscape character of the neighbourhood and retains significant trees on site.

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No significant trees are registered on site.</th>
</tr>
</thead>
</table>

**A10 Side and Rear Setbacks**
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.

<table>
<thead>
<tr>
<th></th>
<th>No</th>
<th>Refer report and table below. Areas of non-compliance are underlined.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>The west side ground floor setback is existing, while the first floor setback is being amended.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

**A11 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 impact on the amenity of existing dwellings.

| Yes | Maximum Height: 3.6m |
|     | Proposed: 2.44m (South) and 2.7m (East) |
|     | Maximum Average Height: 3.2m |
|     | Proposed: 2.4m (South) and 2.7m (East) |
|     | Maximum Length: 10.4m (South) and 3.15m (East) |
|     | Proposed: 8.44m (South) |

**A12 Daylight to existing windows**
To allow adequate daylight into existing habitable room windows.

| Yes | The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained. |

**A13 North Facing Windows**
Allow adequate solar access to existing north-facing habitable room windows.

| Yes | No north facing windows on adjoining properties are affected. |

**A14 Overshadowing Open Space**

| Yes | Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded |

Item 4.12 – Matters of Decision
<table>
<thead>
<tr>
<th>Item</th>
<th>Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.12</td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
</tr>
<tr>
<td></td>
<td>private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>A15</td>
<td><strong>Overlooking</strong></td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows</td>
</tr>
<tr>
<td></td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Refer report. Addressed via conditions.</td>
</tr>
<tr>
<td></td>
<td>Windows on the east and south elevations do not include notations to have windows as non-openable, a condition has been included in the recommendation.</td>
</tr>
<tr>
<td>A16</td>
<td><strong>Daylight to New Windows</strong></td>
</tr>
<tr>
<td></td>
<td>Allows adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>A17</td>
<td><strong>Private Open Space</strong></td>
</tr>
<tr>
<td></td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum: 25m² secluded, 40m² overall</td>
</tr>
<tr>
<td></td>
<td>Proposed: 43.58 m² secluded, 131.49 m² overall</td>
</tr>
<tr>
<td>A18</td>
<td><strong>Solar Access to Open Space</strong></td>
</tr>
<tr>
<td></td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>A19</td>
<td><strong>Design Detail</strong></td>
</tr>
<tr>
<td></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>A20</td>
<td><strong>Front Fences</strong></td>
</tr>
<tr>
<td></td>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
</tr>
<tr>
<td></td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Required: 1.2m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 2m</td>
</tr>
<tr>
<td></td>
<td>A pool has been proposed in the front setback requiring a height above the required 1.2 metres. The fence has been proposed to be built with clear glass.</td>
</tr>
</tbody>
</table>
ATTACHMENT 5

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>There is a moderate amount of vegetation on the site, however, there are no indigenous natives located on site. Three trees are proposed for removal that meet the criteria for protection under the VPO, being the Black Tea-Tree, native to Western Australia; the Sweet Pittosporum, native to the Australian East Coast; and, the Hill’s Weeping Fig.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the presence of indigenous species in the locality</td>
<td>The local neighbourhood is characterised by a predominance of native vegetation, and the landscape plan required by permit condition would need to comprise 80% native species, including canopy trees.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the appearance of development.</td>
<td>The proposed removal of vegetation will not have a detrimental effect on the appearance of the development, as additional landscaping of the site will be undertaken.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</td>
<td>The proposed development’s impact on fauna and habitat quality will be minimised and mitigated through the imposition of conditions relating to landscaping of the site with predominantly native species.</td>
</tr>
<tr>
<td>Any proposal to regenerate or plant indigenous vegetation on the site.</td>
<td>Replanting of the site with predominantly native species will ensure that sufficient regeneration occurs post-development.</td>
</tr>
</tbody>
</table>

Tree profile

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Botanical Name:</td>
<td><em>Melaleuca bracteata</em> ‘Revolution Gold’</td>
</tr>
<tr>
<td>Common Name:</td>
<td>Black Tea-tree</td>
</tr>
<tr>
<td>Height / Canopy:</td>
<td>4 x 3</td>
</tr>
<tr>
<td>Trunk Circ.@1m:</td>
<td>60</td>
</tr>
<tr>
<td>Location 1</td>
<td>W 5 m</td>
</tr>
<tr>
<td>Location 2</td>
<td>S 0 m</td>
</tr>
</tbody>
</table>
### Tree No. 2

- **Botanical Name:** *Pittosporum undulatum*
- **Common Name:** Sweet Pittosporum
- **Height / Canopy:** 7 x 5
- **Trunk Circ. @ 1m:** 60
- **Location 1:** N 10 m
- **Location 2:** E 0 m

### Tree No. 3

- **Botanical Name:** *Ficus microcarpa var. hillii*
- **Common Name:** Hill's Weeping Fig

### Table

<table>
<thead>
<tr>
<th>Origin</th>
<th>Indigenous</th>
<th>Victorian</th>
<th>Australian</th>
<th>Exotic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>Young</td>
<td>Semi-mature</td>
<td>Mature</td>
<td>Over-mature</td>
</tr>
<tr>
<td>Health</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Dead</td>
</tr>
<tr>
<td>Structure</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Hazardous</td>
</tr>
<tr>
<td>Amenity Value</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Life Expectancy</td>
<td>20 years +</td>
<td>10-19 years</td>
<td>4-9 years</td>
<td>0 - 3 years</td>
</tr>
<tr>
<td>Retention Value</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td>None</td>
</tr>
</tbody>
</table>
### Definitions

The retention value of a tree considers the tree as a whole including its health, structure, amenity value and life expectancy. The criteria for high, medium and low retention value trees are:

**(H) High**

The tree is generally in good health and structure, provides high levels of amenity and is likely to do so for more than 20 years. The tree may have historic or cultural significance.

**(M) Medium**

The tree is generally in fair to good health and structure, provides moderate levels of amenity and is likely to do so for up to 20 years.

**(L) Low**

The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.
4.13 5 WELLINGTON STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/248/1  WARD: NORTHERN

1. Purpose and background

To report a planning permit application for the construction of a double storey dwelling on a lot with an area of 495 square metres (refer Attachment 1) at 5 Wellington Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>St-Wise Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>5 September 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>1 November 2016</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 32.09-4 (Neighbourhood Residential Zone – Schedule 3) – Construction of one dwelling on a lot less than 500 square metres.

Clause 43.02-2 (Design and Development Overlay – Schedule 1) – Construction of a roof deck.

Planning scheme amendments

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process will conclude on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, there is no statutory weight which can be given to Amendment C153. The proposed amendment has no impact on the subject site.

3. Stakeholder Consultation

External referrals

There were 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>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Drainage 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 six objections were received. The following concerns were raised:

- Neighbourhood character;
- Advertising sign not displayed correctly;
- Overlooking;
- Overshadowing;
- Plans not in accordance with the Covenant;
- Height is uncharacteristic to the area;
- Roof top terrace detracts from amenity of the area;
- Proximity to gas pipeline; and
- Encroaching into side and rear setbacks.

Consultation meeting
A consultation meeting was held on 20 July 2016 attended by the permit applicant and 2 objectors. As a result of this meeting no objections were withdrawn.

The plans were subsequently amended on 5 September 2016 and form the basis of the decision. The changes are set out below:

- Reduction of the terrace lobby;
- Removal of the sky lights;
- Increase the west facing balustrade to 1.7m with obscure glazing;
- Inclusion of 1.7m obscure glazing to the kitchen window to prevent overlooking; and
- Relocation of the pool 150mm off north boundary to retain the boundary fence and provide a setback to the gas pipeline.

The amended plans were advertised. No objections were withdrawn.

4. Recommendation
That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application number 2016/248/1 for the land known and described as 5 Wellington Street, Brighton, for the construction of a double storey dwelling on a lot less than 500 square 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 Sky-line Design Studio plans Council date stamped 1 September 2016, drawings no 2-7 of 7 and Point Five Landscape and Environmental Design, Landscape Concept Plan, Sheet 1 of 1 but modified to show:

   a) The overall building height in accordance with Standard A4.
   b) Western first floor wall setback in accordance with Standard A10.
   c) Northern first floor wall setback in accordance with Standard A10.
   d) Maximum average height of the north wall on boundary to be built in accordance with Standard A11.
   e) Habitable room windows designed in accordance with Standard A15.
   f) The terrace entrance/lobby built in accordance with Design and Development Overlay Schedule 1.
   g) Increase to the side setbacks of the roof terrace in accordance with Design and Development Overlay Schedule 1.
   h) A schedule of materials, external finished and colours.
   i) A detailed amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be in accordance with the landscape plan drawn by Point Five Landscape and Environmental Design, Landscape Concept Plan, dated June 2016, sheet 1 of 1, but amended to show:

      i. one Eucalyptus pryoriana or Banksia integrifolia.
      ii. one tree capable of reaching 12 metres in height at maturity.
   j) The front of the garage to be setback a minimum of 5.5 metres from Albert Street.
   k) The double garage must be 5.5 metres wide and 6 metres long, with a 4.8 metre wide door.
   l) All pedestrian doors to swing outwards from the garage.
   m) The driveway grade must not exceed more than 1 in 10 complying with Clause 52.06-8.
   n) The new crossover must be offset a minimum of 1 metre from the existing power pole to the south and must be offset a minimum of 3 metres from the street tree to the north.
   o) Adequate sight lines must be provided where the proposed driveway intersects with the front footpath as per AS2890.1.
   p) The existing 2.8m x 2.8m asphalted corner splay at the southeast corner of the property must be retained with no change. No foliage or structures to be allowed within the splay.
   q) A Tree Management Plan and Tree Protection Plan in accordance with condition 8.
   r) Details of the water sensitive urban design elements in accordance with condition 12.
   s) A construction management plan in accordance with condition 19.
2. The development as shown on the endorsed plans must not be altered 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, 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. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

8. Before the development starts, 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 on neighbouring properties and the nature strip, where any part of the Tree Protection Zone falls within the subject site.

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

9. 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.

10. Before the development starts tree protection fencing is to be established around the street trees marked for retention 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.

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.
12. Before the development starts, 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.

13. 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.

14. Before the occupation of the development starts, the area(s) set aside for vehicle parking and access ways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.

15. Before the occupation of the development starts, new or altered vehicle crossing(s) servicing the development must be constructed to the satisfaction of the Responsible Authority and any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

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

17. 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 Infrastructure Assets Department.

18. Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (eg. by spilling gravel onto the roadway).

19. 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) Protection of the gas line located at 1A Albert Street.

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.

**Permit notes:**

- 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.
- Council must be notified of the vehicular crossing and reinstatement works.
- 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.
- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- The applicant must clearly identify what impact, if any, the proposed vehicle crossing or footpath construction will have Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

5. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- **3.1.1** Developing planning strategies and policies with our community that enhance Bayside's liveability along with its natural and built environment.
- **3.1.3** Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- 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 22.06 Neighbourhood Character Policy (C1)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 1)
• Clause 52.06 Car Parking
• Clause 54 One Dwelling 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 D2 and 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 application proposes a contemporary addition to the streetscape on a vacant lot. The scale, massing and building composition respects the prevailing neighbourhood character through maintaining the setback street rhythm of Wellington Street and visual separation between dwellings.

In particular, the design is respectful of the adjoining heritage dwelling at 3 Wellington Street through the provision of adequate garden space at the front of the property to allow for some visual screening. The design is not a replica of the adjoining heritage dwelling and could be clearly identified as a new building.

The choice of materials are reflective of those found within the foreshore setting and provides a high level of articulation to surrounding properties so as to not result in any visual bulk.

The development allows sufficient area to incorporate meaningful landscaping in accordance with the preferred neighbourhood character.

6.2. Compliance with Clause 54 (ResCode)

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

Building Height (Standard A4)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 metres</td>
<td>9.29 metres</td>
<td>0.29 metres</td>
</tr>
</tbody>
</table>

The development proposes an overall height of 9.29 metres (north elevation), a variation of 0.29 metres. Standard A4 specifies a maximum building height of 9 metres unless the slope of the natural ground level at any cross section wider than 8 metres of the site of the building is 2.5 degrees or more. The cross section of the building is less than 2.5 degrees at 1.13 degrees, therefore, the design is non-compliant.

This variation is inconsistent with the character of the neighbourhood and will detrimentally impact on the streetscape. It is considered necessary that the proposal is reduced to the maximum height of 9 metres. A condition has been included in the recommendation, requiring compliance with Standard A4 (condition 1 (a)).
Side and Rear Setbacks (Standard A10)

<table>
<thead>
<tr>
<th>First Floor</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>West (side)</td>
<td>2.56m – 4.78m</td>
<td>2m – 4.1m</td>
<td>0m – 0.68m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>2.5m – 4.78m</td>
<td>2m – 2.89m</td>
<td>0.5m – 1.68m</td>
</tr>
</tbody>
</table>

The design of the west side, first floor requires a setback of 2.56 - 4.78m. The area of non-compliance is due to the parapet above the raked roof line, located above the living area. The proposed reduction to the west setback is inappropriate due to the proximity of the west side to a Heritage contributory dwelling. A condition will be included in the recommendation to alter the parapet of the western first floor to increase the setback of the western wall (condition 1 (b)). This has been determined by taking into consideration the existing rear setback of the attic at 1A Albert Street and the requirement of Standard A10 to ensure the design respects the existing character of the area.

The design of the north, rear elevation requires a setback of 2.5m – 4.78m. The area of non-compliance is due to the height of the parapet above the first floor kitchen. A condition will be required to bring the first floor into compliance. This may be undertaken by reducing the height of the parapet or increasing the setback of the kitchen from the rear (condition 1 (c)).

Walls on boundaries (Standard A11)

<table>
<thead>
<tr>
<th>Maximum Average Height</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>3.2m</td>
<td>3.407m</td>
<td>0.207m</td>
</tr>
</tbody>
</table>

The allowable maximum average height under Standard A11 is 3.2 metres while the proposed northern wall on boundary has a maximum average height of 3.407 metres, a variation of 0.207 metres. The objective behind this Standard is to ensure that the height of a wall on a boundary respects the neighbourhood character and limits the amenity impacts on existing dwellings. The proposed wall on boundary adjoins an existing dwelling, with habitable room windows on opposite the wall in question, it is deemed the proposal does not meet the existing neighbourhood character. A condition has been included in the recommendation requiring compliance with Standard A11 (condition 1 (d)).

Overlooking (Standard A15)

The proposed habitable room windows generally accord with the requirements described under Standard A15, Overlooking, with the exception of the first floor north elevation. Windows are notated on this elevation as obscure glazing, but do not include notation that the window is fixed and non-openable. Given these windows have the potential for overlooking into private open space or habitable room windows, a condition has been included requiring that the proposal must comply with the requirements pursuant to Standard A15.

Front fences (Standard A20)

<table>
<thead>
<tr>
<th>Fence</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>South (front)</td>
<td>1.2m</td>
<td>1.5m – 2m</td>
<td>0.3m – 0.8m</td>
</tr>
<tr>
<td>East (side)</td>
<td>1.2m</td>
<td>1.5m – 2m</td>
<td>0.3m – 0.8m</td>
</tr>
</tbody>
</table>

The preferred neighbourhood character for front fences is 1.2 metres. The proposed side fence at differing heights of 1.5 metres to 2 metres would adjoin 1 Albert Street, a solid masonry fence at 1.3m – 1.6m.
The adjoining heritage building at 3 Wellington Street has a front fence to 1.6 metres. The proposed heights for the front fence are not in line with the preferred neighbourhood character as per Standard A20.

While the direct adjoining properties have average fence heights of 1.6 metres, the predominate fence design within the area are solid masonry and timber fences to a height of 2 metres.

The proposed variation of fence height for side and rear between 1.5 metres and 2 metres is seen as contrary to the preferred neighbourhood character but in line with the existing neighbourhood character.

### 6.3. Car parking and traffic

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Quantity / Size</th>
<th>Statutory Parking Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Four bedroom dwelling</td>
<td>One Dwelling</td>
<td>2 spaces per dwelling</td>
</tr>
</tbody>
</table>

Total car spaces required 2

Total car spaces proposed 2

Pursuant to the car parking provisions of Clause 52.06-5, a new four bedroom dwelling requires two car parking spaces. The dwelling incorporates a double garage, accommodating two car spaces.

Vehicle access to the dwelling will be from a new 3 metre wide crossover. The provision of a new crossover is acceptable having regards to the character of the neighbourhood.

Council’s Traffic Engineer has reviewed the application and supports the proposal subject to conditions. Conditions have been included as part of the recommendation, please refer to condition 1 (l) to (q), inclusive.

### 6.4. Street tree removal

The proposed crossover is set more than 3 metres from the base of the existing street trees. Standard conditions for protection of the street trees will be included in the recommendation.

### 6.5. Vegetation & Landscaping

The application involves the removal of 4 trees, commonly known as *Callistemon* (Bottlebrush), *Prunus* (Chocke cherry) and two *Fraxinus* (Ash). Only one tree, the Callistemon, requires a permit for removal under Local Law. Council’s Arborist has reviewed the proposed plans and has no objection to the proposed tree removal, but recommended appropriate replacement planting. In particular, indigenous trees, as the proposed landscape plan does not include any indigenous trees as per the preferred Neighbourhood Character Precinct.

### 6.6. Roof Deck (Design and Development Overlay – Schedule 1)

The Design and Development Overlay – Schedule 1 (DDO1) states that a roof deck must:

- Be designed and constructed of materials that integrate with the architectural style and form of the building.
- Be set back at least 2 metres from the roof edge immediately below on all sides to minimise the visual impact on the street, coastal environs and adjoining properties.
- Be designed to limit views into secluded private open space and habitable room windows of adjacent dwellings.
- Not include any structures or elements that exceed a height of 1.7 metres, apart from an access structure.
• Be accessed by a structure that is designed and located to have minimal impact on the street and adjoining properties, does not enclose any useable floor space and does not exceed 2.4 metres in height (measured from floor level at the point of access onto the roof deck).

The areas of non-compliance include the provision of an access structure that encloses useable floor space and exceeds a height of 2.4 metres. The access structure and lobby has an overall height of 2.44m from the floor point of access into the roof deck. A condition has been included in the recommendation to require compliance (condition 1 (g)) given this is a mandatory requirement.

The proposed roof deck does not comply with the mandatory 2 metre setback, it includes structures that exceed 1.7 metres in height that are not access structures or barriers. The roof deck can be modified to ensure compliance with the mandatory standards and in turn will reduce the additional bulk it creates. Accordingly, a condition has been included in the recommendation to modify the roof deck to compliance (condition 1 (h)).

While the setbacks and height of the roof deck do not comply, the design includes materials that integrate with the architectural style and form of the preferred and existing neighbourhood character.

6.7. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below:

**Advertising sign not displayed correctly**

The advertising notice signs were removed from the site. Council was notified on 15 June and the signs were re-erected that afternoon. Due to the removal of the signs, the two advertising signs were displayed from 1 June 2016 to 23 June 2016, an additional nine days above the required 14 day period to ensure appropriate notification and compliance with the Planning and Environment Act 1987.

**Overshadowing**

The shadow plans submitted with the application demonstrate that the level of overshadowing complies with Standard A14 of Clause 54 of the Bayside Planning Scheme. It is noted the majority of shadowing will fall to the south over Wellington Street and Albert Street. The shadow diagrams demonstrate that the proposed development will not unreasonably affect the amenity levels currently enjoyed by the adjoining residents.

**Plans not in accordance with the Covenant**

Planning permit 2013/16/1 for the alterations and additions to an existing dwelling (now 3 Albert Street) and the construction of a two storey dwelling with basement (5 Wellington Street) and two lot subdivision was approved on 15 November 2013. As part of this application, a Section 173 Agreement was registered on title, requiring the development of the land to be undertaken in accordance with the above planning permit, or with the approval of the Responsible Authority. A number of objections were lodged regarding the differences between the 2015 application and the 2013 approval.

Under Introduction, Section D, of the Section 173 Agreement provides that ‘the development of Lots 1 and 2 shall be in accordance with the approved development plans forming part of this planning permit or any amendment to the plans approved by the Responsible Authority’. It follows that, the permit application can be made and approved by the Responsible Authority, without offending the Agreement.

**Proximity to gas pipeline**

A high pressure gas pipeline runs along the south boundary of 3 Albert Street. A condition has been included in the recommendation to increase the rear setback of the dwelling to
allow for safe construction around the pipeline. Please refer to recommendation, condition 19.

Support Attachments
1. Development plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Precinct ↓
4. Clause 54 Assessment ↓
Item 4.13 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<p>| | |</p>
<table>
<thead>
<tr>
<th></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 north-east towards the site

Figure 3 View south-west towards the site
Figure 4 View west towards the site
Preferred Future Character

The mix of dwelling styles, including a substantial presence of pre WW2 dwellings, sit within spacious gardens and do not dominate or overwhelm the streetscape. Garden plantings, and well-articulated façades and roof forms, assist in minimising the dominance of buildings from within the street space, as well as providing visual interest. Front setbacks allow planting of substantial trees and shrubs and side setbacks on both sides maintain a sense of spaciousness in the area. Trees are a mixture of exotic and natives, with an increasing frequency of traditional coastal and indigenous species, strengthening the visual connection of the area with the coast. Open style front fences retain an ability to view buildings from the street. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct.               | The subject site currently is vacant.                                                       |
| 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 shrubs. | Lack of landscaping and substantial vegetation.                                             | A landscape plan has been supplied with the application, however does not include substantial vegetation.  
There is room on the site to allow for further vegetation, conditions will be included in the recommendation. |
| To enhance the bayside vegetation character of the area.                 | • Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible. | Removal of large native and coastal trees.  
Planting of environmental weeds.                                                          | There is no existing trees on site.  
The proposal includes planting of non-native vegetation, none are classified as environmental weeds. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To retain the sense of spaciousness in the area and provide adequate space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td></td>
<td>The building has been sited to allow space for planting of trees and shrubs. The buildings have been sited to create the visual separation from Wellington Street and along Albert Street.</td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To minimise the dominance of car parking facilities, driveways and crossovers.</td>
<td>• Locate garages and car ports at or behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the facade or view of the dwelling. Loss of front garden space.</td>
<td>The car parking facilities have been designed off Albert Street and are set behind the façade of the dwelling.</td>
</tr>
<tr>
<td></td>
<td>• Minimise hard paving in front yards.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• 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.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>• Recess upper level elements from the front façade.</td>
<td>High pitched roof forms with dormer windows.</td>
<td>The first floor has been recessed from the ground floor and includes a flat roof. The proposed roof terrace has been recessed from the first floor and includes a stairwell with a sloped roof for articulation.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or massing.</td>
<td>The property adjoins HO374 (3 Wellington Street). The proposed dwelling has been set back from Wellington Street to allow for landscaping in front of the dwelling. It has not been designed to replicate the heritage dwellings within Wellington Street. The dwelling includes a mixture of materials of which, respect the existing colours within the streetscape.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To encourage the use of a variety of building materials, finishes and design detail that</td>
<td>• Use a mix of materials including timber or other non-masonry wall materials in building design.</td>
<td>Large, poorly articulated external</td>
<td>The proposal includes a mixture of render, weatherboard, metal and stone tiles with a flat roof design.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>------------------------------</td>
</tr>
<tr>
<td>complement the coastal setting.</td>
<td>• Use simple building details and articulate roof forms.</td>
<td>wall surfaces of one material only.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Heavy materials and design detailing (eg. large masonry columns and piers).</td>
<td></td>
</tr>
<tr>
<td>To encourage the openness of the streetscape.</td>
<td>• Provide open style fencing, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>The proposal includes high solid front (2 metres) and side (1.5 metres) fences.</td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting the reserve and visible from the reserve.</td>
<td>• Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light transparent balustrading.</td>
<td>Buildings that have no relationship to the foreshore setting.</td>
<td>The building does not face the foreshore.</td>
</tr>
<tr>
<td></td>
<td>• Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Poorly articulated roof and building forms.</td>
<td>The building has elements that include light and dark materials to articulate the form.</td>
</tr>
<tr>
<td></td>
<td>• Provide a fence or landscaping treatment to delineate the property boundary fronting the foreshore reserve.</td>
<td>Highly reflective materials or glazing.</td>
<td>The design also includes a mix of materials and finishes including render, masonry, stone and metal.</td>
</tr>
<tr>
<td></td>
<td>• Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td>Blank walls facing the foreshore.</td>
<td>The roof form is flat, with an articulated staircase design for the roof deck.</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Comments</td>
<td></td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>-------------------------</td>
<td>--------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
<td></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>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape.</td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 9m (front) and 2m (side) Proposed: 6.512m (front) and 2m (side)</td>
<td></td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</td>
<td></td>
<td>The porch has an overall height of 3.2 metres and extends into the setback by less than 2.5 metres. This articulated design element meets the porch exemption set out in Standard A3.</td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>No</td>
<td>Required: 9m</td>
<td></td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td>Proposed: 9.29m Addressed via condition 1 (a)</td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
<td></td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td>Proposed: 45.43%</td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td>Minimum: 20%</td>
<td></td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td>Proposed: 49%</td>
<td></td>
</tr>
</tbody>
</table>
**A7 Energy Efficiency**  
Achieve and protect energy efficient dwellings.  
Ensure the development’s orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.  

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwelling.</td>
<td></td>
</tr>
</tbody>
</table>

**A8 Significant Trees**  
Development respects the landscape character of the neighbourhood and retains significant trees on site.  

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>There are no significant trees existing on site.</td>
<td></td>
</tr>
</tbody>
</table>

**A10 Side and Rear Setbacks**  
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.  

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m</td>
</tr>
</tbody>
</table>

**A11 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 impact on the amenity of existing dwellings.  

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
</table>
| No | Maximum Height Allowable: 3.6m  
Proposed: 3.2m (west) and 3.458 (north)  
Maximum Average Height Allowable: 3.2m  
Proposed: 3.087m (west) and 3.407m (north)  
Maximum Length Allowable: 20m  
Proposed: 9m (west) and 9.8m (North) |

**A12 Daylight to existing windows**  
To allow adequate daylight into existing habitable room windows.  

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</td>
<td></td>
</tr>
</tbody>
</table>

**A13 North Facing Windows**  

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
<td></td>
</tr>
</tbody>
</table>
### Item 4.13 – Matters of Decision

<table>
<thead>
<tr>
<th>Attachment 4</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Recommendation</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.13</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A14 Overshadowing Open Space</td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>A15 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows</td>
<td>No</td>
<td>Refer report. Addressed via conditions.</td>
</tr>
<tr>
<td>A16 Daylight to New Windows</td>
<td>Allows adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>A17 Private Open Space</td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 42.7m² secluded, 242.7m² overall</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>A19 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>A20 Front Fences</td>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td>No</td>
<td>Required: 1.2m Proposed: 1.5m – 2m (south, front) and 1.5m – 2m (east, side)</td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report a secondary consent application to allow a reduction of the ground floor footprint, internal changes to the ground floor and the replacement of sliding doors with French doors to a dwelling on a lot with an area of 310 square meters (refer Attachment 1) at 1 Emily Street, Brighton (refer Attachment 2).

Planning Permit 2008/561 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 24 July 2009. The permit allows additions and alterations to an existing dwelling on a lot less than 500 square metres (refer Attachment 3).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Benita Husband</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>21 November 2016</td>
</tr>
</tbody>
</table>

2. **Policy implications**

There are no primary policy matters to consider as part of this application which seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2008/561/2 which was last amended on 4 July 2016.

3. **Stakeholder Consultation**

**Referrals**

There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme and no internal referrals required to be made to other Council departments for comment.

**Public notification**

Applications made in accordance with the provisions of Secondary Consent are not subject to the notice requirements of Sections 52(1)(a), (b) and (d) of the Planning and Environment Act 1987. Therefore these changes to the plans cannot be advertised.

4. **Recommendation**

That Council:

Approve the Amended Plans in accordance with the Secondary Consent provisions of Planning Permit No. **2008/561/2** issued for **additions and alterations to an existing dwelling on a lot less than 500 square metres** and the following table be added at the end of the permit.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 February 2016</td>
<td><strong>Secondary Consent Amended Plans</strong></td>
</tr>
<tr>
<td></td>
<td>• Delete small ground floor addition to the rear of the dwelling;</td>
</tr>
<tr>
<td></td>
<td>• Internal re-arrangements to the ground floor; and</td>
</tr>
<tr>
<td></td>
<td>• Replace ground floor sliding doors on the south east elevation with French doors.</td>
</tr>
</tbody>
</table>
5. **Council Policy**

There are not any primary relevant Council policy matters to consider as part of the request to consider amending plans pursuant to the secondary consent provisions afforded by the planning permission.

6. **Considerations**

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (e.g. Westpoint Corporation P/L v Moreland CC [2005] and Oz Property Group P/L v Moonee Valley CC [2014]).

The tests include the following:

6.1 **The proposed amendment does not result in a transformation of the proposal.**

The amendments to the plans relate to a small reduction in the ground floor footprint at the rear of the site, internal changes to the ground floor and replacing a sliding door with French doors on the south east elevation. The changes are generally consistent with the approved additions and alterations and do not result in a transformation of the proposal.

6.2 **The proposed amendment does not authorise something for which primary consent is required under the planning scheme.**

The primary consent was issued by VCAT for alterations and additions to an existing dwelling on a lot less than 500 square metres. The amendments sought under this application are consistent with the proposal and do not authorise something for which primary consent is required under the Planning Scheme.

6.3 **The proposed amendment is of no consequence having regard to the purpose of a planning control under which the permit was granted.**

The changes are considered appropriate with regards to the approved alterations and additions and will not unreasonably impact on the adjoining properties or residents. The proposed amendments are largely aesthetic and will work to enhance the amenity of the dwelling. An approved amendment, dated 4 July 2016, sought a minor increase to the ground floor footprint at the rear. This application maintains the existing ground floor footprint and changes the internal layout of the ground floor and replaces sliding doors on the south east elevation with French doors. The minor changes will not cause material detriment to any adjoining neighbour.

The proposed amendments are of no consequence having regard to the purpose of the Neighbourhood Residential Zone.

6.4 **The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.**

The proposed amendments to the endorsed plans will not contravene any specific requirement or condition of the permit.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Planning Permit 2008/0561 Endorsed Plans ↓
Item 4.14 – Matters of Decision

Page 417 of 429
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial image of the subject site and surrounding context.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
</tr>
</thead>
<tbody>
<tr>
<td>★</td>
</tr>
</tbody>
</table>
Figure 2. View of the site from Emily Street.
Figure 3. View of the site from Boxshall Street.
Executive summary
To inform Council of Victorian Civil and Administrative Tribunal (VCAT) determinations received during January 2017 and to show the progress of VCAT outcomes for the financial year.

Summary details for the decisions handed down are attached.

<table>
<thead>
<tr>
<th>Month</th>
<th>Year</th>
<th>Council Upheld</th>
<th>Council Over-turned</th>
<th>Delegate Upheld</th>
<th>Delegate Over-turned</th>
<th>Other (e.g. Varied, by Consent or Sec87A)</th>
<th>Withdrawn</th>
<th>Total</th>
<th>Set Aside</th>
<th>Affirmed</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>2016</td>
<td>0</td>
<td>3</td>
<td>0</td>
<td>4</td>
<td>4</td>
<td>1</td>
<td>12</td>
<td>7</td>
<td>3</td>
</tr>
<tr>
<td>August</td>
<td>2016</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>9</td>
<td>0</td>
<td>1</td>
<td>14</td>
<td>9</td>
<td>4</td>
</tr>
<tr>
<td>September</td>
<td>2016</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>3</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>October</td>
<td>2016</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>0</td>
<td>7</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>November</td>
<td>2016</td>
<td>0</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>8</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>December</td>
<td>2016</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>4</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>January</td>
<td>2017</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>1</td>
<td>4</td>
<td>10</td>
<td>21</td>
<td>11</td>
<td>2</td>
<td>49</td>
<td>25</td>
<td>14</td>
</tr>
</tbody>
</table>

Recommendation
That the report on the VCAT decisions on the planning applications handed down during January 2017 be received and noted.

Support Attachments
1. VCAT Report ↓
Considerations and implications of recommendation

Liveable community

Social
The recommendation will not have any social effects.

Natural Environment
The recommendation will not have any effect on the natural environment.

Built Environment
The recommendation will not have any effect on the built environment.

Customer Service and Community Engagement
The recommendation will not have any effect on customer service or on community engagement.

Human Rights
The recommendation will not have any effect on human rights.

Legal
The recommendation does not create any legal issues for Council.

Finance
The recommendation does not have any strategic financial implications for Council.

Links to Council policy and strategy
The decisions of the VCAT may affect Council’s capacity to achieve objectives set out in the Council Plan.

insert text
VCAT Determined Appeals from 1/01/2017 to 31/01/2017

<table>
<thead>
<tr>
<th>Subject land</th>
<th>369 Beach RD, BLACK ROCK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2015.777.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P1721/2016</td>
</tr>
<tr>
<td>Applicant</td>
<td>Mr &amp; Mrs Edwards</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>Eric Setto Architects</td>
</tr>
</tbody>
</table>

| Before                | J A Bennett              |
| Date of hearing       | 7/03/2017                |
| Date of order         | 16/01/2017               |
| Proposal              | Construction of a double storey dwelling in a Design and Development Overlay Schedule 1 |

| Officer recommendation| Notice of decision       |
| Council recommendation| Notice of decision       |
| Appeal type           | Notice of Decision to Grant a Permit |
| Plans substituted (prior to hearing) | No |
| VCAT determination    | Varied Permit            |
| LGPRF outcome         | N/A                      |
5. Confidential Business

Nil

As Chief Executive Officer, I hereby declare that the contents of this agenda relating to the closed meeting of the ordinary meeting of Council are deemed confidential and accordingly members of Council are reminded that the contents of the agenda are not to be disclosed to any other party.

Adrian Robb

Chief Executive Officer