



Minutes of the Planning and Amenity Committee Meeting

held in the Council Chambers, Civic Centre,
Boxshall Street Brighton
on Tuesday 16 April 2019

The Meeting commenced at 7pm

Chairperson: Cr Rob Grinter

Councillors: Cr Sonia Castelli
Cr Alex del Porto
Cr Laurence Evans
Cr Michael Heffernan (Mayor)
Cr James Long BM JP

In attendance: Matthew Cripps – Manager Development Services
Sarah Collins – Statutory Planning Coordinator
Arthur Vatzakis – Statutory Planning Coordinator
Felicity Barnewall – Acting Statutory Planning Coordinator
Terry Callant – Manager Governance
Robert Lamb – Governance Officer

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The Chairman declared the meeting open at 7pm and advised members of the public gallery that the Planning and Amenity Committee meeting is being recorded and streamed live on the internet to enhance the accessibility of Council meetings to the broader Bayside Community.

1. Apologies

An apology from Cr Clarke Martin was submitted to the meeting, in accordance with Cr Martin's substantive leave of absence, at the March Ordinary Meeting of Council.

Apology

Moved: Cr del Porto

Seconded: Long

That the apology from Cr Clarke Martin be received and leave of absence be granted for this Planning & Amenity Committee Meeting.

CARRIED

2. Disclosure of any Conflict of Interest of any Councillor

There were no conflicts of interest submitted to the meeting.

3. Adoption and Confirmation of the minutes of previous meeting

3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 12 March 2019.

Moved: Cr del Porto

Seconded: Cr Evans

That the minutes of the Planning & Amenity Committee Meeting held on 12 March 2019, as previously circulated, be confirmed as an accurate record of proceedings.

CARRIED

4. Matters of Decision

4.1 58 ARKARINGA CRESCENT, BLACK ROCK NOTICE OF DECISION TO GRANT A PERMIT APPLICATION NO: 2019/21/1 WARD: SOUTHERN

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/89357

It is recorded that Mr Sanjiv Bhasin spoke for three minutes in relation to this item.

Moved: Cr Evans

Seconded: Cr del Porto

That Council resolve to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application **2019/21/1** for the land known and described as **58 Arkaringa Crescent, Black Rock**, for the **Removal of vegetation in a Vegetation Protection Overlay** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the commencement of any vegetation removal or works, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans but modified to show:
 - a) A Landscaping Plan in accordance with Condition 3 of this permit.
All to the satisfaction of the Responsible Authority.
2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

Landscaping

3. 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 advertised plans and be drawn to scale with dimensions and three copies must be provided. The plan must show:
 - a) Replacement planting of 1 large canopy tree reaching a mature height of at least 10 – 15 metres tall and greater than 6 metres spread on the site.
 - b) The retention of Tree 15 (*Melaleuca armillaris*) within the front setback of the site.
 - c) 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.
 - d) 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.

- e) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count.
 - f) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
 - g) Details of surface finishes of pathways and driveways.
4. 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.
 5. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Permit Expiry

6. 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.
- Tree 11 (Exotic Palm) does not require planning permission under the Vegetation Protection Overlay (VPO3) or a Local Law permit for its removal. The removal of this tree is therefore a civil matter. The property owners of 58 and 56 Arkaringa Crescent, Black Rock are encouraged to discuss and resolve future removal.

CARRIED

**4.2 8 MAYSBURY AVENUE, BRIGHTON
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2018/597/1 WARD: CENTRAL**

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/88122

It is recorded that Mrs Anne Connell and Mr Will Pearce each spoke for three minutes in relation to this item.

Moved: Cr Castelli

Seconded: Cr Long

That Council resolve to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application **2018/597/1** for the land known and described as **8 Maysbury Avenue, Brighton** for the **construction of two dwellings and a front fence greater than 1.2m in the Neighbourhood Residential Zone Schedule 3** 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 plans advertised and prepared by Pink Architecture referenced TP 3.00, TP3.01, TP3.02, TP4.01, TP 4.02, dated 16 October 2018 and L- TP1 Rev A dated September 2018, but modified to show:
 - a) Deletion of the roof decks and associated access structures.
 - b) Deletion of both swimming pools.
 - c) A notation on the ground floor plan and the west elevation that the front door and sidelight of each dwelling are to be glazed with clear glass.
 - d) Ground floor plan amended to show a sidelight window next to the front door of Dwelling 2 to match the elevations.
 - e) The setback to Bedroom 1 and the bathroom (notated as 5 and 6 on Drawing TP3.01) on the first floor of each dwelling should be increased to 3m.
 - f) Design changes to the retaining wall near the boundary with Tree 10 to ensure that there is no more than 10% encroachment into the Tree Protection Zone (TPZ) in accordance with AS4970-2009 to the satisfaction of the Responsible Authority.
 - g) Increase of the front setback lawn areas to a minimum of 36sqm to accommodate a large canopy tree, minimum 12m in height at maturity.
 - h) Two canopy trees within the rear setback with a minimum height of 8m at maturity.
 - i) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the habitable rooms of adjoining properties.
 - j) A schedule of construction materials, external finishes and colours.

- k) Water Sensitive Urban Design measures in accordance with Condition 8.
- l) A Landscape Plan in accordance with Condition 10.
- m) Tree Management and Protection Plan in accordance with Condition 13.
- n) Provision of the development contributions fee in accordance with Condition 22.

All to the satisfaction of the Responsible Authority.

- 2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
- 3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.
- 4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.
- 5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
- 6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.
- 7. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

Water Sensitive Urban Design

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick, reference L-TP01 Rev A, dated September 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
 - a) A survey including botanical names of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
 - b) Planting of evergreen screening vegetation along the southern boundary with a minimum height of three (3) metres.
 - c) A planting schedule (which must include indigenous coastal trees) of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
 - d) Details of surface finishes of pathways and driveways.
11. Before the occupation of the development, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Tree Management and Protection Plan

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

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

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

 - a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.
 - b) The location of tree protection measures to be utilised.
14. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.
15. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible

Authority.

16. Any pruning that is required to be done to the canopy of any tree to be is to be done by a qualified Arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified Arborist.

Street tree protection

17. Soil excavation must not occur within 2.5 metres from the edge of the street tree asset's stem at ground level.
18. A tree protection fence is for the protection of a tree's canopy and root zone. Conditions for street tree protection fencing during development are as follows:
 - a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
 - b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.
 - c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
 - d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
 - e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.
19. Street trees must not be removed, lopped, damage or pruned by any party other than Bayside City Council authorised tree care contractors.
20. Prior to soil excavation for a Council approved crossover within the TPZ, 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 by must correctly pruned.
21. Any installation of services and drainage within the TPZ must be undertaken using root sensitive non-destructive techniques.

Development Contribution

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

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

Drainage

23. 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.
24. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council's City Assets and Projects Department.

VicTrack

25. Before the commencement of the development, including demolition and bulk excavation, detailed construction/engineering plans and computations for any construction or works likely to have an impact on railway operations, railway infrastructure assets or railway land are to be submitted to, and approved by, VicTrack and the Rail Operator. The plans must detail all excavation of the site adjacent to the railway corridor having any impact on the railway land. The construction or works must be carried out in accordance with the plans approved by VicTrack and the Rail Operator.

Permit Expiry

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

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

Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours' notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.
- The existing street tree must not be removed or damaged.
- The permit holder must, at all times, ensure that the common boundary with railway land is fenced at the permit holder's expense to prohibit unauthorised access to the rail corridor.
- The permit holder must not, at any time:
 - a) allow any drainage, effluent, waste, soil or other materials to enter or be directed to the railway land; or
 - b) store or deposit any waste, soil or other materials on the railway land.
- The permit holder must not enter any railway land without the written consent of the Rail Operator. If the permit holder has obtained the Rail Operator's written consent to enter the railway land, the permit holder must comply with the Rail Operator's Site Access Procedures and Conditions when accessing the railway land.
- The permit holder must not carry out, or allow to be carried out, any excavation, filling or construction on the common boundary between the subject land and the railway land unless it has obtained the prior written approval of VicTrack and the Rail Operator.

- All works, including hoardings, must be undertaken within the subject land and must not encroach onto the railway land.
- The permit holder must not install, or cause to be installed, any permanent or temporary ground anchors within the railway land.

CARRIED

**4.3 233 NEW STREET, BRIGHTON
NOTICE OF DECISION TO AMEND A PERMIT
APPLICATION NO: 2016/172/3 WARD: NORTHERN**

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/80785

It is recorded that Mr Michael Smith, Mr Glenn Sellman and Ms Amanda Ring each spoke for three minutes in relation to this item.

Moved: Cr del Porto

Seconded: Cr Evans

That Council, having caused notice of Planning application **2016/172/3** to be given in accordance with Section 52 of the *Planning and Environment Act 1987* and having considered all the matters required by Section 60 of the Act resolve to issue **a Refusal to Amend a Permit** in respect of the land known and described as **233 New Street, Brighton**, for the **use and development of the land for a Retirement Village and use of the land to sell or consume liquor** for the following reasons:

- 1) The proposal is inconsistent with the existing and preferred neighbourhood character of the area.
- 2) The proposal fails to comply with the decision guidelines of Clause 65 of the Bayside Planning Scheme, in particular:
 - a) The proposal will produce unacceptable outcomes and will unreasonably impact upon the amenity of the immediate surrounding area.
- 3) The proposed location of the flue located to the southern side of the building is considered inappropriate due to off-site amenity impacts to the residents of Park Street, Brighton.

The Motion was PUT and a **DIVISION** was called:

DIVISION: **FOR:** Crs Alex del Porto, Laurence Evans, James Long and Sonia Castelli (4)
AGAINST: Crs Michael Heffernan (Mayor) and Rob Grinter (2)

CARRIED

4.4 STATUTORY PLANNING VCAT UPDATE

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/51192

Moved: Cr Evans

Seconded: Cr del Porto

That Council:

- a) receive and note the report; and
- b) note the outcome of VCAT decisions on the planning applications handed down during March 2019.

CARRIED

5. Confidential Business

It is recorded that no Confidential Business was submitted to the meeting.

Following consideration of Confidential Business, the Chairperson declared the meeting closed at 8.18pm insert time.