Planning & Amenity Committee Meeting

Council Chambers
Civic Centre – Boxshall Street Brighton

Tuesday 16 July 2019
at 7pm

Agenda
Chairperson:  Cr Rob Grinter (Deputy Mayor)
Councillors:  Cr Sonia Castelli
              Cr Alex del Porto
              Cr Laurence Evans OAM
              Cr Michael Heffernan (Mayor)
              Cr James Long BM JP
              Cr Clarke Martin

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

4. Matters of Decision

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5. Confidential Business
   Nil

**Next Meetings 2019**

Tuesday 30 July 2019 (CANCELLED)
Tuesday 13 August 2019
Tuesday 10 September 2019
Tuesday 8 October 2019
Tuesday 22 October 2019 (CANCELLED)
Tuesday 12 November 2019
Tuesday 26 November 2019 (CANCELLED)
Monday 9 December 2019
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 11 June 2019.
4. Matters of Decision

4.1 3 GLEBE AVENUE, CHELTENHAM
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2018/774/1  WARD: SOUTHERN

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/149666

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Optimal Capital (Aust) Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>21 November 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>94 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 1)</td>
</tr>
</tbody>
</table>
| Overlays                                | Design and Development Overlay (Schedule 2)  
                                        | Vegetation Protection Overlay (Schedule 3)  
                                        | Development Contributions Plan Overlay (Schedule 1) |
| Site area                               | 1285m²                               |
| Number of outstanding objections        | 9                                    |
| Is a Development Contribution Levy applicable? | No                              |
| Is the site located within an area of cultural heritage sensitivity? | Yes – However, the proposal does not trigger the requirement of a Cultural Heritage Management Plan. |

Proposal

The application seeks consent to remove, destroy or lop vegetation native to Australia on a lot with an approximate area of 1,285m².

Key details of the proposal are as follows:

- Removal of sixteen (16) native trees including four (4) destroyed trees protected by the VPO3.

Not subject to this planning application include;

- Removal of two (2) trees protected by Bayside City Council Consolidated Local Law No. 2 - Neighbourhood Amenity, April 2012.
- Twelve (12) trees, comprising of seven (7) native and five (5) exotic trees that do not require a Planning Permit or Local Laws permit for removal.

In total, this application proposes to remove all trees from the site, being a total of 30 trees.
A summary of the trees’ individual controls is provided in Table 1 at Section 6.3 of this report.

An aerial image and photographs of the site and surrounds are provided at Attachment 4.

The proposed landscape plan and applicant’s arborist report are provided at Attachment 1.

**History**

A Council investigation into the death of four (4) native trees on the subject site was undertaken in late 2018. Sample testing and physical wounds indicated that the trees were poisoned.

The works contravened Schedule 3 of Clause 42.02 - Vegetation Protection Overlay of the Bayside Planning Scheme (the ‘scheme’) whereby a permit is required to destroy any vegetation native to Australia.

In accordance with s. 114 of the *Planning and Environment Act 1987* (the ‘Act’ for the remainder of this report) an enforcement order (P635/2019) was made by Council to the Victorian Civil and Administrative Tribunal (VCAT) on 11 April 2019. The enforcement order sought to achieve reinstatement and remedial works with the Scheme.

A consent order mediated by Council and agreed to by affected parties was ratified by VCAT on 7 June 2019. This corrective action directed the replacement planting of 4 indigenous trees within a designated planting envelope in the front setback of the subject site.

VCAT enforcement order No. P635/2019 containing the remediation plans planting envelope is provided at Attachment 2. These trees have not yet been planted on the site.

### 2. Planning controls

**Planning Permit requirements**

A planning permit is required pursuant to:

- Clause 42.02 (Vegetation Protection Overlay Schedule 3) – A permit is required to remove, destroy or lop any vegetation native to Australia.

**Planning Scheme Amendments**

There are no Planning Scheme Amendments relevant to this application.

### 3. Stakeholder consultation

**External referrals**

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

**Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to the retention of four (4) trees proposed for removal and an amended landscaping plan.</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*.

The application advertised the removal of 13 trees from the site, however, three trees –
trees 3, 11 and 18, were not identified in the applicant’s arborist survey and report for removal. These trees are part of the 30 identified in the proposal.

Nine (9) objections were received at the conclusion of the notice period. Three (3) objections received were located at the one address and in accordance with Council’s delegation, were counted as one objection.

At the time of this report, the nine (9) objections remain outstanding.

The following concerns were raised:
- Poisoning of vegetation;
- Habitat and amenity loss for wildlife;
- Cumulative impacts of municipal wide vegetation loss;
- Neighbourhood character;
- Degraded streetscape aesthetics;
- Inadequate landscaping plan;
- Impacts to adjoining bushland;
- Precedence of lack of enforcement;
- Future multi-unit development and visual bulk of the site; and
- Developer intentions and character.

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

Consultation meeting

In light of the advice from Council’s Arborist and the remediation works associated with the VCAT Order, a consultation meeting was not considered appropriate for this application.

4. Recommendation

That Council resolve to issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/774/1 for the land known and described as 3 Glebe Avenue, Cheltenham, to remove, destroy or lop vegetation native to Australia 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 Proposed Landscaping Plan advertised, dated 1/3/2019 and revision number B but modified to show:
   a) A Landscaping Plan in accordance with Condition 3 of this permit.
   b) Tree Management Protection Plan in accordance with Condition 5 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 vegetation, 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. 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 Proposed Landscaping Plan advertised, dated 1/3/2019 and revision number B and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) The retention of tree #4, Monterey Cypress (*Hesperocyparis macrocarpa*), tree #17, Coastal Tea Tree (*Leptospermum laevigatum*), tree #18 Prickly Paperbark (*Melaleuca styphelioides*) and tree #19 Small-leaved Linden (*Tilia cordata*).

b) The planting of one (1) Coast Banksia (*Banksia integrifolia*), One (1) River Red Gum (*Eucalyptus camaldulensis*), One (1) Black Wood (*Acacia melanoxylon*) and one (1) Drooping She-oak (*Allocasuarina verticillata*) inside the planting envelope in the front setback of the subject site and subject to all of the conditions as identified on the Remediation Plan of VCAT Order P635/2019.

c) The planting of three (3) or more indigenous canopy trees which have the capacity to reach a minimum height of 10m at maturity.

d) The planting of two (2) or more native or indigenous canopy trees which have the capacity to reach a minimum of 8m at maturity.

e) 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.

f) 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.

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

h) Details of surface finishes of pathways and driveways.

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

Tree Management and Protection Plan

5. 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.

6. 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.

7. 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.

8. Any pruning that is required to be done to the canopy of any trees to be retained (trees 4, 7, 18 and 19) 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 (trees 4, 7, 18 and 19) is to be done by hand by a qualified Arborist.

Permit Expiry

9. 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.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 12 Environmental and Landscape Values
- Clause 14 Natural Resource Management
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.04 Environmental and Landscape Values
- Clause 22.06 Neighbourhood Character Policy (Precinct H2)
- Clause 32.08 General Residential Zone (Schedule 1)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 2)
6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H2. The proposal in its current form, is considered to demonstrate an unacceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The preferred character of Precinct H2 seeks to retain large established trees, and to provide for the planting of substantial indigenous trees and shrubs. The character of the immediate area, is treed with formalised plantings and remnant vegetation as a result of the existing land uses adjacent the site.

As proposed, the extent of native vegetation removal associated with this application does not achieve this objective. Additionally, the proposed replacement planting as shown on the proposed landscaping plan does not achieve the neighbourhood character objective of the area.

A condition should be included on any permit issued to require an amended landscaping plan showing the retention of four canopy trees as discussed further below. In addition, an amended planting schedule has been included as part of the recommendation to ensure the proposal will contribute to the visual amenity and treed character as sought in Precinct H2.

6.2. Landscaping

Bordering the treed grounds of Cheltenham Primary School to the north and Cheltenham Golf Course to the western title boundary, the subject site is located at the edge of a vegetated pocket and on the periphery of an urbanised setting.

The vegetated state of the site is characterised as densely planted. The overall vegetative state of the site is summarised as heavily suppressed with evidence of poor vegetation management.

Although the composition between native and exotic species is almost even, overcrowding has modified site conditions and assisted in the deterioration of the native species present.

The dominance of highly competitive exotic plants for resources essential to the health and growth of vegetation including water, nutrients and light, have resulted in compromised conditions essential for healthy canopy development, subsequently impacting on amenity values.

The density of vegetation cover is evidenced in Image 1 below that shows the spread of 30 trees on the 1285m² lot (1 tree per 42m²).

A tree map has been collated by Council’s Arborist, recording the location of the vegetation on the site with a Global Positioning System (GPS).

The tree map is provided at Attachment 5.
Image 1: An overview of the location of the site and an inset providing an aerial view of the 30 trees as indicated by the circles provided by NearMap 1 June 2019.

Tree map source: Tree Assessment Report, Ironbark Environmental Arboriculture, May 2019, Revision A.

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.

Whilst the proposed number of trees for removal is considered to be objectionable, when assessed against the decision guidelines of the VPO3, the removal of the destroyed trees and vegetation with poor health and low amenity values is considered to be acceptable.

The application proposes the removal of 16 trees protected by the VPO3. Two (2) trees are protected by Bayside City Councils Local Laws. Seven (7) native trees and five (5) exotic trees do not require any consent for removal.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 6.

Council’s Arborist referral and tree assessment is provided at Attachment 7.

Table 1 below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism.

- Dead vegetation is marked with a “d”
- Indigenous vegetation are marked with an ‘i’.
- Native vegetation are marked with an ‘n’.
- Underlined vegetation is recommended for retention.
Table 1: The relevant controls and genus for the 30 individual trees on the subject site.

<table>
<thead>
<tr>
<th>O3 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>2n, 3n, 4nd, 5nd, 6n, 8nd, 9n, 10n, 11n, 12n, 15nd, 16n, 17n, 18n, 23i &amp; 29n</td>
<td>N/A</td>
<td>7 &amp; 13d</td>
</tr>
<tr>
<td>TOTAL: 16</td>
<td>-</td>
<td>2</td>
</tr>
</tbody>
</table>

Image 1: The location of the 30 trees as indicated by the circles provided by NearMap 1 June 2019. Trees #7, #23, #28 and #29 are recommended for retention by Council’s Arborist and is discussed further below.

Tree map source: Tree Assessment Report, Ironbark Environmental Arboriculture, May 2019, Revision A.
In most circumstances the retention of native trees is preferable to replacement planting, but poor maintenance of the existing vegetation has contributed to compromised states and reduced conditions for the growth and long term viability of the site’s vegetation.

The density of the site’s planting has introduced overshadowing to many of the trees, producing depressed states of vegetative health. Much of the vegetation is supressed and has not developed to their full capabilities with the majority of the trees exhibiting diminished amenity values as a result of small canopies.

Overall, the poor state of the site’s vegetation requires intervention and careful consideration for successful regeneration on a site well placed to serve as a connective link to the larger vegetation patch of the adjoining Cheltenham Golf Course.

Subject to substantial replacement planting of indigenous vegetation, permitting the removal of a number of these trees will allow for the reestablishment and regeneration of indigenous biota over time.

In time, the post-removal outcome will result in an improved vegetative state.

Not identified in the applicant’s arborist report were tree #3 Prickly paperbark (*Melaleuca styphelioides*), tree #11 Coast Banksia (*Banksia integrifolia*), and tree #18 Bangalow palm (*Archontophoenix cunninghamiana*).

From an arboriculture perspective, Council’s Arborist has reviewed the application and advises that of the sixteen VPO3 and two Local Laws protected trees proposed for removal as outlined in Table 1 above, trees #7, #23 and #29 are recommended for retention. Tree #28 is also recommended for retention by Council’s Arborist, although it is not protected by any statutory mechanism. Despite this, an assessment of the tree is made in the report below.

Four (4) large native trees have been found to be destroyed and are listed in Table 2 below:

<table>
<thead>
<tr>
<th>Tree ID</th>
<th>Scientific Name</th>
<th>Common Name</th>
<th>Origin</th>
<th>Height (m)</th>
<th>Cir @1m (cm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td><em>Corymbia maculate</em></td>
<td>Spotted Gum</td>
<td>Native</td>
<td>21</td>
<td>252</td>
</tr>
<tr>
<td>5</td>
<td><em>Angophora costata</em></td>
<td>Smooth-barked Apple Gum</td>
<td>Australian</td>
<td>21</td>
<td>147</td>
</tr>
<tr>
<td>8</td>
<td><em>Corymbia ficifolia</em></td>
<td>Red-flowering Gum</td>
<td>Australian</td>
<td>23</td>
<td>249</td>
</tr>
<tr>
<td>15</td>
<td><em>Syzgium australe</em></td>
<td>Lilly Pilly</td>
<td>Australian</td>
<td>15</td>
<td>105</td>
</tr>
</tbody>
</table>

Table 2: The four dead trees subject to planning permit for removal. Source: Tree Assessment Report, Ironbark Environmental Arboriculture, May 2019, Revision A.

The retention of the dead trees will provide no habitat or amenity value to the site or wider area. Council’s Arborist has advised that the trees are supported for removal subject to replanting with substantial trees to replace the visual amenity previously provided.

**Tree #7** (tree #4 in the applicant’s Arborist report), a Monterey Cypress (*Hesperocyparis macrocarpa*) is a significant exotic tree in the front setback of the subject site. This tree provides the greatest visual amenity value to the streetscape and immediate surrounds. The mature tree is well established, and provides habitat cover at a significant canopy height of 19 metres.

In contrast with the applicant’s Arborist report, the tree is not moribund dying, it is considered that its retention value is high. Notwithstanding the difference in opinions, a Local Laws permit is required for the removal of this tree. Council’s Arborist has indicated that works by a qualified arborist to prune the dieback and minor dead wood in the canopy will assist in achieving the trees current estimated useful life expectancy of 10 – 20 years.

The tree is also not located within the planting envelope as specified in the Remediation Plan as per the VCAT order. Moreover, in the absence of development plans and an arboricultural reason for its removal, the tree is well placed for retention.
Tree #23 (tree #17 in the applicants Arborist report) is an indigenous Coastal Tea Tree (*Leptospermum laevigatum*) listed in the VPO3 as remnant species. The small woody tree with low twisted branches exhibits a height of 4 metres and a spread of 7 metres.

The applicant’s Arborist report has reported this tree to have poor health and structure however, Council’s Arborist has found it to exhibit fair health and structure. Despite the small height of the tree, a variation in canopy tree heights contributes to biodiversity and habitat value and with appropriate maintenance the tree has the potential to achieve its useful life expectancy of 10 – 20 years.

Whilst its location in the rear setback of the existing building nullifies its contribution to the streetscape, it is critical to note that the tree is valuable as only one of two indigenous species on the site and the only indigenous tree recommended for retention.

Furthermore, the tree is not located within the planting envelope as specified in the Remediation Plan as per the VCAT Order and in the absence of development plans and arboricultural reason for its removal, is well placed for retention.

Tree #28 (tree #19 in the applicants Arborist report) Small-leaved Linden (*Tilia cordata*) is an early-mature tree in good condition health and with moderate retention values.

Whilst this tree is not protected by any statutory mechanism, the 7 metre high tree has established in challenging conditions and has the potential to develop into a significant canopy tree.

Located in the rear setback, the tree makes a visual contribution to the rear laneway and is not located within the planting envelope as specified in the Remediation Plan as per the VCAT order.

Tree #29 (tree #18 in the applicants Arborist report) is identified as a Prickly Paperbark (*Melaleuca styphelioides*). The small tree is reported by the applicant as exhibiting good health and structure and with a long useful life expectancy. Despite this, the tree is recommended for removal.

Council’s Arborist has assessed the tree and agrees with the Applicant’s assessment, advising that the tree has a useful life expectancy of 10 – 20 years. The tree is not located within the planting envelope as specified in the Remediation Plan as per the VCAT order and in the absence of development plans and arboricultural reason for its removal, is well placed for retention.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that the replanting of indigenous Black Wattle (*Acacia mearnsii*), native Blackwood (*Acacia melanoxylon*) and Sweet Bursaria (*Bursaria spinosa*) is supported.

Council’s Arborist has advised however that the selection of the Black Wattle, Blackwood and Sweet Bursaria as canopy trees to replace the amenity and habitat value provided by trees #4, #5, #8 and #15 is not supported. Tree #4 and #5 exhibited a height of 21m, tree #23 exhibited a height of 23m and tree #15 exhibited a height of 15m.

The VCAT enforcement order however has directed the replacement planting of the following trees to replace the destroyed trees;

a) One (1) Coast Banksia (*Banksia integrifolia*)
b) One (1) River Red Gum (*Eucalyptus camaldulensis*)
c) One (1) Black Wood (*Acacia melanoxylon*)
d) One (1) Drooping She-oak (*Allocasuarina verticillata*)

Under optimal conditions these trees will achieve a respective height of 15m, 20m, 8m and 10m at maturity.
In effect, the replanting of smaller trees has occurred to secure the provision of adequate soil volumes within the front setback to increase the viability and long term health of the trees. These replacement trees must be shown on the landscape plan and a condition to this effect is included.

A condition requiring the retention of trees #7, #23, #28 and #29 also forms a recommended condition of permit.

Replacement planting for the remaining nine (9) native trees proposed for removal is recommended to include three (3) or more indigenous canopy trees which have the capacity to reach a minimum height of 10m at maturity and two (2) or more native or indigenous canopy trees which have the capacity to reach a minimum of 8m at maturity.

The usual ratio of one replacement canopy tree for each tree removed has not been recommended to avoid overcrowding, suppression and to ensure sufficient resources for each tree.

The omission of ground covers and shrubs from the landscaping plans will be rectified by way of a permit condition further requiring that the vegetation be at least 80% indigenous by species and plant quantity.

Lastly, a requirement for a specific Tree Management Protection plan is recommended to form a condition of permit and must specify protection measures for all trees retained on the site.

6.3. Cultural Heritage management plan

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

6.4. Development contributions levy

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

6.5. Objector issues not already addressed

Future multi-unit development of the site including visual bulk

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

No application has been lodged with Bayside City Council at this point in time. Notwithstanding this, planning permit applications on this site or neighbouring and nearby land will be assessed against relevant planning policy and site conditions, based on their own merits at the time of assessment.

Developer intentions and character

This ground is a personal and bias view that has no statutory weight and will not be considered.

Precedent

Future planning permit applications on this site or neighbouring and nearby land will be assessed against relevant planning policy and site conditions, based on their own merits at the time of assessment. The possibility of setting an undesirable precedent cannot be substantiated and is not a relevant planning consideration.
Support Attachments

1. Landscape Plan & Applicants Arborist Report
2. VCAT enforcement order
3. Neighbourhood Character Assessment (Precinct H2)
4. Sites and Surrounds
5. Tree Map
6. VPO3 Decision Guidelines
7. Arborist Referral & Tree Assessment Report
Item 4.1 – Matters of Decision
PSY Inv Pty Ltd  
ACN 066 791 231  ABN 71 795 544 198  
7 Maureen Street Mount Waverley VIC 3149  
Arboricultural Consultant – Chartered Biologist  
M +61 419 559658  E psyau@psy.com.au

Bayside City Council  
Planning & Amenity Committee Meeting - 16 July 2019  
Attachment 1

 ARBORICULTURAL REPORT

PROPERTY ADDRESS:  
3 Glebe Avenue, Cheltenham, VIC

Our Ref:  
PSY/2018/1106

Date of Report:  
06/11/2018  Updated 29/12/2018 & 28/02/2019

Tree inspection:  
28/02/2019  by Dr Peter Yau

• Abstract Summary of the report

This property is located under Bayside VPO3 which requires a permit to remove ANY NATIVE Australian tree except trees under 2m height or under 0.5m trunk circumference at 1m above NGF.

In this subject site, the following are all Australian Native Trees, therefore will require a council VPO3 planning permit to remove:  
Trees Nos. 2-3-5-7-8-9a-10-11-12-13-14-16-17-18

Out of the above listed native trees, the following trees are found to be dead or dying or moribund:

No.2  – Angophora costata
No.5  – Corymbia ficifolia
No.10 – Syzygium australe
No.11 – Corymbia maculata
No.9  – Syzygium australe (best guess ID)

All the remaining native trees are considered of LOW retention value, in particular those that are environmental weed species (Sweet Pittosporum) Nos.3-14-16 as well as other non-native trees (Nos.4-6-15-19-20-21) that are not covered under VPO3.

Other vegetation marked on the plan but not included in this report are all small low bushy shrubbery plants and all are low retention value.
For tree replanting offset program of removed trees, the following native indigenous species may be planted as recommended species:

Eucalyptus leucoxylon 'megaloarpa' - large fruit yellow gum (Vic Native) – height to 12m
Banksia marginata – silver banksia – (Vic Bayside Native) – height to 12m

The following table also recommends native indigenous trees favoured by the Bayside City Council:

<table>
<thead>
<tr>
<th>Species Name</th>
<th>Common Name</th>
<th>Mature Size Range (HxW)</th>
<th>Key</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acacia implexa</td>
<td>Lightwood</td>
<td>8–15m x 2–6m</td>
<td>HSA</td>
</tr>
<tr>
<td>Acacia mearnsil</td>
<td>Black Wattle</td>
<td>8–10m x 6–10m</td>
<td>HCD</td>
</tr>
<tr>
<td>Acacia melanoxylon</td>
<td>Blackwood</td>
<td>8–10m x 6–15m</td>
<td>HWA</td>
</tr>
<tr>
<td>Allocasuarina littoralis</td>
<td>Black She-oak</td>
<td>8m x 2–6m</td>
<td>HDS</td>
</tr>
<tr>
<td>Allocasuarina verticillata</td>
<td>Drooping She-oak</td>
<td>10–11m x 3–8m</td>
<td>CD</td>
</tr>
<tr>
<td>Bursaria spinosa</td>
<td>Sweet Bursaria</td>
<td>6m x 2–4m</td>
<td>HCA</td>
</tr>
<tr>
<td>Leptospermum laevigatum</td>
<td>Coast Tea-tree</td>
<td>6–8m x 2–6m</td>
<td>CDA</td>
</tr>
<tr>
<td>Melaleuca ericifolia</td>
<td>Swamp Paperbark</td>
<td>2–9m x 2–6m</td>
<td>HCDWA</td>
</tr>
</tbody>
</table>
• INTRODUCTION

This arborist report has been commissioned by the client to assess the condition of all trees in the subject site as well as neighbouring trees and street trees.

A site plan of this property showing the trees has been provided and attached.

The Bayside Council in their RFI of 27 Feb 2019 has raised the following issues of concern:

Reports
1. Amend the Arborist report to include the identification of trees 9 and 19. A site inspection confirms that the trees remain identifiable and tree 19 is not dead as outlined in your report.
2. An Australian native fern has been omitted from the tree location plan and Arborist report. This tree is approximately 8 metres tall. Amend the report and tree location plan to include the details of this vegetation.
3. A clear statement of all trees covered by the VPO and proposed to be removed.

Council has also identified the following issues which must be responded to for officer support:
A. The submitted landscaping plan is not a sufficient response to the Vegetation protection objectives to be achieved pursuant to the VPO3.

Conflicting with your advice, the three species proposed to be planted are not indigenous, but exotic trees. It is recommended that you amend the landscape plan to include indigenous replacement planting including canopy trees.

• METHODOLOGY OF TREE ASSESSMENT

Tree Assessment Methodology was by means of VTA method (Visual Tree Assessment as per Matthecks). Tree size DBH measurements were made with tape measure, and tree height with clinometer. No other tools or instrumentation were used or deemed necessary in this instance.

The report is based on the format and contents in Australian Standard AS4970:2009 – ‘Protection of Trees on Development Sites’.

• LIMITATIONS IN TREE ASSESSMENT

There is no limitation to access to the trees for assessment and measurement unless otherwise stated.

• COUNCIL PLANNING SCHEME

This property is located within the Bayside Council VPO3 zone.
Under the Bayside VPO3 the following permit requirement applies to this subject property:

**3.0**

**Permit requirement**

A permit is required to remove, destroy or lop any vegetation native to Australia. This does not apply to:

- The removal, destruction or lopping of vegetation which is less than 2 metres high or has a single trunk circumference of less than 0.5 metre at a height of 1 metre above ground level.
- The pruning of vegetation to remove that part of any branch which overhangs an existing dwelling or is within 2 metres of an existing dwelling.

**ARBORICULTURAL DATA COLLECTED IN ASSESSMENT**

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Street tree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Species:</td>
<td>Melaleuca quinquenervia (Broad Leaf Paperbark)</td>
</tr>
<tr>
<td>DBH:</td>
<td>300mm</td>
</tr>
<tr>
<td>TPZ:</td>
<td>3.6m radius</td>
</tr>
<tr>
<td>SRZ:</td>
<td>2.2m radius</td>
</tr>
<tr>
<td>Canopy:</td>
<td>4m</td>
</tr>
<tr>
<td>Height:</td>
<td>6m</td>
</tr>
<tr>
<td>Health:</td>
<td>Fair</td>
</tr>
<tr>
<td>Structure:</td>
<td>Fair</td>
</tr>
<tr>
<td>Form:</td>
<td>Poor – half tree broken off, tree pushed aside by large tree No.2</td>
</tr>
<tr>
<td>Significance:</td>
<td>Native greenery tree for streetscape</td>
</tr>
<tr>
<td>ULE:</td>
<td>Medium (depends on future maintenance)</td>
</tr>
<tr>
<td>Retention:</td>
<td>Street tree – to be retained</td>
</tr>
</tbody>
</table>

DIRECTOR – Dr Peter Van Mis(Onco) PhD(Meth) CBIol FRSB  Chartered Biologist  Arboricultural Consultant
### Tree No. 2
Species: *Angophora costata* (Angophora)
DBH: 460+260 mm
TPZ: 6.34m radius
SRZ: 2.75m radius
Canopy: 10m
Height: 20m
Health: Dead – see photo below
Structure: Good
Form: Good
Significance: Large mature **NATIVE** greenery tree - Dead tree with no habitat value
ULE: Nil
Retention: **REMOVE dead tree**

[Tree-2]

### Tree No. 3
Species: *Pittosporum undulatum* (Sweet Pittosporum)
DBH: 200mm
TPZ: 2.4m radius
SRZ: 1.5m radius
Canopy: 6m
Height: 8m
Health: Good
Structure: Good
Form: Good
Significance: Small **NATIVE** greenery tree – environmental weed species
ULE: Long (depends on future maintenance)
Retention: Low

---

**DIRECTOR** – Dr Peter Van MSoc(Envx) PhD(Melb) CBIol FRSB  
Chartered Biologist  Arboricultural Consultant
**Tree No.** 4
Species: *Hesperocyparis macrocarpa* (Monterey Cypress)
DBH: 1500mm
TPZ: 15m radius
SRZ: 4m radius
Canopy: 12m
Height: 20m
**Health:** Poor – canopy foliage full of dead fronds and deadwood – Moribund Dying – see photo
**Structure:** Fair – old senescent cypress liable to break and drop branches
**Form:** Fair
**Significance:** Large mature non-native [exotic] greenery conifer tree
**ULE:** Long (depends on future maintenance)
**Retention:** Low - Removal supported

---

**Tree No.** 5
Species: *Corymbia ficifolia* (Red Flowering Gum)
DBH: 820 mm
TPZ: 10m radius
SRZ: 3.3m radius
Canopy: 16m
Height: 26m
**Health:** Dead – see photo
**Structure:** Good
**Form:** Good
**Significance:** Large mature NATIVE greenery flowering tree - Dead – No habitat value
**ULE:** Nil
**Retention:** REMOVE dead tree
Tree No.: 6  
Species: *Olea europaea* (Olive Tree)  
DBH: 170 mm  
Canopy: 6m  
Height: 6m  
Health: Good  
Structure: Good  
Form: Fair  
Significance: Small *non-native* greenery fruit tree  
ULE: Long (depends on future maintenance)  
Retention: Low

*Tree No. 6, Image: Tree-5*
Tree No.  7
Species:  *Melaleuca armillaris*  (Bracelet Honey Myrtle)
DBH:  220+180 mm
Canopy:  8m
Height:  8m
Health:  Poor
Structure:  Poor
Form:  Poor
Significance:  Small **NATIVE** greenery tree in POOR condition
ULE:  Short  (depends on future maintenance)
Retention:  Low

Tree No.  8
Species:  *Syzygium australe*  (Brush Cherry)
DBH:  460mm
Canopy:  14m
Height:  18m
Health:  Fair – some deadwood
Structure:  Poor – half tree broken off leaving large wound scar on trunk
Form:  Poor – half tree canopy remaining
Significance:  Large mature **NATIVE** greenery tree in poor condition
ULE:  Medium  (depends on future maintenance)
Retention:  Low

Tree No.  9 - **DEAD TREE of Unknown Species**
Species:  Probably *Syzygium australe*  (Brush Cherry)
DBH:  600mm
Canopy:  6m
Height:  14m
Health:  DEAD
Structure:  Poor – half tree broken off – other half dead
Form:  Poor – half canopy
Significance:  Dead Tree
ULE:  NIL
Retention:  REMOVE
NOTE:  The council in RFI demanded tree identification. On renew inspection today (28 Feb 2019) the tree is still found to be dead (see photo below) with no distinguishable ID features on the tree remaining to assist me to make an educated guess of its botanical taxonomical nomenclature. Therefore since I am compelled to make a wild guess, based on the bark texture still visible, and the trees in the immediate surrounding, I would venture to guess that it could probably be a *Syzygium australe*  (Brush Cherry)
Tree No. 9a  
Species: *Howea forsteriana* (Kentia Palm)  
DBH: 150mm  
TPZ: 1.5m radius  
SRZ: 1m radius  
Canopy: 4m  
Height: 4m  
Health: Good  
Structure: Good  
Form: Good  
Significance: Small *NATIVE* greenery palm tree – easily transplantable  
ULE: Long (depends on future maintenance)  
Retention: Low - this is the 'missing' native palm in council RFI - this is only 4m height - not 8m as claimed in council RFI.
<table>
<thead>
<tr>
<th>Tree No.</th>
<th>10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Species:</td>
<td><em>Syzygium australe</em> (Brush Cherry)</td>
</tr>
<tr>
<td>DBH:</td>
<td>550mm</td>
</tr>
<tr>
<td>TPZ:</td>
<td>6.6m radius</td>
</tr>
<tr>
<td>SRZ:</td>
<td>2.75m radius</td>
</tr>
<tr>
<td>Canopy:</td>
<td>10m</td>
</tr>
<tr>
<td>Height:</td>
<td>18m</td>
</tr>
<tr>
<td>Health:</td>
<td>Dead - Dying - see photo</td>
</tr>
<tr>
<td>Structure:</td>
<td>Good</td>
</tr>
<tr>
<td>Form:</td>
<td>Good</td>
</tr>
<tr>
<td>Significance:</td>
<td>Large mature NATIVE greenery tree - Dead – No habitat value</td>
</tr>
<tr>
<td>ULE:</td>
<td>Nil</td>
</tr>
<tr>
<td>Retention:</td>
<td>REMOVE dead tree</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Species:</td>
<td><em>Corymbia maculata</em> (Spotted Gum)</td>
</tr>
<tr>
<td>DBH:</td>
<td>700mm</td>
</tr>
<tr>
<td>TPZ:</td>
<td>8.4m radius</td>
</tr>
<tr>
<td>SRZ:</td>
<td>3m radius</td>
</tr>
<tr>
<td>Canopy:</td>
<td>12m</td>
</tr>
<tr>
<td>Height:</td>
<td>28m</td>
</tr>
<tr>
<td>Health:</td>
<td>Dead – see photo</td>
</tr>
<tr>
<td>Structure:</td>
<td>Good</td>
</tr>
<tr>
<td>Form:</td>
<td>Good</td>
</tr>
<tr>
<td>Significance:</td>
<td>Large mature NATIVE greenery tree – Dead – No habitat value</td>
</tr>
<tr>
<td>ULE:</td>
<td>Nil</td>
</tr>
<tr>
<td>Retention:</td>
<td>REMOVE dead tree</td>
</tr>
<tr>
<td>Tree No.</td>
<td>12</td>
</tr>
<tr>
<td>---------</td>
<td>-----</td>
</tr>
<tr>
<td>Species:</td>
<td><em>Melaleuca quinquenervia</em> (Broad Leaf Paperbark)</td>
</tr>
<tr>
<td>DBH:</td>
<td>440mm</td>
</tr>
<tr>
<td>Canopy:</td>
<td>8m</td>
</tr>
<tr>
<td>Height:</td>
<td>18m</td>
</tr>
<tr>
<td>Health:</td>
<td>Good</td>
</tr>
<tr>
<td>Structure:</td>
<td>Fair</td>
</tr>
<tr>
<td>Significance:</td>
<td>Large mature [NATIVE] greenery tree</td>
</tr>
<tr>
<td>ULE:</td>
<td>Medium (depends on future maintenance)</td>
</tr>
<tr>
<td>Retention:</td>
<td>Low</td>
</tr>
<tr>
<td>Tree No.</td>
<td>16</td>
</tr>
<tr>
<td>----------</td>
<td>----</td>
</tr>
<tr>
<td>Species:</td>
<td><em>Pittosporum undulatum</em> (Sweet Pittosporum)</td>
</tr>
<tr>
<td>DBH:</td>
<td>100mm</td>
</tr>
<tr>
<td>Canopy:</td>
<td>6m</td>
</tr>
<tr>
<td>Height:</td>
<td>6m</td>
</tr>
<tr>
<td>Health:</td>
<td>Fair</td>
</tr>
<tr>
<td>Structure:</td>
<td>Poor</td>
</tr>
<tr>
<td>Form:</td>
<td>Poor – leaning 30 degrees</td>
</tr>
<tr>
<td>Significance:</td>
<td>Small <strong>NATIVE</strong> greenery tree – environmental weed species</td>
</tr>
<tr>
<td>ULE:</td>
<td>Medium (depends on future maintenance)</td>
</tr>
<tr>
<td>Retention:</td>
<td>Low</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>17</th>
</tr>
</thead>
<tbody>
<tr>
<td>Species:</td>
<td><em>Leptospermum spp</em> (Tea Tree)</td>
</tr>
<tr>
<td>DBH:</td>
<td>150+150+200 mm</td>
</tr>
<tr>
<td>Canopy:</td>
<td>10m</td>
</tr>
<tr>
<td>Height:</td>
<td>5m</td>
</tr>
<tr>
<td>Health:</td>
<td>Poor</td>
</tr>
<tr>
<td>Structure:</td>
<td>Poor</td>
</tr>
<tr>
<td>Form:</td>
<td>Poor – tree fallen flat on the ground – see photo</td>
</tr>
<tr>
<td>Significance:</td>
<td>Small <strong>NATIVE</strong> greenery tree in very bad shape</td>
</tr>
<tr>
<td>ULE:</td>
<td>Short (depends on future maintenance)</td>
</tr>
<tr>
<td>Retention:</td>
<td>Low</td>
</tr>
</tbody>
</table>
Tree No. 18
Species: *Melaleuca styphelioides* (Prickly Leaf Paperbark)
DBH: 360mm
TPZ: 4.3m radius
SRZ: 2.0m radius
Canopy: 8m
Height: 10m
Health: Good
Structure: Good
Form: Good
Significance: Small **NATIVE** greenery tree
ULE: Long (depends on future maintenance)
Retention: Low

Tree No. 19 (subject of council RFI)
Species: *Morus alba* (Mulberry Tree)
DBH: 300mm
Canopy: 6m
Height: 10m
Health: Poor – canopy thin sparse, foliage leaf with sclerosis – see photos
Structure: Good
Form: Good
Significance: **Non-Native Deciduous Tree** in Poor condition - **not subject to VPO**
ULE: Short (depends on future maintenance)
Retention: Low
Tree No. 20
Species: Eriobotrya japonica (Loquat Tree)
DBH: 180mm
Canopy: 5m
Height: 6m
Health: Good
Structure: Poor – half tree cut off
Form: Poor – half canopy leaning trunk 45 degrees
Significance: Small NON-NATIVE loquat fruit tree in poor form
ULE: Short
Retention: Low

Tree No. 21
Species: Cercis siliquastrum (Juda Tree)
DBH: 200mm
Canopy: 8m
Height: 8m
Health: Fair – thin sparse foliage canopy
Structure: Good
Form: Fair – tree leaning slightly
Significance: Small NON-NATIVE flowering greenery tree
ULE: Medium
Retention: Low
COUNCIL REQUEST FOR INFORMATION (27 Dec 2018)

Bayside Council RFI dated 27 Dec 2018 asks for this report to be updated to show:

4. The submitted Arboricultural Report by PSY Inv Pty Ltd updated to include a table detailing:
   a) The exact figure of all native vegetation sought to be removed, destroyed or lopped according to the Permit Requirements of Schedule 3.0 to the Vegetation Protection Overlay, Clause 42.02 of the Bayside Planning Scheme.

   This does not apply to:
   i. The removal, destruction or lopping of vegetation which is less than 2 metres high or has a single trunk circumference of less than 0.5 metre at a height of 1 metre above ground level.
   ii. The pruning of vegetation to remove that part of any branch which overhangs an existing dwelling or is within 2 metres of an existing dwelling.

   b) Specify which vegetation is native and/or indigenous.
   c) Specify the single trunk circumference of the vegetation at a height of 1 metre above ground level.
   d) Specify which vegetation require a Local Laws permit for their removal.
   e) Specify all established trees removed from the site in the 12 months prior to the application being made.

THE FOLLOWING TABLE IS IN RESPONSE TO THE ABOVE RFI.

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Species</th>
<th>Native/Exotic</th>
<th>Trunk circumference m</th>
<th>Height</th>
<th>Permit needed</th>
<th>Retention</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Melaleuca quinquenervia</td>
<td>Native</td>
<td>0.94 m</td>
<td>6m</td>
<td>n/a</td>
<td>Retain</td>
<td>Dead</td>
</tr>
<tr>
<td>2</td>
<td>Angophora costata</td>
<td>Native</td>
<td>1.65 m</td>
<td>20m</td>
<td>No</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>3</td>
<td>Pittosporum undulatum</td>
<td>Native</td>
<td>0.63 m</td>
<td>8m</td>
<td>YES</td>
<td>Remove</td>
<td>Weed</td>
</tr>
<tr>
<td>4</td>
<td>Hesperecyphora microcarpa</td>
<td>Exotic</td>
<td>4.2 m</td>
<td>20m</td>
<td>No</td>
<td>Non-native</td>
<td>Dead</td>
</tr>
<tr>
<td>5</td>
<td>Corymbia ficifolia</td>
<td>Native</td>
<td>0.82 m</td>
<td>26m</td>
<td>No</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>6</td>
<td>Olea europeae</td>
<td>Exotic</td>
<td>0.53 m</td>
<td>6m</td>
<td>NO</td>
<td>Non-native</td>
<td>Dead</td>
</tr>
<tr>
<td>7</td>
<td>Melaleuca armilari</td>
<td>Native</td>
<td>0.89 m</td>
<td>8m</td>
<td>YES</td>
<td>Remove</td>
<td>Poor</td>
</tr>
<tr>
<td>8</td>
<td>Syzygium australie</td>
<td>Native</td>
<td>1.44 m</td>
<td>18m</td>
<td>YES</td>
<td>Remove</td>
<td>Poor</td>
</tr>
<tr>
<td>9a</td>
<td>Hovea forsteriana</td>
<td>Native</td>
<td>0.47 m</td>
<td>4m</td>
<td>YES</td>
<td>Remove</td>
<td>Good</td>
</tr>
<tr>
<td>9b</td>
<td>Syzygium australie</td>
<td>Native</td>
<td>1.86 m</td>
<td>14m</td>
<td>No</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>10</td>
<td>Syzygium australie</td>
<td>Native</td>
<td>1.72 m</td>
<td>18m</td>
<td>No</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>11</td>
<td>Corymbia maculata</td>
<td>Native</td>
<td>2.2 m</td>
<td>28m</td>
<td>No</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>12</td>
<td>Melaleuca quinquenervia</td>
<td>Native</td>
<td>1.38 m</td>
<td>18m</td>
<td>YES</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>13</td>
<td>Hovea forsteriana</td>
<td>Native</td>
<td>0.62 m</td>
<td>6m</td>
<td>YES</td>
<td>Remove</td>
<td>Poor</td>
</tr>
<tr>
<td>14</td>
<td>Pittosporum undulatum</td>
<td>Native</td>
<td>1.14 m</td>
<td>10m</td>
<td>YES</td>
<td>Remove</td>
<td>Weed</td>
</tr>
<tr>
<td>15</td>
<td>Cotoneaster spp</td>
<td>Exotic</td>
<td>0.65 m</td>
<td>6m</td>
<td>No</td>
<td>Remove</td>
<td>Exotic Weed</td>
</tr>
<tr>
<td>16</td>
<td>Pittosporum undulatum</td>
<td>Native</td>
<td>0.31 m</td>
<td>6m</td>
<td>YES</td>
<td>Remove</td>
<td>Weed</td>
</tr>
<tr>
<td>17</td>
<td>Leptospermum spp</td>
<td>Native</td>
<td>0.92 m</td>
<td>5m</td>
<td>YES</td>
<td>Remove</td>
<td>Poor</td>
</tr>
<tr>
<td>18</td>
<td>Melaleuca styphelioides</td>
<td>Native</td>
<td>1.12 m</td>
<td>10m</td>
<td>YES</td>
<td>Remove</td>
<td>Good</td>
</tr>
<tr>
<td>19</td>
<td>Morea alba</td>
<td>Exotic</td>
<td>0.94 m</td>
<td>10m</td>
<td>No</td>
<td>Non-native</td>
<td>Dead</td>
</tr>
<tr>
<td>20</td>
<td>Eriobotrya japonica</td>
<td>Exotic</td>
<td>0.56 m</td>
<td>6m</td>
<td>No</td>
<td>Remove</td>
<td>Non-native</td>
</tr>
</tbody>
</table>

NOTE: It is not known if any established tree had been removed from the site within the past 12 months based on inspection observations.
CONCLUSION & RECOMMENDATIONS

This property is located under Bayside VPO3 which requires a permit to remove ANY NATIVE Australian tree except trees under 2m height or under 0.5m trunk circumference at 1m above NGL.

In this subject site, the following are all Australian Native Trees, therefore will require a council VPO3 planning permit to remove: Trees Nos. 2-3-5-7-8-9a-10-11-12-13-14-16-17-18

Out of the above listed native trees, the following trees are found to be dead or dying or moribund:

No.2  – Angophora costata
No.5  – Corymbia ficifolia
No.10 – Syzygium australe
No.11 – Corymbia maculata
No.9  – Syzygium australe (best guess ID)

All the remaining native trees are considered of LOW retention value, in particular those that are environmental weed species (Sweet Pittosporum) Nos.3-14-16 as well as other non-native trees (Nos.4-6-15-19-20-21) that are not covered under VPO3.

Other vegetation marked on the plan but not included in this report are all small low bushy shrubbery plants and all are of low retention value.

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Species</th>
<th>Native/Exotic</th>
<th>Trunk circumference m</th>
<th>Height</th>
<th>Permit needed</th>
<th>Retention</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Melaleuca quinquenervia</td>
<td>Native</td>
<td>0.94 m</td>
<td>6m</td>
<td>n/a</td>
<td>Retain</td>
<td>Poor</td>
</tr>
<tr>
<td>2</td>
<td>Angophora costata</td>
<td>Native</td>
<td>1.65 m</td>
<td>8m</td>
<td>Yes</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>3</td>
<td>Pittosporum undulatum</td>
<td>Native</td>
<td>0.63 m</td>
<td>n/a</td>
<td>Yes</td>
<td>Remove</td>
<td>Weed</td>
</tr>
<tr>
<td>4</td>
<td>Hesperocyparis macrocarpa</td>
<td>Exotic</td>
<td>4.7 m</td>
<td>8m</td>
<td>No</td>
<td>Remove</td>
<td>Non-native</td>
</tr>
<tr>
<td>5</td>
<td>Corymbia ficifolia</td>
<td>Native</td>
<td>0.82 m</td>
<td>8m</td>
<td>No</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>6</td>
<td>Olea europea</td>
<td>Exotic</td>
<td>0.51 m</td>
<td>6m</td>
<td>No</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>7</td>
<td>Melaleuca armillaris</td>
<td>Native</td>
<td>0.89 m</td>
<td>8m</td>
<td>Yes</td>
<td>Remove</td>
<td>Poor</td>
</tr>
<tr>
<td>8</td>
<td>Syzygium australe</td>
<td>Native</td>
<td>1.44 m</td>
<td>18m</td>
<td>Yes</td>
<td>Remove</td>
<td>Poor</td>
</tr>
<tr>
<td>9a</td>
<td>Howeia forsteriana</td>
<td>Native</td>
<td>0.47 m</td>
<td>4m</td>
<td>Yes</td>
<td>Remove</td>
<td>Good</td>
</tr>
<tr>
<td>9</td>
<td>Syzygium australe</td>
<td>Native</td>
<td>1.88 m</td>
<td>14m</td>
<td>No</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>10</td>
<td>Syzygium australe</td>
<td>Native</td>
<td>1.72 m</td>
<td>18m</td>
<td>No</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>11</td>
<td>Corymbia maculata</td>
<td>Native</td>
<td>2.2 m</td>
<td>28m</td>
<td>No</td>
<td>Remove</td>
<td>Dead</td>
</tr>
<tr>
<td>12</td>
<td>Melaleuca quinquenervia</td>
<td>Native</td>
<td>1.38 m</td>
<td>18m</td>
<td>Yes</td>
<td>Remove</td>
<td>Fair</td>
</tr>
<tr>
<td>13</td>
<td>Howeia forsteriana</td>
<td>Native</td>
<td>0.62 m</td>
<td>6m</td>
<td>Yes</td>
<td>Remove</td>
<td>Good</td>
</tr>
<tr>
<td>14</td>
<td>Pittosporum undulatum</td>
<td>Native</td>
<td>1.14 m</td>
<td>10m</td>
<td>Yes</td>
<td>Remove</td>
<td>Weed</td>
</tr>
<tr>
<td>15</td>
<td>Cateonaster spp</td>
<td>Native</td>
<td>0.65 m</td>
<td>6m</td>
<td>No</td>
<td>Remove</td>
<td>Exotic Weed</td>
</tr>
<tr>
<td>16</td>
<td>Pittosporum undulatum</td>
<td>Native</td>
<td>0.31 m</td>
<td>6m</td>
<td>Yes</td>
<td>Remove</td>
<td>Weed</td>
</tr>
<tr>
<td>17</td>
<td>Leptospermum spp</td>
<td>Native</td>
<td>0.92 m</td>
<td>5m</td>
<td>Yes</td>
<td>Remove</td>
<td>Weed</td>
</tr>
<tr>
<td>18</td>
<td>Melaleuca stypheloides</td>
<td>Exotic</td>
<td>1.13 m</td>
<td>10m</td>
<td>Yes</td>
<td>Remove</td>
<td>Poor</td>
</tr>
<tr>
<td>19</td>
<td>Morus alba</td>
<td>Exotic</td>
<td>0.94 m</td>
<td>10m</td>
<td>No</td>
<td>Remove</td>
<td>Exotic Poor</td>
</tr>
<tr>
<td>20</td>
<td>Eriobotrya japonica</td>
<td>Exotic</td>
<td>0.56 m</td>
<td>6m</td>
<td>No</td>
<td>Remove</td>
<td>Non-native</td>
</tr>
</tbody>
</table>

For tree replanting offset program of removed trees, the following native indigenous species may be planted as recommended species:

Eucalyptus leucoxylon 'megalocarpa' – large fruit yellow gum (Vic Native) – height to 12m
Bankia marginata – silver banksia – (Vic Bayside Native) – height to 12m

The following table also recommends native indigenous trees favoured by the Bayside City Council:
<table>
<thead>
<tr>
<th>Species Name</th>
<th>Common Name</th>
<th>Mature Size Range (HxW)</th>
<th>Key</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acacia implecta</td>
<td>Lightwood</td>
<td>8–15m x 2–6m</td>
<td>HSA</td>
</tr>
<tr>
<td>Acacia mearnsii</td>
<td>Black Wattle</td>
<td>8–10m x 6–10m</td>
<td>HCD</td>
</tr>
<tr>
<td>Acacia melanoxylon</td>
<td>Blackwood</td>
<td>8–10m x 6–15m</td>
<td>HWA</td>
</tr>
<tr>
<td>Allocasuarina littoralis</td>
<td>Black She-oak</td>
<td>8m x 2–6m</td>
<td>HDS</td>
</tr>
<tr>
<td>Allocasuarina verticillata</td>
<td>Drooping She-oak</td>
<td>10–11m x 3–8m</td>
<td>CD</td>
</tr>
<tr>
<td>Bursaria spinosa</td>
<td>Sweet Bursaria</td>
<td>6m x 2–4m</td>
<td>HCA</td>
</tr>
<tr>
<td>Leptospermum laevigatum</td>
<td>Coast Tea-tree</td>
<td>6–8m x 2–6m</td>
<td>CDA</td>
</tr>
<tr>
<td>Melaleuca ericifolia</td>
<td>Swamp Paperbark</td>
<td>2–9m x 2–6m</td>
<td>HCDWA</td>
</tr>
</tbody>
</table>

TREE REMOVAL PLAN

DIRECTOR – Dr Peter Yau MSc(Chn), PhD(Meb), CBIol, FRSB
Chartered Biologist Arboreal Consultant
EXPLANATORY NOTES

SIZE DIMENSIONS:

DBH (Diameter Breast Height) is a measurement of trunk diameter taken at 1.4m above ground level. Girth is circumference measured at 1.4m above ground level.

For multiple trunk trees, DBHₚ = \{ (DBH₁)² + (DBH₂)² + (DBH₃)² \}^{1/2}

Canopy Spread is a measurement of canopy diameter measured from edge-to-edge of canopy drip-line.

Height is a measurement of the tree's height by clinometer.

Tree Protection Zone (TPZ) is estimated as 12 times the tree trunk DBH as per AS 4970:2009 ‘Protection of Trees on Development Sites’ – it is a radius distance from tree trunk base.

Structural Root Zone (SRZ) is estimated as per AS 4970:2009 ‘Protection of Trees on Development Sites’ – it is a radius distance from tree trunk base.

VIGOUR/HEALTH:

The health condition of the tree is classified as Very Good, Good, Fair, Poor, Moribund/Dead.

These observations are based on factors such as physical damage, broken branches, scars, root damage, rotten cavities, visible fungal bodies, branches dieback, deadwood, branch stubs, observable diseases or insect damage/infestation, foliar colour and density of the canopy, growth extension over the last year etc.

Vigour/Health:

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Good</td>
<td>Outstanding specimen. Full &amp; balanced canopy. Good shape and form. Foliage dense, entire with good colour, no pest/disease damage. No dieback or deadwood. Excellent growth indicators, eg extension growth.</td>
</tr>
<tr>
<td>Good</td>
<td>Canopy full, may be slightly asymmetrical. Foliage dense, entire with good colour, minimal pest/disease damage. Negligible quantity of deadwood (&lt;10%). Good growth indicators, eg extension growth.</td>
</tr>
<tr>
<td>Fair</td>
<td>Canopy may be unbalanced. Foliage density thin, generally with good colour, some discoloration may be present. Minor pest or disease damage present. (Typical for species in location). Minor quantity of deadwood (&lt;30%).</td>
</tr>
<tr>
<td>Poor</td>
<td>Major quantity of deadwood &amp; dead/broken limbs (&gt;30%). Foliage density thin &amp; sparse, may be severely defoliated, wilting, chlorotic or necrotic, may have excessive epicormic or basal sprout growth. Serious pest/disease damage, and stress level leading to tree decline.</td>
</tr>
<tr>
<td>Dead/Moribund</td>
<td>Tree is moribund or dead, totally defoliated or no live-foliage and green bark on the tree. Bark may be peeling off trunk-branch.</td>
</tr>
</tbody>
</table>

STRUCTURE:

The structure of the tree is classified as Very Good, Good, Fair, Poor, Dead.
These observations are based on factors such as canopy balance and symmetry, straight or leaning trunk, single or multiple trunks, bifurcated codominants with included bark, risk of branch drop or tree collapse, presence of decay in trunk or roots, evidence of instability etc.

**Structure:**

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very Good</td>
<td>Excellent branch attachment, no structural defects. Trunk straight, sound and solid, with no exposed wounds, cavities and decay. No damage to roots, and good root buttressing. Good trunk and scaffold branch taper. No branch over extension.</td>
</tr>
<tr>
<td>Good</td>
<td>Good branch attachment with minor structural defects. Trunk straight, sound, may show minor non-hazard wounding. No damage to roots, with good buttressing.</td>
</tr>
<tr>
<td>Fair</td>
<td>Some minor structural defects and/or minor damage to trunk. Regenerated crown after severe pollarding. Bark torn and missing on main trunk or branches. Cavities and decay may be present. May have minor damage to roots not threatening tree stability. May have slight leaning and slightly lopsided canopy.</td>
</tr>
<tr>
<td>Poor</td>
<td>Major structural defects eg trunk bifurcation with included bark, cracked or split branches, pollarded canopy not regenerated, trunk/branch damage and/or missing bark, large rotten cavities, girdling or damaged roots that destabilize the tree. Root buttress not visible above ground. Serious lean, not straight growing. Canopy halved and lopsided.</td>
</tr>
<tr>
<td>Dead</td>
<td>Dead tree poses imminent risk or high hazard risk</td>
</tr>
</tbody>
</table>

**SHAPE/FORM:**

The shape and form of the tree is classified as **Good, Fair, Poor**.

These observations are based on factors such as canopy shape, balance and symmetry, straight or leaning trunk, single or multiple trunks.

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>Single upright straight tree trunk. No leaning. Well-balanced full density symmetrical canopy.</td>
</tr>
<tr>
<td>Poor</td>
<td>Tree trunk with serious leaning (&gt;30 degrees off vertical), tree trunk with kinking, twisting, Canopy lopped/pollarded. Canopy halved, badly leaning and/or lopsided. Tree top cut off for overhead powerlines clearance or top dieback, or blown off in strong winds.</td>
</tr>
</tbody>
</table>

**SIGNIFICANT TREES**

This rating is to be used to rate the significance of trees in the area. Trees that are of State or National significance would normally be registered by The National Trust or Heritage Council and would be identified as such.

**DIRECTOR** – Dr Peter Yau MSc(Oxon) PhD(Meb) CSci FRSB Chartered Biologist Arboricultural Consultant
Local Councils planning scheme may have separate listings of Significant Trees in the Municipality.

Trees may be considered as significant if they fall into one or more of the following categories:-
- Exceptional size and/or age
- Rare or threatened/endangered species.
- Unusual shape or form
- Aboriginal cultural value
- Heritage or Historic value
- Exceptional example of a species.
- Genetical Biodiversity Value
- Outstanding feature in the landscape
- Habitat Value.

Generally trees are described according to their flowering and foliage amenity, greenery contribution, shade, shelter, screening, or being classified as noxious weeds or environmental weeds.

**USEFUL LIFE EXPECTANCY (ULE)**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Long</td>
<td>Over 50 years</td>
</tr>
<tr>
<td>Median</td>
<td>10-50 years</td>
</tr>
<tr>
<td>Short</td>
<td>Under 10 years</td>
</tr>
</tbody>
</table>

**RETENTION**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>High</td>
<td>Retention recommended</td>
</tr>
<tr>
<td>Median</td>
<td>Retention/Removal Optional</td>
</tr>
<tr>
<td>Low</td>
<td>Removal recommended</td>
</tr>
<tr>
<td>Remove</td>
<td>Removal a matter of necessity or urgency</td>
</tr>
</tbody>
</table>

Dr Peter Yau  MSc(Oxon) PhD(McIb) CBIol FRSB
Arboricultural Consultant

6 November 2018
Updated 29 December 2018
Latest Update 28 February 2019
Summary of Author's qualifications and experience

(a) I (Dr Peter Yau) am the arboriculturist who prepared this arborist report.

(b) My qualifications include:
   a. Bachelor of Science (Honours) in Botany & Biochemistry – Hong Kong University, HKG
   b. Master of Science (Forestry/Arboriculture) – Oxford University England, UK
   c. Doctor of Philosophy (Forestry/Arboriculture) – Melbourne University Victoria AUST
   d. Graduate Diploma in Business Administration – Swinburne University of Technology, Victoria Australia
   e. Chartered Biologist (CBIol) & Fellow of Royal Society of Biology (FRSB) UK

My professional experience in arboriculture includes:

a. 1976-1995 Arboriculturist of the Melbourne City Council being responsible for the policy and management issues relating to the planting, maintenance, removal, transplanting, protection, preservation of all trees within the municipal district of the City of Melbourne. Also appointed to membership of Victorian state government task force for Elm tree diseases.

b. 1995- now Arboricultural Consultant to public and private sector clients eg
   i. Office of The Governor, Government House Victoria
   ii. Energy & Water Ombudsman of Victoria
   iii. Public Transport Ombudsman of Victoria
   iv. Municipal Councils in Victoria and NSW
   v. State Government - Places Victoria (Former VicUrban)
   vi. Private property developers, architects, planners, lawyers etc
   vii. Hong Kong Government – Leisure & Cultural Services Department (LCSD), Agriculture Forestry & Conservation Department (AFCD), MTR Corporation
   viii. Appointed Member of Expert Panel of Tree Management Office, Development Bureau, Hong Kong Government, 2011-2016
   ix. Appointed Member of Applied Science Discipline Advisory Board of the HK Vocational Training Council (VTC) and THei (Tertiary & Higher Education Institute, Hong Kong) 2014-2020
   x. P.R. China – Registered Foreign Expert

My academic experience in arboriculture includes:

c. 1982- now Visiting Lecturer in Arboriculture – Burnley College, The University of Melbourne

d. 1990- now External Examiner of Post-Graduate Research Degree Thesis

e. I have given arboricultural training courses, keynote addresses and presentations to national and international conferences, workshops and seminars nationally and internationally, and I have published peer-reviewed papers in international journals in arboriculture. I have written critique reviews on other scientists’ books, publications and papers.
Disclaimer

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Any alteration to any part of the document unless authorized by or undertaken by the author will invalidate the entire document.

All observations made and all information provided in this document represents the assessor's personal professional opinion based on the trees’ conditions at the time of inspection only.

Except as otherwise stated in the report, all observations and assessments are made by visual inspection (VTA – Visual Tree Assessment of Matthecks) conducted at ground level only.

All comments made are based on current professional scientific knowledge and available published research findings.

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VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO: P635/2019

APPLICANT / RESPONSIBLE AUTHORITY

Bayside City Council

RESPONDENTS

Optimal Capital (Aust) Pty Ltd, Wu Han, Chi Zhang

AFFECTED PERSONS

Peter Newman, Dr John Waugh & Mrs Margaret Waugh, Malcom McComb, Allison McSwain, Mel McGoldrick, Pastures Green Pty Ltd

SUBJECT LAND

3 Glebe Avenue

WHERE HELD

CHELTENHAM VIC 3192

BEFORE

Susan Whitney, Member

HEARING TYPE

Practice Day Hearing

DATE OF HEARING

7 June 2019

DATE OF ORDER

12 June 2019

ORDERS BY CONSENT

Enforcement order allowed

1. The application for an enforcement order pursuant to section 114 of the Planning and Environment Act 1987 is allowed.

2. The enforcement order is in the form attached to this order.

3. The hearing scheduled at 10:00am on 9 October 2019 is vacated. No attendance is required.

Order for costs

4. By no later than 12 August 2019, pursuant to section 109 of the Victorian Civil and Administrative Tribunal Act 1998 Optimal Capital (Aust) Pty Ltd is ordered to pay the costs of Bayside City Council fixed in the sum of $2,286.20.
Order for reimbursement of fees

5 By no later than 12 August 2019, pursuant to section 115B of the Victorian Civil and Administrative Tribunal Act 1998, Optimal Capital (Aust) Pty Ltd is ordered to reimburse the Applicant, Bayside City Council, the whole of the application fee paid by the Applicant in the proceeding, namely $1,213.80.

Susan Whitney
Member

APPEARANCES

For applicant / responsible authority

Mr Jason Kane of counsel by direct brief.

For Optimal Capital (Aust) Pty Ltd

Mr Steven Zhou.

For Wu Han and Chi Zhang

No appearance.

For affected persons

No appearance.
REMARKS

1 Pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*, this order is made at the request of the Bayside City Council and Optimal Capital (Aust) Pty Ltd and with their consent.

2 The Tribunal regards the consent of the Applicant/Responsible Authority to be a confirmation to the Tribunal that the terms of the Enforcement Order:
   a are appropriate having regard to the matters it is required to consider under the *Planning and Environment Act 1987*; and
   b will not result in any material impact to any person other than the parties to the proceeding.

3 Based on the information available to the Tribunal, I consider it is appropriate to make these orders.

Susan Whitney
Member
ENFORCEMENT ORDER

NATURE OF CONTRAVENTION  Destroy native vegetation on the Subject Land in contravention of Clause 42.02-2 of the Bayside Planning Scheme.

1  By no later than 12 September 2019, the Owner, Optimal Capital (Aust) Pty Ltd, must plant the following trees on the Subject Land ("Replacement Trees"):  
   a. One (1) Coast Banksia (Banksia integrifolia)  
   b. One (1) River Red Gum (Eucalyptus camaldulensis)  
   c. One (1) Black Wood (Acacia melanoxylon)  
   d. One (1) Drooping She-oak (Allocasuarina verticillata)

2  The Replacement Trees must be planted within the front setback of the Subject Land, inside the planting envelope identified on the Remediation Plan dated 4 June 2019 (a copy of which is kept on the Tribunal’s file) ("Remediation Plan"), which is attached at Annexure A.

3  The Replacement Trees must be planted in accordance with the Remediation Plan and must be planted in the locations on the Subject Land:
   a. 3 metres from the western boundary;  
   b. 4 metres from the southern boundary;  
   c. 11 metres from the eastern boundary; and
d. 3 metres from a dwelling or built structure.

4 The Replacement Trees must not be planted within 2 metres of:
   a. another tree planted the subject of this Enforcement Order;
   b. any tree planted as a condition of a valid tree removal permit; or
   c. any established tree located on the Subject Land.

5 The Replacement Trees must be planted and maintained to the satisfaction of the Responsible Authority.

6 If any Replacement Tree dies, it must be replaced with the same species within three months of dying to the satisfaction of the Responsible Authority.

7 The Applicant must serve a copy of this order on the Owner and the occupier of the Subject Land, and any other person against whom the order is made, pursuant to section 140 of the Victorian Civil and Administrative Tribunal Act 1998.

Susan Whitney
Member
ANNEXURE A

Remediation plan: 3 Globe Avenue Cheltenham 4 June 2019

Replacement planting envelope
ATTACHMENT 3

Neighbourhood Character Policy (Precinct H2)

Neighbourhood Character Precinct H2

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications that includes substantial trees and shrubs, preferably indigenous species.  
• Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Does not comply  
The proposal seeks to remove a total of 30 trees from the subject site. Sixteen trees are protected by the VPO3, two are protected by Local Laws and twelve are not protected by any statutory mechanisms.  
A landscaping plan has been submitted. Eleven trees are proposed to replace the sixteen native trees to be removed and a number of large trees are proposed for removal with no arboricultural reasons.  
On balance, the proposed planting schedule is deficient to replace the trees proposed for removal.  
An amended landscaping plan will form a condition of permit and require an amended planting schedule to enhance the garden setting of the dwelling. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain the rhythm of spacious visual separation between buildings and allow space for trees and other planting. | • Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.  
• Buildings should be sited to allow space for a garden including trees and shrubs.  
• Minimise impervious surfaces, particularly in the front garden. |                                                                      | The retention of a number of trees will also be required to ensure that the garden setting of the site is maintained | N/A                                                                                           |
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports at or behind the line of the dwelling. | Car parking structures that dominate the façade or view of the dwelling. |                                                                                                  | N/A                                                                                           |
| To ensure that new buildings reflect the low scale forms of the area, and provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, pitched roof forms, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Recess upper levels from the front façade. | Large, bulky buildings  
Poorly articulated roof, front and side wall surfaces |                                                                                                  | N/A                                                                                           |
| To use building materials and finishes that complement the natural setting. | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. |                                                                                                  | N/A                                                                                           |
| To enhance the openness and informality of the streetscape and maintain views into front gardens. | • Provide open style front fencing, other than along heavily trafficked roads.  
• Use vegetation as an alternative where possible. | High or solid front fencing. |                                                                                                  | N/A                                                                                           |
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

NB: Three objectors are not shown on the map above and are located a minimum of 300 metres from the subject site, including one outside the municipality.

Legend

<table>
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<th>Subject site</th>
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<tbody>
<tr>
<td>Objector(s)</td>
<td>![Objector symbol]</td>
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</table>
Figure 2 View north towards the site’s frontage.

Figure 3 View northeast towards the site’s frontage. Note tree 7 adjacent to the site’s pedestrian gate.
Figure 4 View from the footpath located to the subject sites frontage towards the subject sites western property boundary adjacent to Cheltenham Golf Course.

Figure 5 View towards the southeast from the rear of the property boundary. Note the unconstructed laneway separating the rear title boundary from the Cheltenham Gardens Primary School.
Attachment 5

Tree Map – 3 Glebe Avenue, Cheltenham

Source: Tree Assessment Report, Ironbark Environmental Arboriculture, May 2019, Revision A.
### Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
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<tr>
<td><strong>The impact the vegetation removal would have on the character of the area</strong></td>
<td>Although there is an absence of a range of ecological attributes to assess the condition of the four native trees retrospectively destroyed (#4 Spotted Gum (<em>Corymbia maculate</em>), #5 Smooth-barked Apple Gum (<em>Angophora costata</em>), #8 Red-flowering Gum (<em>Corymbia ficifolia</em>), and #15 Lilly Pilly (<em>Syzygium austral</em>)), it is unlikely to have been supported as a result of their significant contribution to the streetscape, genus and ecological value. With the exception of Trees #7 Monterey Cypress (<em>Hesperocyparis macrocarpa</em>), #23 Coastal Tea Tree (<em>Leptospermum laevigatum</em>), #28 Small-leaved Linden (<em>Tilia cordata</em>) and #29 Prickly Paperbark (<em>Melaleuca styphelioides</em>), the remaining trees are supported for removal due to a combination of health/structure and/or having no VPO3 or Local Law 2 protection. On balance, the heavily treed attributes of the subject site does not reflect the existing conditions of the streetscape. In fact, the sites boundaries to the north and west has the capacity to offset the visual impacts that the tree removal will have on the character of the site whilst the site regenerates and planting is re-established.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the presence of indigenous species in the locality</strong></td>
<td>Land-use change and fragmentation has significantly modified the character of the subject site and surrounds. This is evident in the immediate land uses and associated modifications to 'formalise' the gardens to adopt to these uses ie. golf course, sporting fields and primary school. Impacts of the vegetation removal on the presence of indigenous species in the locality is speculative. In fact, the removal of trees that are either dead or in poor condition, will allow the reestablishment of native and indigenous biota, whom are significantly impacted and suppressed by exotic species and weeds.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the appearance of development.</strong></td>
<td>No development is proposed and no application for development has been received by Council.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</strong></td>
<td>Land-use change and fragmentation has significantly modified the biota of the subject site and surrounds. This post-development state is in fact a poor example of rich biodiversity and ecosystem services and is not comparable to its predevelopment state that may never be achieved in a heavy developed area. The replacement planting of indigenous species has the potential to create a small revegetated link as it borders existing patches of remnant vegetation that will contribute some biodiversity value to the area. Additionally, whilst supporting and increasing the probability of being randomly occupied by a given individual or species, connectivity is also increased as biodiversity is supported to move to adjacent larger patches. The post development state will improve the plant biota of the site, however, without specialist knowledge of the existing wildlife that may inhabit on the site, effects of wildlife corridor fragmentation is speculative.</td>
</tr>
<tr>
<td><strong>Any proposal to regenerate or plant indigenous vegetation on the site.</strong></td>
<td></td>
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<tr>
<td>The overall poor state of the sites vegetation requires intervention and careful consideration for successful site regeneration. In addition to the proposed planting schedule as nominated on the landscaping plan, indigenous trees including Black Wattle (<em>Acacia mearnsii</em>), Blackwood (<em>Acacia melanoxylon</em>) and Sweet Bursaria (<em>Bursaria spinosa</em>) will result in an improved post-removal outcome. The replacement planting however does not have the capacity to grow as a large canopy trees even in optimal conditions and will not compensate for the loss of amenity and habitat value at canopy height previously provided by trees #4, 5, 8 and 15. Ground covers and shrubs have also not been proposed in the schedule and must be comprised predominantly of indigenous species. An amended landscaping plan is required.</td>
<td></td>
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**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
### TREE PROFILE

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<th>Tree no.</th>
<th>Name/species</th>
<th>Origin</th>
<th>Height</th>
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</table>
Tree Assessment

3 Glebe Avenue
Cheltenham, VIC 3192

Prepared by
Grant Harris
B.Sc EnvSc (Wildlife & Conservation Biology) Deakin
Dip Horticulture (Arboriculture) NMIT
Cert (Arboriculture & Forestry) Merristwood
QTRA Licensed User #2111 TRAQ
Licensed User #AU-0043A

James Gibson
B.Sc EnvSc (Wildlife & Conservation Biology) Deakin

Commissioned by
Bayside City Council

May 2019
Revision A
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Introduction

Bayside City Council has commissioned Ironbark Environmental Arboriculture (IEA) to provide an independent assessment of trees at 3 Giebe Avenue, Cheltenham.

This report contains the following information:

- Tree locations recorded with Global Positioning System (GPS), Trimble ProXRT with omnistar to a submeter accuracy.
- Visual estimate of tree heights calibrated with a Nikon Forestry Pro laser range finder.
- Circumferences of the largest trunk measured with a tape at 1 metre above ground level.
- Trunk diameters at breast height (DBH) measured with a tape at 1.4 metres above ground level.
- Trunk basal diameters (D) measured with a tape above the root buttress.
- A photograph of each tree.
- Tree species and determination if the species is native to Australia.
- Pursuant to the Vegetation Protection Overlay – Schedule 3 (VPO3) determine if a permit is required to remove, destroy or lop the tree(s).
- Pursuant to the Consolidated Local Law No. 2 ‘Neighbourhood Amenity’, Clause 36, Tree Protection determine if a permit is required to destroy, damage or remove the tree(s).

Methods

On 10 April 2019, Grant Harris of IEA undertook a preliminary assessment of the trees on the subject site. At the direction of Grant Harris, James Gibson of IEA visited the site on 1 May 2019 with a Trimble ProXRT GPS to collect tree data.

In accordance with AS 4970-2009 Protection of Trees on Development Sites the quadratic means were calculated for the DBH of multi-stem trees. Tree protection zones (TPZs) and structural root zones (SRZs) were calculated in accordance with AS 4970-2009.

Tree structure was assessed with reference to the following texts:

Tree origin was determined with reference to the following resources:


Species identification is based upon the diagnostic features available at the time of assessment. Where the genus and/or species could not be conclusively determined by the available diagnostic feature, question mark before the genus and/or species name is used to indicate uncertainty.

**Tree Assessment**

Data for thirty (30) trees on the subject site was collected (Table: Tree Data).

**VPO3 Permit Triggers**

Sixteen (16) trees (#2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 15, 16, 17, 18, 23 and 29) are native to Australia, have trunk circumferences of greater or equal to 50 cm at 1 m above ground level and are more than 2 m in height. Pursuant to the VPO3 a permit is required to remove, destroy or lop these trees.

**Local Law 2 ‘Neighbourhood Amenity’ Triggers**

Two (2) trees (Trees #7 and 13) are exotic species and have a single trunk circumference or combined trunk circumference greater than 155 cm measured at 1 m above ground level. Pursuant to the Consolidated Local Law No. 2 ‘Neighbourhood Amenity’ a permit is required to destroy, damage or remove these trees.
Exempt Trees

Seven (7) trees (#14, 20, 21, 22, 24, 25 and 30) are native to Australia but have trunk circumferences of less than 50 cm at 1 m above ground level. No permit is required to remove, destroy or lop these trees. These trees also do not require a Local Law permit for removal.

Five (5) trees (#1,19, 26, 27 and 28) are exotic species and therefore do not trigger the requirement for a VPO3 permit. These trees have single trunk circumference or combined trunk circumference of less than 155 cm measured at 1 m above ground level and do not require a Local Law Permit for removal.

Dead Trees with Drill Holes

Four (4) large trees native to Australia are dead with drill holes in the lower trunk.

<table>
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<th>Scientific Name</th>
<th>Common Name</th>
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<th>Height (m)</th>
<th>Cir @ 1m (cm)</th>
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Discussion

Herbicide poisoning disrupts a tree’s metabolic processes causing foliage to rapidly die, brown and hang withered on the tree (Strouts & Winter 2000, p.94). The canopies of trees #4, 5, 8 and 15 all bear browned, withered leaves and dead twigs, which is characteristic of trees which have died rapidly.

There are drill holes in the lower trunks of trees #4, 5, 8 and 15. These can be differentiated from boring insect holes by their symmetry. Application of herbicide to drill holes in the trunk is a common method for poisoning trees. It is probable trees #4, 5, 8 and 15 have been poisoned with herbicide; however, this cannot be established without forensic testing.

Recommendations

- The visual amenity previously provided by trees #4, 5, 8 and 15 is replaced by the planting of new substantial trees which have the capacity to reach the same height at maturity.
- New tree plantings must be native to Australia, substantial trees and preferably indigenous species.
- A replacement planting area is provided for each new tree planting, which is isolated from built form in accordance with the Bayside City Council, Landscape Guidelines, Appendix 2, Example Diagram of Replacement Planting Area.
APPENDIX 2
EXAMPLE DIAGRAM OF REPLACEMENT PLANTING AREA

Correct

- No encroachment of built form or hard paving within the nominated Exclusion Zone.
- No hard landscaping within the Exclusion Zone.
- Acceptable use of permeable paving path with the Exclusion Zone.
- Acceptable planting of shrubs and groundcover plants within the Exclusion Zone.
- Storage shed and clothes line located outside of the Exclusion Zone.
- Exclusion Zone does not cover an area where an easement exists.

Incorrect

- Encroachment of built form and hard paving within the nominated Exclusion Zone.
- Provision of a concrete path within the Exclusion Zone.
- Provision of a second canopy tree within the Exclusion Zone.
- Provision of a storage shed and clothes line within the Exclusion Zone.
- Exclusion Zone covers an area where an easement exists.
## Tree Data

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<th>D (cm)</th>
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<th>VPO3 Permit Trigger</th>
<th>Local Law Permit Trigger</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Sophora tetrapeta</td>
<td>Kowhai</td>
<td>Exotic</td>
<td>5</td>
<td>8</td>
<td>31</td>
<td>11</td>
<td>2.0</td>
<td>1.5</td>
<td>Fair</td>
<td>Good</td>
<td>No</td>
<td>No</td>
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</tr>
<tr>
<td>2</td>
<td>Metaleuca quinquenervia</td>
<td>Broad-leaved Paperbark</td>
<td>Australian</td>
<td>12</td>
<td>47</td>
<td>152</td>
<td>52</td>
<td>5.6</td>
<td>2.5</td>
<td>Poor</td>
<td>Fair</td>
<td>Yes</td>
<td>No</td>
<td>Suppressed by Tree 4</td>
</tr>
<tr>
<td>3</td>
<td>Metaleuca stypheloides</td>
<td>Prickly Paperbark</td>
<td>Australian</td>
<td>9</td>
<td>21</td>
<td>73</td>
<td>27</td>
<td>2.5</td>
<td>1.9</td>
<td>Poor</td>
<td>Fair</td>
<td>Yes</td>
<td>No</td>
<td>Suppressed by Tree 4</td>
</tr>
<tr>
<td>4</td>
<td>Corymbia maculata</td>
<td>Spotted Gum</td>
<td>Native</td>
<td>21</td>
<td>72</td>
<td>252</td>
<td>79</td>
<td>8.6</td>
<td>3</td>
<td>Dead</td>
<td>Poor</td>
<td>Yes</td>
<td>No</td>
<td>Tree has been drilled and is dead</td>
</tr>
<tr>
<td>5</td>
<td>Angophora costata</td>
<td>Smooth-barked Apple Gum</td>
<td>Australian</td>
<td>21</td>
<td>50</td>
<td>147</td>
<td>88</td>
<td>6.0</td>
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<td>Poor</td>
<td>Yes</td>
<td>No</td>
<td>Tree has been drilled and is dead</td>
</tr>
<tr>
<td>6</td>
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<td>Native</td>
<td>7</td>
<td>20</td>
<td>66</td>
<td>27</td>
<td>2.4</td>
<td>1.9</td>
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<td>Poor</td>
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<td>No</td>
<td>Recently failed stem still hanging in tree</td>
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<td>7</td>
<td>Hesperocyparis macrocarpa</td>
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<td>19</td>
<td>174</td>
<td>559</td>
<td>185</td>
<td>15.0</td>
<td>4.3</td>
<td>Fair</td>
<td>Fair</td>
<td>No</td>
<td>Yes</td>
<td>Some dieback and minor deadwood throughout the canopy</td>
</tr>
<tr>
<td>8</td>
<td>Corymbia ficifolia</td>
<td>Red-flowering Gum</td>
<td>Australian</td>
<td>23</td>
<td>77</td>
<td>249</td>
<td>86</td>
<td>9.2</td>
<td>3.1</td>
<td>Dead</td>
<td>Poor</td>
<td>Yes</td>
<td>No</td>
<td>Tree has been drilled and is dead</td>
</tr>
<tr>
<td>9</td>
<td>Persoonia arborea</td>
<td>Tree Gaebung</td>
<td>Native</td>
<td>8</td>
<td>18</td>
<td>59</td>
<td>22</td>
<td>2.2</td>
<td>1.7</td>
<td>Good</td>
<td>Fair</td>
<td>Yes</td>
<td>No</td>
<td>No fruit, buds or flowers present. Some leaves have emarginate tips</td>
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<tr>
<td>10</td>
<td>Metaleuca lanceolata</td>
<td>Moonah</td>
<td>Australian</td>
<td>8</td>
<td>28</td>
<td>103</td>
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<td>2.2</td>
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<td>Fair</td>
<td>Yes</td>
<td>No</td>
<td>-</td>
</tr>
<tr>
<td>11</td>
<td>Banksia integrifolia</td>
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<td>Indigenous</td>
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<td>18</td>
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<td>22</td>
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<td>1.7</td>
<td>Poor</td>
<td>Poor</td>
<td>Yes</td>
<td>No</td>
<td>Tree has been lopped multiple times</td>
</tr>
<tr>
<td>12</td>
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<td>Lilly Pilly</td>
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<td>14</td>
<td>46</td>
<td>150</td>
<td>54</td>
<td>5.5</td>
<td>2.5</td>
<td>Good</td>
<td>Poor</td>
<td>Yes</td>
<td>No</td>
<td>Previous codominant stem failure</td>
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<td>13</td>
<td>Liquidambar styraciflua</td>
<td>Liquidambar</td>
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<td>62</td>
<td>198</td>
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<td>No</td>
<td>Yes</td>
<td>Extensive decay</td>
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<td>14</td>
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<td>Bottlebrush</td>
<td>Australian</td>
<td>3</td>
<td>11</td>
<td>36</td>
<td>14</td>
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<td>Poor</td>
<td>Fair</td>
<td>No</td>
<td>No</td>
<td>Sparse canopy</td>
</tr>
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<td>Tree ID</td>
<td>Scientific Name</td>
<td>Common Name</td>
<td>Origin</td>
<td>Height (m)</td>
<td>DBH (cm)</td>
<td>Cir @1m (cm)</td>
<td>D (cm)</td>
<td>TPZ (m)</td>
<td>SRZ (m)</td>
<td>Health</td>
<td>Structure</td>
<td>VPO3 Permit Trigger</td>
<td>Local Law Permit Trigger</td>
<td>Comments</td>
</tr>
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<td>15</td>
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<td>15</td>
<td>54</td>
<td>165</td>
<td>60</td>
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<td>2.7</td>
<td>Dead</td>
<td>Poor</td>
<td>Yes</td>
<td>Yes</td>
<td>Tree has been drilled and is dead</td>
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<tr>
<td>16</td>
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<td>Bangalow Palm</td>
<td>Australian</td>
<td>11</td>
<td>31</td>
<td>95</td>
<td>na</td>
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<td>na</td>
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<tr>
<td>17</td>
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<td>14</td>
<td>34</td>
<td>88, 72</td>
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<td>Good</td>
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<td>No</td>
<td>Bark inclusion between codominant stems</td>
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<td>5</td>
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<td>2.0</td>
<td>na</td>
<td>Good</td>
<td>Good</td>
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<td>No</td>
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<td>45, 34, 27</td>
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<td>1.7</td>
<td>Fair</td>
<td>Fair</td>
<td>No</td>
<td>No</td>
<td>Incipient decay on pruning wounds</td>
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<td>20</td>
<td>Metrosideros robusta</td>
<td>Snow in Summer</td>
<td>Australian</td>
<td>7</td>
<td>13</td>
<td>46</td>
<td>16</td>
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<td>1.5</td>
<td>Fair</td>
<td>Fair</td>
<td>No</td>
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<td>4</td>
<td>10</td>
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<td>1.5</td>
<td>Fair</td>
<td>Poor</td>
<td>No</td>
<td>No</td>
<td>Has been lopped</td>
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<td>22</td>
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<td>Sweet Pittosporum</td>
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<td>3</td>
<td>12</td>
<td>41</td>
<td>18</td>
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<td>4</td>
<td>25</td>
<td>96</td>
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<td>2</td>
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<td>Trunk running along the ground</td>
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<td>Poor</td>
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<td>37</td>
<td>14</td>
<td>2.0</td>
<td>1.5</td>
<td>Poor</td>
<td>Fair</td>
<td>No</td>
<td>No</td>
<td>Signs of incipient decay on trunk</td>
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<tr>
<td>26</td>
<td>Cercis silicicrustum</td>
<td>Judas Tree</td>
<td>Exotic</td>
<td>7</td>
<td>24</td>
<td>74</td>
<td>29</td>
<td>2.9</td>
<td>2</td>
<td>Good</td>
<td>Fair</td>
<td>No</td>
<td>No</td>
<td>Small branch has failed with signs of decay and bore present</td>
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<td>27</td>
<td>Enotobrya japonica</td>
<td>Loquat</td>
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<td>20</td>
<td>6</td>
<td>34</td>
<td>2.4</td>
<td>2.1</td>
<td>Good</td>
<td>Fair</td>
<td>No</td>
<td>No</td>
<td>Codominant stem has been removed, signs of decay associated with pruning wound</td>
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<tr>
<td>28</td>
<td>Tilia cordata</td>
<td>Small-leaved</td>
<td>Exotic</td>
<td>7</td>
<td>38</td>
<td>114</td>
<td>42</td>
<td>4.6</td>
<td>2.3</td>
<td>Good</td>
<td>Fair</td>
<td>No</td>
<td>No</td>
<td>Decayed old branch stubs</td>
</tr>
<tr>
<td>29</td>
<td>Metrosideros robusta</td>
<td>Prickly Paperbark</td>
<td>Australian</td>
<td>8</td>
<td>38</td>
<td>125</td>
<td>49</td>
<td>4.6</td>
<td>2.4</td>
<td>Good</td>
<td>Fair</td>
<td>Yes</td>
<td>No</td>
<td>Previous branch failure</td>
</tr>
<tr>
<td>30</td>
<td>Stenocarpus sinuatus</td>
<td>Firewheel Tree</td>
<td>Australian</td>
<td>4</td>
<td>8</td>
<td>19, 18</td>
<td>12</td>
<td>2.0</td>
<td>1.5</td>
<td>Fair</td>
<td>Poor</td>
<td>No</td>
<td>No</td>
<td>Small tree with canopy dieback and previously failed codominant stem</td>
</tr>
</tbody>
</table>
Appendix 1: Photographs

Tree #1

Tree #2

Tree #3

Tree #4
Tree #15 showing first drill hole in the trunk

Tree #15 showing second drill hole in the trunk

Tree #15 showing third drill hole in the trunk

Tree #15 showing fourth drill hole in the trunk
Appendix 1: Tree Assessment Descriptors

Origin

*Indigenous* – species is characteristic of pre-1750 vegetation community of the local area.

*Native* – species is Native to the State of Victoria and has been naturally occurring since the recording of flora commenced.

*Australian* – species is Native to Australia and has been naturally occurring since the recording of flora commenced.

*Exotic* – species is not endemic to any part of Australia.

Health

*Good*

- Tree displays 71-100% live canopy mass.
- Foliage exhibits near optimal foliage characteristics in size, colour and density.
- Tree may have low levels of tip dieback.
- Tree may exhibit low levels of pest/pathogen infestation that is not expected to have a significant impact on the long-term health of the tree.

*Fair*

- Tree displays 51-70% live canopy mass.
- Foliage may be stunted or discoloured.
- Tree exhibits less than optimal extension growth.
- Tree has Medium pest/pathogen infestation which may be retarding growth and impacting on health levels, it is expected that the tree can recover with or without intervention.

*Poor*

- Tree displays < 50% live canopy mass.
- Tree exhibits low levels of extension growth.
- Tree has extensive pest/pathogen infestation and is not expected to recover from such infestation even with intervention.

*Dead*

- Tree has no live vascular tissue.
Structure

**Good**
- Tree has Good branch attachment and well-formed unions.
- Tree has Good trunk and scaffold branch taper.
- Tree may have Poor tertiary branch taper.
- Tree may exhibit structural defects on tertiary branches and attachments.
- Complete tree failure or major structural failure under normal environmental conditions is unlikely.
- Remedial pruning works may improve the structural rating of the tree.

**Fair**
- Tree may have Poor scaffold branch / stem taper.
- Tree may have Poor tertiary branch taper.
- Tree may have minor structural root damage/severance.
- Tree may exhibit structural defects to the trunk or scaffold branches.
- The majority of structural defects may be managed through current recognised arboricultural practices.

**Poor**
- Tree may exhibit major structural defects to trunk and / or scaffold branch attachments and/or roots.

Appendix 2: Expertise to Prepare Report

I have over fifteen (15) years of experience in arboricultural and ecological industries, including over eleven (11) years of consultancy.

I have training and experience in the collection of biological samples and data for scientific research. I have co-authored papers published in peer-reviewed scientific journals.

My qualifications, experience and expertise are in the fields of arboriculture, botany, planning and wildlife biology, which ensures that I am qualified to make informed independent assessments of issues pertaining to the management of vegetation and associated fauna.

Yours Sincerely

[Signature]

Grant Harris – Director Ironbark Environmental Arboriculture Pty Ltd
References

ARBORIST COMMENTS / CONDITIONS:

Documents reviewed


Trees recommended for retention

The following site trees are recommended for retention;

- Tree #7 Monterey Cypress (*Hesperocyparis macrocarpa*), large old tree with high visual amenity value.

- Tree #23 Coastal Tea Tree (*Leptospermum laevidatum*), indigenous, listed in the VPO3 as remnant species.

- Tree #28 Small-leaved Linden (*Tilia cordata*), early-mature tree in a good condition of health, has the potential to develop into a significant canopy tree.

- Tree #29 Prickly Paperbark (*Melaleuca styphelioides*), Small tree in good condition of health, adjacent to rear boundary and well placed for retention.

Tree numbers correspond to data table in *Tree Assessment, 3 Glebe Avenue, VIC 3192, Revision A* – Ironbark Environmental Arboriculture.
Protection under Local Law, VPO or NCP guidelines

<table>
<thead>
<tr>
<th>Trees that align with NCP?</th>
<th>Trees protected under Local Law?</th>
<th>Tree protected under VPO3?</th>
<th>Trees not protected?</th>
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<tbody>
<tr>
<td>Tree #7</td>
<td>Tree #7</td>
<td>Tree #23, #29</td>
<td>Tree #28</td>
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</table>

<table>
<thead>
<tr>
<th>NCP</th>
<th>Design Response</th>
<th>Avoid</th>
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</thead>
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<tr>
<td>H2</td>
<td>• Prepare a landscape plan to accompany all applications that includes substantial trees and shrubs, preferably indigenous species. &lt;br&gt; • Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). &lt;br&gt; • Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. &lt;br&gt; • Buildings should be sited to allow space for a garden including trees and shrubs. &lt;br&gt; • Minimise impervious surfaces, particularly in the front garden.</td>
<td>• Lack of landscaping and substantial vegetation. &lt;br&gt; • Removal of large trees. &lt;br&gt; • Planting of environmental weeds.</td>
</tr>
</tbody>
</table>

Retention of tree #7 Monterey Cypress aligns with the NCP objective of *retaining large, established trees*.

<table>
<thead>
<tr>
<th>Overlay</th>
<th>Vegetation Protection Objective</th>
<th>Decision Guidelines</th>
</tr>
</thead>
<tbody>
<tr>
<td>VPO</td>
<td>• To prevent the loss of native and particularly indigenous vegetation incurred by development. &lt;br&gt; • To retain the amenity, aesthetic character and habitat value of Australian native vegetation and indigenous vegetation in particular within the Beaumaris and Black Rock area. &lt;br&gt; • To promote the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.</td>
<td>The impact the proposed vegetation removal would have on: &lt;br&gt; • The character of the area. &lt;br&gt; • The presence of indigenous species in the locality. &lt;br&gt; • The appearance of development. &lt;br&gt; • The habitat quality of any remaining vegetation and the fragmentation of wildlife corridors &lt;br&gt; • Any proposal to regenerate or plant indigenous vegetation on the site.</td>
</tr>
</tbody>
</table>

Tree #23 Coastal Tea Tree is an indigenous species; retention of this tree aligns with the objectives of the VPO3.
Landscaping

Species Selection

The proposed landscaping includes Black Wattle (Acacia mearnsii) which is an indigenous species and is expected to reach a mature height of 8m in Bayside conditions. The use of Black Wattle is supported.

Blackwood (Acacia melanoxylon) and Sweet Bursaria (Bursaria spinosa) are both Victorian native species and their use in the landscape design is supported.

Canopy Trees

Black Wattle, Blackwood and Sweet Bursaria do not have the capacity to become large canopy trees and will not compensated for the loss of amenity and habitat value previously provided by trees #4, 5, 8 and 15.

To replace the amenity and habitat value provided by trees #4, 5, 8 and 15, three (3) new indigenous canopy tree plantings which have the capacity to reach at least 10m in height at maturity are required.

Plant Schedule

The plant schedule does not include ground covers or shrubs, which is generally expected in a landscape plan.

The VPO3 decision guidelines specifically refer to proposals to regenerate or plant indigenous species. Ground covers and shrubs must be comprised predominantly of indigenous species.

Recommendations

The landscape plan is amended to include:

The planting of three (3) or more indigenous canopy trees which have the capacity to reach a height of 10m at maturity as determined by the Bayside City Council Landscape Guidelines 2016, Appendix 3: Replacement Trees.

The planting of two (2) or more native or indigenous canopy trees which have the capacity to reach 5m at maturity as determined by the Bayside City Council Landscape Guidelines 2016, Appendix 3: Replacement Trees.

A replacement planting area is provided for each new tree planting, which is isolated from built form in accordance with the Bayside City Council, Landscape Guidelines 2016, Appendix 2: Example Diagram of Replacement Planting Area.

The landscape plan must show landscaping in all open-space areas and include ground covers and shrubs.
Ground covers and shrubs must at least 80% indigenous by species and plant quantity. The planting of exotic species is not supported.

The *Protection of Existing Trees* notation must be changed to refer to a specific tree protection management plan, prepared for the site which is to the satisfaction of the Responsible Authority.

<table>
<thead>
<tr>
<th>SIGNATURE</th>
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<tbody>
<tr>
<td></td>
<td>G. Harns</td>
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| DATE | 17/6/2019 |
4.2 34A HEAD STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2019/119/1 WARD: NORTHERN

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/166463

1. Application details

<table>
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<th>Recommendation</th>
<th>Notice of Decision to Grant a Permit</th>
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<tbody>
<tr>
<td>Applicant</td>
<td>Kiril Architects</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant No. 0801490. The covenant does not restrict the proposed development.</td>
</tr>
</tbody>
</table>

Date application received: 6 March 2019
Current statutory days: 70 days
Zoning: Neighbourhood Residential Zone (Schedule 3)
Overlays: Design and Development Overlay (Schedule 1), Development Contribution Plan Overlay (Schedule 1)
Site area: 491m²
Number of outstanding objections: Four (4)
Is a Development Contribution Levy applicable?: N/A
Is the site located within an area of cultural heritage sensitivity?: No

Proposal

The application seeks the extension to an existing dwelling on a lot less than 500 square metres and the construction of a roof deck within a Design and Development Overlay Schedule 1.

The development plans submitted in support of the application show the following additions:

Ground Floor
- Existing rear alfresco area demolished.
- Ground floor rear extension and new alfresco area, 5.1 metres in length and 3.7 metres in height.
- Ground floor eastern wall of the meals/family room extended 0.5 metres to the east and will be 3.7 metres in height.
- Windows located to the rear south eastern corner of the dwelling removed and new east-facing windows added either side of the ground floor eastern extension.
- Internal layout changes to the ground floor.

First Floor
- First floor balcony to the rear of bedroom 3 and 4, and will extend 1.62 metres to
the south.

- East-facing highlight window to Bedroom 2.
- Provision of staircase to roof deck, replacing existing first floor balcony adjacent to Bedroom 2.
- Internal layout changes to the first floor.
- No alteration to setbacks.

**Roof**

- Extension of the roof to the north (frontage) of the dwelling, to roof the existing northern first floor balcony.
- Construction of a roof deck and roof access. The roof deck will be setback 2 metres from northern and eastern roof edge, 8.64 metres from southern roof edge and 0 to 1.27 metres from the western roof edge. The roof access is setback 1.9 metres from the eastern roof edge and will be 2.4 metres in height.

The application plans are provided at Attachment 1.

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

**History**

There is no planning permit history relevant to this application.

2. **Planning controls**

**Planning Permit requirements**

A planning permit is required pursuant to:

- 32.09-5 – (Neighbourhood Residential Zone – Schedule 3) – Construction and extension of one dwelling on a lot less than 500 square metres.
- 43.02-2 – (Design & Development Overlay – Schedule 1) – Construction of a roof deck above the second storey of a building.

*Note: The plans show the addition of a pool, deck and the removal of a tree to the rear of the property. The proposed deck and pool are exempt from requiring a planning permit under Clause 62.02 (Building and Works) of the Bayside Planning Scheme. The proposed tree removal does not require planning permission but instead requires a local law permit. A condition will be included in the recommendation that requires the deletion of the proposed pool, deck and tree removal from these decision plans.*

**Planning Scheme Amendments**

There are no Planning Scheme Amendments relevant to this application.

3. **Stakeholder consultation**

**External referrals**

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

**Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection. However, it is noted that the existing tree within the rear does not require planning permission for removal, rather requires a local law permit.</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 (4) objections were received.

Four (4) objections remain outstanding at the time of this report.

The following concerns were raised:
- Addition of roof deck and non-compliance with DDO1;
- Removal of tree located in the rear setback;
- Building height;
- Overlooking.

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

Consultation meeting

A consultation meeting was held on 24 June 2019 attended by the permit applicant, Council Officers and one (1) objector. The objector narrowed down their concerns to three main issues: the removal of the tree to the rear; overlooking from the rear balcony; and the roof top deck. As a result of this meeting no amended plans were submitted and no objections were withdrawn.

4. Recommendation

That Council resolve to issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2019/119/1 for the land known and described as 34A Head Street, Brighton for the extension to a dwelling on a lot less than 500 square metres and the construction of a roof deck within a Design and Development Overlay Schedule 1 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 prepared by Kiril Architects and date January 2019 but modified to show:
   a) The roof deck and access structure setback a minimum of 2 metres from the roof edge immediately below on all sides, including the west side (Common boundary wall).
   b) The deletion of all references to the pool and deck and the removal of the tree located in the rear south-west corner of the site.

   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. No stone, earth, clay, gravel or sand can be removed or carried away from 34A Head Street, Brighton until the encumbered covenant contained in
0801490 under Certificate of Title Volume 10216 folio 550 is either varied or removed.

4. 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.

5. 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.

6. 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.

7. Before the occupation of the site commences, 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. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

Permit Expiry

9. 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.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.
Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 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 C1)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- 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 C1. 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 subject site is located along the eastern end of Head Street between St Kilda Road and the foreshore. The existing dwelling is semi-detached from No. 34 Head Street, to the west. Both dwellings are almost a mirror image of the other and are essentially two storey in form containing front verandahs located at first floor level with garages located to the front of the site.

With the exception of the roof deck and roofing of the northern balcony, the proposed works are located to the rear of the dwelling and therefore will have minimal impact on the overall character of the streetscape. The proposed roof deck will be setback from the front roof edge of the first floor, and for the most part won’t be visible from the street. The use of glass balustrading will reduce the prominence and visibility of the roof deck when viewed from the street, thereby maintaining the double storey human scale of the streetscape.

The proposed roof deck is appropriately sited (made compliant via condition) and simple design and it is considered that it appropriately respects the character of the existing streetscape.

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:
Side and rear setbacks (Standard A10)

<table>
<thead>
<tr>
<th></th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>East (side)</strong></td>
<td>0m or 2m</td>
<td>1.9m</td>
<td>N/A</td>
<td>No change</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2m</td>
<td>0m</td>
<td>N/A</td>
<td>No change</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0m or 3m</td>
<td>10.23m</td>
<td>4.68m</td>
<td>8.63m</td>
</tr>
</tbody>
</table>

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.

An addition to the ground floor eastern side setback is proposed to the meals/family room (highlighted below), resulting in a non-compliance of 100mm. The proposed minor non-compliance is considered acceptable in this instance as it will not cause unreasonable loss of amenity to the adjoining property at No. 36 Head Street as the addition remains sufficiently setback from the boundary and does not front a sensitive interface.

![Figure 1 Ground floor eastern extension.](image-url)
Walls on boundaries (Standard A11)

The proposed alfresco area to the rear of the ground floor results in a non-compliance to the maximum height and length against the numerical standards for walls on boundaries (Standard A11).

The proposed height of the wall on boundary measured from natural ground level is 3.7 metres resulting in a non-compliance of 100mm. The non-compliance to the height (of 100mm) is considered acceptable as it is a continuation of the height of the existing first floor level.

Furthermore, the additional 3.4 metres (as highlighted in red below) on the boundary increases the total length of walls on boundaries to approximately 24.9m, resulting in a variation of 3.65 metres against the 21.25 metre maximum length required by the standard.

The variation required for the length (3.65m length variation) is considered acceptable as the proposed 3.4 metre addition is the only section of wall on boundary that doesn’t adjoin the existing party wall of 34 Head Street. Moreover, although the wall on boundary abuts the secluded private open space of No. 34 Head Street, the wall will be limited in length and there are no additional amenity impacts to property owners through the likes of unreasonable overshadowing or visual bulk.

6.3. Roof Deck (Design and Development Overlay – Schedule 1)

The application proposes to construct a roof deck. Schedule 1 to the Design and Development Overlay has prescriptive requirements that must be met in regards to roof decks. This includes the requirement that a roof deck must be setback 2 metres from the roof edge immediately below.

The application does not comply with the requirement to be setback 2 metres from the roof edge immediately below the western and eastern side setbacks. The current design has a minor non-compliance to the rear of the eastern side setback where the access structure narrowly encroaches the 2 metres setback. Furthermore, the western side setback sits on the title boundary of the dwelling and therefore is non-compliant with the 2 metre setback requirements. A condition will be included in the recommendation that
requires the roof deck structure (including access structure) to be setback 2 metres from the roof edge immediately below on all sides (as highlighted in red in the below image).

In addition there are no structures or elements that exceed 1.7m in height with exception of the access structure (which does not exceed 2.4m in height), which will be centrally located within the roof and will have minimal impact on the street and adjoining properties.

6.4. Landscaping

There is no significant vegetation on the site, with the exception of the large tree located in the rear south-western corner. This tree was included on the plans for removal to accommodate the proposed swimming pool, however the removal of this tree does not require planning permission, given that the site is not covered by any Vegetation Protection Overlays or statutory controls.

Notwithstanding, Councils Arborists have advised that a Local Law Permit will be
required for its removal. Therefore, the principle of its removal is not a material consideration in the determination of this application and a condition of permit will be included to remove all references of the trees removal.

6.5. Street tree(s)
No street trees will be impacted by the proposed amendments.

6.6. Car parking and traffic
The provisions of Clause 52.06 do not apply to the extension of one dwelling on a lot in a Neighbourhood Residential Zone. Notwithstanding, the proposed amendments would not affect existing car parking arrangements on the site.

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

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

6.9. Objector issues not already addressed
Overlooking
The proposed first floor balcony to the rear of bedrooms 3 and 4 is within 9.0m of the secluded private open space areas of Nos. 34 and 36 Head Street and will be sufficiently screened in accordance with the requirements of Clause 54 (Standard A15) by way of 1.7m high obscured screening to the sideages of the balcony.

Support Attachments
1. Development Plans ↓
2. Site and Surrounds ↓
3. Neighbourhood Character Assessment ↓
4. Clause 54 Assessment ↓
Item 4.2 – Matters of Decision

Page 104 of 559
Item 4.2 – Matters of Decision
Attachment 2

Figure 1: Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objectors(s)</td>
<td>⚫</td>
</tr>
</tbody>
</table>

- Objector address not provided.
Figure 2 View towards the site from Head Street
**Neighbourhood Character Precinct C1**

**Preferred Future Character Statement**

The mix of dwelling styles, including a substantial presence of pre WWII dwellings, sit within spacious gardens and do not dominate or overwhelm the streetscape. Garden plantings, and well-articulated facades 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 exotics 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. | N/A – No demolition to front of dwelling proposed. |
| To maintain and enhance the spacious 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. | N/A – No new dwellings proposed. |
| 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. | Responds  
N/A – The tree identified on the plan for removal is not subject to any planning assessment.  
A local laws permit is required for its removal. |
| To retain the sense of spaciousness in the area and provide adequate space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |                                                                | N/A – No change to the front setback of the dwelling. |
| To minimise the dominance of car parking facilities, driveways and crossovers. | • Locate garages and car ports at or behind the line of the dwelling.  
• Minimise hard paving in front yards. | Car parking facilities that dominate the facade or view of the dwelling. | N/A – No change to car parking facilities. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<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>Loss of front garden space.</td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>• Racess upper level elements from the front façade.</td>
<td>High pitched roof forms with dormer windows.</td>
<td>N/A – No proposed extensions to the front façade.</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>N/A – No adjoining heritage buildings.</td>
</tr>
<tr>
<td>To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting.</td>
<td>• Use a mix of materials including timber or other non-masonry wall materials in building design.</td>
<td>Large, poorly articulated external wall surfaces of one material only.</td>
<td>Responds: The proposed roof deck will have a mix of materials, a neutral palette and well executed simple design details to allow the roof deck to sit comfortably within its setting.</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>N/A – No front fence proposed.</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 façades, 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>N/A – Site does not front 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>property boundary fronting the foreshore reserve.</td>
<td>Blank walls facing the foreshore.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td>Lack of distinction between public and private spaces along the foreshore.</td>
<td></td>
</tr>
</tbody>
</table>
ResCode Clause 54 (One Dwelling on a Lot)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1 Neighbourhood Character</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>A2 Integration with Street</td>
<td>N/A</td>
<td>No change</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A3 Street Setback</td>
<td>N/A</td>
<td>No change</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></td>
</tr>
</tbody>
</table>
| A4 Building Height | Yes | Required: 9m  
Proposed: 8.93m |
| Building height respects the existing or preferred neighbourhood character. |
| A5 Site Coverage | Yes | Maximum: 50%  
Proposed: 48.98% |
| Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. |
| A6 Permeability | Yes | Minimum: 20%  
Proposed: 43.74% |
| Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. |
| A7 Energy Efficiency | N/A | No change |
| 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. |
### Item 4.2 – Matters of Decision

**A8 Significant Trees**

Development respects the landscape character of the neighbourhood and retains significant trees on site.

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

No significant trees are proposed for removal.

**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><strong>East (side)</strong></td>
<td><strong>West (side)</strong></td>
</tr>
<tr>
<td>0m or 2m</td>
<td>0m</td>
</tr>
<tr>
<td>1.9m</td>
<td>N/A</td>
</tr>
<tr>
<td>N/A</td>
<td>No change</td>
</tr>
</tbody>
</table>

Refer report and table below. Areas of non-compliance are underlined.

<table>
<thead>
<tr>
<th>South (rear)</th>
<th>0m or 3m</th>
<th>10.23m</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.68m</td>
<td>8.63</td>
<td></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>Maximum Height: 3.6m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Length: 21.25m</td>
</tr>
<tr>
<td>Additional Proposed: 3.4m</td>
</tr>
<tr>
<td>Total Length: 24.9m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

**A12 Daylight to existing windows**

To allow adequate daylight into existing habitable room windows.

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.

No north facing windows on adjoining properties are affected.

**A14 Overshadowing Open Space**

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

| 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. |

Yes
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>A15</td>
<td>Overlooking Limit views into existing secluded private open space and habitable room windows</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Proposed rear balcony and roof deck are appropriately screened to ensure no overlooking.</td>
<td></td>
</tr>
<tr>
<td>A16</td>
<td>Daylight to New Windows Allows adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>All habitable windows have direct access to daylight.</td>
<td></td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space Provide adequate private open space for the recreation and service needs of residents.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 145.18m²</td>
<td></td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space Allow solar access into secluded private open space of a new dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Appropriate solar access to the private open space areas is provided.</td>
<td></td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Refer Attachment 2.</td>
<td></td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>No front fence is proposed.</td>
<td></td>
</tr>
</tbody>
</table>
4.3 17B & 19 HALIFAX STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2019/26/1 WARD: NORTHERN

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/168644

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>SJB Planning</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>18 January 2019</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>45 days (as of 1 July 2019)</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 11)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Site area</td>
<td>1,483.27m²</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>14</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the construction of a three storey residential building (including basement and roof deck) containing 12 apartments and a front fence in excess of 1.5 metres in height. Key details of the proposal are as follows:

- 12 apartments comprising 2 x two bedroom and 10 x three bedroom;
- Maximum building height of 11.03 metres;
- 3 storeys with roof deck and basement;
- Street setback between 5 metres – 9 metres;
- Site coverage 61.9%;
- Permeability 16.5%;
- 26 car parking spaces provided within the basement;

The application plans are provided at Attachment 1.

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

History

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

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.08-6 (General Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 32.08-6 (General Residential Zone) – Construction of a front fence associated with two or more dwellings on a lot which exceeds the maximum height specified in Clause 55.05-2.
- Clause 43.02 (Design and Development Overlay) (Schedule 11) – Construct a building or construct or carry out works.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection subject to conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection subject to conditions.</td>
</tr>
<tr>
<td>Waste Management Co-ordinator</td>
<td>No objection.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Concerns raised, conditions required.</td>
</tr>
<tr>
<td>Sustainability Co-ordinator</td>
<td>No comment provided at the time of writing of this report.</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 a total of 14 objections were received, three of those have been submitted by the same party with another party also submitting two objections. In those instances the multiple submission by one party are considered as one objection. 14 objections remain outstanding at the time of this report.

The following concerns were raised:

- Neighbourhood character and visual bulk and massing;
- Overdevelopment;
- Overlooking;
- Overshadowing; and,
- Parking / Traffic.

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

The applicant declined a consultation meeting however proactively consulted with the owner/occupiers of neighbouring residential properties, some of whom have objected.

Letters, introducing the applicant and their proposal, were sent to neighbours with consultation being an ongoing process to date. Most recent meetings were prior to advertising period in May 2019. Council officials were not invited to participate in this process.

A summary of the consultative approach undertaken by the application is as follows:

- 17a Halifax Street, Brighton – This involved numerous meetings and resulted in the following amendments to the plans prior to advertising.
  - Basement
    - Western boundary basement pile/wall offset 150mm from boundary. Comprehensive structural design for the western boundary pile and capping build up and protection works for the neighbouring pool.
  - Ground Floor
    - Relocation of outdoor entertainment area, from directly adjacent no.17A’s private open space to the south side of Apartment G.05.
  - Level 2
    - Increased the size of the cut-away to the massing as requested by the adjoining owner.
    - Increased the depth planter zones to further increase the setback.
    - Introduction of additional 1700mm High screening along the terrace edge.
      *Screening provided despite being greater than 9m away. Screening allows for vegetation to grow through it so not just a metal façade.
  - Overshadowing
    - The development doesn’t overshadow the neighbouring property from the hours between 10am – 3pm. Therefore compliant.
  - Overlooking
    - Screening has been provided where necessary + additional screens as requested from adjoining owners.

- 187a Church Street, Brighton – a meeting was held to provide information and comfort on existing trees, proposed interface, overshadowing & proposed landscape at our development.
- 187 Church Street, Brighton – a meeting was held to provide information and comfort on existing tree, proposed interface and overshadowing.
- 2a & 2b Bemmersyde Avenue, Brighton – a meeting was held to provide information and comfort regarding overlooking. These discussions also resulted in the introduction of an arbour and shelving to obscure overshadowing view lines. The owner has not objected.

In addition, the applicant met with broader surrounding neighbours.
4. Recommendation

That Council resolve to issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2019/26/1 for the land known and described as 17B & 19 Halifax Street, Brighton, for the construction of a three storey residential building (including basement and roof decks) containing 12 apartments and a front fence in excess of 1.5 metres in height 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 plans advertised prepared by Rothelowman referenced TP 00.03, TP 00.04, TP 01.01 to TP01.07 inclusive, TP 02.01, TP 02.03, TP 02.10, TP 02.11, TP 03.01, TP 03.02, TP 10.00 dated 26.09.18 and revision number A, TP01 - TP06 Rev E inclusive and TP08 Rev E prepared by Jack Merlo and dated 10.04.19. Traffic Engineering Assessment by Traffix Group dated December 2018, Waste Management Plan prepared by Leigh Design dated 14 December 2018 but modified to show:

a) The overall building height reduced to a maximum of 11 metres.
b) Allocation of car parking to each apartment consistent with the Car Parking Management Plan in accordance with Condition 9.
c) Relocation or removal of a power pole from the nature strip of 19 Halifax Street at the cost of the applicant.
d) All car parking bays, columns and wall widths dimensioned within the basement consistent with Clause 52.06 (Car Parking) of the Bayside Planning Scheme.
e) Modification to the front fence to achieve sightline visibility where the driveway intersects with the footpath in accordance with AS2890.1 and/or Clause 52.06 (Car Parking) of the Bayside Planning Scheme.
f) A “stop-go” signal system at the entrance to the basement ramp.
g) A minimum 2.1m headroom to be provided at the entrance and throughout the basement in accordance with AS2890.1 and/or Clause 52.06 of the Bayside Planning Scheme. A minimum 2.2m headroom to be provided in areas were refuse collection will occur.
h) Swept paths of a B99 vehicle turning at the base of the ramp.
i) Private waste collection from within the basement.
j) Location of all plant and equipment, including hot water services and air conditioners, letterboxes etc.
k) Details of the storage facilities in accordance with Condition 25 of this permit.
l) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
m) Water Sensitive Urban Design measures in accordance with Condition 9 of this permit.
n) A Landscaping Plan in accordance with Condition 12 of this permit.

o) A Tree Management and Protection Plan in accordance with Condition 15 of this permit.

p) A revised Waste Management Plan in accordance with Condition 24 of this permit.


All to the satisfaction of the Responsible Authority.

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

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

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

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

6) Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard 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.

8) The as constructed dimensions and levels/grades of the basement and ramp shall be certified correct by a Licenced Surveyor before construction of the upper levels proceeds.

Car Parking Management Plan

9) Prior to the endorsement of plans pursuant to Condition 1, a car 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 include:

a) Allocation of parking for all individual tenancies.

b) Any signs and/or line marking of car parking spaces, including visitor parking spaces within the basement.

c) Servicing of the drainage and maintenance of car parking areas.

Water Sensitive Urban Design

10) 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.

11) 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**

12) 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 plans drawn by Jack Merlo, reference TP01-TP05 Rev E inclusive, dated 10.04.19 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 including the hydrant booster area.

f) The substitution of the two Lily Pilly trees in the southwest corner of the site with one tree capable of reaching 8 metres in width and 12 metres in height at maturity.

13) 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.

14) 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

15) 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.

16) 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.

17) 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.

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

Street tree protection

19) Soil excavation must not occur within 2 metres from the edge of the *Quercus palustris* street tree asset’s stem at ground level.

20) 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.

21) 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.

22) Any installation of services and drainage within the TPZ must be undertaken using root sensitive non-destructive techniques.

**Construction Management Plan**

23) Before the commencement of works, including demolition, 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 experienced.


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.
Waste Management Plan

24) Prior to the endorsement of plans required under Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by Leigh Designs dated 14 December 2018 and 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) Specify collection rom within the basement.
   k) Sufficient headroom within the basement to accommodate waste collection vehicles.
   l) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
   m) Strategies for how the generation of waste and recyclables will be minimised.
   n) 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.

Storage

25) Before the development starts, are to be provided to the satisfaction of the Responsible Authority. Prior to the endorsement of plans required under Condition 1, detailed plans of the Storage areas within the basement visible from common areas must be submitted to and approved by the Responsible Authority. The plan must ensure that all storage facilities are:
   a) Enclosed within a metal cladding or similar solid materials;
   b) Locked with a deadlock or similar mechanism (padlocks are not acceptable) to ensure content/goods is secure; and
   c) Goods within the storage area are not visible.

Drainage

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 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.

28) Council Stormwater drainage is for surface rainwater, no water below the Ground Water Table is accepted into the Council Stormwater system. Only occasional, clean, uncontaminated seepage water (associated with a rain event) is accepted to an appropriate Council underground drain OR this subterranean water must be suitably retained on-site.

Development Contribution

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

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

Permit Expiry

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:

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

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

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

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

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

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

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:
Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.

Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 10 Planning Policy Framework
- 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 21.09 Transport and Access
- Clause 21.11 Local Areas (Church Street Local Activity Centre)
- Clause 22.06 Neighbourhood Character Policy (Precinct B2)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 11)
- Clause 45.06 Drainage Contributions Plan Overlay
- Clause 52.06 Car Parking
- Clause 52.34 Bicycle Facilities
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

The site is located within the General Residential Zone in the Church Street Major Activity Centre (Precinct E), which is also a ‘Moderate Residential Growth Area’ as identified on Map 2 of Clause 21.02-5. The overarching principles of the Bayside Planning Scheme encourage medium density development in such areas.

Such a development however must strike a suitable balance between the purpose of the General Residential Zone and the relevant design objectives of the DDO11. It is considered that the site is a suitable location for this type of medium density development.

Pursuant to Map 1 of Clause 21.11-3, the site is identified as being in ‘Precinct 4: Residential Precinct.’ An objective of this precinct is to strengthen the role of Church Street, Brighton as a multi-use centre offering retail, office, entertainment and community services.

Map 1 to Clause 21.11-3

(Figure 1: Church Street Centre Framework Plan)
Strategies to achieve this in Precinct 4 include:
- Encourage residential development close to shops and services to provide a transition from the business precinct to low scale residential areas;
- Encourage redevelopment of larger sites and grade level car parks for residential with basement car parking;
- Provide adequate off-street parking for all new dwellings.

The development would increase density on the site and in providing apartment living, allow for a diversity of dwelling type in the centre. The development provides for side and rear setbacks, a mixture of materiality and is suitable within its predominantly residential context.

The General Residential Zone has many purposes, including:

“To provide a diversity of housing types and moderate housing growth in locations offering good services and transport.”

The site is located within the Church Street Major Activity Centre and is approximately 260 metres walk to the retail core and 460 metres to Middle Brighton Railway Station. In its location the site is considered to offer good access to community services and transport and where moderate housing growth is encouraged.

The site is strategically located to accommodate higher density development that will assist in strengthening the role of the Church Street Activity Centre. This area has been identified for moderate residential growth as opposed to neighbourhood residential zones that seek to limit number of dwellings, heights and maintain low scale development. Whilst it may be strategically supported, the proposal must also achieve the objectives of Clauses 22.06 and Clauses 55, as discussed further in this report.

6.2. Neighbourhood character

The site is located within Neighbourhood Character Precinct B2. 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 to recess part of the frontage of the building from Halifax Street would provide a visual break to the massing of the building. The modern colonnade of the forward projecting western component of the building would further emphasise this transition in built form not only relative to that evident on the adjoining lots of 17A and 21 Halifax Street to the east and west respectively but to the two storey form of development comprising the south side of Halifax Street. Otherwise, the articulation of the façade and composition of external materials would allow the greater extent of the building to recede.

The development is largely compliant with side setbacks standards and in this, there is opportunity for planting within the side setbacks of the site. Although modest in its approach, such planting would be little different in its extent to that which exists within the streetscape of Halifax Street. The visual separation between built form and the landscape setting of the development would be reflective of the proportionality of built form to plot ratio that is evident adjacent and throughout Halifax Street, with many developments presenting to the side boundaries.

Landscaping would largely be provided in the front and rear setbacks comprising a total of 13 canopy trees and other plantings. This combined with the perimeter planting in the side setbacks would provide an appropriate landscape setting to the development allowing it to be anchored within its wider streetscape setting.

To the south and southeast of the site are the properties of 193 Church Street covered by Heritage Overlay 465, 22 and 24 Halifax Street covered by Heritage Overlay 187 and Billilla House at 26 Halifax Street, covered by Heritage Overlay 188. An objective of
neighbourhood character precinct B2 is to ensure that development respects the identified heritage qualities of adjoining buildings.

In its presentation to Halifax Street the proposed development would respond to its immediate context and harmoniously contrast with other modern infill development and be a modern interpretation of the evolution of development within this part of Halifax Street. It would not physically adjoin the heritage buildings which surround it but would nevertheless have a contextual attachment.

In this it is not considered the development would deleteriously impact the significance of the heritage places that surround it but would instead allow them to remain the focus of their setting and a representation of their era, in form and architecture.

**6.3. Design and Development Overlay (Schedule 11)**

**Building Height**

The site is covered by Design and Development Overlay Schedule 11 which identifies the site as being within the Precinct E of the Church Street Major Activity Centre, which specifies a maximum (mandatory) height of 11 metres (3 storeys) or 12 metres where the slope of the natural ground level at any cross section of the site wider than 8 metres is 2.5 degrees or more. In this instance, the 11 metre height limit prevails.

The development proposes a maximum height of 11.03 metres (three storeys) which exceeds the maximum allowable height of 11 metres. This minor indiscretion can be rectified by way of a recommended condition of permit to bring the overall height of the building in line with the mandatory height control.

Subject to this condition the siting and height of the building will have regard to its context in the Activity Centre as well as respecting the use and built form of directly abutting properties. The design response is suitably responsive to the site opportunities and constraints. The height and built form is appropriate and satisfies the objectives of DDO11. The development conserves and enhances urban character and is considered compatible with the preferred future role of the Church Street Major Activity Centre.

**Building Setbacks**

Pursuant to the design requirements of the DDO11, buildings in a Residential Zone should be setback in accordance with the relevant Clause 55 standards, except that the second floor level should be setback a minimum of 4 metres behind the front wall of the floor immediately below, unless the second floor is an attic.

At second floor level, the proposal complies with the 4 metre setback requirement of the DDO11. The proposal would present as a suitable design response which offers a reasonable level of articulation and visual interest to the street through the provision of recessed design elements and softening of built form through the choice of external finishes. All of this would alleviate visual bulk to the street and ensure that the development adopts an appropriate design response for the site and broader precinct.

**Roof Decks**

In a residential zone a roof deck should:

- Be designed and constructed of materials that integrate with the architectural style and form of the building;
- Not include any permanent or moveable structure or element that will increase the visual bulk of the building, including pergolas, verandahs, shelters and storage areas;
- Be set back on all sides as least 2 metres from the roof edge of the storey immediately below to minimise the visual impact on the street 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 (measured from floor level at the point of access onto the roof deck);

- Be accessed by a structure that is designed and located to have a minimal impact on the street and adjoining properties, does not enclose any usable floor space and does not exceed 2.4 metres in height (measured from floor level at the point of access on the roof deck); and

- Be constructed so that the deck floor level is no greater than 1 metres above the lower ceiling face of the storey immediately below.

The proposed roof deck would be enclosed on each of its four sides by 0.98 metre high screening which would be consistent with the architectural form and external materials of the remainder of the building.

Other than screening, no other permanent structures are proposed to be formed on it therefore limiting the visual impact of the roof deck.

The roof deck would be recessed a minimum of 2m from the edge of the roof of the floor below and would be accessed via a staircase internal to the building leading to a hatch entrance.

The recession of the roof deck from the edge of the roof of the floor below combined with the shallow parapets forming the perimeter of the roof would limit overlooking of neighbouring residential properties.

6.4. Compliance with Clause 55 (ResCode)

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

Street setback (Standard B6)

The minimum street setback is the average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser. The front wall of the two abutting allotments are 2.35 metres to the west and 9.2 metres the east. As outlined in table 1 below, the proposal requires a minimum front setback of 5.77 metres.

<table>
<thead>
<tr>
<th>Halifax Street</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground Floor</td>
<td>5.77m</td>
<td>5m-9m</td>
<td>0.77m</td>
</tr>
<tr>
<td>First Floor</td>
<td>5.77m</td>
<td>5m-9m</td>
<td>0.77m</td>
</tr>
<tr>
<td>Second Floor</td>
<td>5.77m</td>
<td>9m – 13m</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(Table 1: Street setback)

A street setback from Halifax Street of between 5m-9m is proposed at ground and first floor, when a setback of 5.77 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.

Design and Development Overlay, Schedule 11 stipulates that the second floor (third storey) should be set back a minimum of 4 metres behind the front wall of the floor immediately below. Subsequently, the second floor would be required to be set back a minimum of 9.77 metres from the frontage.

The front façade incorporates two components, the eastern and western elements of the facade. The western element is setback 5 metres and the eastern element setback 9 metres. The western element of the front facades generally aligns with the front façade of No 17A Halifax Street. The eastern element of the front façade provides a staggered
transition to No. 21 Halifax Street. These front setbacks, including the staggered form, are reflected at first floor. This transition between the adjoining properties is evident below:

(Figure 2: Street setback)

The front setback of the second floor is compliant with Standard B6 and the Design and Development Overlay Schedule 11, is recessed from the double storey level below and thereby reduces visual bulk to the street.

The building would sit alongside a variety of built form of differing scales and massing. Although the three storey form will be located within an area that is predominantly characterised by two storey structures in this part of Halifax Street. The design has attempted to minimise the visual appearance on the streetscape and abutting properties by recessing the upper storey.

Furthermore, the development will maintain the garden character of the area. The front setback provided is sufficient to ensure that the building does not dominate the streetscape. In addition, the proposal is generally consistent with the design objectives of the Design and Development Overlay, Schedule 11. The proposal is designed to integrate with the existing and preferred built form character of the area and will subject to a condition, to reduce its height by 3cm, adopt a building height permissible within the General Residential Zone and Design and Development Overlay.

The proposal offers a contemporary form, incorporating a mixture of concrete, render and metal cladding with appropriate levels of glazing which is responsive to the more modern developments within the surrounding area. Subject to conditions, landscaping would be provided to ensure that the garden setting of the area is maintained and enhanced. It is considered that the proposal would demonstrate a high level of compliance with the precinct guidelines, with appropriate balance being achieved with the objectives of the Church Street Major Activity Centre.

**Building Height (Standard B7)**

As discussed at section 6.3 above, the development exceeds the mandatory height control of 11m by 3cm. This measurement being taken from, natural ground level to the top of parapet that surrounds the roof terrace. To align the development with the mandatory height controls of the zone, a recommended condition of permit will ensure the overall height of the building is reduced to 11m.

**Site Coverage (Standard B8)**

Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>60%</td>
<td>61.9%</td>
<td>1.9%</td>
</tr>
</tbody>
</table>

(Table 2: Site coverage)

The proposed site coverage of the development is 61.9% which is 1.9% greater than the 60% prescribed by the standard. In order to achieve compliance with the standard the building footprint would need to be reduced by some 28.18m². The physical effect of
insisting on compliance in this instance would be negligible. There would be no discernible impact to the perception of built form on the site that would provide reasoned justification to control compliance by a condition of permit.

The proposed development is not dissimilar in its built form to plot ratio, evident in other parts of Halifax Street and does provide sufficient areas of private open space and landscaping to create a setting to the development. It would not have any detrimental amenity impacts on neighbouring residential properties.

Permeability (Standard B9)

The objectives of the standards are:

- To reduce the impact of increased stormwater run-off on the drainage system;
- To facilitate on-site stormwater infiltration and;
- To encourage stormwater management that maximises the retention and reuse of stormwater.

To meet these objectives stormwater management systems on site should be designed to meet current best practice performance objectives for stormwater quality as contained in the Urban Stormwater – Best Practice Environmental Management Guidelines (Victorian Stormwater Committee 1999).

Objectives of Clause 22.08 (Water Sensitive Urban Design) are:

- To promote the use of water sensitive urban design, including stormwater re-use.
- To protect the surface water and ground waters in the Port Phillip Bay catchment from stormwater pollutants.
- To reduce the impacts of peak stormwater flows.
- To integrate stormwater treatment measures into the landscape.
- To reduce the entry of pollutants into stormwater run-off.

A water sensitive urban design (WSUD) report has been submitted in support of the application. It outlines measures for rainwater harvesting including:

- Collection from all roof and upper terrace areas (total catchment area approx. 744m²);
- A total storage volume of 21,000 litres in rainwater tanks located below ground;
- Re-use of water for toilet flushing in all toilets; and
- Re-use of water irrigation.

The WSUD report advises that a computer simulation of rainwater supply and demand was undertaken to optimise the rainwater harvesting system design. The model predicts that the rainwater harvesting system will reduce mains water consumption by an average of 256kL per year and provide an average supply reliability of 83% for toilet flushing and irrigation for all dwellings.

It provides an assessment of the quality of stormwater runoff from the site using MUSIC 6.3.0 software developed by eWater. Below are the results of the assessment.

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Melbourne Water Targets</th>
<th>MUSIC Model Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduction in Total Suspended Solids (TSS)</td>
<td>80.0%</td>
<td>93.9%</td>
</tr>
<tr>
<td>Reduction in Total Phosphorus (TP)</td>
<td>45.0%</td>
<td>66.8%</td>
</tr>
<tr>
<td>Reduction in Total Nitrogen (TN)</td>
<td>45.0%</td>
<td>45.4%</td>
</tr>
<tr>
<td>Reduction in Total Gross Pollutants</td>
<td>70.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

(Figure 3: WSUD Analysis)
Given the extent of basement proposed, any increase in permeable surfaces at ground level or minor reductions in built form would have a negligible effect on improving the overall permeability of the site.

On the basis that the results of the MUSIC assessment confirm that the proposed rainwater harvesting system described above would exceed the pollutant load reduction targets set out in the Best Practice Environmental Management Guidelines (CSIRO 199) for Total Suspended Solids (TSS), Total Phosphorous (TP), Total Nitrogen (TN) and Gross Pollutants (GP), the development is considered to achieve the objectives of Clause 22.08 and Standard B9 of Clause 55 of the Bayside Planning Scheme and thus it would be unreasonable to insist on compliance with the numerical standard.

Side and rear setbacks (Standard B17)
The objective of the standard is to ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact of existing dwellings.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>Proposed</td>
<td>Required</td>
</tr>
<tr>
<td>1.45m – 1m</td>
<td>(South-North)</td>
<td>3.42m – 3.39m</td>
</tr>
<tr>
<td>0m-3m-1.8m</td>
<td></td>
<td>3m-3.42m</td>
</tr>
<tr>
<td>East (side)</td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m to 1m</td>
<td></td>
<td>2.39m – 1.99m</td>
</tr>
<tr>
<td>3m – 1.8m</td>
<td></td>
<td>5.34m-4.95m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m to 1m</td>
<td></td>
<td>1.99m - 2.34m</td>
</tr>
<tr>
<td>5.28m-5m</td>
<td></td>
<td>4.95m - 5.29m</td>
</tr>
</tbody>
</table>

(The Table 3: Side and rear setbacks)

The variation sought at ground floor to the east side of the development equates to 1.45m and relates to the combined height of both the wall which encloses the east side of the ramp access and the screening to the east side of the balcony of apartment 1.04, as depicted in Figure 3 below.

(Figure 3: Halifax Street Elevation)

This proposed ground floor section of wall would have an interface with the garage associated with 21 Halifax Street to the east and would be commensurate in length with
that neighbouring garage. In such circumstance the proposed indiscretion would not appear incongruous in its streetscape setting and would otherwise not cause material detriment to the occupiers of the neighbouring property of 21 Halifax Street or any other third party.

The variations sought at first floor on the east side of the building comprise 42cm and relate to screening provided on the east side of balcony associated with apartment 2.01. These variations would not be discernible within the streetscape and would not cause material detriment to any third party as a result of unreasonable visual bulk, massing or overshadowing. The imposition of a condition to insist on compliance in this instance would have little to no effective consequence with regard to the perception of the development by objectors to it and is therefore considered unnecessary.

The proposed setbacks and siting of the building envelope respects the general pattern of development in the immediate area. In addition, the setbacks mostly satisfy the ResCode standard and reflect the preferred neighbourhood character of this developing Major Activity Centre and provision of the General Residential Zoning.

Walls on Boundary (Standard B18)

The objective of the standard is to ensure that 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></th>
<th>Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height</td>
<td>3.6m</td>
<td>4.99m</td>
</tr>
<tr>
<td>Average Height</td>
<td>3.2m</td>
<td>4.82m</td>
</tr>
<tr>
<td>Length</td>
<td>17.76m</td>
<td>8.88m</td>
</tr>
</tbody>
</table>

(As discussed above, the non-compliant wall on boundary relates to the wall on the east side of the access ramp and the inclusion of balcony screening on top of it associated with apartment 1.04 of the development.

The wall and screening would be commensurate in length at ground floor with the garage associated with 21 Halifax Street and would otherwise have a slight cantilever at first floor accommodating plant screening on the southern face of the building. This built form relationship is reconciled by its interface and by not causing material detriment to the neighbouring property of 21 Halifax as a result of overshadowing.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Halifax Street</td>
<td>1.5m</td>
<td>1.7m</td>
<td>200 mm</td>
</tr>
</tbody>
</table>

A front fence of 1.7 metres in height is proposed to the front boundary of the site with Halifax Street. Pursuant to Standard B32 a front fence to a maximum of 1.5 metres in height is provided preferred. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

The proposed 1.7m high metal picket fence featuring planter reflects the varied height and style of front fencing within Halifax Street and is considered acceptable.

6.5. Landscaping

The application plans show the removal of 7 trees from the site. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. No native trees are proposed to be removed from the site.
Council’s Arborist advises that the two sites do not contain any significant vegetation worthy of retention. Support is therefore given for tree removal as the trees have no consolidated local law protection, are of low amenity value and do not align with neighbourhood character objectives to insist on their retention.

Tree Nos. 1 and 10 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. A Tree Protection Plan and Tree Management Plan would be required to be submitted to ensure these trees remain viable both during and post construction. These matters can reasonably be controlled by a condition and are included in the recommendation.

In addition to the above assessment, Council’s Arborist has reviewed the submitted development plans by Rothelowman issue dated 26/09/2018 and Landscape Plans prepared by Jack Merlo dated 10/04/2019 and advised that it is considered acceptable subject to a condition ensuring that the two weeping Lilly Pilly proposed to be planted in the southwest corner of the site be substituted by one large canopy tree that will reach a height of 12 metres and 8 metres in width at maturity. Furthermore it has been required that the location of the hydrant booster in the front setback be defined on the plans. These matters can reasonably be controlled by conditions and are included in the recommendation.

Amongst other landscape layout and design matters, Standard B38 of Clause 55.07-4 requires the development to provide the deep soils areas and canopy trees specified in the table below. According to the Apartment Design Guidelines for Victoria 2017, deep soil is defined as:

…an area on natural ground unimpeded by a structure below (and above) providing for opportunities for groundwater infiltration and canopy trees.

<table>
<thead>
<tr>
<th>Site area</th>
<th>Deep soil area</th>
<th>Minimum tree provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>1001- 1500 square metres</td>
<td>7.5% of site area (minimum dimension of 3 metres)</td>
<td>1 medium tree (8-12 metres) per 50 square metres of deep soil or 1 large tree per 90 square metres of deep soil</td>
</tr>
</tbody>
</table>

The proposal requires that 7.5% of the site is deep soil. A Total of 5 medium canopy trees are proposed to be planted as well as one large canopy tree and 7 small canopy trees. As discussed a condition of any permit to issue should ensure that two of the smaller canopy trees are substituted with a large canopy tree. These trees are to be provided in the rear, side and front setbacks. Council’s Arborist has advised that the areas of deep soil and other shallower areas of soil are capable of accommodating the
planting proposed and will fulfil the objectives of the standard and ensure the site is appropriately landscaped.

Council’s Arborist is content that the proposed planting schedule includes sufficient vegetation that is sympathetic to the neighbourhood Character Guidelines and Bayside Landscape Guidelines.

6.6. Street tree(s)

Two Pin Oaks exist within the adjacent road reserve identified as trees nos. 8 and 9 of the Arborist Report submitted in support of the application. Council’s Street Tree Arborist is content that the trees will not be affected by the development and recommends measures for their protection during construction. These matters can reasonably be controlled by conditions of permit and are included in the recommendation.

6.7. Car parking and traffic

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

The statutory car parking requirement for the proposal is as follows:

<table>
<thead>
<tr>
<th>Use</th>
<th>Size</th>
<th>Planning Scheme Parking Rate</th>
<th>Car Parking Requirement</th>
<th>Car Parking Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>2 x 2 Bedroom</td>
<td>1 car parking space to each 2 bedroom dwelling</td>
<td>2 car parking spaces</td>
<td>26 unallocated</td>
</tr>
<tr>
<td>10 x 3 Bedroom</td>
<td>2 car parking spaces to each 3 bedroom dwelling</td>
<td>20 car parking spaces</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Visitor</td>
<td>N/A - PPTN Area</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>22</td>
<td>26</td>
</tr>
</tbody>
</table>

(Basement garage car parking would be provided to 4 of the 5 ground floor apartments, namely apartments G.01, G.02, G.03 and G.05. Two car parking spaces would be provided within each garage. Two further garages are proposed at basement level each housing three car parking spaces, along with 12 other open car parking spaces which are unallocated on the development plans.

The site is within a Principal Public Transport Network Area and thus there is no requirement to provide visitor car parking on site.

The parking provision of 26 car parking spaces is in excess of the provision required by Clause 52.06 (Car Parking). The allocation of parking to ensure that each apartment is provided with the requisite amount of parking for its occupation can reasonably be controlled by a condition of permit and is included in the recommendation.

Access to basement parking would be taken from Halifax Street via a vehicular access to be formed in the eastern part of the south roadside boundary of the site. The access and ramp would measure 3.6 metres wide and would only allow one vehicle to access the site at a time. Council’s Traffic Engineer has confirmed that this arrangement is acceptable being satisfied that the movement of vehicles could be controlled by a signalling system. Furthermore it is recommended that the proposed front fence be modified to achieve sightline visibility from the proposed vehicular access. The provision of a signalised system and sightlines can reasonably be controlled by conditions of a permit and are included in the recommendation.)
Council’s Traffic Engineer is not satisfied with the swept path analysis submitted with the application. Swept paths are required for vehicles with a B99 vehicle turning base in accordance with AS2890.1:2004 to demonstrate that vehicles can access parking bays without obstruction. Notwithstanding this, the proportions of the basement carpark are considered generous and therefore reasonable that all car parking can be accessed in accordance with the Australian Standard and/or Design Standards for car parking given at Clause 52.06-9 of the Bayside Planning Scheme.

In addition to further swept path assessment, Council’s Traffic Engineer requires all areas of the basement i.e. columns width and parking bays to be dimensioned including headroom heights in section. These matters can be controlled by conditions of permit and are included in the recommendation.

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

6.8. Bicycle Facilities

A total of 2 bicycle spaces are required to be provided on site. A total of 7 horizontal spaces would be provided within the basement and thus exceeds the bicycle parking requirement.

6.9. Waste Management

A waste management plan has been submitted as part of this application. Bin stores are indicated on the development plans to be located in the basement. A total of 4 communal bins are shown to be provided. A private operator is proposed to relocate the bins with the aid of an electronic tug from the basement and store them in a bin holding area within the front setback for collection by a private waste contractor.

Green waste is to be collected by the landscape gardener. The disposal of hard waste shall be managed by individual residents/body corporate and a private contractor. Council’s Waste Co-ordinator is content with the submitted waste management plan being satisfied with arrangements for private waste collection.

Council’s Traffic Engineer advises that the street frontage does not have a loading zone to allow waste collection vehicles to park and access the bin holding area. It is therefore recommended that waste collection occur within the basement via a 6.4m rear mini loader. This matter can be controlled by a condition of permit and is included in the recommendation.

6.10. Cultural Heritage management plan

The site is located within an area of cultural heritage sensitivity, therefore an assessment as to whether the proposal is considered a high impact activity has been undertaken on behalf of the applicant by Dugay & Co. Archaeologist & Cultural Heritage Management, per Laurinda Dugay.

The assessment produced by Dugay & Co. dated 13 March 2019 advises ‘that a review of the VAHR held at Aboriginal Victoria has resulted in the conclusion that there are no previously registered Aboriginal places within the proposed activity area. Previously registered places include Low Density Artefact Distributions (LDAD) and a shell midden located on the coastline to the west, an object collection and historical Aboriginal places to the north-east.’

‘A review of the mapped areas of sensitivity reveals that the proposed activity area is located within coastal plains with ridges and dune fields. Dunes are sensitive under Regulation 40(1) of the Aboriginal Heritage Regulations 2018. Subject to Regulation 4-(2), if part of a dune has been subject to significant disturbance, that part is not an area of cultural sensitivity (AHP 2018:19).’
‘Significant ground disturbance is defined in the Aboriginal Heritage Regulations 2018 (r.5) as ‘disturbance of- (a) the topsoil or surface rock layer of the ground; or (b) a waterway-by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing other than deep ripping.’ Deep ripping is further defined as ‘the ploughing of soil using a ripper or subsoil cultivation tool to a depth of 60 centimetres or more.’

The assessment concludes that ‘the proposed activity area has been subject to extensive disturbance due to the construction of the existing houses and associated infrastructure. The extent of previous works within the activity area to construct the house and install services are such that they fall within the definition of ‘significant ground disturbance.’ It is therefore considered that ‘the proposed works will impact within the current areas of prior disturbance.’

Dugay & Co in their capacity as Heritage and Cultural Management advisors therefore formed the opinion that the ‘works do not trigger the need for a mandatory CHMP under the Aboriginal Heritage Regulations 2018. The area has been subject to significant prior disturbance, implying that the activity area is not an area of Cultural Heritage Sensitivity under Regulation 40(2), if part of a dune has been subject to significant disturbance, that part is not an area of cultural heritage sensitivity (AHR 2018:19).

6.11. Development contributions levy

The subject site is located within catchment area 11A.

Based on the proposed application and the below recommendation, a payment of $8352 is required. The payment of the development contributions is included as a condition of permit.

6.12. Objector issues not already addressed

**Overshadowing (Standard B21)**

The objective of the standard is to ensure that buildings do not significantly overshadow existing secluded private open space.

Standard B21 states that where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3 pm on 22 September.

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

The decision guidelines at Clause 55.04-5 (Overshadowing Open Space) are that before deciding on an application, the responsible Authority must consider:

- The design response.
- The impact on the amenity of existing dwellings.
- Existing sunlight penetration to the secluded private open space of the existing dwelling.
- The time of day that sunlight will be available to the secluded private open space of the existing dwelling.
- The effect of a reduction in sunlight on the existing use of the existing secluded private open space.

Shadow diagrams submitted in support of the application indicate that additional overshadowing will be cast over the existing secluded private open space areas of 187 Church Street and 187A Church Street between 9am and 11am and 17A Halifax Street between 9am and 10am, beyond the shadows already cast by existing development and
boundary fencing throughout the day. No other residential property would be impacted as a result of additional overshadowing.

In response to the objector concerns relating to additional overshadowing of 187 Church Street, 187A Church Street and 17A Halifax Street, the applicant submitted additional shadow diagrams at 15 minute intervals between 9am and 3pm.

Whilst additional overshadowing will occur to the secluded private open space areas associated with 187A Church Street and 187 Church Street this is to a decreasing extent and between 9am and 12noon. In this instance at least 40 square metres of the secluded private open space will receive a minimum of five hours of sunlight between 9am and 3pm on 22 September in accordance with the standard.

The existing sunlight to the secluded private open space of 17A Halifax Street is less than the requirements of the standard and thus the amount of sunlight should not be further reduced. However, the additional shadow diagrams demonstrate the standard is not met specifically between 9am and 9:30am on 22 September and during this period the overshadowing is to a reducing extent. Between the hours of 10am and 3pm the secluded private open space would not be impacted by additional overshadowing. In this instance the additional overshadowing between 9am to 9:30am is not considered to have undue impact on the amenity of 17A Halifax Street.

Overlooking (Standard B22)

The objective of the standard is to limit views into existing secluded private open space and habitable room windows.

The standard states that a habitable room window, balcony, terrace, deck or patio should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9 metres (measured at ground level) of the window, balcony, terrace, deck or patio.

Views should be measured within a 45 degree angle from the plane of the window or perimeter of the balcony, terrace, deck or patio, and from a height of 1.7 metres above floor level.

The proposal includes a number of first and second floor habitable room windows or balconies within 9 metres of the secluded private open space of the neighbouring properties of 2, 2A, 2B and 4 Bemmersyde Avenue to the to the north, 21 Halifax Street to the east and the neighbouring residential properties of 187, 187a and 17A Halifax Street to the west.

The elevations submitted in support of the application indicate first and second floor north, east and west facing habitable room windows and/or balconies with be screened with a combination of materials e.g. metal battens, screen walling, louvres and planter boxes to a minimum height 1.7 metres above finished floor level to limit unreasonable overlooking impacts.

Roof decks would be sufficiently setback and otherwise screened to limit overlooking of neighbouring residential properties.

The existing boundary fencing will protect adjoining properties from unreasonable overlooking to/from ground floor habitable room windows.

Loss of view

Whilst it is recognised that views may form part of residential amenity, the Tribunal has consistently held that there is no legal entitlement to a view.
Support Attachments

1. Development Plans ↓
2. Site & Surrounds Imagery ↓
3. Neighbourhood Character Precinct B2 ↓
4. Clause 55 Assessment ↓
Architectural Town Planning Submission

17b-19 Halifax Street, Brighton

April 2019 - RFI Response
1.0 Architectural Statement

1.0.1 Project Summary

The Site
The site is located at 17b - 19 Halifax Street, Brighton approximately 13km from the CBD. It is situated on the northern side Halifax sheet facing the historic mansion ‘BRIE’.

The Opportunity
The site is proximate to a wide range of excellent public amenities, including Middle Brighton station which is located along the Church Street shopping district which hosts a range different retail outlets. The proposal is for a luxury high end apartment project aimed at owner occupiers. The proposed development will assist in creating a strong benchmark for future developments within the area.

Project Details
Three storey residential apartment building
12 Apartments, 1,363.7m² GFA
1 Basement carpark level
Brighton, Victoria
2.0 Urban Context and Site Analysis / 2.03 Existing Site Photographs

Bayside City Council Planning and Environment Act 1987
ADVERTISED PLAN
Planning Application No.: 6/2019/0026/1
Date: 13/07/2019

View 1

View 2
3.0 Design Evolution and Response

3.01 Concept & Design Statement

The development proposal aims to provide a contemporary architecture that is appropriate and considerate to the site and its immediate surrounds.

The building is simple in form and designed “in-the-round” to respond to all sensitive interfaces.

The architecture presentation is defined through the composition of two expressed forms.

One is grounded, expressing a podium colonnade. The second is “lightweight” & recessive rising to encapsulate the upper floor. The arrangement is symmetric responding to the transition in adjoining built forms.

The main entry is clearly articulated with a generous double height volume and high quality finishes.

Materiality is contemporary and contextually appropriate,
3.0 Design Evolution and Response

3.02 Concept & Processes

Bayside City Council
Planning and Environment Act 1997
ADVERTISED PLAN
Planning Application No.: 5/2019/00381
Date: 13/06/2019

Attachment 1

Item 4.3 – Matters of Decision
3.0 Design Evolution and Response

3.04 Architectural Massing

Bayside City Council
Planning and Environment Act 1987
ADVERTISED PLAN
Planning Application No.: 5/2019/0028/1
Date: 13/05/2019

Neighbouring Setbacks

Level Two Setbacks

Setbacks to "take" building
and manage visual bulk

11 - 19 Halifax Street, Brighton
Town Planning Submission
rothelowman
3.0 Design Evolution and Response

3.1 Architectural Design

3.1.6 Design Languages

Mass Elevation on Boundary & Entrances

Lightweight / Access

Item 4.3 – Matters of Decision
Item 4.3 – Matters of Decision
5.0 Shadow Analysis

5.0.1 Shadow Analysis

The following shadow diagram represents the impact of the proposed development on the surrounding area. The diagram is based on the planning application and is intended to assist in understanding the potential effects of the development on the local environment.

**ADVERTISED PLAN**

**Planning Application No.: 20/00261**

**Date:** 13/06/2019
Bayside City Council
Planning & Amenity Committee Meeting
16 July 2019

Item 4.3 – Matters of Decision

5.0 Shadow Analysis

5.02 Shadow Analysis

The following shadow diagrams represent times as noted for the equinox on the 22nd September.

Bayside City Council
Planning and Environment Act 1987
ADVERTISED PLAN
Planning Application No.: 5/2019/0028/1
Date: 13/05/2019
5.0 Shadow Analysis

The following tables of diagrams represent lines on shadow analysis for the existing on the 20th September.
5.0 Shadow Analysis

5.0.1 Shadow Analysis

The following table of diagrams represents plans as noted for the purposes of the Bayside City Council Planning and Environment Act 1989.

Planning Application No: 19/00281
Date: 13/06/2019

---

5.3 Matters of Decision

Item 4.3 – Matters of Decision

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5.0 Shadow Analysis

5.13 Shadow Analysis - Additional Information

The following shadow diagrams represent times as noted for the equinox on the 22nd September, zoned in to lot 17a Hallix Street for clarification of compliance.

Bayside City Council
Planning and Environment Act 1987
ADVERTISED PLAN
Planning Application No.: 5/2019/0026/1
Date: 13/05/2019

2pm – Existing

2pm – Proposed

Existing

Additional Shadow

Note: Surveying, building heights and these shadows are approximate. The shadows have been calculated on the basis of the Building Height Plan and the best of our ability with all the conditions to ensure the accuracy.
Item 4.3 – Matters of Decision

6.0 BADS Apartments / 6.08 Layouts

TYPE 2.02

<table>
<thead>
<tr>
<th>LAYOUT 2.02</th>
<th>DISTANCE</th>
<th>COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>TYPE 2.02</td>
<td>DISTANCE</td>
<td>COMMENT</td>
</tr>
</tbody>
</table>

- Bayside City Council
- Planning and Environment Act 1987
- ADVERTISED PLAN
- Planning Application No: 5/2019/0026/1
- DATE: 16/07/2019

Note: All dimensions and codes are nominal only, require verification. Refer to detailed plans and specifications.
### 8.0 Drawings

#### 8.01 Drawing List

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Conditions Plan</td>
<td>TP-00.01</td>
</tr>
<tr>
<td>Demolition Plan</td>
<td>TP-00.02</td>
</tr>
<tr>
<td>Site Plan</td>
<td>TP-00.03</td>
</tr>
<tr>
<td>Garden Area</td>
<td>TP-00.04</td>
</tr>
<tr>
<td>Basement 1 Plan</td>
<td>TP-01.01</td>
</tr>
<tr>
<td>Ground Floor Plan</td>
<td>TP-01.02</td>
</tr>
<tr>
<td>Level 01 Plan</td>
<td>TP-01.03</td>
</tr>
<tr>
<td>Level 02 Plan</td>
<td>TP-01.04</td>
</tr>
<tr>
<td>Roof Plan</td>
<td>TP-02.01</td>
</tr>
<tr>
<td>North &amp; South Elevations</td>
<td>TP-02.02</td>
</tr>
<tr>
<td>East &amp; West Elevations</td>
<td>TP-02.03</td>
</tr>
<tr>
<td>Streetscape Elevation</td>
<td>TP-02.10</td>
</tr>
<tr>
<td>Front Fence Elevation</td>
<td>TP-02.11</td>
</tr>
<tr>
<td>Sections</td>
<td>TP-03.01</td>
</tr>
<tr>
<td>Sections</td>
<td>TP-03.02</td>
</tr>
</tbody>
</table>

---

**Bayside City Council**

**Planning and Environment Act 1987**

**ADVERTISED PLAN**

**Planning Application No:** 6201900251/1

**Date:** 13/05/2019

---

**Bayside City Council**

**Planning & Amenity Committee Meeting - 16 July 2019**

**Attachment 1**
Item 4.3 – Matters of Decision
**Item 4.3 – Matters of Decision**

<table>
<thead>
<tr>
<th>Area</th>
<th>Approval</th>
<th>Party</th>
<th>Party Parties</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building</td>
<td>12,946.0 m²</td>
<td>16,946.0 m²</td>
<td>11.0 m²</td>
<td>138.0 m²</td>
</tr>
<tr>
<td>Levels 1</td>
<td>15,015.0 m²</td>
<td>75,015.0 m²</td>
<td>5.0 m²</td>
<td>375.0 m²</td>
</tr>
<tr>
<td>Levels 2</td>
<td>427.0 m²</td>
<td>427.0 m²</td>
<td>5.0 m²</td>
<td>213.0 m²</td>
</tr>
<tr>
<td>Roof</td>
<td>1,688.0 m²</td>
<td>1,688.0 m²</td>
<td>5.0 m²</td>
<td>8,440.0 m²</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>15,015.0 m²</strong></td>
<td><strong>22,314.0 m²</strong></td>
<td><strong>38.0 m²</strong></td>
<td><strong>1,930.0 m²</strong></td>
</tr>
</tbody>
</table>

**Bayside City Council**
Planning and Environment Act 1987
Planning Application No.: 5/2019/26/1
Date: 14/05/2019
Figure 1 Aerial overview of the site and surrounds (Multiple objections submitted by two parties.)

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objection</td>
<td>★</td>
</tr>
</tbody>
</table>
Figure 2 View towards 17B Halifax Street from the south.

Figure 3 View towards 19 Halifax Street from the south.
Item 4.3 – Matters of Decision

Figure 4 View towards 17A Halifax Street from the south.

Figure 5 View towards 189 Church Street to the west of 17A Halifax Street.
Figure 6 View east along Halifax Street.

Figure 7 View east along Halifax Street from corner of Church Street.
Figure 8 View towards 189 Church Street and 17A Halifax Street.

Figure 9 View towards 193 Church Street.
Figure 10 View east along Halifax Street.

Figure 11 View towards 22 & 24 Halifax Street.
Figure 12 View west towards Halifax Street.

Figure 13 View west towards Halifax Street.
Neighbourhood Character Precinct B2

Preferred Future Character Statement

The diverse dwelling styles, with a continued presence of pre WWII 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>Planning Officer Assessment</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>• 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.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds The existing buildings are not considered to make a contribution to the character of the precinct, nor are there protective overlays on the site.</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.</td>
<td>Responds A landscape plan has been provided that demonstrates that there is sufficient space throughout the site to accommodate canopy tree and other plantings, particularly within the front and rear setbacks. Minimal perimeter planting is also proposed. Council’s Arborist is satisfied with the proposal subject to conditions specifying surface materials within the front setback and controlling the substitution of medium canopy trees on site with a large canopy tree.</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>Loss of front garden space.</td>
<td>Responds The recessive front setback serves to reduce the visual strength of the building and allow a transition in form between built form on the adjoining lots of both 17A and 21 Halifax Street.</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>
</tbody>
</table>
| To minimise the loss of front garden space and the dominance of car parking facilities | • Locate garages and carparks behind the line of the dwelling.                    | Car parking facilities that dominate the façade or view of the dwelling. | **Responds**  
A single crossover is proposed within the eastern part of the south roadside boundary of the site to allow resident access to parking located in the basement.                                                                                     |
|                                                                           | • Provide only one vehicular crossover per typical site frontage.                 |                                                                      |                                                                                                                                                                                                                        |
|                                                                           | • Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. |                                                                      |                                                                                                                                                                                                                        |
|                                                                           |                                                                                   |                                                                      |                                                                                                                                                                                                                        |
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative | • Articulate the form of buildings and elevations, particularly front facades.    | Large buildings with poorly articulated facades.                    | **Responds**  
The development would present to Halifax Street in a flat roofed form and would express recessed components in its front façade providing transition in the plane of the building from west to east and in                               |
|                                                                           | • Recess upper storey elements from the front façade.                            |                                                                      |                                                                                                                                                                                                                        |

The transitional setbacks and the considered placement of vehicular access to the site would allow opportunities to appropriately landscape the site with canopy tree and other plantings.  
The development is largely compliant with side setbacks standards and in this there is opportunity for planting within the side setbacks of the site. Although modest in its approach, such planting would be little different in its extent to that which exists within the streetscape of Halifax Street.  
The visual separation between built form and the landscape setting of the development would be reflective of the proportionality of built form to plot ratio that is evident adjacent and throughout Halifax Street.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>architectural responses.</td>
<td></td>
<td></td>
<td>the built form adjacent to it. Progressively recession would occur from first to second floor levels. From Halifax Street the second floor of the building would be setback 4m from the front wall of the floor below. This approach is consistent with the setbacks required by the DDOT1. The composition of buildings and use of colonnade and pergola structures emphasise the articulated and recessive elements of the building, providing visual interest to the building and within its streetscape setting. As so finished, the building would harmonise with its immediate context and be consistent with the mix of building forms and external finishes evident in the area.</td>
</tr>
</tbody>
</table>

To respect the identified heritage qualities of adjoining buildings.

- Where adjoining an identified heritage building, respect the height, building forms, stiling and materials of the heritage building/s, in the new building design.

Buildings that dominate heritage buildings by height, stiling or massing.

- Imitation or reproduction of historic building styles and detailing.

To the south and southeast of the site are the properties of 193 Church Street covered by Heritage Overlay 465, 22 and 24 Halifax Street covered by Heritage Overlay 187 and Billa House at 26 Halifax Street, covered by Heritage Overlay 198. An objective of neighbourhood character precinct B2 is to ensure that development respects the identified heritage qualities of adjoining buildings.

In its presentation to Halifax Street the proposed development would respond to its immediate context and harmoniously contrast with other modern infill development and be a modern interpretation of the evolution of development within the part of Halifax Street. It would not physically adjoin the heritage buildings which surround it but would
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To use a variety of building materials and finishes that provide visual interest in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Use simple building details. | Exclusive use of one material on external wall facades. | nevertheless have a contextual attachment.  
In this it is not considered the development would detrimentally impact the significance of the heritage places that surround it but would instead allow them to remain the focus of their setting and a representation of their era, in form and architecture. |
| To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid fences | Responds  
The external finishes of the building would appear lightweight in their colour palette and would provide a subtle contrast to one another harmonising with the palette and composition of materials within the streetscape. |
### Attachment 4

**ResCode Clause 55 (Two or More Dwellings on a Lot and Apartment Developments)**

<table>
<thead>
<tr>
<th>Application type</th>
<th>Applicable clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>To construct or extend an apartment development; or To construct or extend a dwelling in or forming part of an apartment development.</td>
<td>All of Clause 55 except Clause 55.03-5, Clause 55.03-6, Clause 55.04-5, Clause 55.05-1, Clause 55.05-2 and Clause 55.05-6.</td>
</tr>
</tbody>
</table>

### CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE

<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. | Complies | Refer to Attachment 3 and report for further discussion. Subject to conditions, the proposed development responds favourably to the preferred streetscape and neighbourhood character envisaged for this evolving major activity centre. |
| **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. | Complies | Refer to “Strategic Justification” section of the report for an assessment of the proposal against the relevant policy context. The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | Complies | The development addresses dwelling diversity by comprising a total of 12 apartments with a mix of 2 & 3 bedrooms. |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Complies | The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council’s drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development |
| **B5 Integration with the Street**<br>Integrate the layout of development with the street | **Complies**<br>The subject site is located within Church Street Major Activity Centre Precinct E. As such it is envisaged that built form, including varied building heights, densities and design will continue to evolve over time as new development is constructed within the precinct. The development features suitable setbacks to the all boundaries that generally comply with ResCode requirements, particularly to the street, to allow appropriate landscaping and canopy tree planting within the front setback to soften the built form to Halifax Street. Whilst the predominantly 2 storey wall height with recessed second floor element as presented to the street and immediately adjoining sensitive residential interfaces towards the north, south and west reduces the overall scale of the development and minimises visual bulk and massing impacts. Therefore, it is considered that the proposed design response is appropriate for its site context and strategic designation, thus integrating and making a positive contribution to the changing streetscape character. Refer to Attachment 3 and report for further discussion. |

---

### CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</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. | Does not comply | Requirement: 5.77m (which is the average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street.)
**Proposed:** 5m – 9m with framing and planters extending forward with a minimum front setback of 4.4m. |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Complies/Does not comply</th>
<th>Maximum/Minimum</th>
<th>Proposed/Source</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Does not comply</td>
<td>Maximum: 11m</td>
<td>Design and Development Overlay, Schedule 11 allows a height of 3 storeys excluding a basement but includes an attic. Proposed: 11.03m max. 3 storeys Refer to report.</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>Does not comply</td>
<td>Maximum: 60%</td>
<td>Proposed: 61.9% The proposed site coverage of the development is 61.9% which is 1.9% greater than the 60% prescribed by the standard. In order to achieve compliance with the standard the building footprint would need to be reduced by some 28.18m². The physical effect of insisting on compliance in this instance would be negligible. There would be no discernible impact to the perception of built form on the site that would provide reasoned justification to control compliance by a condition of permit. The proposed development is not dissimilar in its built form to plot ratio, evident in other parts of Halifax Street and does provide sufficient areas of private open space and landscaping to create a setting to the development. It would not have any detrimental amenity impacts on neighbouring residential properties.</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>Does not comply</td>
<td>Minimum: &gt;20%</td>
<td>Proposed: 16.5% Refer to report.</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>Complies</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources.</td>
<td></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>
<td>There is no communal open space proposed within the development.</td>
<td></td>
</tr>
</tbody>
</table>
**B12 Safety**  
Layout to provide safety and security for residents and property.  
Complies  
The pedestrian entry point is clearly recognisable while upper levels 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.  
Complies  
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.  
Complies  
Appropriate access to/from the basement car park via Halifax Street has been provided. 
Standard traffic conditions, related to the provision, sightlines and headroom associated with the ramp gradient will be included as permit conditions. 
Refer to the report for further discussion.

**B15 Parking Location**  
Provide resident and visitor vehicles with convenient parking.  
Avoid parking and traffic difficulties in the development and the neighbourhood.  
Protect residents from vehicular noise within developments.  
Complies  
An appropriate provision of on-site car parking will be provided in the basement car park. 
Refer to the report for further discussion.

### CLAUSE 55.04 AMENITY IMPACTS

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B17 Side and Rear Setbacks** | Does Not Comply | Refer to the report for further discussion.  
Areas of non-compliance are underlined.  
The proposed side and rear setbacks at ground, first and second floors generally comply with the standard.  
The east side setback of the balcony screening of apartments 1.04 and 2.01 fails the numerical standard |
requirement, however on balance the encroachment into the setback either be limited to balcony screening or would otherwise have a non-sensitive interface and thus would not pose any detrimental impact to neighbouring properties. Therefore, the proposed setbacks are deemed satisfactory.

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirement</strong></td>
<td><strong>Proposed</strong></td>
<td><strong>Requirement</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>East (side)</td>
<td>1.45m - 1m</td>
<td>(S,N) 3m-3.9m - 3.42m</td>
<td>3m-3.9m-3m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m to 1m</td>
<td>(S,N) 3m - 1.8m</td>
<td>2.39m - 1.99m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m to 1m</td>
<td>(W,E) 5.28m-5m</td>
<td>1.99m - 2.34m</td>
</tr>
</tbody>
</table>

**Roof terrace**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>6.09m</td>
<td>7.5m</td>
</tr>
<tr>
<td>West (side)</td>
<td>6.09m</td>
<td>10.6m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>6.04m</td>
<td>10.2m-10m</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.

Does not comply

**Maximum Height:** 3.6m
**Proposed:** 4.99m

**Maximum Average Height:** 3.2m
**Proposed:** 4.82m

**East Boundary**

**Maximum Length:** 17.76m
**Proposed:** 8.88m

The maximum height and average height of the wall on boundary would exceed that prescribed by the standard. However, the wall would be commensurate in length and abut the wall on boundary that is the west elevation wall of the garage of 21 Halifax Street to the east of the subject site. In such circumstance the proposed wall height is considered appropriate given its interface.

**B19 Daylight to Existing Windows**

Allow adequate daylight into existing habitable room windows.

**Complies**

The ground, first and second floor building envelopes have been sufficiently setback in excess of 3m from all existing habitable room windows to immediately abutting properties to the north, south and west to exceed the standard.
<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>Complies</th>
<th>There are no north facing windows within 3m of any shared boundary.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td><strong>Complies</strong></td>
<td></td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Standard B21 states that where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9am and 3pm on 22 September. If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced. The decision guidelines at Clause 55.04-5 (Overshadowing Open Space) are that before deciding on an application, the responsible Authority must consider:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The design response.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The impact on the amenity of existing dwellings.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Existing sunlight penetration to the secluded private open space of the existing dwelling.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The time of day that sunlight will be available to the secluded private open space of the existing dwelling.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The effect of a reduction in sunlight on the existing use of the existing secluded private open space.</td>
<td></td>
</tr>
<tr>
<td>Shadow diagrams submitted in support of the application indicate that additional overshadowing will be cast over the existing secluded private open space areas of 187 Church Street and 187A Church Street between 9am and 11am and 17A Halifax Street between 9am and 10am, beyond the shadows already cast by existing development and boundary fencing throughout the day.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>In response to the objector concerns relating to additional overshadowing of 187 Church Street, 187A Church</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street and 17A Halifax Street, the applicant submitted additional shadow diagrams at 15 minute intervals between 9am and 3pm. Whilst additional overshadowing will occur to the secluded private open space areas associated with 187A Church Street and 187 Church Street this is to a decreasing extent and between 9am and 12noon. In this instance at least 40 square metres of the secluded private open space will receive a minimum of five hours of sunlight between 9am and 3pm on 22 September in accordance with the standard. The existing sunlight to the secluded private open space of 17A Halifax Street is less than the requirements of the standard and thus the amount of sunlight should not be further reduced. However the additional shadow diagrams demonstrate the standard is not met specifically between 9am and 9:30am on 22 September and during this period the overshadowing is to a reducing extent. Between the hours of 10am and 3pm the secluded private open space would not be impacted by additional overshadowing. In this instance the additional overshadowing between 9am to 9:30am is not considered to have undue impact on the amenity of 17A Halifax Street.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### B22 Overlooking
Limit views into existing secluded private open space and habitable room windows.

| Complies | The elevations submitted in support of the application indicate first and second floor north, east and west facing habitable room windows and/or balconies with be screened with a combination of materials e.g. metal battens, screen walling, louvres and planter boxes to a minimum height 1.7 metres above finished floor level to limit unreasonable overlooking impacts.

Roof decks would be sufficiently setback and otherwise screened to limit overlooking of neighbouring residential properties.

The existing boundary fencing will protect adjoining properties from unreasonable overlooking to/from ground floor habitable room windows. |

### B23 Internal Views
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.

| Complies | The submitted plans indicate screens to a high of approx. 1.7m will be erected between SPOS areas within the development in accordance with the standard. |

### B24 Noise Impacts
Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.

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

### Clause 55.05 On-Site Amenity and Facilities

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B25 Accessibility</td>
<td>Complies</td>
<td>Entries are accessible for people with limited mobility with a lift and staircase provided from the basement car park to all floor levels. Internal layouts within the development could also be further retro-fitted to accommodate people with limited mobility in the future if required.</td>
</tr>
</tbody>
</table>
**B26 Dwelling Entry**
Provide a sense of identity to each dwelling/residential building.

**Complies**
The development includes a clearly identifiable separate pedestrian pathway leading from Halifax Street to the main entry and lobby. The entry provides access and a sense of personal address for the development.

**B27 Daylight to New Windows**
Allow adequate daylight into new habitable room windows.

**Complies**
All habitable windows will open out onto a space clear to the sky with no habitable rooms relying on a secondary light source.

**B28 Private Open Space**
Provide reasonable recreation and service needs of residents by adequate private open space.

**Complies**
- **Required:** 40m² overall with 25m² secluded, with a minimum dimension of 3m.
- **Proposed:**
  - All ground floor apartments satisfy the requirements of this standard and are provided with adequate private open space to meet the reasonable recreation and service needs of future residents.
  - It is noted that Clause 32.08-4 of the Bayside Planning Scheme requires a minimum garden area at ground floor level of 35% of each lot. This equates to an area of approx. 261.1m² on the lot comprising 17B Halifax Street and 260.75m² on the lot comprising 19 Halifax Street. This is a total garden area of 521.86m² across the site. It is proposed that 535.4m² be provided on site, thus satisfying the requirement.

**Private Open Space**

<table>
<thead>
<tr>
<th>Apartments</th>
<th>G.01 – G.05 (ground floor terraces)</th>
</tr>
</thead>
<tbody>
<tr>
<td>G.01</td>
<td>1.02.3m²</td>
</tr>
<tr>
<td>G.02</td>
<td>81.4m²</td>
</tr>
<tr>
<td>G.03</td>
<td>99.8m²</td>
</tr>
<tr>
<td>G.04</td>
<td>53.9m²</td>
</tr>
<tr>
<td>G.05</td>
<td>100.7m²</td>
</tr>
</tbody>
</table>

**B29 Solar Access to Open Space**
Allow solar access into the secluded private open space of new dwellings/buildings.

**Complies**
All units will receive reasonable solar access to their respective courtyards and terraces throughout the day to meet the standard and needs of future residents.

**B30 Storage**
Provide adequate storage facilities for each dwelling.

**N/A**

---

**CLAUSE 55.06 DESIGN DETAIL**
<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| B31 Design Detail         | Complies                | It is considered that the overall scale and massing of this 3 storey apartment development featuring:  
  - A contemporary design response  
  - Appropriate external materials using light-weight materials, colours and finishes in light grey and white tones complimentary to its setting  
  - A max. 11.03m building height to be modified by condition to meet the mandatory height control  
  - A façade treatment that responds to the preferred streetscape character  
  - Setbacks that provide an appropriate transition to adjoining neighbours and  
  - Suitable landscaping opportunities throughout the subject site  
Responds well to Council policy objectives and is reflective of its zoning, site context and preferred character of this evolving major activity centre.  
Refer to the report for further discussion. |
<p>| B32 Front Fences          | Does not comply         | The proposed 1.7m high metal picket fence featuring planter reflects the varied height and style of front fencing within Halifax Street.                                                                     |
| B33 Common Property       | Complies                | All areas of common property have been designed to clearly delineate public, communal and private areas. Common property is functional and capable of efficient management.                                            |
| B34 Site Services         | Complies                | All appropriate site services can be easily catered for on-site. Conditions of permit will ensure the location of all domestic services is appropriate and rubbish collection is managed on-site via a private waste provider. |</p>
<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard B35 Energy efficiency objectives</strong></td>
<td>Complies</td>
<td>The site orientation maximises the solar access and does not unreasonably reduce energy efficiency and solar access to adjoining properties. Areas of open space facing north have been maximised where possible. A sustainable Management Plan has been submitted in support of the application which identifies initiatives and systems to ensure that the development exceeds an average energy rating of 6.5 stars. Adopting the performance commitments described in the plan the development is considered to achieve a cooling loading of 13 MJ/M² per annum which is less than the maximum NatHERS annual cool loading specified in Table D1 Cooling load for Climate Zone 62 Moorabbin.</td>
</tr>
<tr>
<td>To achieve and protect energy efficient dwellings and buildings. To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy. To ensure dwellings achieve adequate thermal efficiency</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard B36 Communal open space</strong></td>
<td>N/A</td>
<td>This standards relates to developments with 40 or more dwellings.</td>
</tr>
<tr>
<td>To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development. Developments with 40 or more dwellings should provide a minimum area of communal open space of 2.5 sq metres per dwelling or 250 sq metres, whichever is lesser.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard B37 Solar access to communal outdoor open space</strong></td>
<td>N/A</td>
<td>There is no communal outdoor open space provided within this development.</td>
</tr>
<tr>
<td>To allow solar access into communal outdoor open space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard B38 Deep soil areas and canopy trees objective</strong></td>
<td>Complies</td>
<td>Required: 7.5% of the site area with a minimum dimension of 3m and 1 medium tree (6-12 metres) per 50m² of deep soil or 1 large tree per 90m² of deep soil. Proposed: A landscape plan and deep soil area plan was submitted in support of the application. The deep soil area plan identified 10.11% of the site would contain deep soil with a minimum dimension of 3m. A further 5.15% of the</td>
</tr>
<tr>
<td>Item 4.3 – Matters of Decision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------------------</td>
<td>--------------------------------------------------</td>
<td></td>
</tr>
</tbody>
</table>
| **Standard B39 Integrated water and stormwater management**  
To encourage the use of alternative water sources such as rainwater, stormwater and recycled water. To facilitate stormwater collection, utilisation and infiltration within the development. To encourage development that reduces the impact of stormwater run-off on the drainage system and filters sediment and waste from stormwater prior to discharge from the site. | Complies  
The submitted Water Sensitive Urban Design (WSUD) Response prepared by Ark Resources dated 26 March 2019 states the development achieves a 100% project score rating which exceeds the standard considered best environmental practice for WSUD. |
| **Standard B40 Noise impacts**  
To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources. | Complies  
As previously mentioned at Standard B24 above. Conditions have been included requiring the sensitive placement of services and mechanical equipment. |
| **Standard B41 Accessibility**  
To ensure the design of dwellings meets the needs of people with limited mobility. | Complies  
**Requirement:** 50% of dwellings should have:  
- A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.  
- A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.  
- A main bedroom with access to an adaptable bathroom.  
- At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table B7.  
**Proposed:** 50% of apartments meet this standard. |
| **Standard B42 Building entry and circulation**  
To provide each dwelling and building with its own sense of identity.  
To ensure the internal layout of buildings provide for the safe, functional and efficient movement of | Complies  
The building entry and lobby area provide a clearly identifiable communal area with adequate access to natural light and ventilation.  
Stair and lift access to all dwellings is provided via a centrally located internal stair/lift well from the basement to all |
<table>
<thead>
<tr>
<th>Item</th>
<th>Requirement</th>
<th>Standard B43 Private open space above ground floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Complies</strong></td>
<td>To provide adequate private open space for the reasonable recreation and service needs of residents.</td>
</tr>
<tr>
<td></td>
<td><strong>Requirement:</strong> An area of 15 square metres, with a minimum dimension of 3 metres at a podium or other similar base and convenient access from a living room, or a balcony with an area of 12m² with a minimum dimension of 2.4 metres.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Proposed:</strong> All apartments will have access to a courtyard or at least one terrace exceeding 8m² as required by Table B8 and previously outlined at Standard B28 above.</td>
<td></td>
</tr>
</tbody>
</table>

Standard B44 Storage  
To provide adequate storage facilities for each dwelling. **Complies**  
**Required:** 2 - 3 bedroom apartments require a total minimum storage requirement of 14m³ - 18m³ per dwelling type with a minimum storage volume of 6m³ to 12m³ within each dwelling.  
**Provided:** The submitted plans detail appropriate storage within and allocated to each apartment at basement level.

Standard B45 Waste and recycling  
To ensure dwellings are designed to encourage waste recycling.  
To ensure that waste and recycling facilities are accessible, adequate and attractive.  
To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm. **Complies**  
The proposal provides for waste storage within the basement.  
The submitted Waste Management Plan prepared by Leigh Designs dated 14 December 2018 suggests waste will be managed by a private contractor, not Council.  
A Waste Management Plan condition will be included as part of the approval to ensure effective sustainable waste management for the site.

Standard B46 Functional layout  
To ensure dwellings provide functional areas that meet the needs of residents. **Complies**  
**Requirement:** Bedrooms should provide for a main bedroom with minimum dimensions of 3mx 3.4m. All other bedrooms should have minimum dimensions of 3m x 3m.  
2 or more bedroom dwellings should have a minimum living area width of 3.6m with a minimum area of 12m².  
**Proposed:** All apartments comply with the minimum bedroom widths and living areas.

Standard B47 Room depth  
To allow adequate daylight into single aspect habitable rooms. **Complies**  
**Requirement:** Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.
<table>
<thead>
<tr>
<th><strong>Standard B48 Windows</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td><strong>Proposed:</strong> Many rooms have double aspect but all single aspect rooms comply with this standard.</td>
</tr>
<tr>
<td><strong>Requirement:</strong> Habitable rooms should have a window in an external wall of the building. A window may provide daylight to a bedroom from a smaller secondary area within the bedroom where the window is clear to the sky. The secondary area should be:</td>
</tr>
<tr>
<td>• A minimum width of 1.2 metres.</td>
</tr>
<tr>
<td>• A maximum depth of 1.5 times the width, measured from the external surface of the window.</td>
</tr>
<tr>
<td><strong>Proposed:</strong> All habitable rooms will have a window in an external wall of the building and do not rely on a secondary light source.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Standard B49 Natural ventilation</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage natural ventilation of dwellings.</td>
</tr>
<tr>
<td>To allow occupants to effectively manage natural ventilation of dwellings.</td>
</tr>
<tr>
<td><strong>Proposed:</strong> All dwellings will be provided with various operable windows and doors with access to an external wall to allow natural ventilation in compliance with the standard.</td>
</tr>
<tr>
<td><strong>Requirement:</strong> At least 40% of dwellings should provide effective cross ventilation that has:</td>
</tr>
<tr>
<td>• A maximum breeze path through the dwelling of 18 metres.</td>
</tr>
<tr>
<td>• A minimum breeze path through the dwelling of 5 metres.</td>
</tr>
<tr>
<td>• Ventilation openings with approximately the same area.</td>
</tr>
</tbody>
</table>
4.4 9 BARNET STREET, HIGGNETT
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2018/645/1 WARD: CENTRAL

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/159542

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>The North Planning</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The site is subject to restrictive covenant 1367209. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>4 October 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>193 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
</tbody>
</table>
| Overlays | Design and Development Overlay (Schedule 3)  
Development Contributions Plan Overlay (Schedule 1) |
| Site area | 725 square metres |
| Number of outstanding objections | Nine (9) |
| Is a Development Contribution Levy applicable? | Yes  
$2,088.00  
Catchment Area 15B |
| Is the site located within an area of cultural heritage sensitivity? | No |

Proposal
The application seeks approval for the construction of two double storey dwellings on a lot. Key details of the proposal are as follows:

- The development will have a maximum building height of 8.25 metres
- Total site coverage 50%
- Total site permeability 40.36%
- Dwelling 1 incorporates a single garage with tandem outdoor parking provided in the driveway
- Dwelling 2 incorporates a double garage with tandem outdoor parking in the driveway

The application plans are provided at Attachment 1.

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

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

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-6 (Neighbourhood Residential Zone – Schedule 3) – Construction of two or more dwellings on a lot.

**Note:** Pursuant to Clause 32.09-4, the construction of a dwelling or residential building on a lot over 650 square metres, requires the provision of a minimum of 35% garden area at ground floor level.

The development plans confirm that the development has a garden area of 282.04 square metres which equates to 39.24% and exceeds the minimum of 35% garden area required.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

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

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and nine (9) objections were received.

9 objections remain outstanding at the time of this report.

The following concerns were raised:

- Removal of Tree #20 (Willow Myrtle) located within the rear setback;
- Proposed entry to dwelling 1 (noise concerns for 7 Barnet Street); and,
- Proposed double garage associated with dwelling 2 built on boundary.

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

Consultation meeting

A consultation meeting was held on 30 May 2019 attended by the permit applicant and 5 objectors. As a result of this meeting no objections were withdrawn.
4. **Recommendation**

That Council resolve to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/645 for the land known and described as **9 Barnet Street, Highett**, for the **Construction of two 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 Roke Design Studios referenced TP-04, TP-05, TP-06, TP-07, TP-08, date May 2018 and revision number A but modified to show:

   a) The southern elevation to incorporate an additional material/or finish.

   b) A reduction in the dominance of the proposed horizontal framed element along the façade of the dwellings to ensure that each dwelling is easily distinguishable.

   c) The provision of the appropriate screening to limit overlooking from the rear ground floor windows and deck to each dwelling in accordance with Standard B22 (Overlooking) of the Bayside Planning Scheme.

   d) A new 3m wide vehicle crossing to be constructed with 1m offset from the northern property boundary along with a 1m wide separator in accordance with Council’s vehicle crossing Policy. The existing vehicle crossing to be removed.

   e) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit.

   f) A Landscaping Plan in accordance with Condition 10 of this permit.

   All to the satisfaction of the Responsible Authority.

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

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

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

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

6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard 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 Zenith Concepts Landscape Design, Revision A, dated November 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey including botanical names of all existing trees to be retained on the site, including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways.
   f) Detail replacement planting including:
      i. Two (2) small canopy tree species which will grow to a minimum 8m height at maturity; or one (1) large canopy tree species which will grow to a minimum 12m height at maturity within the front setback of each dwelling.
ii. Two (2) small canopy tree species which will grow to a minimum 6m height at maturity; or one (1) large canopy tree species which will grow to a minimum 10m height at maturity within the private open space of each dwelling.

iii. Two (2) canopy trees planted throughout the site to replace the habitat value provided by tree #20 (Willow Myrtle). These trees must be within the family Myrtaceae and/or species with nectar bearing flowers accessible to native birds.

g) Any required built form reduction to facilitate the planting of vegetation.

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.

Street tree protection

13. Before the development starts, tree protection fencing is to be established around the street tree 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.

14. Street trees must not be removed, lopped, damage or pruned by any party other than Bayside City Council authorised tree care contractors. There is to be no soil excavation within 2 metres of the street tree asset measured from the edge of the trunk. Any installation of services and drainage within the TPZ must be undertaken using root-sensitive, non-destructive techniques.

Drainage

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 City Assets and Projects Department.

Development Contribution

17. 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.
Permit Expiry

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.

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

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

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

- Council records indicate that there is a rear 1.83m wide drainage and sewerage easement along the West 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. Minimum easement width must the greater of; 2m from the boundary or 0.5m from the asset.

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

- 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 2017-2021

Relevant objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

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

Bayside Planning Scheme
- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 12  Environmental and Landscape Values
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.04  Environmental and Landscape Values
- Clause 21.06  Built Environment and Heritage
- Clause 22.06  Neighbourhood Character Policy (Precinct G1)
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02  Design and Development Overlay (Schedule 3)
- Clause 45.06  Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06  Car Parking
- Clause 55  Two or more dwellings on a lot
- Clause 65  Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

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

Barnet Street features a largely consistent pattern of well-spaced dwellings, situated within landscaped gardens.

The proposed double storey side by side development provides adequate front and side setbacks, consistent with the existing and preferred character of the area, whilst allowing ample space for the planting of vegetation and maintaining the rhythm of visual separation between buildings. A condition has been included to ensure the proposal provides sufficient canopy planting throughout the site, maintaining and enhancing the garden settings of the dwellings, by the provision of an updated landscape plan consistent with the Bayside Landscape Guidelines.
The precinct guidelines discourage the removal of large trees which contribute to the valued character of the area. The site currently contains a large tree (refer to Figure 2) within the rear setback which is visible from Barnet Street and the surrounding properties. This tree is proposed to be removed to accommodate the built form. An assessment of this tree and broader landscaping considerations are provided in Section 6.3 of this report.

The development includes well-articulated front wall surfaces through a mixed variety of materials. The development includes three different colours of render and weatherboard look cladding. However, the southern elevation only includes one material, resulting in excessive visual bulk. A condition has been added to the recommendation to include a varied material to the southern elevation to break up the visual bulk with further material articulation.

Although the eastern first floor is not recessed, the provision of a variety of materials provides an interesting façade to the street. However, the provision of the parapet which expands across the front of both dwellings creates an unreasonably dominant outcome which does little to minimise the impact of the form in the street. As such, a condition has been included as part of the recommendation to reduce the dominance of this design element and to ensure the dwellings are easily distinguishable.

The dwellings feature a pitched roof, responding to the existing and preferred neighbourhood character of the area.

A front fence has not been proposed as part of the development, maintaining the openness of the streetscape.

Concerns have been raised in relation to the construction of the double garage associated with dwelling 2 along the property boundary. The proposed double garage is considered a suitable design response, consistent with the built form character of the area. Moreover, the proposal offers suitable built form separation particularly due to the location of the concrete crossover associated with 11 Barnet Street.

### 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:

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
<td>Dwelling 1: 7.645m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2: 7.760m</td>
</tr>
</tbody>
</table>

*Measured from east to west*

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

As underlined above, the first floor side setbacks include areas of non-compliance with the standard.

The northern first floor setback associated with the Master Suite, WIR1, Ensuite, Bathroom and Bedroom 2 propose a setback of 3.32 metres where the standard requires
a minimum setback of 3.614m. A 300mm variation is considered to be acceptable on the northern side of the site as there is a concrete driveway associated with the adjoining property (11 Barnet Street). The driveway is a non-sensitive interface, and allows for adequate visual separation between dwellings. As 11 Barnet Street is on the northern side of the subject site, no additional overshadowing will occur.

*Red line demonstrates level of non-compliance to Standard B17 (Side and Rear Setbacks)

Overlooking (Standard B22)

The objective of the standard is to limit views into existing secluded private open space and habitable room windows.

At ground floor level, the rear west facing windows associated with each dwelling are located within 9 metres of adjoining secluded private open space. Given the boundary fencing has a height of 1.6 metres, a condition has been included to ensure that the proposed decks and east facing windows are screened in accordance with the requirements of this standard.

All first floor habitable room windows have been screened to a minimum height of 1.7 metres above finished floor level or have been sited appropriately in accordance with this standard.

6.3. Landscaping

The application plans show the removal of 18 trees and shrubs from the site. A number of concerns have been raised by objectors in relation to the proposed removal of tree #20, a Willow Myrtle (Agonis Flexuosa), which is located within the rear setback of the subject site.

A referral to Council’s Arborist (Attachment 5), focusing on the removal of tree #20 was received. Council’s Arborist and the Arborist report submitted by the applicant (Attachment 6) have both stated that the tree has a good amenity value and fair/good health.

Although the tree #20 has fair/good health and amenity value, it has been found that the tree has a poor structure as there are open cracks in major stems of the tree and there are also signs of decay at the base of tree (these can be seen in Attachment 5). Based on the tree’s structure, the useful life expectancy is determined to be 0-3 years.

Council’s Arborist has stated that the cracks in the tree are serious defects and that pruning or lopping the tree to a compliant standard will not remove enough weight to
significantly reduce the probability of major limb failure. Over pruning of the tree will also significantly reduce its visual amenity value. The significant maintenance required to keep the tree healthy and to offset the poor structure will significantly diminish the trees amenity values. In light of these findings, removal of the tree has been supported subject to conditions. These conditions will require an amended landscape plan to include additional canopy trees within the front and rear setback of the site which will work to enhance the garden setting of the dwellings whilst working to offset the loss of habitat value and character associated with the removal of tree #20.

6.4. Street tree(s)
A street tree is located within the nature strip and is proposed for retention. Council’s Street Tree Arborist has advised that design is supported and that the tree requires protection during the demolition and construction. A condition has been included to this effect.

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

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

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

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

6.7. Development contributions levy
The subject site is located within catchment area 15B.

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

6.8. Objector concerns not already addressed

Proposed entry to dwelling 1 (noise concerns for 7 Barnet Street)
An objection from 7 Barnet Street has raised concerns regarding the location of the pedestrian entry associated with Dwelling 1 as it is located along the southern (side) elevation. It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.
Support Attachments

1. Application Plans
2. Site and Surrounds
3. Neighbourhood Character Assessment
4. ResCode Assessment
5. Council Arborist Referral
6. Applicant's Arborist Report
PROPOSED DEVELOPMENT
for CARTER GRANGE
No. 9 BARNET STREET, HIGHETT
TOWN PLANNING DOCUMENTATION

TP01 TITLE 4 STREET-SCAPE ELEVATION
TP02 NEIGHBOURHOOD 4 SITE DESCRIPTION PLAN
TP03 DESIGN RESPONSE PLAN
TP04 PROPOSED GROUND FLOOR PLAN
TP05 GARDEN AREA CALCULATION
TP06 PROPOSED FIRST FLOOR PLAN
TP07 PROPOSED ELEVATIONS
TP08 9AM / 12NOON / 3PM SHADOW DIAGRAMS
Item 4.4 – Matters of Decision
Arboricultural Assessment

Subject Site:
9 Barnet St, Highett VIC 3190

Report Prepared By:
Samuel Munro
Consulting Arborist
Certificate 5 Horticulture (Arboriculture)

Report Commissioned by:
Jimmy Stutterd of Carter Grange

Date of Assessment:
Thursday, December 21, 2017

Date of Report:
Saturday, May 12, 2018

Version: 2

Advised Plan
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1 Assignment

1.1 Author / Consulting Arborist

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

1.2 Client

<table>
<thead>
<tr>
<th>Name</th>
<th>Intended Audience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jimmy Stutterd of Carter Grange</td>
<td>• The property/tree owner(s)</td>
</tr>
<tr>
<td>Site Address</td>
<td>• The development project manager and associated</td>
</tr>
<tr>
<td>9 Barnett St</td>
<td>construction staff</td>
</tr>
<tr>
<td>Highett VIC 3190</td>
<td>• Council Planning Department</td>
</tr>
<tr>
<td>Phone (03) 9585 6953</td>
<td></td>
</tr>
</tbody>
</table>

1.3 Brief

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

Detail has been requested in relation to the following instructions:

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

2.1 Site Visit

Samuel Munro, of Taylors Tree and Stump Removal, visited the site for an Arboricultural assessment on Thursday the 21st of December 2017 at 3.00pm.

2.2 Method of data collection

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

3 Site description

- The subject site is located in a Neighbourhood Residential Zone – Schedule 3 (NRZ3) within the City of Bayside.
- An existing single storey dwelling is currently situated within the site.
- The terrain of the site presented as predominately flat.
- The subject trees are located within the subject site, within the front nature strip and adjoining properties at 7 Barnet St and 10 Haynes St.
- The subject trees are located amongst a mixture of native and exotic vegetation that were not assessed as they are insignificant in size and are not suitable for retention.

The site is subject to these overlays:
- Design and Development overlay – Schedule 3
- Development Contributions Overlay – Schedule 1
3.1 Local law Bayside

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

A protected tree is:

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

The following tables indicate the tree data obtained during the on-site visit:

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Botanical Name &amp; Common Name</th>
<th>Age</th>
<th>Height</th>
<th>Canopy Spread</th>
<th>DBH &amp; DAB</th>
<th>Health</th>
<th>Structure</th>
<th>UVE</th>
<th>Amenity Value</th>
<th>Retention Value</th>
<th>TP2 Radius</th>
<th>SRZ Radius</th>
<th>Comments</th>
</tr>
</thead>
</table>
| 1        | Cabes europaea - Olive       | Mature | Exotic | 4 m | W: 3 m E-W: 3 m | 0.15 m 0.20 m | Fair Fair | 20 + years Low Other Person's Tree | 2 m | 1.7 m | Neighbouring tree, located within the southern adjoining property (7 Barnett St.)
| 2        | Unknown sp. - Unknown         | Mature | Unknown | 3 m | W: 2 m E-W: 10 m | 0.16 m 0.18 m | Fair Fair | 20 + years Low Other Person's Tree | 2 m | 1.5 m | Neighbouring hedges comprised of 8 trees, located within the southern adjoining property (7 Barnett St.). Stem dimensions and heights enlarged.
| 3        | Lagerstroemia speciosa - Japanese maple | Mature | Exotic | 5 m | W: 2 m E-W: 2 m | 0.17 m 0.23 m | Fair Fair | 20 + years Moderate Council rental | 2 m | 1.8 m | Multi-stemmed just above base of tree. DBH measured at base of tree.
| 4        | Acacia palmata - Japanese maple | Mature | Exotic | 4 m | W: 3 m E-W: 4 m | 0.22 m 0.22 m | Fair Fair | 20 + years Low Low | 2.6 m | 1.7 m | Multi-stemmed at base of tree. DBH measured at base of tree.
| 5        | Unknown sp. - Unknown         | Mature | Unknown | 5 m | W: 5 m E-W: 5 m | 0.19 m 0.19 m 0.19 m (0.58m) | Fair poor | 5 - 10 years Low Low | 5 m | 2.7 m | Sparse canopy mass. Lopped at 3m above ground level.
| 6        | Callistemon sp. - Bottlebrush | Mature | Native | 4 m | W: 4 m E-W: 4 m | 0.17 m 0.15 m (0.22m) | Fair Fair | 20 + years Low Low | 2.8 m | 2.2 m | Multi-stemmed at base of tree. DBH measured at base of tree.
| 7        | Acacia sp. - Wattie           | Mature | Native | 3 m | W: 5 m E-W: 5 m | 0.29 m 0.29 m | Fair Fair | 30 + years Low Low | 3.6 m | 2 m | Multi-stemmed at base of tree. DBH measured at base of tree.
<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Botanical Name &amp; Common Name</th>
<th>Age</th>
<th>Origin</th>
<th>Height</th>
<th>Canopy Spread W x E: W</th>
<th>DSH &amp; DAB</th>
<th>Health</th>
<th>Structure</th>
<th>ULE</th>
<th>Amenity Value</th>
<th>Retention Value</th>
<th>TPE Radius</th>
<th>BSQ Radius</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Callistemon sp. (Stubbiebrush)</td>
<td>Mature</td>
<td>Native</td>
<td>3 m</td>
<td>N: 2 m E: 2 m</td>
<td>0.16 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Low</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Mixed shrub and vegetation.</td>
</tr>
<tr>
<td>9</td>
<td>Mixed vegetation</td>
<td>Mature</td>
<td>Mixed</td>
<td>3 m</td>
<td>N: 2 m E: 2 m</td>
<td>0.11 m</td>
<td>Fair good</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Low</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree, located within the western adjoining property (12 Haynes St).</td>
</tr>
<tr>
<td>10</td>
<td>Hesperocyparis microcarpa</td>
<td>Mature</td>
<td>Exotic</td>
<td>7 m</td>
<td>N: 4 m E: 4 m</td>
<td>0.20 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>3.4 m</td>
<td>1.8 m</td>
<td>X 2 trees. Largest tree recorded.</td>
</tr>
<tr>
<td>11</td>
<td>Pittosporum undulatum</td>
<td>Semi mature</td>
<td>Native</td>
<td>4 m</td>
<td>N: 4 m E: 3 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Eucalyptus sp. (Gum)</td>
<td>Mature</td>
<td>Native</td>
<td>8 m</td>
<td>N: 4 m E: 4 m</td>
<td>0.16 m</td>
<td>Poor</td>
<td>Fair</td>
<td>0 – 5 years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.7 m</td>
<td>Very sparse canopy mass.</td>
</tr>
<tr>
<td>13</td>
<td>Cupressaceae sempervirens</td>
<td>Mature</td>
<td>Exotic</td>
<td>3 m</td>
<td>N: 1 m E: 1 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.6 m</td>
<td>Neighbouring tree, located within the southern adjoining property (7 Barret St).</td>
</tr>
<tr>
<td>14</td>
<td>Cupressaceae sempervirens</td>
<td>Mature</td>
<td>Exotic</td>
<td>3 m</td>
<td>N: 1 m E: 1 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree, located within the southern adjoining property (7 Barret St).</td>
</tr>
<tr>
<td>15</td>
<td>Cupressaceae sempervirens</td>
<td>Mature</td>
<td>Exotic</td>
<td>3 m</td>
<td>N: 1 m E: 1 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree, located within the southern adjoining property (7 Barret St).</td>
</tr>
<tr>
<td>16</td>
<td>Cupressaceae sempervirens</td>
<td>Mature</td>
<td>Exotic</td>
<td>3 m</td>
<td>N: 1 m E: 1 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree, located within the southern adjoining property (7 Barret St).</td>
</tr>
<tr>
<td>17</td>
<td>Prunus nigra (Black plum)</td>
<td>Mature</td>
<td>Exotic</td>
<td>2 m</td>
<td>N: 2 m E: 2 m</td>
<td>0.16 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree, located within the southern adjoining property (7 Barret St).</td>
</tr>
<tr>
<td>Tree No.</td>
<td>Botanical Name &amp; Common Name</td>
<td>Age</td>
<td>Height</td>
<td>Canopy Spread</td>
<td>DBH &amp; DAS</td>
<td>Health</td>
<td>Structure</td>
<td>ULE</td>
<td>Amenity Value</td>
<td>Retention Value</td>
<td>TPZ Radius</td>
<td>BRZ Radius</td>
<td>Comments</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>-----------------------------</td>
<td>------</td>
<td>--------</td>
<td>---------------</td>
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<td>-----------</td>
<td>-----------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>Malus sp.</td>
<td>Mature</td>
<td>Excid</td>
<td>2 m</td>
<td>N-S: 2 m</td>
<td>E/W: 2 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Property Tree</td>
<td>2 m</td>
<td>1.5 m</td>
</tr>
<tr>
<td>19</td>
<td>Malus sp.</td>
<td>Mature</td>
<td>Excid</td>
<td>2 m</td>
<td>N-S: 2 m</td>
<td>E/W: 2 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Property Tree</td>
<td>2 m</td>
<td>1.5 m</td>
</tr>
</tbody>
</table>
| 20      | Agonis flexuosa | Native | 15 m | N-S: 15 m | E/W: 11 m | 2.14 m | Fair | Fair | 20 + years | High | Low | 18 m | 4.8 m | Predominantly comprised of 5 major stems. The south-eastern stem appears to have been compromised due to decay at base of trees.

The structural integrity of the south eastern stem has a major cavity at 0.9m 3m above ground level. The structural integrity of the western stem appears to have been compromised due to decay at 2m 3m above ground level. The structural integrity of the western stem appears to have been compromised due to the split. The western stem supports approximately 30% of the tree's canopy mass.
<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Botanical Name &amp; Common Name</th>
<th>Age</th>
<th>Height</th>
<th>Canopy Spread (m)</th>
<th>DBH</th>
<th>Health</th>
<th>Structure</th>
<th>ULE</th>
<th>Amenity Value</th>
<th>Retention Value</th>
<th>TPR Radius</th>
<th>BMZ Radius</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>21</td>
<td>Malus sp. (Apple)</td>
<td>Mature Exotic</td>
<td>4 m</td>
<td>N-S: 8 m E-W: 6 m</td>
<td>0.18 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Low</td>
<td>2 m</td>
<td>1.9 m</td>
<td>TAYLORS TREES</td>
</tr>
<tr>
<td>22</td>
<td>Liquidambar formosana 'Toyo Nishiki'</td>
<td>Mature Exotic</td>
<td>6 m</td>
<td>N-S: 9 m E-W: 7 m</td>
<td>0.48 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Low</td>
<td>5.6 m</td>
<td>3 m</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>Camellia sp. (Camellia)</td>
<td>Mature Exotic</td>
<td>4 m</td>
<td>N-S: 2 m E-W: 2 m</td>
<td>0.07 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Low</td>
<td>2 m</td>
<td>1.5 m</td>
<td></td>
</tr>
</tbody>
</table>
4.1 Photographic evidence

The following photographs were obtained during the site visit:

Tree 1
Tree 2
Tree 3
Tree 4
Tree 5
Tree 6
Tree 7
Tree 8
Tree 9
Tree 10
Item 4.4 – Matters of Decision
5 Site map

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

5 Site map

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

LEGEND

<table>
<thead>
<tr>
<th>High retention value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Modest retention value</td>
</tr>
<tr>
<td>Low retention value</td>
</tr>
<tr>
<td>Other person's tree</td>
</tr>
</tbody>
</table>

TAYLORS TREES
6 Discussion

6.1 Tree Protection zone

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

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

6.2 Structural root zone

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

6.3 Designing Around Trees

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

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

6.3.1 Minor encroachment

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

6.3.2 Major encroachment

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

NOTE: Less than 10% TPZ area and outside SRZ. Any loss of TPZ compensated for elsewhere.

6.3.3 Root exploratory investigation

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

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

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

7.1 Tree retention value

7.1.1 Council owned trees

The following tree belongs to Bayside City Council:

- Tree 3

7.1.2 Neighbouring trees

The following trees do not belong to the property owner and are therefore considered to be other person's trees:

- Tree 1
- Tree 2
- Tree 10
- Tree 11
- Tree 12
- Tree 13
- Tree 14
- Tree 15
- Tree 16
- Tree 17
- Tree 18
- Tree 19

7.1.3 Low retention value

The following trees are considered to be of low retention value as they are insignificant to the landscape:

- Tree 4
- Tree 5
- Tree 6
- Tree 7
- Tree 8
- Tree 9
- Tree 21
- Tree 22
- Tree 23

The following tree is considered to be of low retention value as it presented with a high risk rating:

- Tree 20

7.2 Permit requirement

A permit is required to destroy, damage or remove the following trees under the local law (3.1):

- Tree 5
- Tree 20
- Tree 22

The following tree is a Council owned tree and must only be maintained by Council staff or Council contractors:

- Tree 3
8 Recommendations

8.1 Tree retention

The following trees should be considered for retention:
- Tree 1  
- Tree 2  
- Tree 3  
- Tree 10
- Tree 11  
- Tree 12  
- Tree 13  
- Tree 14
- Tree 15  
- Tree 16  
- Tree 17  
- Tree 18

In the event of tree retention the following is recommended in order to ensure that retained trees are adequately protected:
- Comply with construction measures (8.3)
- Comply with tree protection measures (8.4)

8.2 Tree removal

The following trees may be considered for removal if necessary:
- Tree 4  
- Tree 5  
- Tree 6
- Tree 7  
- Tree 8  
- Tree 9
- Tree 21  
- Tree 22  
- Tree 23

The following tree presented with a high risk rating and should be removed:
- Tree 20

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

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

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

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

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

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

8.4.1 Pruning

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

8.4.2 Tree protection fencing

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

8.4.3 Ground protection

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

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

8.4.5 Tree protection signage

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

8.4.6 Prohibitions within the TPZ

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

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

8.4.8 Drains and services

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

8.4.9 Site storage

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

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

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

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

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

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

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

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


AS 4970-2009 Australian Standard for Protection of Trees on Development Sites.

11 Definition of terms

11.1 Tree health

- Good
- Fair
- Poor
- Very poor
- Dead

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

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

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

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

Dead: The tree is no longer alive.

11.2 Structure

- Good
- Fair
- Poor
- Very poor
- Failed

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

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

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

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

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

Failed: A significant section of the tree or the whole tree has failed.

TAYLORS TREES
11.3 Useful Life Expectancy (ULE)

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

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

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

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

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

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

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

11.4 Tree Retention Value

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

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

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

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

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

11.5 Hazard

- High
- Moderate
- Low

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

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

Low: Trees appear to be structurally sound, is healthy with no signs of pests or disease, has good vigour and is clear of any hazards.
11.5 Age
- Young
- Semi Mature
- Mature
- Senescent

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

11.7 Amenity Value

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

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

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

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

The amenity value rating considered the impact that the tree has on any neighbouring sites as being equally important to that supplied to the subject site. However, trees that contribute to the general area (e.g. streetscape) are given a greater weight.
Attachment 2: Site and Surrounds

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>

Objector address not shown on plans – PO Box – 2437 Brighton North Vic 3186
Objector address not shown on plans – 19 Domain Drive Castlemaine Vic 3450
Figure 2 View towards the site from the northeast

Figure 3 View towards the site from the east
## Attachment 3: Neighbourhood Character Assessment

### Neighbourhood Character Precinct G1

#### Preferred Future Character Statement

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

#### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<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>Does not respond A condition has been included to the permit to update the landscape plan to be in accordance with the Bayside Landscaping Guidelines.</td>
</tr>
<tr>
<td></td>
<td>• Retain large, established trees and provide for the planting of new 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>Responds The proposal includes compliant side setbacks, allowing for visual separation and ample space for planting of vegetation.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></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, textures or colours or other elements providing appropriate articulation.</td>
<td>Large, bulky buildings with poorly articulated front and side wall surfaces.</td>
<td>Responds The development includes a well-articulated front and side walls surfaces through a mix variety of materials. The development includes three different colours of render and weatherboard look cladding. Although the first floor is not recessed, a mix of materials provides an interesting façade to the street. However, the large parapet expanding across the front of both dwellings is considered to be bulky, a condition to delete the parapet on the front façade has been included.</td>
</tr>
<tr>
<td></td>
<td>• Use pitched roof forms with eaves.</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>
</tbody>
</table>
| To maintain the openness of the streetscape.  |                  | High, solid front fencing | Responds  
The proposal does not include a front fence, therefore maintaining the openness of the streetscape. |
|                                                |                  |               | The dwellings feature a pitched roof, responding to the existing and preferred neighbourhood hood character of the area. |
**Attachment 4: ResCode Assessment**

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

<table>
<thead>
<tr>
<th>Application type</th>
<th>Applicable clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>To construct or extend a dwelling (other than a dwelling in or forming part of an apartment development); or To construct or extend a residential building.</td>
<td>All of Clause 55 except Clause 55.07-1 to 55.07-15 (inclusive).</td>
</tr>
</tbody>
</table>

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**CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE**

<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. | Complies | 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. | Complies | The subject site is appropriately located with regard to services and facilities to support the construction of multiple dwellings on a lot of this size. |
| **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. | Complies | The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. |
<table>
<thead>
<tr>
<th>Clause</th>
<th>Title and Objective</th>
<th>Complies</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B5</td>
<td>Integration with the Street</td>
<td>Complies</td>
<td>The development is orientated to face the street and no front fence is proposed, adequately integrating the development with the streetscape.</td>
</tr>
<tr>
<td>CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Complies</td>
<td>Requirement: 9m. Proposed: Dwelling 1: 9.255m Dwelling 2: 9.4m</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Complies</td>
<td>Maximum: 9 metres Proposed: 8.25 metres</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>Complies</td>
<td>Maximum: 50% Proposed: 50%</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>Complies</td>
<td>Minimum: &gt;20% Proposed: 40.36%</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>Complies</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources.</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>
<td>There is no communal open space in or adjacent to the development.</td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Complies</td>
<td>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.</td>
</tr>
</tbody>
</table>
### 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.

| Does not Comply | A condition has been included to update the landscape plan to be in accordance with the Bayside Landscaping Guidelines. |

### 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.

| Complies | An appropriate access off Barnett Street has been provided. Standard traffic conditions are included as permit conditions. |

### B15 Parking Location

Provide resident and visitor vehicles with convenient parking.

Avoid parking and traffic difficulties in the development and the neighbourhood.

Protect residents from vehicular noise within developments.

| Complies | On site car parking is provided in the form of a single and double garage. Standard traffic conditions are included as permit conditions. |

---

### CLAUSE 55.04 AMENITY IMPACTS

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</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 impacts on existing dwellings.

<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>0m or 2.0m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2.0m</td>
</tr>
<tr>
<td><strong>West (rear)</strong> 0m or 3.0m</td>
<td><strong>Dwelling 1:</strong> 7.645m Dwelling 2: 7.76m</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td><strong>B18 Walls on Boundaries</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Does not Comply</td>
</tr>
<tr>
<td>Item 4.4 – Matters of Decision</td>
<td>Page 288 of 559</td>
</tr>
</tbody>
</table>

| **B23 Internal Views** | Complies | All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. At ground floor level internal fencing to a height of 1.8m limits views between adjoining areas of secluded private open space within the development. |
| **B24 Noise Impacts** | Complies | It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses. An objection from 7 Barnet Street, Highett, has raised concerns about noise impacts are the entrance to dwelling 1 is a side entrance. As mentioned above, the level of noise produced from the dwelling is anticipated to be normal noises associated with living in a residential zone. |

| **CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES** |
|---|---|---|
| **Title and Objective** | **Complies with Standard?** | **Comments** |
| **B25 Accessibility** | Complies | Entries are accessible for people with limited mobility. The development could be further retrofitted to accommodate people with limited mobility in the future if required. |
| **B26 Dwelling Entry** | Complies | The development fronts Barnet Street and includes a clearly identifiable entry with dedicated pedestrian pathway. The entry provides shelter, a sense of personal address and a transitional space around the building entry. An objection from 7 Barnet Street has raised concerns about the side entrance associated with dwelling 1. It is considered that the pedestrian pathway to the entrance is sufficient and provides adequate sense of identity. |
| **B27 Daylight to New Windows** | Complies | All habitable windows will open out onto a space clear to the sky. |
### B28 Private Open Space
Provide reasonable recreation and service needs of residents by adequate private open space.

- Complies

**Minimum:**
- 25m² secluded, 40m² overall with a minimum dimension of 3 m;

**Proposed:**
- Dwelling 2: 63.98
- Dwelling 1: 67.64

### B29 Solar Access to Open Space
Allow solar access into the secluded private open space of new dwellings/buildings.

- Complies

### B30 Storage
Provide adequate storage facilities for each dwelling.

- Complies

- Designated storage areas are provided.

---

**CLAUSE 55.06 DESIGN DETAIL**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Complies</td>
<td>Refer to Section 6.1 of the report for further discussion.</td>
</tr>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>N/A</td>
<td>No front fence is proposed.</td>
</tr>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td>Complies</td>
<td>All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entry with waste provisions being provided in service yards.</td>
</tr>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
BAYSIDE CITY COUNCIL - STATUTORY PLANNING DEPARTMENT - INTERNAL REFERRAL

TO 
FROM 
ADDRESS 9 Barnet Street HIGHTETT
APPLICATION NO. 5/2018/645/1
PROPOSAL 2 New Dwellings
TRIM REFERENCE DOC/18/238266
STATUS Under assessment
COMMENTS An assessment against the following is required:
- Neighbourhood character precinct – G1
- Clause 55.03-8 (landscaping). Standard B13
DATE OF REFERRAL 27 March 2019

Notes:
- Called Michelle Sen 0431133595 and 0401 166 266, calling card left.
- Site visits undertaken on 14/1/19 and 18/2/19, no access to rear POS obtained.
- Visual assessment of the health of tree #20 was undertaken, but structural condition could not be assessed.
- A site inspection was arranged with Sally Shields and undertaken on 25 March 2019.

ARBORIST COMMENTS / CONDITIONS:

<table>
<thead>
<tr>
<th>NCP</th>
<th>Design Response</th>
<th>Avoid</th>
</tr>
</thead>
<tbody>
<tr>
<td>G1</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation. &lt;br&gt;• Retain large, established trees and provide for the planting of new trees wherever possible. &lt;br&gt;• Buildings should be sited to allow space for the planting of trees and shrubs. &lt;br&gt;• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>• Lack of landscaping and substantial vegetation. &lt;br&gt;• Removal of large trees. &lt;br&gt;• Planting of environmental weeds</td>
</tr>
</tbody>
</table>

The mature Native Willow Myrtle (Agonis flexuosa) in the rear POS, identified as tree #20 in the arborist’s report (Taylors 15/1/2019) is in a good condition of health and easily visible from the Barnet Street.

Inspection from within the property found the tree to have a poor structure. There are open longitudinal cracks in major stems, that are distinct from the ‘normal cracks’ (bark inclusion between stems), which is characteristic of the species. The are signs of decay associated with dead stubs at the base of the tree.

The longitudinal cracks are serious defects which cannot be mitigated by reduction pruning in accordance with AS 4373-2007 Pruning of Amenity Trees. None compliant pruning (lopping) would be required to remove enough weight to significantly reduce the probability of major limb failure.

Over-heavy pruning of the tree would destroy its visual amenity value and create a requirement for ongoing management of regrowth (epicormic shoots) associated with large pruning wounds.
Based on the tree's structure, the useful life expectancy (ULE) is determined to 0-3 yrs; it is expected that the tree is not likely to maintain current levels of amenity for more than 3 years.

The preferred design response is to Retain large, established trees and provide for the planting of new trees wherever possible. In this circumstance, the retention of the Native Willow Myrtle (Agonis flexuosa) is not possible. This would be the case, irrespective of the planning application.

It is possible to provide for the planting of new trees; enough space must be provided for the establishment of two (2) new canopy trees.

**STANDARD B13**

The landscape layout and design should:
- Protect any predominant landscape features of the neighbourhood.
- Take into account the soil type and drainage patterns of the site.
- Allow for intended vegetation growth and structural protection of buildings.
- In locations of habitat importance, maintain existing habitat and provide for new habitat for plants and animals.
- Provide a safe, attractive and functional environment for residents.

Tree #20 is a tall tree (~13m) and has a high visual amenity value. This tree is a predominant landscape feature in Barnet Street.

Larger trees increase bird abundance and species richness in urban green spaces. Trees with trunks greater than 0.8 m diameter have a significantly greater biodiversity value for avifauna (Stagoll et al 2012). Tree #20 has a trunk diameter of 2.14m and is likely to be of habitat importance.

Removal of tree #20 does not accord with the objective of protecting predominant landscape features and maintain existing habitat.

Due to the poor structure of the tree, retention is not feasible. To replace the habitat value provided by the tree, two (2) new canopy trees must be planted. These should be trees within the family Myrtaceae and/or species with nectar bearing flowers accessible to native birds.

**RECOMMENDATIONS**

Permit the removal of tree #20 Native Willow Myrtle (Agonis flexuosa).

Permit the removal of other trees on the site as required to facilitate the development.

Two (2) canopy trees which have the capacity to reach a mature height of 10 m and spread of 6 m at maturity must be planted on the site. One (1) of these trees must be in the front setback.

Enough space must be provided for these trees to reach their potential mature dimensions. Tree planting areas must be designed in accordance with the Bayside City Council Landscape Guidelines 2016, p.29.
REFERENCES

PHOTOGRAPHS

Open longitudinal crack in stem (arrow)

Decay associated with longitudinal crack

Base of tree, showing deep fluting characteristic of the species

Crack between major stems
BAYSIDE CITY COUNCIL - STATUTORY PLANNING DEPARTMENT - INTERNAL REFERRAL

<table>
<thead>
<tr>
<th>SIGNATURE</th>
<th>G. HamS</th>
</tr>
</thead>
<tbody>
<tr>
<td>DATE</td>
<td>27/3/2019</td>
</tr>
</tbody>
</table>
Arboricultural Assessment

Subject Site:
9 Barnet St, Highett VIC 3190

Report Prepared By:
Samuel Munro
Consulting Arborist
Certificate 5 Horticulture (Arboriculture)

Report Commissioned by:
Jimmy Stutterd of Carter Grange

Date of Assessment:
Thursday, December 21, 2017

Date of Report:
Saturday, May 12, 2018

Version: 2

Taylor Tree and Stump Removal 194 Canterbury Rd Baywater North 3153
Ph. 9720 6025 Fax. 9720 3769 Email, info@taylortreecare.com.au A.B.N. 35 119 781 118
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  11.2 Structure .................................................................................................................... 22
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1 Assignment

1.1 Author / Consulting Arborist

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

1.2 Client

<table>
<thead>
<tr>
<th>Name</th>
<th>Intended Audience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jimmy Stutterd of Carter Grange</td>
<td>• The property/tree owner(s)</td>
</tr>
<tr>
<td>Site Address</td>
<td>• The development project manager and associated construction staff</td>
</tr>
<tr>
<td>9 Barnett St</td>
<td>• Council Planning Department</td>
</tr>
<tr>
<td>Highbett VIC 3190</td>
<td></td>
</tr>
<tr>
<td>Phone</td>
<td>(03) 9585 6953</td>
</tr>
</tbody>
</table>

1.3 Brief

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

Detail has been requested in relation to the following instructions:

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

2.1 Site Visit

Samuel Munro, of Taylors Tree and Stump Removal, visited the site for an Arboricultural assessment on Thursday the 21st of December 2017 at 3.00pm.

2.2 Method of data collection

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

3 Site description

- The subject site is located in a Neighbourhood Residential Zone – Schedule 3 (NRZ3) within the City of Bayside.
- An existing single storey dwelling is currently situated within the site.
- The terrain of the site presented as predominately flat.
- The subject trees are located within the subject site, within the front nature strip and adjoining properties at 7 Barnet St and 10 Haynes St.
- The subject trees are located amongst a mixture of native and exotic vegetation that were not assessed as they are insignificant in size and are not suitable for retention.

The site is subject to these overlays:
- Design and Development overlay – Schedule 3
- Development Contributions Overlay – Schedule 1
3.1 Local law Bayside

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

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

Subject site as viewed from Barmet St

Subject site's backyard as viewed from the south-eastern corner

TAYLORS TREES
### 4 Tree Data

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

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Botanical Name &amp; Common Name</th>
<th>Age</th>
<th>Height</th>
<th>Canopy Spread E-W</th>
<th>DBH EAB</th>
<th>Health</th>
<th>Structure</th>
<th>ULE</th>
<th>Amenity Value</th>
<th>Retention Value</th>
<th>TPZ Radius</th>
<th>BRZ Radius</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><em>Calispora procera</em> (Olive)</td>
<td>Mature</td>
<td>4 m</td>
<td>N-S: 3 m</td>
<td>0.15 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 y</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.7 m</td>
<td>Neighbouring tree, located within the southern adjoining property (1 Barret St).</td>
</tr>
<tr>
<td>2</td>
<td>Unknown sp.</td>
<td>Mature</td>
<td>2 m</td>
<td>N-S: 2 m</td>
<td>0.16 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 y</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring hedges comprised of 8 trees, located within the southern adjoining property (1 Barret St). Stems, dimensions and heights omitted.</td>
</tr>
<tr>
<td>3</td>
<td><em>Lagurus ovatus</em> (Nordic bladed hare’s ear)</td>
<td>Mature</td>
<td>5 m</td>
<td>N-S: 2 m</td>
<td>0.17 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 y</td>
<td>Moderate</td>
<td>Council owned</td>
<td>2 m</td>
<td>1.8 m</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td><em>Acacia parramattensis</em> (Japanese maple)</td>
<td>Mature</td>
<td>4 m</td>
<td>N-S: 3 m</td>
<td>0.22 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 y</td>
<td>Low</td>
<td>Low</td>
<td>2.6 m</td>
<td>1.7 m</td>
<td>Multi-stemmed just above base of tree, DBH measured at base of tree.</td>
</tr>
<tr>
<td>5</td>
<td><em>Leptospermum scoparium</em> (Bottletree)</td>
<td>Mature</td>
<td>5 m</td>
<td>N-S: 5 m</td>
<td>0.19 m</td>
<td>Fair</td>
<td>Poor</td>
<td>5-10 y</td>
<td>Low</td>
<td>Low</td>
<td>5 m</td>
<td>2.7 m</td>
<td>Sparse canopy mass. Lopped at 3m above ground level.</td>
</tr>
<tr>
<td>6</td>
<td><em>Acacia sp.</em></td>
<td>Mature</td>
<td>4 m</td>
<td>N-S: 4 m</td>
<td>0.17 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 y</td>
<td>Low</td>
<td>Low</td>
<td>2.8 m</td>
<td>2.2 m</td>
<td>Multi-stemmed at base of tree, DBH measured at base of tree.</td>
</tr>
</tbody>
</table>

**Advertised Plan**

---

**Item 4.4 – Matters of Decision**

Page 300 of 559
<table>
<thead>
<tr>
<th>Tree No.</th>
<th>Botanical Name &amp; Common Name</th>
<th>Age</th>
<th>Origin</th>
<th>Height</th>
<th>Canopy Spread N-S m</th>
<th>E-W m</th>
<th>DAPH A m²</th>
<th>Health</th>
<th>Structure</th>
<th>U.S.E</th>
<th>Amenity Value</th>
<th>Retention Value</th>
<th>TPE Radius</th>
<th>BRZ Radius</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Callitris sp.</td>
<td>Mature</td>
<td>Native</td>
<td>3 m</td>
<td>N-S: 3 m</td>
<td>E-W: 2 m</td>
<td>0.16 m</td>
<td>Fair</td>
<td>Fair</td>
<td>30 + years</td>
<td>Low</td>
<td>Low</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Mixed, comprised of: - Melaleuca sp. - Unknown sp. 32</td>
</tr>
<tr>
<td>9</td>
<td>Mixed vegetation</td>
<td>Mature</td>
<td>Mixed</td>
<td>3 m</td>
<td>N-S: 5 m</td>
<td>E-W: 5 m</td>
<td>0.11 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Low</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree, located within the eastern adjoining property (10 Haynes St).</td>
</tr>
<tr>
<td>10</td>
<td>Monterey cypress</td>
<td>Mature</td>
<td>Exotic</td>
<td>7 m</td>
<td>N-S: 4 m</td>
<td>E-W: 4 m</td>
<td>0.20 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2.4 m</td>
<td>1.8 m</td>
<td>Neighbouring tree, located within the eastern adjoining property (10 Haynes St).</td>
</tr>
<tr>
<td>11</td>
<td>Pteleosperm unifoliare</td>
<td>Semi mature</td>
<td>Native</td>
<td>4 m</td>
<td>N-S: 4 m</td>
<td>E-W: 3 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>X 2 trees. Largest tree recorded.</td>
</tr>
<tr>
<td>12</td>
<td>Eucalyptus sp.</td>
<td>Mature</td>
<td>Native</td>
<td>8 m</td>
<td>N-S: 4 m</td>
<td>E-W: 8 m</td>
<td>0.16 m</td>
<td>Poor</td>
<td>Fair</td>
<td>0 – 5 years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.7 m</td>
<td>Very sparse canopy mass.</td>
</tr>
<tr>
<td>13</td>
<td>Cupressus sempervirens</td>
<td>Mature</td>
<td>Exotic</td>
<td>3 m</td>
<td>N-S: 1 m</td>
<td>E-W: 1 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.6 m</td>
<td>Neighbouring tree, located within the southern adjoining property (7 Barret St).</td>
</tr>
<tr>
<td>14</td>
<td>Cupressus sempervirens</td>
<td>Mature</td>
<td>Exotic</td>
<td>3 m</td>
<td>N-S: 1 m</td>
<td>E-W: 1 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.6 m</td>
<td>Neighbouring tree, located within the southern adjoining property (7 Barret St).</td>
</tr>
<tr>
<td>15</td>
<td>Cupressus sempervirens</td>
<td>Mature</td>
<td>Exotic</td>
<td>3 m</td>
<td>N-S: 1 m</td>
<td>E-W: 1 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.6 m</td>
<td>Neighbouring tree, located within the southern adjoining property (7 Barret St).</td>
</tr>
<tr>
<td>16</td>
<td>Cupressus sempervirens</td>
<td>Mature</td>
<td>Exotic</td>
<td>3 m</td>
<td>N-S: 1 m</td>
<td>E-W: 1 m</td>
<td>0.10 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.6 m</td>
<td>Neighbouring tree, located within the southern adjoining property (7 Barret St).</td>
</tr>
<tr>
<td>17</td>
<td>Prunus nigra</td>
<td>Mature</td>
<td>Exotic</td>
<td>2 m</td>
<td>N-S: 2 m</td>
<td>E-W: 2 m</td>
<td>0.15 m</td>
<td>Fair</td>
<td>Fair</td>
<td>30 + years</td>
<td>Low</td>
<td>Other Person's Tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree, located within the southern adjoining property (7 Barret St).</td>
</tr>
<tr>
<td>Tree No.</td>
<td>Botanical Name</td>
<td>Common Name</td>
<td>Age</td>
<td>Origin</td>
<td>Height</td>
<td>Canopy Spread</td>
<td>DBH &amp; DAS</td>
<td>Health</td>
<td>Structure</td>
<td>ULE</td>
<td>Amenity Value</td>
<td>Retention Value</td>
<td>TPZ Radius</td>
<td>BZ Radius</td>
<td>Comments</td>
</tr>
<tr>
<td>---------</td>
<td>----------------</td>
<td>-------------</td>
<td>-----</td>
<td>--------</td>
<td>--------</td>
<td>---------------</td>
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<td>-----</td>
<td>--------------</td>
<td>----------------</td>
<td>------------</td>
<td>-----------</td>
<td>----------</td>
</tr>
<tr>
<td>58</td>
<td>Malus ap.</td>
<td>Apple</td>
<td>Mature</td>
<td>Elliot</td>
<td>2 m</td>
<td>N-S: 2 m, E-W: 2 m</td>
<td>0.10 m, 0.15 m</td>
<td>Fair</td>
<td>Fair</td>
<td>Low</td>
<td>20+ years</td>
<td>Other property tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree located within the southern adjoining property (7 Ramet St). Severe by coverag...</td>
</tr>
<tr>
<td>59</td>
<td>Malus ap.</td>
<td>Apple</td>
<td>Mature</td>
<td>Elliot</td>
<td>2 m</td>
<td>N-S: 2 m, E-W: 2 m</td>
<td>0.10 m, 0.15 m</td>
<td>Fair</td>
<td>Fair</td>
<td>Low</td>
<td>20+ years</td>
<td>Other property tree</td>
<td>2 m</td>
<td>1.5 m</td>
<td>Neighbouring tree located within the southern adjoining property (7 Ramet St). Severe by coverag...</td>
</tr>
<tr>
<td>28</td>
<td>Agonis flexuosa</td>
<td>Willow myrtle</td>
<td>Mature</td>
<td>Native</td>
<td>1.5 m</td>
<td>N-S: 1.5 m, E-W: 1.1 m</td>
<td>2.14 m, 2.14 m</td>
<td>Fair/good</td>
<td>Fair</td>
<td>High</td>
<td>Low</td>
<td>18 m</td>
<td>4.8 m</td>
<td>Predominantly composed of 9 major stems. South-western stem has a major cavity at 0.5 m – 2 m above ground level. The structural integrity of the south eastern stem appeared to have been compromised due to the cavity. The south-eastern stem supports approximately 22% of the tree canopy mass. The central stem presented with a crack from 2m – 6m. The structural integrity of the central stem appears to have been compromised due to the cracks. Split within the western stem at 2m – 3m above ground level. The structural integrity of the western stem appeared to be compromised due to the split. The western stem supports approximately 4% of the trees canopy mass. Decay at base of trees from 0m – 2m above ground level.</td>
<td></td>
</tr>
<tr>
<td>Tree No.</td>
<td>Botanical Name &amp; Common Name</td>
<td>Age</td>
<td>Height</td>
<td>Canopy Spread (%)</td>
<td>DBH &amp; Girth</td>
<td>Health</td>
<td>Structure</td>
<td>ULE</td>
<td>Amenity Value</td>
<td>Retention Value</td>
<td>TPR Radius</td>
<td>BBZ Radius</td>
<td>Comments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>-------------------------------</td>
<td>---------</td>
<td>--------</td>
<td>-------------------</td>
<td>-------------</td>
<td>--------</td>
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<td>-----</td>
<td>--------------</td>
<td>----------------</td>
<td>------------</td>
<td>------------</td>
<td>----------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Malus sp. (Apple)</td>
<td>Mature</td>
<td>4 m</td>
<td>N-S: 8 m</td>
<td>E-W: 8 m</td>
<td>0.18 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Low</td>
<td>2 m</td>
<td>1.9 m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Lysimachia inundata</td>
<td>Mature</td>
<td>6 m</td>
<td>N-S: 7 m</td>
<td>E-W: 7 m</td>
<td>0.48 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Low</td>
<td>5.8 m</td>
<td>3 m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>Camellia sp. (Camellia)</td>
<td>Mature</td>
<td>4 m</td>
<td>N-S: 2 m</td>
<td>E-W: 2 m</td>
<td>0.07 m</td>
<td>Fair</td>
<td>Fair</td>
<td>20 + years</td>
<td>Low</td>
<td>Low</td>
<td>2 m</td>
<td>1.5 m</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.1 Photographic evidence

The following photographs were obtained during the site visit:

Tree 1

Tree 2

Tree 3

Tree 4

Tree 5

Tree 6

Tree 7

Tree 8

Tree 9

Tree 10
5 Site map

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

6.1 Tree Protection zone

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

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

6.2 Structural root zone

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

6.3 Designing Around Trees

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

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

6.3.1 Minor encroachment

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

6.3.2 Major encroachment

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

![Diagram showing encroachment differentials into the TPZ](image)

**NOTE:** Less than 10% TPZ area and outside SRZ. Any loss of TPZ compensated for elsewhere.

### 6.3.3 Root exploratory investigation

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

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

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

7.1 Tree retention value

7.1.1 Council owned trees

The following tree belongs to Bayside City Council:

- Tree 3

7.1.2 Neighbouring trees

The following trees do not belong to the property owner and are therefore considered to be other person's trees:

- Tree 1  
- Tree 2  
- Tree 10
- Tree 11  
- Tree 12  
- Tree 13
- Tree 14  
- Tree 15  
- Tree 16
- Tree 17  
- Tree 18  
- Tree 19

7.1.3 Low retention value

The following trees are considered to be of low retention value as they are insignificant to the landscape:

- Tree 4  
- Tree 5  
- Tree 6
- Tree 7  
- Tree 8  
- Tree 9
- Tree 10  
- Tree 11  
- Tree 12
- Tree 13  
- Tree 14  
- Tree 15
- Tree 16  
- Tree 17  
- Tree 18
- Tree 19  
- Tree 20  
- Tree 21
- Tree 22  
- Tree 23

The following tree is considered to be of low retention value as it presented with a high risk rating:

- Tree 20

7.2 Permit requirement

A permit is required to destroy, damage or remove the following trees under the local law (3.1):

- Tree 5
- Tree 20
- Tree 22

The following tree is a Council owned tree and must only be maintained by Council staff or Council contractors:

- Tree 3
8 Recommendations

8.1 Tree retention

The following trees should be considered for retention:
- Tree 1
- Tree 2
- Tree 3
- Tree 10
- Tree 11
- Tree 12
- Tree 13
- Tree 14
- Tree 15
- Tree 16
- Tree 17
- Tree 18
- Tree 19

In the event of tree retention the following is recommended in order to ensure that retained trees are adequately protected:
- Comply with construction measures (8.3)
- Comply with tree protection measures (8.4)

8.2 Tree removal

The following trees may be considered for removal if necessary:
- Tree 4
- Tree 5
- Tree 6
- Tree 7
- Tree 8
- Tree 9
- Tree 10
- Tree 11
- Tree 12
- Tree 13
- Tree 14
- Tree 15
- Tree 16
- Tree 17
- Tree 18
- Tree 19
- Tree 20
- Tree 21
- Tree 22
- Tree 23

The following tree presented with a high risk rating and should be removed:
- Tree 20

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

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

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

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

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

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

8.4.1 Pruning

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

8.4.2 Tree protection fencing

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

8.4.3 Ground protection

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

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

8.4.5 Tree protection signage

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

8.4.6 Prohibitions within the TPZ

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

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

8.4.8 Drains and services

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

8.4.9 Site storage

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

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

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

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

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

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

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

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


AS 4970-2009 Australian Standard for Protection of Trees on Development Sites.

11 Definition of terms

11.1 Tree health

* Good
* Fair
* Poor
* Very poor
* Dead

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

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

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

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

Dead: The tree is no longer alive.

11.2 Structure

* Good
* Fair
* Poor
* Very poor
* Failed

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

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

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

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

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

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

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

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

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

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

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

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

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

11.4 Tree Retention Value

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

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

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

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

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

11.5 Hazard

- High
- Moderate
- Low

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

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

Low: Trees appear to be structurally sound, is healthy with no signs of pests or disease, has good vigour and is clear of any hazards.
11.5 Age
- Young
- Semi Mature
- Mature
- Senescent

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

11.7 Amenity Value

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

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

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

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

The amenity value rating considers the impact that the tree has on any neighbouring sites as being equally important to that supplied to the subject site. However, trees that contribute to the general area (e.g. streetscape) are given a greater weight.
This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Trusch Design Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The site is subject to the following restrictive covenants and agreements.</td>
</tr>
<tr>
<td></td>
<td>- Covenant 1331949</td>
</tr>
<tr>
<td></td>
<td>- Covenant 1394059</td>
</tr>
<tr>
<td></td>
<td>- Section 173 Agreement AM666639D</td>
</tr>
<tr>
<td></td>
<td>- Section 173 Agreement AN936521R</td>
</tr>
<tr>
<td>Date application received</td>
<td>Application lodged: 13/8/2018</td>
</tr>
<tr>
<td></td>
<td>Amended plans received: 17/5/2019</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>60 days as of 16 July 2019</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td>Site area</td>
<td>431.2m²</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>1</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes. A fee of $2088</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>Yes, however the proposed works are not a high impact activity.</td>
</tr>
</tbody>
</table>

Proposal

The application seeks permission to construct one dwelling on a lot less than 500m² on a lot. Key details of the proposal are as follows:

- Construction of one dwelling on a lot
- Maximum height of 6.5m and two storeys
- Site coverage 36.9%
- Permeability 46.5%
2 Car spaces are proposed and no reduction is sought.
The application plans are provided at Attachment 1.
An aerial image and photographs of the site and surrounds are provided at Attachment 2.

History
Planning permit 2014/516 was granted on 17 March 2015 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) for the subdivision of the former Beaumaris RSL site at 489 Balcombe Road into 20 lots, removal of vegetation, alteration of access to a Category 1 Road Zone and variation and removal of easements.
The permit was amended via Section 72 of the Planning and Environment Act 1987 on 13 October 2015 for minor amendments to the conditions. The permit was amended again via Section 71 of the Planning and Environment Act 1987 on 5 November 2015 to correct a minor clerical error in the original drafting of the conditions.
Individual titles for the 20 lots have been issued. A number of the conditions of the subdivision permit, the endorsed plans and a Section 173 agreement lodged on all titles across the site place restrictions on the development of each site. These are discussed later in the report.
Subdivision plans have been endorsed that direct a number of aspects of the development of individual sites, including the provision of building envelopes and maximum building heights.
A landscape concept plan has also been endorsed for the larger site. All landscape plans for individual lots must be consistent with the landscape concept plan.
The section 173 agreement on each title imparts obligations on the owner in relation to the building envelope, height of development and tree protection fencing, and requires landscape plans to be prepared for each site and arborist reports where trees are to be retained.
It is noted the original Section 173 agreement did not allow works outside of the building envelope. This prohibited all works that would normally be associated with a dwelling including site cuts, driveways and letterboxes from occurring outside the building envelope. It is acknowledged this was over and above the intent of the building envelopes as decided by the VCAT decision and an amended Section 173 agreement was re-drafted that reflects the intent of the VCAT decision and community expectations for the development of the site, while enabling landowners to reasonably develop each site. The amended section 173 was signed by all owners and Council and registered on all titles on 21 June 2017 (Dealing No. AN936521R).

2. Planning controls
Planning Permit requirements
A planning permit is required pursuant to:
• Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of a dwelling on a lot less than 500sqm.

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

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

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

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

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and one objection was received.

1 objections remain outstanding at the time of this report.

The following concerns were raised:

- Air conditioning location;
- Overlooking; and
- Missing information.

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

Consultation meeting

Given the number of objections, a consultation meeting was not considered necessary for this application.

4. Recommendation

That Council resolve to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2018/515/1** for the land known and described as **1 Ruxton Rise, Beaumaris** for the **Construction of one dwelling 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 plans (amended) prepared by Trusch Desogm Pty Ltd, Council dated 17/5/2019 but modified to show:
   a) The ground floor wall at the south to be set in at least 1m from the southern boundary, without altering any other setbacks.
   b) A Landscaping Plan in accordance with Condition 10 of this permit.
   c) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit.
   d) Payment of the Development Contributions Levy in accordance with Condition 19 of this permit.

   All to the satisfaction of the Responsible Authority.

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

3. Before the occupation of the site commences or by such later date as is
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 A15 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, updated 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 Landscape Architects, revision B, dated 24/4/2019 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
    a) 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.
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) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

e) Details of surface finishes of pathways and driveways.

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

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

Tree Management and Protection Plan

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

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

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

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

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

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

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

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

Drainage

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 City Assets and Projects Department.

Development Contribution

19. 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.

Permit Expiry

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

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

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

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

Permit Notes:

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

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

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

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

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place; and

- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Bayside Planning Scheme

- Clause 11 Settlement
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 H3. 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 subject site is located within the Beaumaris RSL subdivision site with 20 new residential lots in variation stages of development. As such, greater weight is given to the preferred future character statement for Precinct H3 in that there is limited existing character.

A variation to the rear setbacks standard at the first floor level is proposed. It is considered that this variation is negligible and will have no consequence on the proposals interaction with the existing and preferred neighbourhood character, and therefore is appropriate.

The application has included a landscape plan in accordance with the wider subdivision landscape plan. The future planting would reflect an indigenous vegetation character consistent with the Beaumaris and Black Rock VPO3 areas. The street-facing double garage is recessed behind the primary façade and when coupled with quality landscaping will not be visually dominant.

The natural upslope of the site results in a minor degree of site cut to facilitate the development. This is not out of keeping with adjoining developments. A schedule of materials has been submitted that reflects the natural surrounds and provided an interesting and articulated façade. As such, officers indicate that the development can appropriately reflect the existing and preferred neighbourhood character, subject to conditions allowing additional first floor separation.

The dwelling also has a façade that will face Balcombe Road. The proposed elevation facing Balcombe Road is appropriately treated with varying materials and windows to ensure an active interface with Balcombe Road. The existing stone boundary wall on Balcombe Road will be retained with a privacy screen installed 3 metres back from the
street frontage. The openness of the site and streetscape will be retained ensuring views to the landscaping on the site.

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:

Side and rear setbacks (Standard A10)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>0m and 2m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
<td>4.2m</td>
</tr>
</tbody>
</table>

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.

There is a small area of non-compliance on the first floor to the rear of the property. The northern walk in robe is set in 4.4m from the eastern boundary and does not achieve compliance with the standard which requires a setback of 4.68m.

A 28cm variation (i.e. less than the length of an A4 sheet of paper) is considered negligible from the streetscape and will have no consequence on the neighbourhood character of the area, or the amenity of any of the neighbouring dwellings. In this case, the proposed variation is worthy of support.

North-facing windows (Standard A13)

While not shown on the development plans, the neighbouring property at 3 Ruxton Rise has north facing habitable room windows within 2m of the common boundary with the subject site. The ground floor of the proposed building is to be constructed on the southern boundary of the subject site and therefore does not achieve compliance with this standard. A condition has been included requiring the proposed wall on boundary to be set in a minimum of 1m from the southern boundary in order to achieve compliance with this standard.

The first floor of the proposed building is setback 3.3m – 3.9m from the southern boundary of the site. Given that these walls are between 5.4m and 5.8m in height, the setbacks proposed, achieve compliance with Standard A13.

6.3. Landscaping

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

The application has included a landscape plan that reflects an appropriate amount of planting in accordance with the original subdivision permit, and retention of Tree #1. However, the proposed landscape plan does not contain a minimum of 80% indigenous species in species type and count required by the Vegetation Protection Overlay Schedule 3. Conditions have been included for an updated landscape plan to be submitted which complies with this requirement.

6.4. Street tree(s)

There are no street trees that will be impacted by this proposal.
6.5. Car parking and traffic

The proposed dwelling comprises four bedrooms and is afforded two car parking spaces in the form of a double garage. The proposed on site car parking meets the requirements of Clause 52.06-5.

6.6. Cultural Heritage management plan

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

6.7. Development contributions levy

The subject site is located within catchment area 22.

Based on the proposed application and the below recommendation, a payment of $2,088 is required. The payment of the development contributions is included as a condition of permit.

6.8. Objector issues not already addressed

Overlooking

As outlined in Attachment 4 of this report, all windows with opportunities for overlooking, including first floor south facing windows, have been appropriately screened or obscured to a height of 1.7m in accordance with the requirements of the ResCode standards.

Information Missing from Plans

Despite the fact that some information may have been missing from the plans, Council officers conducted multiple site visits during the assessment of the application and are of the view that the proposed development does not prejudice the recently constructed dwelling at 3 Ruxton Rise, subject to conditions to setback the ground floor wall 1 metre. Council also has been able to review the endorsed plans for 3 Ruxton Rise, and has used these plans to form part of its assessment and as a consequence has required a condition to protect the north facing windows of this dwelling.

Location of Air Conditioning Units

Concerns have been raised over the location of air conditioning units. The planning scheme does not have the ability to control the location of air conditioning units, as these are considered works normal to a dwelling and therefore do not require planning permission. Any concerns over noise of air conditioning units is controlled by guidelines set out by the EPA.

Support Attachments

1. Decision Plans
2. Site and Surrounds
3. Neighbourhood Character Assessment
4. Clause 54 Assessment
PROPOSED NEW RESIDENCE
at 1 RUXTON RISE (LOT 3)
BEAUMARIS VICTORIA
for P & V PAPANIKOLAOU
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
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ATTACHMENT 2
Site Surrounds and 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. A photo of the subject site from Ruxton Rise, Beaumaris.

Figure 3. A photo of the windows on the neighbouring property at 3 Ruxton Rise, Beaumaris.
ATTACHMENT 3
Neighbourhood Character (Precinct H3) Assessment

Neighbourhood Character Precinct H3

Preferred Future Character Statement

The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

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 strengthen the bushy garden character of the area through the planting of appropriate species.</td>
<td>• Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).&lt;br&gt;• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.&lt;br&gt;• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings.</td>
<td>Lack of landscaping and substantial vegetation&lt;br&gt;Removal of large established trees.&lt;br&gt;Planting of environmental weeds</td>
<td>Responds&lt;br&gt;A landscape plan has been submitted in support of the application. It is considered that the level of landscaping is a positive reflection on the preferred neighbourhood character. In particular, the large indigenous canopy trees within the front setback will provide substantial coverage once they reach maturity. The palette of planting includes many indigenous species, thus achieving the 80% required within the Beaumaris VPO3 areas.</td>
</tr>
</tbody>
</table>
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • Buildings should be sited to allow space for a garden, including trees and shrubs.<br>• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds<br>The dwelling is within the building parcel approved as a part of the subdivision permit (2014/516/2). A variation to the rear setbacks standard at the first floor level is proposed. It is considered that this variation is negligible and will have no consequence on the proposal's interaction with the...
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</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.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking structures that dominate the façade or view of the dwelling. | Responds  
Although the development includes a double garage, it is slightly recessed behind the primary street-facing walls. Further, the level of landscaping within the front setback will diminish the views of the garage. As such, the car parking space will not dominate views toward to the dwelling. |
| To minimise site disturbance and impact of the building on the landscape. | • Buildings should be designed to follow the contours of the site on sloping sites.  
• Minimise the use of retaining walls and battering of slopes.  
• Design new buildings and extensions so as not to exceed the predominant tree canopy height. | Major excavation works and site levelling. Buildings that protrude above the tree canopy height. | Responds  
The subject site includes a slope. As such, officers acknowledge that some level of site cut is necessary to facilitate the development of the site. The level of site cut in this proposal is not considered unreasonable. |
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Recess upper levels from the front façade. | Large, bulky buildings  
Poorly articulated front and side wall surfaces. | Responds  
The ground- and first-floors are articulated utilising architectural features along the street-facing façade. Although the development has not recessed the first floor behind the ground floor façade, the treatment of this interface is considered to deliver an acceptable level of visual interest. |
| To use building materials and finishes that complement the natural setting. | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | Responds  
A mixture of materials have been proposed including bricks, timber cladding and masonry. This is considered an appropriate response. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
</tr>
</thead>
</table>
| To maintain the openness of the front garden to the street | • Provide open style front fences, other than along heavily trafficked roads.  
• Use vegetation as an alternative wherever possible |

<table>
<thead>
<tr>
<th>Planning Officer Assessment</th>
<th>Responds</th>
</tr>
</thead>
<tbody>
<tr>
<td>No front fencing is proposed</td>
<td>Avoid</td>
</tr>
<tr>
<td>High or solid front fences</td>
<td></td>
</tr>
</tbody>
</table>

Item 4.5 – Matters of Decision
## Attachment 3

ResCode Clause 54 (One Dwelling on a Lot)

<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>Yes</td>
<td><strong>Minimum:</strong> 4m from Ruxton Rise 6m from Balcombe Road <strong>Proposed:</strong> 4m from Ruxton Rise 6m from Balcombe Road</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></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td><strong>Required:</strong> 9m <strong>Proposed:</strong> 6.5m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td><strong>Maximum:</strong> 50% <strong>Proposed:</strong> 36.9%</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></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td><strong>Minimum:</strong> 20% <strong>Proposed:</strong> 46.5%</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></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. Ensure the development's orientation and layout reduce fossil fuel energy use and</td>
<td></td>
<td></td>
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<tr>
<td>Item</td>
<td></td>
<td></td>
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<td>------</td>
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<tr>
<td><strong>Item 4.5 – Matters of Decision</strong></td>
<td><strong>Page 350 of 559</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>A8 Significant Trees</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Development respects the landscape character of the neighbourhood and retains significant trees on site.</td>
<td>Yes</td>
</tr>
<tr>
<td>This application does not seek to remove any significant trees from the site.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>A10 Side and Rear Setbacks</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>No</td>
</tr>
<tr>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th><strong>A11 Walls on Boundaries</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Maximum Length:</strong> 13.85m</td>
<td><strong>Proposed Length:</strong> 13.5m</td>
</tr>
<tr>
<td><strong>Maximum Height:</strong> 3.6m</td>
<td><strong>Proposed Maximum Height:</strong> 3.47m</td>
</tr>
<tr>
<td><strong>Maximum Average Height:</strong> 3.2m</td>
<td><strong>Proposed Maximum Average Height:</strong> 3.07m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>A12 Daylight to existing windows</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into existing habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td>There are not existing windows adjoining the subject site. However it is noted that the proposal is setback from property boundaries to ensure daylight to future windows is possible.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>A13 North Facing Windows</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>No</td>
</tr>
<tr>
<td>Refer to report.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>A14 Overshadowing Open Space</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
<td>Yes</td>
</tr>
<tr>
<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>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>A15</td>
<td>Overlooking</td>
</tr>
<tr>
<td>A16</td>
<td>Daylight to New Windows</td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space</td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space</td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail</td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences</td>
</tr>
</tbody>
</table>
17 NORTH ROAD, BRIGHTON
NOTICE OF DECISION TO GRANT AN AMENDED PERMIT
APPLICATION NO: 2012/382/2 WARD: NORTHERN

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/76734

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant an Amended Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Nicholson Planning and Development</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>25/10/2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>255 days</td>
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<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
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<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td>Site area</td>
<td>1137 square metres</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>4</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>N/A to Section 72 Amendment</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>No</td>
</tr>
</tbody>
</table>

Proposal

The application involves an amendment to a previously approved permit allowing the construction of a two storey building containing seven (7) dwellings with an attic and basement car parking in a Design and Development Overlay.

Key details of the amended proposal are as follows (noting all works are retrospective):

- Addition of a pergola canopy to building entry.
- Landscaping changes which include the planting of Ornamental Pears along the eastern boundary in lieu of the approved Magnolia Grandiflora ‘ST Mary’.
- Increased rear terrace area to the first floor. The originally approved first floor terrace had an area of 22.5 square metres and the constructed first floor terrace has an area of approximately 41.2 square metres.
- Increased rear terrace area to the attic floor. The originally approved attic floor terrace had an area of 67.1 square metres and the constructed attic floor terrace has an area of approximately 101.99 square metres.
- Eastern elevation windows to include opaque film to a height of 1.7m above FFL instead of fully opaque glass.

The proposed amended plans are provided at Attachment 1.
The existing endorsed plans are provided at Attachment 2.

The existing planning permit is provided at Attachment 3.

An aerial image and photographs of the site and surrounds are provided at Attachment 4.

**History**

Planning Permit 2012/382/1 was granted by Council on 25 November 2013.

The permit allows Construction of a two storey building containing seven (7) dwellings with an attic and basement car parking in a Design and Development Overlay.

Plans were endorsed on 23 November 2015.

The development has been constructed and is now occupied.

This is the first request to amend the permit.

**2. Planning controls**

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 already approved as part of the original application but not sought to be amended.

**Original planning permit requirements**

- Clause 32.09-6 (Neighbourhood Residential Zone Schedule 3) – Construction of two or more dwellings on a lot and construction of a front fence exceeding 1.2 metres high.
- Clause 43.02 (Design and Development Overlay Schedule 1) – Construction of an attic space.

**Planning Scheme Amendments**

There are no Planning Scheme Amendments relevant to this application.

**3. Stakeholder consultation**

**External referrals**

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

**Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection.</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 (4) objections were received.

Four (4) objections remain outstanding at the time of this report.

The following concerns were raised:

- Works are retrospective;
- Visual bulk of increased terraces (retrospective); and
- Overlooking from terraces.

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

A consultation meeting was held on 2 May 2019 attended by the permit applicant and 2 objectors. As a result of this meeting no objections were withdrawn.

Discussions between the objectors and the applicant were undertaken outside of Council. The applicant circulated amended concept plans for review by Council and the objectors.

The concept plans included the following:

- Full height obscure glazing to the windows on the eastern elevation;
- The glazing to the eastern elevation rear attic floor terrace setback 2400mm from the northern parapet to reflect the removal of the last two panes of glass that were installed;
- Installation of planter boxes 800mm from the eastern rear first floor terrace; and
- The existing planter boxes on the attic floor rear terrace repositioned to be 2400mm off the parapet.

These concept plans have no status and were not formally amended.

There have not been any objections withdrawn as a result of these concept plans.

4. Recommendation

That Council resolve to issue a **Notice of Decision to Grant an Amended Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application **2012/382/2** for the land known and described as **17 North Road, Brighton**, for the **Construction of a two storey building containing seven (7) dwellings with an attic and basement car parking in a Design and Development Overlay** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development commences, 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 with the application but modified to show:

   a) The relocation of the visitor car parking spaces to the southern end of the parking aisle.
   b) All visitor car parking spaces clearly marked as such.
   c) A longitudinal section of the ramp leading to the basement car park in accordance with the provisions of Australian Standard 2890.1.
   d) The width of the northern-most car parking space increased to a minimum of three metres.
   e) All columns within the basement car park designed and located in accordance with the provisions of Australian Standard 2890.1.
   f) A section showing the minimum head clearance within the basement car park in accordance with Australian Standard 2890.1.
   g) The provision of appropriate sightlines in accordance with Australian Standard 2890.1 where the driveway intersects with the footpath.
h) Notes included on all elevations confirming that all east and west-facing habitable room windows that allow for overlooking in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme are screened in accordance with the provisions of this Standard.

i) The screening along the western side of the first floor balcony of Unit 4 extended further southward to prevent views into the facing habitable room window of 15 North Road in accordance with the provisions of Standard B22 of Clause 55 of the Bayside Planning Scheme.

j) All plant and equipment (including air-conditioning units, heating units, hot water systems etc.) which is proposed to be located externally. Any such equipment should be located away from the bedrooms of adjoining dwellings.

k) A landscape plan in accordance with Condition 5.

l) The first and second floor eastern elevation windows to include fixed screening to a minimum height of 1.7m in accordance with Standard B22 (Overlooking).

m) The 1.7m high obscure screen balustrades on the rear first floor terrace setback a minimum of 1.5 metres from the eastern roof edge and a minimum of 1 metre from the northern and western roof edges with the area vacated to be provided with landscaped planter boxes.

n) The 1.7m high obscure screen balustrades on the rear attic floor terrace setback a minimum of 1 metre from all roof edges with the area vacated to be provided with landscaped planter boxes.

o) The total area of each north facing terrace to be notated on the plans.

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

3. All pipes (excluding down pipes), fixtures, fittings and vents servicing the building must be concealed in service ducts or otherwise hidden from view 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 without the written consent of the Responsible Authority.

5. Prior to the commencement of works, an amended landscape plan must be submitted to and approved by the Responsible Authority. When approved, this plan will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) The footprint of the building as shown on the amended plans submitted on 3 October 2013.

b) The deletion of the Ulmus parvifolia within the front setback and the provision of a smaller tree species better suited to the confines of the surrounding open space.

c) A survey (including botanical names) of all existing vegetation to be retained and/or removed.

d) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.
e) Tree protection methodology showing how all trees within three metres of the subject site (including street trees) will be protected during construction works.

f) Details of the surface finishes of pathways and driveways.

g) Details of the water sensitive urban design elements to be incorporated and the plant species to be used.

h) 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.

i) Landscaping and planting to consist of predominantly native species within all open areas of the site.

j) Provision of an in ground irrigation system or alternative to all landscaped areas.

6. Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

7. 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.

8. Prior to the commencement of the development hereby approved, details of how vehicular access to/from the basement car park will be managed must be submitted to and approved by the Responsible Authority. This system might include signals installed along the ramp and other signs and warning devices. This system must give priority to vehicles entering the basement car park.

9. Prior to the commencement of the development hereby approved, the applicant must submit to the Responsible Authority, a Waste Management Plan (WMP). This WMP must be to the satisfaction of the Responsible Authority and specify how all waste will be collected, whether by private contractors from within the basement or by Council contractors from the kerb. If waste is to be collected privately, the WMP must detail the waste collection vehicle(s) to be used.

10. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be 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 drawn in accordance with the guidelines outlined in Clause 22.08 of the Bayside Planning Scheme and 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.

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.

11. Before the development starts including before demolition works, tree protection fences must be erected around the street trees adjacent to the site in accordance with the following requirements:
   a) Council’s Arborist must inspect and approve the Tree Protection Fencing in writing before any works commence on site.
   b) The Tree Protection Fencing is to be erected to encompass the entire nature strip under the drip line of the street trees, excluding the driveway itself.
   c) The Tree Protection Fencing is to consist of 1.8m chain mesh fence and is to be fixed in place so it cannot be moved by site workers.
   d) Clear signage is to be displayed around the fence indicating that it is Tree Protection Fencing and outlining the activities that may not occur within the Tree Protection Zone.
   e) No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone without the written consent of the Responsible Authority.
   f) No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone. The only access to the Tree Protection Zone will be for Council’s service provider to fill the water barriers and maintain the mulch and for the applicant to maintain the lawn area.
   g) The Tree Protection Zone is to be maintained complete until all works on site, including landscaping, are complete. Once all activities on site are complete Council’s Arborist will inspect the trees and approve the condition of the trees and the nature strip in writing.

The applicant acknowledges that under Bayside City Council’s adopted Street Tree Valuation system these trees have been valued at $140,000.00 each and the applicant will be liable for the value of the trees and any works costs should the trees be damaged or die due to the works on site.

12. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.35. The development is to have a Stormwater Detention System installed, the design capacity of which is to be to the satisfaction of the Responsible Authority.

13. Drainage associated with the basement must comply with Council’s Policy for discharge of pumped subterranean water associated with basements and below ground structures.

14. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from the driveway onto the footpath. Such a system may include either:
   a) A trench grate (150mm minimum internal width) located within the property and/or;
b) Shaping the driveway so that water is collected in a grated pit on the property; and/or

c) Another Council approved equivalent.

15. 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.

16. Before the development begins, three sets of detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be lodged with Council's Engineering Services department for approval.

If the legal point of discharge cannot be located the applicant may apply for legal point of discharge and local drain information, if available. Otherwise on site verification should be undertaken by the applicant.

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.

The Responsible Authority may extend the periods referred to above if a request is made in writing before the permit expires; or

- Within 6 months afterwards if development has not commenced; or

- Within 12 months afterwards if the development has lawfully commenced.

Permit Notes

Permits to be acquired

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

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

- Building approval must be obtained prior to the commencement of the above approved works.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

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

- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.06  Built Environment and Heritage
- Clause 22.06  Neighbourhood Character Policy (Precinct 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 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.

The consideration of the amendments is limited to the proposed changes sought by the applicant. Consideration has not been given to elements already approved as part of the original application but not sought to be amended.

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct C1. Subject to conditions, the proposal demonstrates an appropriate level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 5.

The proposed amendments seek retrospective approval to increase the first floor and attic north facing terraces, replace the species of planting along the eastern boundary of the site, alter the screening measures associated with the eastern elevation and allow the addition of a pergola canopy to the pedestrian entrance.

From a neighbourhood character perspective, the changes to the landscaping conditions and screening measures are located along the eastern (side) elevation, obscured from the front of the site and will not alter the approved development when viewed from North Road. The addition of the pergola canopy over the pedestrian access in the south eastern corner of the site complements the character of the overall development and is subsequently supported.

The proposed changes to the north facing (rear) terraces have little to no bearing on the development’s contribution to the streetscape. However adjoining the site to the east is 19 North Road which is listed as significant heritage property under Heritage Overlay Schedule 555. The precinct guidelines seeks to ensure that new buildings respect the identified heritage qualities of adjoining buildings and avoid buildings that dominate the heritage buildings by height, siting or massing.

The retrospective increase to the first floor and attic terraces, combined with the current location of balustrading, in its current form creates an unreasonable level of visual bulk
which fails to complement the character of the overall building and fails to respect the character of the adjoining property.

The below photo has been taken from the secluded private open space of 19 North Road and depicts the impacts of the current location of the balustrade and terraces. Conditions, as discussed further in the report, will work to alleviate the extent of built form when viewed from the adjoining properties.

Figure 3 in Attachment 4
6.2. Assessment of amendments

First Floor and Attic Floor Terraces

The terrace and balustrades on the first floor and attic floor level have both been increased to the roof edge below.

The originally approved first floor terrace had an area of approximately 22.5 square metres and the proposed increased first floor terrace area is approximately 41.2 square metres. The constructed terrace at first floor level now includes a trafficable area along the east and west elevations of the development.

The north facing terrace on the attic floor level has been increased from 67.1 square metres to approximately 101.99 square metres.

It is noted however that the amended plans have not been updated to reflect the increased area of each terrace. As such, any approved changes to the layout of the terrace will need plans to be amended to reflect the as built/approved layout.

Notwithstanding the above, concerns have been raised in relation to the increased terraces and the subsequent amenity impacts including unreasonable visual bulk and overlooking to the adjoining properties.

With regards to overlooking, it is noted that each north facing terrace has been constructed with opaque screening which works to limit overlooking in accordance with the overlooking requirements of standard B22.

However, the increased area to each terrace, combined with the balustrade results in an outcome which creates unreasonable visual bulk to the adjoining properties. In addition, it is considered that the balustrade in its current location, results in an outcome which creates a visually unappealing outcome and excessive visual bulk particularly when viewed from the private open space of adjoining properties. Site visits to 19 North Road (images in Attachment 3) outline the visual impact of the terraces with reduced side setbacks and the removal of the planter boxes. The existing conditions in their current form are subsequently not supported.

In order to reduce the extent of visual bulk to the adjoining properties, a condition should be included as part of any approval to require the balustrade to be setback 1.5 metres from the eastern roof edge and a minimum of 1 metres from the northern and western roof edges.

With regards to the attic level, a condition should be included on any permit issued to setback the balustrades a minimum of 1 metres from all roof edges.

These conditions would minimise the visual bulk and impact to the adjoining properties by reducing the trafficable areas which will soften the bulk of the development from surrounding properties.

Window Treatments

The previously endorsed plans show the first floor and second floor on the eastern elevation designed with fully obscured glazed windows. The amended plans include a notation which refers to the provision of opaque film applied to a height of 1.7 metres above finished floor level to the first and second floor east facing windows.

Standard B22 (Overlooking) of the Bayside Planning Scheme requires fixed obscure glazing in any part of the window below 1.7 metres above floor level if the window is within 9 metres of a habitable room window or private open space to adjoining properties.

A condition has been included to the recommendation to ensure the provision of fixed screening in accordance with the standard.

Landscaping
The endorsed landscape plans proposed the planting of 6 Magnolia Grandiflora along the eastern boundary of the site. However 6 Pyrus Calleryana Capital (Ornamental Pears) have been planted in their place. Council’s Arborist has raised no concerns with the planting of this species and broadly, the proposed trees raise no concerns with regards to the overall development.

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

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

Support Attachments
1. Decision Plans ↓
2. Endorsed Plans ↓
3. Planning Permit 5/2012/382/1 ↓
4. Site and Surrounds ↓
5. Neighbourhood Character Assessment ↓
Item 4.6 – Matters of Decision
Item 4.6 – Matters of Decision
Item 4.6 – Matters of Decision
<table>
<thead>
<tr>
<th>Description</th>
<th>Impervious Area (m²)</th>
<th>Treatment Type</th>
<th>Treatment Area/Volume (m² or L)</th>
<th>Occupants / Number Of Bedrooms</th>
<th>Treatment %</th>
<th>Tank Water Supply Reliability (%)</th>
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<td>0.00</td>
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<td>Driveway to storm</td>
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<td>Terrace areas to storm</td>
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<td>100% metal deck roofing area to rainwater tanks</td>
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<td>Rainwater Tank</td>
<td>8,000.00</td>
<td>20</td>
<td>150.20</td>
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</tbody>
</table>

Date Generated: 09-Dec-2014
Program Version: 1.0.0
2 July 2015

Mr Garry Frydman

c/ Brays Shaw Architects

Suite 6, 130 Albert Road
South Melbourne VIC 3205

Attention: Roger Brayshaw

Re: Traffic Engineering Services for 17 North Road, Brighton

Bayside City Council Planning Permit 2012/382/1

SALT has been requested by Brays Shaw Architects to provide a response to Clause 8 of Planning Permit 2012/382/1 for the proposed residential development.

It is understood a permit has been granted for a multi-residential development with basement parking via North Road Access to the site is to be provided via a two-way 3.8m wide ramp and serves 13 residential spaces and 1 visitor space.

**Planning Permit: 2012/382/1**

Sheet of 11

Issued: 25 November 2012

Amended: 23 November 2015

**Planning and Environment Act 1987**

**Bayside Planning Scheme**

This plan complies with Condition No. 1

**Planning Authority**

Clause 8 of the Planning Permit 2012/382/1 requires that, prior to commencement of the development, the approved details of how vehicular access to/from the basement car park will be managed must be submitted to and approved by the Responsible Authority. The system must include signals installed along the ramp and other signs and warning devices. The system must give priority to vehicles entering the basement car park.

**Based on SALT’s assessment and discussion with a supplier (AST Automation) it is proposed that a simple red/green light system can be installed and triggered by an in-ground detection loop within the basement car park. One or more red/green lights can be installed at the property entrance and at the basement exit. When vehicles exit the basement they will store within a marked holding bay until the lights turn green; this will also cause the entry light to turn from green to red. The lights at the North Road entry will be set to green priority for vehicles entering. The holding time and clearance times can be programmed to accommodate the required time for a vehicle to clear the ramp and give priority to vehicles entering from North Road. The basement exit light can also be supplemented with a static STOP HERE ON RED SIGNAL sign or similar.**

An assessment on the probability of two vehicles travelling in both directions and meeting at the ramp during the peak hour has also been undertaken. Based on 14 car spaces and generation of 0.4 peak hour movements per dwelling, with an AM split of 20/80 and PM split 60/40, the results of the assessment show that at any point in time during the more critical PM peak hour there is a 0.025% chance that there will be vehicles travelling in both directions on the one-lane section of ramp.

The proposed arrangements have been discussed with Brays Shaw Architects and are shown on drawing TP-03J dated July 2015 as attached.

We trust this advice is of assistance. Should you have any queries or require any additional information, please do not hesitate to contact me on 9633 1906.

Yours sincerely,

Simon Chio
Senior Engineer

*Encl: plan notes to highlighted areas only*
TOWN PLANNING MEMO 005
ROGER BRAYSHAW PTY. LTD. ARCHITECTS

Suite 6, 130 ALBERT ROAD SOUTH MELBOURNE VIC 3205
Tel: (03) 9666 4604
Mobile: 0411 635 280
Fax: (03) 9666 4608

PROJECT: 17 NORTH ROAD, BRIGHTON
DATE 27th August 2015

TO: City of Bayside
Town Planning Department: Attention Patricia Stewart

Further to our ongoing discussion regarding the submitted Endorsement plans, I am now able to respond to the latest issues as follows:

Tree Protection Fence During Construction Works:

The revised Landscape plan as enclosed and previously submitted protection works plan as per below, now provide for additional fencing in the vicinity of the neighbouring palm plus additional street tree protection.

As previous Issued: 25 November 2013 Endorsed: 23 November 2015

The following measures are to be undertaken to protect existing trees:

- The fence is to be a chain link or wire mesh, comprise either wooden or steel posts set into the ground or on concrete pads, and be a minimum height of 1.4 metres. Signage is to be affixed to the fence advising that the area is a Tree Protection Zone (TPZ) and a no-go development area.

- The fence and signage is to be maintained throughout the construction period and removed at the completion of all the works.

- No temporary removal of the fence or encroachment into the tree protection zone is permitted without the written consent of the Responsible Authority.

Prior to erecting the fence around the Tree Protection Zone, all unwanted vegetation and weed species must be removed from within the zone, and the ground within the protection zone must be covered with a layer of well composted organic mulch (maximum 100mm depth).

The area is to be watered at least fortnightly throughout the construction process. The following activities are prohibited from the Tree Protection Area, without the written consent of the Responsible Authority:

- Construction activities
- Dumping and or storage of materials, goods and or soil.
- Trenching or excavation
- Lopping branches, nailing or affixing signs, service lines

Endorsed plans released to highlight useful only. PTO.
Prior to any works commencing on site, the Responsible Authority must be contacted to inspect the Tree Protection Fence.

When excavations are carried out in the vicinity of trees to be retained, use hand excavation or Air Excavation to locate any roots. Clean out with a saw roots which need to be removed before commencing machine excavation. Do not use an axe, machinery, backhoe or blunt instrument to cut roots.

Seal tree root cuts with "Steriprune" or equivalent approved tree wound sealant. Any underground service installations should be bored within the TPZ.

Any pruning must be carried out by a trained and competent Arborist to comply with Australian Standard AS 4373 - 1996 'Pruning of Amenity Trees'.

Tree species adjustments have also been made to achieve the required % of species and plants being accepted native selections.

Waste Management Plan

We enclosure a revised waste management plan in response to the queries raised by Council.

However we ask for an explanation as to why if bins are placed to the street by the Owners Corporation, they can not be collected by the usual Council collection service.

It seems the initial report has been mis-read by Council, as nowhere did we ever suggest that Council would be expected to collect bins from the basement. Our Consultant did specify that we would provide a pull cart for Owners Corporation use.

Traffic Comment

It seems the submitted stop – go signal specification provided by SALT Engineering was overlooked by Council.

Our consultant has since discussed this with Council and advises us the proposal is satisfactory.

We have in addition, now provided off set dimensions outlining the inset of the proposed columns from the front of the park areas.

We trust this letter and the enclosed documents now meet with your approval.

Yours Faithfully,

Roger Brayshaw

Cc Garry Frydman, Owner
WASTE MANAGEMENT PLAN

Approved Development:
17 North Road, Brighton, Victoria

This plan complies with Condition No. 9
Planning Permit: 2012/382/1 Sheet: 1 of 1

Responsible Authority

Document Control
Report Date: 23 October 2015 (supersedes report dated 11-08-15)
Prepared By: Andrew McIntosh, Waste Management Consultant

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WASTE MANAGEMENT SUMMARY

• The operator, as defined below, shall be responsible for managing the waste system, and for developing and implementing adequate safe operating procedures.
• Waste shall be stored within the development (hidden from external view).
• Users shall sort their waste, and dispose garbage and recyclables into collection bins.
• Waste shall be collected on North Road. The operator shall transfer Council bins between the building and kerbside.
• Council shall provide waste collection services.

GLOSSARY

Operator: refers to the Owners Corporation, who shall manage site operations (via staff and contractors, if required).
User: refers to residents, who shall utilise the waste system.
1 SPACE AND SYSTEM FOR WASTE MANAGEMENT

1.1 Development Description and Use

This development shall consist of residential apartments (the number of residences is stated in Table 1).

1.2 Estimated Garbage and Recycling Generation

The following table summarises the waste estimate (m³/week):

<table>
<thead>
<tr>
<th>Waste Source</th>
<th>Base Qty (est.)</th>
<th>Garbage</th>
<th>Commingled Recycling</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartments</td>
<td>No. of units = 7</td>
<td>0.56</td>
<td>0.84</td>
</tr>
<tr>
<td>TOTAL (m³/wk)</td>
<td></td>
<td>0.56</td>
<td>0.84</td>
</tr>
</tbody>
</table>

Note: Waste generation rates are based on Council’s volumetric requirements.

1.3 Collection Services

Council shall provide kerbside collection services.

1.4 Location, Equipment and System Used for Managing Waste

The waste management system is summarised as follows:

- Apartment receptacles for garbage and recycling.
- Bin Store located at Basement Level.
- Collection bins (kept within the Bin Store - refer to Table 2).

The various collection waste-streams are summarised as follows:

Garbage: General waste shall be placed in tied plastic bags and stored within bins.

Recycling: All recyclables shall be commingled into a single type of collection bin (for loose paper, cardboard, PET, glass, aluminium, steel and HDPE containers).

Commingle recycling (mixed recycling) must include plastics coded 1-7, glass, aluminium, tin cans, milk and juice cartons, paper including magazines and newspaper, cardboard in small amounts and folded down. NO PLASTIC BAGS TO BE PLACED IN RECYCLE BINS.

Cardboard recycling in large amounts shall be collected and organised by the Body Corporate or Owners Corporation through a private collection contractor.

Green Waste: Green waste is to be collected and disposed of by the operator (Body Corporate/Owners Corporation).

Council offers a 240lt green waste service which is not considered appropriate for this complex unless approval by the relevant authority (Council) is given.

Compost: At this development, composting is considered impractical, as there would be minimal onsite demand for compost. However, residents shall consider composting within private courtyards at Ground Level.
Other Waste Streams: The disposal of hard/electronic/liquid and other wastes (polystyrene, batteries, paint, chemicals and detox items, etc) shall be organised with the assistance of the operator.

Waste items such as e-Waste, white goods, domestic volumes of household paints, household batteries, fluorescent tubes and mixed globes can be taken to Bayside’s Waste Transfer and Recycling Centre at 144 Talings Road, (fees and charges may apply) and will be organised through the Body Corporate / Owners Corporation.

The following table summarises bin quantity/capacity, collection frequency and area requirements (based on Table 1):

<table>
<thead>
<tr>
<th>Waste Source</th>
<th>Waste Stream</th>
<th>Bin Qty</th>
<th>Bin Litres</th>
<th>Collections per Week</th>
<th>Net Area m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whole Development (dedicated Council bins)</td>
<td>Garbage</td>
<td>7</td>
<td>140</td>
<td>1</td>
<td>3.5</td>
</tr>
<tr>
<td></td>
<td>Recycling</td>
<td>7</td>
<td>240</td>
<td>Fortnightly</td>
<td>3.5</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Net Waste Storage Area (excludes circulation), m²:</td>
</tr>
</tbody>
</table>

Notes:
- Council shall provide the bins (supply cost applies).
- Council will provide one garbage bin and one recycle bin for each dwelling.
- Garbage bins are available in 140-lit or 80-lit sizes, recycling is a 240-lit recycle bin.
- The complex provides frontage space for 14 bins only; seven garbage bins and seven recycle bins. Additional bins are not allowed unless approval by the relevant authority (Council) is given.

1.5 Planning Drawings, Waste Areas and Management of the Waste System

The plans illustrate sufficient space for onsite bin storage, as required by the above schedule.

1.6 Collection Bin Information

The following bins shall be utilised (see Sect. 4.4 for signage requirements):

<table>
<thead>
<tr>
<th>Capacity (litres)</th>
<th>Height (mm)</th>
<th>Width (across front, mm)</th>
<th>Depth (side on, mm)</th>
<th>Empty Weight (kg)</th>
<th>Average* Gross Weight (kg)</th>
</tr>
</thead>
<tbody>
<tr>
<td>140</td>
<td>930</td>
<td>535</td>
<td>615</td>
<td>11</td>
<td>30</td>
</tr>
<tr>
<td>240</td>
<td>1060</td>
<td>585</td>
<td>730</td>
<td>13</td>
<td>45</td>
</tr>
</tbody>
</table>

Notes:
- * Average Gross Weight is based on domestic waste studies (which vary subject to locality and waste-type). Expect greater weight for wet or compacted waste.
- Use the above details as a guide only – variations will occur. The above is based on Sulo plastic (HDPE) bins.
## Table 4: Bayside Colour Coding

<table>
<thead>
<tr>
<th>Bin</th>
<th>Garbage</th>
<th>Commingled Recycling</th>
<th>Green Waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lid</td>
<td>Green</td>
<td>Blue</td>
<td>Red</td>
</tr>
<tr>
<td>Body</td>
<td>Green</td>
<td>Blue</td>
<td>Green</td>
</tr>
</tbody>
</table>
2 ACCESS FOR USERS, COLLECTORS AND COLLECTION VEHICLES

2.1 User Access to Waste Facilities
Residents shall dispose sorted garbage and recyclables into collection bins located within the Bin Store (access via the lift/stairs).

2.2 Collection Arrangements and Access to Waste Facilities
- Council shall collect waste on North Road (kerbside - site's frontage).
- Prior to the collection, the operator shall transfer Council bins from the Bin Store to kerbside (returning the bins once the collection has taken place). Council's instructions for kerbside bin-placement must be followed.
- The waste collection shall be carried-out by side-lift vehicles (nom. 8.8m long and 4m operational height).

Notes:
- Given the max. 1:5 ramp gradient, bin weight and transfer distance (potentially creating OH&S incidents during bin transfers), mechanical assistance via a suitable tug is recommended (operator to assess and specify - refer to Sections 5 and 8).
- Hard waste and bundled branch collections arranged through Council must comply with Council service requirements and shall be arranged by individual property occupants / owners.
- Hard waste collections shall be collected from inside the property boundary as required.
- Hard waste items can be taken to Councils Waste Transfer and Recycling Centre at 144 Talings Road Cheltenham, fees and charges may apply.
- Council may withdraw the service provision should the amenity, safety or traffic management become an issue.
2 AMENITY, LOCAL ENVIRONMENT AND FACILITY DESIGN

3.1 Noise Minimisation Initiatives
- Collection bins shall feature rubber castors for quiet rolling during transfers.
- Waste areas shall meet BCA and AS2107 acoustic requirements.
- Local laws shall be observed for all operations in public areas and roads (in particular, Schedule 1 of Bayside City Council Local Law No. 2 Environment Section 15).
- Municipal waste collections shall take place as per Council's timing/schedule.

3.2 Litter Reduction and Prevention of Stormwater Pollution
The operator shall be responsible for:
- Promoting adequate waste disposal into the bins (to avoid waste-dumping).
- Securing the waste areas (whilst affording access to users/staff/contractors).
- Storing bins out of public view.
- Preventing overfilled bins and keeping lids closed.
- Abating any site litter, and taking action to prevent dumping and/or unauthorised use of waste areas.
- Reporting any spillage, resulting from the collection of municipal bins, direct to Council.

The above will minimise the dispersion of site litter and prevent stormwater pollution (thus avoiding impact to the local amenity and environment).

3.3 Ventilation, Washing and Vermin-Prevention Arrangements
Waste areas shall feature:
- Ventilation in accordance with Australian Standard AS1668.
- Tight-fitting doors (all other openings shall have vermin-proof mesh or similar).
- Impervious flooring (also, smooth, slip-resistant and appropriately drained).
- A graded bin wash area, hosecock, hose and a suitable floor-waste connected in accordance with the relevant authority requirements (alternatively, the operator shall engage a suitable contractor to wash bins in a mobile bin-wash vehicle). The bin and wash areas may overlap, as stored bins can be moved so that a bin can be washed.

The operator shall regularly clean waste areas/equipment. Also, access doors and bin-lids shall be kept closed.
3.4 Design and Aesthetics of Waste Storage Areas and Equipment

Waste shall be placed within collection bins and stored in designated onsite areas (hidden from external view). Following waste collection activities, bins shall be returned to the storage areas as soon as practicable.

Waste facilities shall be constructed of durable materials and finishes, and maintained to ensure that the aesthetics of the development are not compromised. These facilities and associated passages shall be suitably illuminated (this provides comfort, safety, and security to users, staff and contractors). Access doors shall feature keyless opening from within.

The design and construction of waste facilities and equipment, shall conform to the Building Code of Australia, Australian Standards and local laws.
4 MANAGEMENT AND SUSTAINABILITY

4.1 Waste Sorting, Transfer and Collection Responsibilities
Garbage shall be placed within tied plastic bags prior to transferring into the collection bins. Cardboard shall be flattened, and recycling containers un-capped, drained and rinsed prior to disposal into the appropriate bin. Bagged recycling is not permitted.

Refer to Section 2 for waste transfer requirements and collection arrangements.

4.2 Facility Management Provisions to Maintain & Improve the Waste System
The operator shall manage site operations (refer to the glossary in page 2).

It shall be the responsibility of the operator to maintain all waste areas and components, to the satisfaction of users, staff and the relevant authority (residents shall maintain their internal waste receptacles).

The operator shall ensure that maintenance and upgrades are carried-out, on the facility and components of the waste system. When required, the operator shall engage an appropriate contractor to conduct services, replacements or upgrades.

4.3 Arrangements for Protecting Waste Equipment from Theft and Vandalism
It shall be the responsibility of the operator to protect the equipment from theft and vandalism. This shall include the following initiatives:

- Secure the waste areas.
- Label the bins according to property address.
- Council bins shall be placed on the kerbside no-sooner than the night before the collection (and promptly returned to the storage areas after the collection).

4.4 Arrangements for Bins/Equipment Labelling and Ensuring Users and Staff are Aware of How to Use the Waste System Correctly

- The operator shall provide appropriate signage for the bins. Signage is available at the following internet address: www.sustainability.vic.gov.au.
- The operator shall publish/distribute "house rules" and educational material to:
  - Inform users/staff about the waste management system and the use/location of the associated equipment (provide the summary in page 2 of this report).
  - Improve facility management results (lessen equipment damage, reduce littering and achieve cleanliness).
  - Advise users/staff to sort and recycle waste with care to reduce contamination of recyclables.
4.5 Sustainability and Waste Avoidance/Reuse/Reduction Initiatives

The Environment Protection Act 1970 includes principles of environment protection and guidance for waste management decision making. Also, the Sustainability Victoria Act 2005 established Sustainability Victoria as the statutory authority for delivering programs on integrated waste management and resource efficiency.

From a design perspective, the development shall support the acts by providing an adequate waste system with ability to sort waste.

The operator shall promote the observance of the acts (where relevant and practicable) and encourage users and staff to participate in minimising the impact of waste on the environment. For improved sustainability, the operator shall consider the following:

- Observe the waste hierarchy in the Environment Protection Act 1970 (in order of preference): a) waste avoidance, b) reuse, c) recycle, d) recovery of energy, e) treatment, f) containment, and g) disposal.
- Participate in Council and in-house programs for waste minimisation.
- Establish waste reduction and recycling targets; including periodic waste audits, keeping records, and monitoring of the quantity of recyclables found in landfill-bound bins (sharing results with users/staff).

4.6 Waste Management Plan Revisions

For any future appropriate Council request, changes in legal requirements, changes in the development’s needs and/or waste patterns (waste composition, volume or distribution), or to address unforeseen operational issues, the operator shall be responsible for coordinating the necessary Waste Management Plan revisions, including (if required):

- A waste audit and new waste strategy.
- Revision of the waste system (bin size/quantity(streams)/collection frequency).
- Re-education of users/staff.
- Revision of the services provided by the waste collector(s).
- Any necessary statutory approval(s).
5 SUPPLEMENTARY INFORMATION

- The operator shall ensure that bins are not overfilled or overloaded.
- Waste incineration devices are not permitted, and offsite waste treatment and disposal shall be carried-out in accordance with regulatory requirements.
- For bin traffic areas, either level surfaces (smooth and without steps) or gentle ramps are recommended, including a roll-over kerb or ramp. Should ramp gradients, bin weight and/or distance affect the ease/safety of bin transfers, the operator shall consider the use of a suitable tug.
- The operator and waste collector shall observe all relevant OH&S legislation, regulations and guidelines. The relevant entity shall define their tasks and:
  - Assess the Manual Handling Risk, and prepare a Manual Handling Control Plan for waste and bin transfers (as per regulatory requirements and Victorian COP for Manual Handling).
  - Obtain and provide to staff/contractors equipment manuals, training, health and safety procedures, risk assessments and adequate personal protective equipment (PPE) to control/minimise risks/hazards associated with all waste management activities. As a starting point, these documents and procedures shall address the following:

<table>
<thead>
<tr>
<th>Task (to be confirmed)</th>
<th>Hazard (TBC)</th>
<th>Control Measures (TBC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sorting waste and cleaning bins</td>
<td>Biological hazard &amp; bodily puncture</td>
<td>Personal protective equipment (PPE). Develop a waste-sorting procedure.</td>
</tr>
<tr>
<td>Bin manual handling</td>
<td>Sprain, strain, crush</td>
<td>PPE. Maintain bin wheel-hubs. Limit bin weight. Provide mechanical assistance to transfer bins.</td>
</tr>
<tr>
<td>Bin transfers and emptying into truck</td>
<td>Vehicular strike, run-over</td>
<td>PPE. Develop a hazard control plan and collection procedure. Maintain visibility. Use a mechanical bin-lifter.</td>
</tr>
<tr>
<td>Truck access</td>
<td>Vehicular incident, strike, run-over</td>
<td>PPE. Use a trained spotter. Develop a truck-maneuuvring and traffic-control procedure.</td>
</tr>
</tbody>
</table>

Note: The above shall be confirmed by a qualified OH&S professional who shall also prepare site-specific assessments, procedures and controls (refer to Section 6).
6 CONTACT INFORMATION

Bayside City Council (local Council), ph 03 9599 4444

Eco-Safe Technologies (odour control equipment supplier), ph 03 9706 4149

Solution for Workplace Health and Safety (OH&S consultant), ph 0425 802 669

Electrodrive Pty Ltd (tug & trailer supplier – for bin transfers), ph 1800 033 002

Warequip (tug supplier – for bin transfers), ph 1800 337 711

Note: The above includes a complimentary listing of contractors and equipment suppliers. The stakeholders shall not be obligated to procure goods/services from these companies. Leigh Design does not warrant (or make representations for) the goods/services provided by these suppliers.

7 LIMITATIONS

The purpose of this report is to document a Waste Management Plan, as part of a Planning Permit Application.

This report is based on the following conditions:

- Operational use of the development (excludes demolition/construction stages).
- Drawings and information supplied by the project architect.
- The figures presented in this report are estimates only. The actual amount of waste will depend on the development's occupancy rate and waste generation intensity, the user’s disposition toward waste and recycling, and the operator’s approach to waste management. The operator shall make adjustments, as required, based on actual waste volumes (if the actual waste volume is greater than estimated, then the number of bins and/or the number of collections per week shall be increased, STCA).
- This report shall not be used to determine/forecast operational costs, or to prepare feasibility studies or to document operational/safety procedures.
APPENDIX A – ANCILLARY EQUIPMENT

Below please find information about recommended equipment (or similar). The operator shall assess, specify and source as required:

**Equipment Specification:** Battery powered tug to provide sufficient mechanical assistance for transferring bins along the driveway/walkway and up/down ramps (max. grade 1:4). Trailers (if required) and 4-wheeled bins shall have swivel front castors and directionally-locked rear ones.

**Illustrations:** An Electrodrive tug pulls a trailer with 2x240-Lt bins or one 1100-Lt bin.
PLANNING PERMIT
2012/362/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land: No. 17 North Road BRIGHTON
The Permit Allows: Construction of a two storey building containing seven (7) dwellings with an attic and basement car parking in a Design and Development Overlay in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

1. Before the development commences, 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 with the application but modified to show:

   a) The relocation of the visitor car parking spaces to the southern end of the parking aisle;
   b) All visitor car parking spaces clearly marked as such;
   c) A longitudinal section of the ramp leading to the basement car park in accordance with the provisions of Australian Standard 2890.1;
   d) The width of the northern-most car parking space increased to a minimum of three metres;
   e) All columns within the basement car park designed and located in accordance with the provisions of Australian Standard 2890.1;
   f) A section showing the minimum head clearance within the basement car park in accordance with Australian Standard 2890.1;
   g) The provision of appropriate sightlines in accordance with Australian Standard 2890.1 where the driveway intersects with the footpath;
   h) Notes included on all elevations confirming that all east and west-facing habitable room windows that allow for overlooking in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme are screened in accordance with the provisions of this Standard;
   i) The screening along the western side of the first floor balcony of Unit 4 extended further southward to prevent views into the facing habitable room window of 15 North Road in accordance with the provisions of Standard B22 of Clause 55 of the Bayside Planning Scheme;
   j) All plant and equipment (including air-conditioning units, heating units, hot water systems etc.) which is proposed to be located externally. Any such equipment should be located away from the bedrooms of adjoining dwellings;

Date issued: 25 November 2013
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.
k) A landscape plan in accordance with Condition 5.

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

3. All pipes (excluding down pipes), fixtures, fittings and vents servicing the building must be concealed in service ducts or otherwise hidden from view 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 without the written consent of the Responsible Authority.

5. Prior to the commencement of works, an amended landscape plan must be submitted to and approved by the Responsible Authority. When approved, this plan will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) The footprint of the building as shown on the amended plans submitted on 3 October 2013;
   b) The deletion of the Ulmus parvifolia within the front setback and the provision of a smaller tree species better suited to the confines of the surrounding open space;
   c) A survey (including botanical names) of all existing vegetation to be retained and/or removed;
   d) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary;
   e) Tree protection methodology showing how all trees within three metres of the subject site (including street trees) will be protected during construction works;
   f) Details of the surface finishes of pathways and driveways;
   g) Details of the water sensitive urban design elements to be incorporated and the plant species to be used;
   h) 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;
   i) Landscaping and planting to consist of predominantly native species within all open areas of the site;
   j) Provision of an in ground irrigation system or alternative to all landscaped areas;

6. Before the occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

Date issued: 25 November 2013

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.
7. 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.

8. Prior to the commencement of the development hereby approved, details of how vehicular access to/from the basement car park will be managed must be submitted to and approved by the Responsible Authority. This system might include signals installed along the ramp and other signs and warning devices. This system must give priority to vehicles entering the basement car park.

9. Prior to the commencement of the development hereby approved, the applicant must submit to the Responsible Authority, a Waste Management Plan (WMP). This WMP must be to the satisfaction of the Responsible Authority and specify how all waste will be collected, whether by private contractors from within the basement or by Council contractors from the kerb. If waste is to be collected privately, the WMP must detail the waste collection vehicle(s) to be used.

10. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be 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 drawn in accordance with the guidelines outlined in Clause 22.08 of the Bayside Planning Scheme and must show:-

   a) The type of water sensitive urban design stormwater treatment measures to be used;
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas; and
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

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

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.

11. Before the development starts including before demolition works, tree protection fences must be erected around the street trees adjacent to the site in accordance with the following requirements:
a. Council’s Arborist must inspect and approve the Tree Protection Fencing in writing before any works commence on site.

b. The Tree Protection Fencing is to be erected to encompass the entire nature strip under the drip line of the street trees, excluding the driveway itself.

c. The Tree Protection Fencing is to consist of 1.8m chain mesh fence and is to be fixed in place so it cannot be moved by site workers.

d. Clear signage is to be displayed around the fence indicating that it is Tree Protection Fencing and outlining the activities that may not occur within the Tree Protection Zone.

e. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zone without the written consent of the Responsible Authority.

f. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone. The only access to the Tree Protection Zone will be for Council’s service provider to fill the water barriers and maintain the mulch and for the applicant to maintain the lawn area.

g. The Tree Protection Zone is to be maintained complete until all works on site, including landscaping, are complete. Once all activities on site are complete Council’s Arborist will inspect the trees and approve the condition of the trees and the nature strip in writing.

The applicant acknowledges that under Bayside City Council’s adopted Street Tree Valuation system these trees have been valued at $140,000.00 each and the applicant will be liable for the value of the trees and any works costs should the trees be damaged or die due to the works on site.

12. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.35. The development is to have a Stormwater Detention System installed, the design capacity of which is to be to the satisfaction of the Responsible Authority.

13. Drainage associated with the basement must comply with Council’s Policy for discharge of pumped subterranean water associated with basements and below ground structures.

14. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from the driveway onto the footpath. Such a system may include either:

a) A trench grate (150mm minimum internal width) located within the property and/or;
b) Shaping the driveway so that water is collected in a grated pit on the property; and/or
c) Another Council approved equivalent.

15. 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.

16. Before the development begins, three sets of detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be lodged with Council’s Engineering Services department for approval.

If the legal point of discharge cannot be located the applicant may apply for legal point of discharge and local drain information, if available. Otherwise on site verification should be undertaken by the applicant.

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.

The Responsible Authority may extend the periods referred to above if a request is made in writing before the permit expires; or
   • Within 6 months afterwards if development has not commenced; or
   • Within 12 months afterwards if the development has lawfully commenced.

Permit Notes
Permits to be acquired
   i. Construction of any fence/wall/letterbox/other 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.
   ii. A ‘Road Opening/Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council drain/kerb/channel.

   • Building approval must be obtained prior to the commencement of the above approved works.
Attachment 3

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>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2: Image of amended landscaping from subject site
Figure 3: Image of increased first floor and attic floor terrace from 19 North Road Brighton.
Figure 4: Image of increased attic floor terrace.
Figure 5: Image 2 of increased attic floor terrace.
Neighbourhood Character Precinct C1

Preferred Future Character Statement

The mix of dwelling styles, including a substantial presence of pre WWII 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>
<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>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>• Alterations and extensions should retain the front of these dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain and enhance the spacious 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>N/A</td>
</tr>
<tr>
<td>To enhance the bayside vegetation character of the area.</td>
<td>• Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible.</td>
<td>Removal of large native and coastal trees. Planting of environmental weeds.</td>
<td>N/A</td>
</tr>
<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>N/A</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,</td>
<td>• Locate garages and car ports at or behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the</td>
<td>N/A</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>driveways and crossovers.</td>
<td>• Minimise hard paving in front yards.</td>
<td>facade or view of the dwelling. Loss of front garden space.</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>N/A</td>
</tr>
<tr>
<td></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>Does not respond First floor terrace extends unreasonably towards the eastern side - towards 19 North Road which is a heritage property.</td>
</tr>
<tr>
<td></td>
<td>• Use a mix of materials including timber or other non-masonry wall materials in building design.</td>
<td>Large, poorly articulated external wall surfaces of one material only Heavy materials and design detailing (eg. large masonry columns and piers).</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>• Use simple building details and articulate roof forms.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting.</td>
<td>• Provide open style fencing, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>• Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandas, 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</td>
<td>N/A</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></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>• Provide a fence or landscaping treatment to delineate the property</td>
<td>materials or glazing</td>
<td>Blank walls facing the foreshore</td>
<td></td>
</tr>
<tr>
<td>boundary fronting the foreshore reserve.</td>
<td>Lack of distinction between public and private spaces along the foreshore.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Provide articulated roof forms to create an interesting skyline when</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>viewed from the beach.</td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

Item 4.6 – Matters of Decision
This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the Extension of Time</th>
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<tbody>
<tr>
<td>Street address</td>
<td>128 Bluff Road BLACK ROCK</td>
</tr>
<tr>
<td>Permit No.</td>
<td>5/2010/224/5</td>
</tr>
<tr>
<td>Applicant</td>
<td>C.Kairouz Architects</td>
</tr>
<tr>
<td>Date application received</td>
<td>06/05/2019</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone – Schedule 3</td>
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<td>Overlays</td>
<td>Vegetation Protection Overlay – Schedule 3</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay – Schedule 3</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay – Schedule 1</td>
</tr>
</tbody>
</table>

Proposal
Planning Permit 2010/224/5 allows

The construction of three (3) double storey dwellings with roof decks.

Works have commenced on site, with the application seeking approval for an extension of time of one (1) year to complete the development.

Condition 12 of the Planning Permit states that the construction of three (3) double storey dwellings with roof decks must commence within two years from the date of issue. The condition also allows for an extension of time to be requested, provided the request is lodged with the Responsible Authority in writing either before the permit expires or within six (6) months afterwards.

History
On 28 April 2011, Planning Permit 2010/224/1 was issued for the construction of three double storey dwellings.

On 6 June 2013, the first extension of time was approved, to commence development by 28 April 2014 and complete development by 28 April 2016.

On 14 May 2014, the second extension of time was approved, to commence development by 28 April 2015 and complete development by 28 April 2017.

On 1 October 2014, a Section 72 Amendment permit (2010/224/3) was granted for buildings and works. It is noted that five objections were received in respect of this application but all were withdrawn based on amended plans.

On 13 July 2016, a Section 72 Amendment application was received by Council. This application sought retrospective consent for works beyond the extent of the endorsed plans.
The Applicant lodged an appeal against Council’s failure to determine the application within the prescribed timeframe. Council formed a position to not support the application under delegation based on the failure to comply with the elevated importance of the neighbourhood character and a number of additional areas of inconsistencies between the development plans and existing on-site conditions. On that basis, the Tribunal directed that an amended Planning Permit should not issue.

On 12 September 2017, the third extension of time was approved to extend the completion date to 28 April 2018.

On 2 November 2017, a Section 72 Amendment application was received by Council. The application sought a number of retrospective works outside the endorsed plans. The application was refused at the Planning & Amenity Committee Meeting on 12 June 2018 for failing to respond to the objectives of Neighbourhood Character Precinct H1 and failure to comply with the Objectives and Standards of Clause 55.

The Applicant lodged an appeal against Council’s decision to refuse the application. The decision was overturned by the Tribunal and an amended permit was granted on 8 March 2019. Plans for endorsement under this amended permit were submitted with Council on 2 May 2019. Council officers are currently assessing these plans.

On 24 April 2018, the fourth extension of time was granted to extend the completion date to 28 April 2019.

The condition 1 plans are included at Attachment 1.

The Planning Permit is included at Attachment 2.

The previous extension of time is included at Attachment 3.

The site and surrounds aerial image can be found at Attachment 4.

2. Planning controls

Original planning permit requirements

A planning permit was required pursuant to:

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

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

There is no requirement to refer the application for an extension of time to any external referral authorities.

Internal referrals

The proposal was not referred to any internal Council departments because there are no changes proposed to the design and there is no change in policy that might warrant a fresh application.

Public notification

Applications made for an extension of time to the planning permit are not subject to the notice requirements of Section 52 of the Planning and Environment Act 1987. Therefore, the extension of time has not been advertised.
4. Recommendation

That Council resolve to approve the extension of time of one (1) year to Planning Permit 2010/224/5, so that the development must now be completed no later than 28 April 2020.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

- Ensure new development responds to preferred neighbourhood character in activity centres.

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 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 H1)
- 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 3)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines
6. Considerations

The Victorian Civil and Administrative Tribunal and Supreme Court decisions set out relevant ‘tests’ to consider. In Kantor v Murrindindi Shire Council, 18 AATR 285, the Supreme Court, Ashley J, held that a Responsible Authority should consider the following matters when exercising its discretion to extend a permit:

Whether there has been a change of Planning Policy

There have been a number of changes in Planning Policy since this application was approved. However, there have been no relevant changes to Planning Policy that would affect the proposal and it is further noted that there is no change in policy since the previous extension of time was approved by Council.

Whether the landowner is seeking to “Warehouse” the Permit

There is no evidence that the landowner is seeking to “warehouse” the permit, for the following reasons:

- Development has commenced and is near completion.
- The applicant has stated that the development will be completed within 12 months, with completion delayed due to procedural matters in relation to the amended plans.
- Additional time is required due to the recent VCAT matters regarding amended plans.

Intervening circumstances as bearing upon grant or refusal

The applicant states the reasons for requiring the extension of time to the planning permit are due to the recent VCAT appeal (in relation to amended plans) and once they have received endorsed plans they will immediately proceed to finalise an amended building permit and continue to complete the development within 12 months.

The total elapse of time

The application was made within six months of the permit expiry (28 April 2019) and this is the fifth request to extend the Planning Permit. Whilst it is acknowledged that this is the fifth extension request, it is noted that this is acceptable given works are near completion and the applicant has indicated that this will be the last extension required.

Whether the limit originally imposed was adequate

The original time frame is considered reasonable, however an increased commencement time would also have been appropriate due to the number of Planning Permit amendments and VCAT appeals.

The economic burden imposed on the landowner by the Permit

Given the nature of the proposed development, it would demand substantial financial resources to carry out.

The probability of a Permit issuing should a fresh application be made

The permit remains fundamentally appropriate in the current policy and physical context. It would be unnecessary in requiring the permit holder to apply for a new permit in the circumstances, especially given planning controls as they stand. It is also noted that the extension is in relation to completing the development, therefore would be unreasonable to refuse especially as the development is near completion.
Support Attachments

1. Condition 1 Plans
2. Planning Permit
3. Previous Extension of Time
4. Site and Surrounds
### Contents

- A1 - AERIAL VIEW
- A2 - FEATURE SURVEY
- A3 - NEIGHBOURHOOD CHARACTER STUDY
- A4 - STREETSCAPE ELEVATIONS
- A5 - DESIGN RESPONSE
- A6 - EXISTING CONDITIONS/DEMOLITION PLAN
- A7 - PROPOSED BASEMENT FLOOR PLAN - UNIT 3
- A8 - PROPOSED SITE/GROUND FLOOR PLANS
- A9 - PROPOSED FIRST FLOOR PLANS
- A10 - PROPOSED ROOF/TERRACE PLANS
- A11 - PROPOSED ELEVATIONS
- A12 - COLOUR & MATERIAL SCHEDULE
- A13 - SHADOW DIAGRAM - 9am
- A14 - SHADOW DIAGRAM - 12pm
- A15 - SHADOW DIAGRAM - 3pm
- A16 - PROPOSED SCREEN DETAILS

### Project:

Proposed Unit Development at 128 Bluff Road, Black Rock

### Stage:

Amended Condition 1 Issue Rev TP10

### Client:

Mr Vaso Pitra

### Municipality:

Bayside

26 April 2019

<table>
<thead>
<tr>
<th></th>
<th>AREA</th>
<th>P.O.D</th>
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<tr>
<td><strong>UNIT 1</strong></td>
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<tr>
<td>GROUND FLOOR</td>
<td>30.6</td>
<td>24.3</td>
<td>0</td>
</tr>
<tr>
<td>FIRST FLOOR</td>
<td>37.3</td>
<td></td>
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<tr>
<td>GARAGE</td>
<td>36.8</td>
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<tr>
<td>PORCH</td>
<td>2.8</td>
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<td>BALCONY</td>
<td>8.5</td>
<td></td>
<td></td>
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<tr>
<td>STAIR PLATFORM</td>
<td>4.1</td>
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<td></td>
</tr>
<tr>
<td>TERRACE</td>
<td>28.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>248</td>
<td>129</td>
<td>2</td>
</tr>
</tbody>
</table>

| **UNIT 2** |        |       |    |
| GROUND FLOOR | 31.4   | 25    | 0 |
| FIRST FLOOR   | 78.2   |       | 0 |
| GARAGE        | 36.2   |       | 0 |
| PORCH         | 2.3    |       | 0 |
| BALCONY       | 9.7    |       | 0 |
| STAIR PLATFORM | 5     |       | 0 |
| TERRACE       | 33     |       | 0 |
| TOTAL         | 238    | 47.3  | 0 |

| **UNIT 3** |        |       |    |
| GROUND FLOOR | 70.9   | 52.8  | 0 |
| ALFRESCO      | 18.2   |       | 0 |
| FIRST FLOOR   | 33.7   |       | 0 |
| GARAGE        | 45.4   |       | 0 |
| PORCH         | 2.2    |       | 0 |
| SHOWER        | 2.2    |       | 0 |
| BALCONY       | 15.7   |       | 0 |
| STAIR PLATFORM | 5.5   |       | 0 |
| TERRACE       | 35.4   |       | 0 |
| TOTAL         | 283.2  | 79.8  | 2 |

### Area Analysis

<table>
<thead>
<tr>
<th>Site Analysis</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Site Building Area</td>
<td>423.4</td>
</tr>
<tr>
<td>Site Coverage %</td>
<td>46.6</td>
</tr>
<tr>
<td>Useability %</td>
<td>25.5</td>
</tr>
</tbody>
</table>
Item 4.7 – Matters of Decision
PLANNING PERMIT

Application No.: 5/2010/224/5
Planning Scheme: Bayside
Responsible Authority: Bayside City Council

ADDRESS OF THE LAND:
128 Bluff Road BLACK ROCK

THE PERMIT ALLOWS:
Construction of three (3) double storey dwellings with roof decks in accordance with the endorsed plans and subject to the following conditions.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Within 60 days of the amended permit (Planning Permit 2010/224/5), 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 on 17 May 2018 but modified to show:
   a) First floor of Unit 3 modified:
      i. Further setting back from Unit 2 by reducing the length of the northern wall of this dwelling and by setting the western wall north of the lift to a minimum of 4.3 metres from the first floor eastern wall of the first floor of Unit 2;
      ii. The setback of the first floor northern wall of this dwelling increased to a minimum of 1.93 metres from the northern boundary;
      iii. The size and dimensions of the roof terrace of this dwelling reduced by reducing the east-west length of this area by 0.9 metres.
   b) Each double garage must be at least 5.5 metres wide and 6 metres long from internal wall to wall. The dimension on the garage door opening (minimum 4.8 metres) for each garage is to be shown on the ground floor plan.
   c) The existing street tree to be retained and a Tree Protection Zone is to be established around the tree in accordance with the Australian Standards 4970.
   d) Details of any proposed front fence.
   e) The proposed landscape treatment for the site including the existing and proposed species in accordance with Condition 5 of this permit.
   f) Water sensitive urban design stormwater treatment measures in accordance with Condition 9 of this permit.
   g) Relocation of the first floor bathroom window of dwelling 3 from the eastern elevation to the southern elevation and screened in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme.
   h) A revised landscape plan to show details of roof deck planters and a planting schedule.

Date issued: 28 April 2011
Date amended: 8 March 2019

Signature for the Responsible Authority

Planning and Environment Regulations 2015 Form 4

Item 4.7 – Matters of Decision
i) A front fence elevation detailing changes to the pedestrian entry.

2. The development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

3. The walls on the boundary of the adjoining properties must be cleaned and finished to the satisfaction of the responsible authority.

4. **Conditions required by Vic Roads**
   a) Provisions to allow vehicles to drive forwards when both entering and exiting the property must be available at all times and all vehicles must enter and exit the property in a forward direction.
   b) The edges of the vehicular crossover must be angled at 60 degrees to the road reserve boundary to the satisfaction of the Responsible Authority.
   c) Prior to the use of the permitted development, any redundant portion of the existing crossover must be removed and the footpath, nature strip and kerbing reinstated to the satisfaction of the Responsible Authority.

5. Before the development starts, a landscape 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. The plan must be drawn to scale with dimensions and three copies must be provided.

   The plan must show:
   a) A survey of all existing vegetation to be retained and/or removed
   b) Buildings and trees on neighbouring properties within three metres of the boundary.
   c) Details of surface finishes of pathways and driveways
   d) 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
   e) Landscaping and planting within all open areas of the site.
   f) 1 native tree capable of growing to 8 metres at maturity in the front setback.
   g) The Liquidambar styraciflua located 1 metre from the north boundary and 25 metres from the east boundary at 126 Bluff Road, Black Rock to be protected in accordance with AS4970.

   All species selected must be to the satisfaction of the responsible authority.

   The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.

6. The existing street trees must not be removed or damaged.

**Date issued:** 28 April 2011

**Date amended:** 8 March 2019

*Signature for the Responsible Authority*

---

**Planning and Environment Regulations 2015 Form 4**
Application No.: 5/2010/224/5

PLANNING PERMIT
Planning Scheme: Bayside
Responsible Authority: Bayside City Council

7. All existing vegetation shown on the endorsed plans to be retained must not be removed, destroyed, pruned or lopped without the written consent of the responsible authority, all tree pruning must be carried out by a qualified Arborist to AS 4373, Pruning of Amenity Trees.

8. Before the development begins, three sets of detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be lodged with Council’s Engineering Services department for approval.

9. Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be 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 in accordance with the guidelines outlined in Clause 22.10 of the Bayside Planning Scheme and 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 landscaping 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.

   The water sensitive urban design stormwater treatment system as shown on the endorsed plan 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. Prior to the issuing of a certificate of occupancy, written correspondence from a Licensed Land Surveyor must be provided to the Responsible Authority confirming that the as built conditions match the endorsed plans.

11. Prior to the issuing of a certificate of occupancy, written correspondence from an Arborist / Landscape Architect must be provided to the Responsible Authority confirming that the as built conditions match the endorsed plans.

12. 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.

   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.

Date issued: 28 April 2011
Date amended: 8 March 2019

Signature for the Responsible Authority

Planning and Environment Regulations 2015 Form 4

Page 3 of 5
Application No.: 5/2010/224/5

PLANNING PERMIT
Planning Scheme: Bayside
Responsible Authority: Bayside City Council

Permit Notes
• Building approval must be obtained prior to the commencement of the above approved works.
• Reticulated sewerage must be provided to the requirements of the Sewerage Authority.
• Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator, Mon-Fri 9:00am to 1:00pm on 9599 4638.
• Construction of any fence/wall/letterbox structures may necessitate removal/damage of some sections of the footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.

A 'Road Opening / Stormwater Tapping Permit' is to be obtained from the Bayside City Council Infrastructure Department prior to the commencement of the connection to the kerb/channel.

Permit Notes

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 June 2013</td>
<td>Extension of time pursuant to Section 69 of the Planning and Environment Act 1987: The Planning Permit will expire if: • The development is not started by 28 April 2014; or • The development is not completed by 28 April 2016.</td>
</tr>
<tr>
<td>14 May 2014</td>
<td>Extension of time pursuant to Section 69 of the Planning and Environment Act 1987: The Planning Permit will expire if: • The development is not started by 28 April 2015; or • The development is not completed by 28 April 2017.</td>
</tr>
<tr>
<td>1 October 2014</td>
<td>Amendment under Section 72 of the Planning and Environment Act 1987: Amendment to Planning Permit preamble: • Construction of three (3) double storey dwellings with roof decks in accordance with the endorsed plans and subject the following conditions. Amendment to Planning Permit: • Addition of Condition 1(f). • Alterations to Dwelling 1: o The width of the porch to be reduced; o The width of the first floor balcony increased; o The floor area of the first floor to be increased; o The addition of an external stair at first floor level leading to the roof top terrace; and</td>
</tr>
</tbody>
</table>

Date issued: 28 April 2011
Date amended: 8 March 2019

Signature for the Responsible Authority

Planning and Environment Regulations 2015 Form 4
Application No.: 5/2010/224/5

<table>
<thead>
<tr>
<th>PLANNING PERMIT</th>
<th>12 September 2017</th>
<th>Extension of time granted to allow the development to be completed by 28 April 2018.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning Scheme:</td>
<td>Bayside</td>
<td></td>
</tr>
<tr>
<td>Responsible Authority:</td>
<td>Bayside City Council</td>
<td></td>
</tr>
</tbody>
</table>

- **Matters of Decision**
  - The layout of the terrace altered.
  - Alterations to Dwelling 2:
    - The floor area of the ground floor study to be increased;
    - A balcony to be introduced at first floor level;
    - The deletion of a lift;
    - The floor area of the first floor to be increased;
    - The addition of an external stair at first floor level leading to the roof terrace; and
    - The layout of the terrace altered
  - Alterations to Dwelling 3:
    - The floor area of the garage to be increased;
    - The floor area of the first and second floors to be increased;
    - The provision of a spa and gym;
    - The stair leading to the roof top terrace relocated; and
    - The layout of the terrace increased.

**8 March 2019**

- VCAT decision for Appeal P1574/2018 the decision of the responsible authority is set aside.
  - Planning permit 2010/224/5 is amended and an amended permit is directed to be issued.

**THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.**

Date issued: 28 April 2011

Date amended: 8 March 2019

Arthur Vatsalis
Signature for the Responsible Authority
FORM 4

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?
The Responsible Authority has issued a permit.
(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987.)

CAN THE RESPONSIBLE AUTHORITY AMEND THIS PERMIT?
The responsible authority may amend this permit under Division 1A of Part 4 of the Planning and Environment Act 1987.

WHEN DOES A PERMIT BEGIN?
A permit operates:
• from the date specified in the permit; or
• if no date is specified, from —
  (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
  (ii) the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?
1. A permit for the development or any stage of it does not start within the time specified in the permit or the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
   the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.
2. A permit for the use of the land expires if—
   • the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   • the use is discontinued for a period of two years.
3. A permit for the development and use of the land expires if—
   • the development or any stage of it does not start within the time specified in the permit; or
   • the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   • the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   • the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 65A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision—
   • the use or development of any stage is to be taken to have started when the plan is certified; and
   • the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT REVIEWS?
• The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
• An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
• An application for review is lodged with the Victorian Civil and Administrative Tribunal.
• An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
• An application for review must state the grounds upon which it is based.
• An application for review must also be served on the Responsible Authority.
• Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

Planning and Environment Regulations 2015
1. Application details

Proposal

Planning Permit 5/2010/224/5 allows:

Construction of three (3) double storey dwellings with roof decks

The application seeks approval for an extension of time of 1 year to complete the development.

Condition 10 of the Planning Permit states that the construction of the 3 double storey dwellings must commence within two years from the date of issue. The condition also allows for an extension of time to be requested, provided the request is lodged with the Responsible Authority in writing either before the permit expires or within six (6) months afterwards.

History

Application for planning permit received 4 May 2010
Request to extend lapse date approved 17 August 2010 (30 September 2010)
Request to extend lapse date approved 12 October 2010 (30 November 2010)
Application to amend planning permit received 30 November 2010
Amendment of planning permit approved and issued 28 April 2011
Extension of time approved 8 June 2013
Extension of time approved 14 May 2014
2. Planning controls

Original planning permit requirements

A planning permit was required pursuant to:
- Clause 32.09 (NRZ3) - Construction of two or more dwellings on a lot.
- Clause 42.02 – Vegetation Protection Overlay
- Clause 43.02 – Buildings and Works

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

There is no requirement to refer the application for an extension of time to any external referral authorities.

Internal referrals

The proposal was not referred to any internal Council departments because there are no changes proposed to the design and there is no change in policy that might warrant a fresh application.

Public notification

Applications made for an extension of time to the planning permit are not subject to the notice requirements of Section 52 of the Planning and Environment Act 1987. Therefore, the extension of time has not been advertised.

4. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

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

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
5. Considerations

The Victorian Civil and Administrative Tribunal and Supreme Court decisions set out relevant ‘tests’ to consider. In Kantor v Murrindindi Shire Council, 18 AATR 285, the Supreme Court, Ashley J, held that a Responsible Authority should consider the following matters when exercising its discretion to extend a permit:

Whether there has been a change of Planning Policy

There has been a change in Planning Policy since this application was approved. A number of amendments have been introduced into the Bayside Planning Scheme including VC110 and VC136 to residential zones. These amendments introduced the minimum garden requirements. However this application benefits from the transitional provisions as stated in Clause 32.09-14.

Amendment C139 the Development Contribution Plan Overlay Schedule 1 was also introduced to the Bayside Planning Scheme which requires developers to contribute to a development levy. However it does not apply to this extension of time.

Whether the landowner is seeking to "Warehouse" the Permit

There is no evidence that the landowner is seeking to “warehouse” the permit, for the following reasons:

- The scale of the development suggests it may take some time before building works can commence.
- Additional time will be required to go through the planning process again, amending the plans until all parties come to an agreement.
- The applicant has stated that the development will be completed within the next 12 months

Intervening circumstances as bearing upon grant or refusal

There are no intervening circumstances. The owner states that they have no started due to being unsuccessful at VCAT and having to revise the plans.

The total elapse of time

The application was made within the prescribed time (12 months) from when the permit was amended 14 May 2014).

Whether the limit originally imposed was adequate

The original time frame is considered reasonable as condition 10 of the Planning Permit issued 28 April 2011 and amended 14 May 2014 allowed for two years for development to begin and four years for completion.
The economic burden imposed on the landowner by the Permit
Given the nature of the proposed development, it would demand reasonably substantial financial resources to carry out.

The probability of a Permit issuing should a fresh application be made
The permit remains fundamentally appropriate in the current policy and physical context. It would be unnecessary in requiring the permit holder to apply for a new permit in the circumstances, especially given planning controls as they stand.

6. Recommendation
That Council resolve to:

1. Approve the extension of time of 1 year to Planning Permit 5/2010/224/5, so that the development must now be completed no later than 28 April 2019.
Attachment 1

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from Bluff Road

Figure 3 View towards the site from 130 Bluff Road
This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the Extension of Time</th>
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</thead>
<tbody>
<tr>
<td>Street address</td>
<td>91 Bluff Road, Black Rock</td>
</tr>
<tr>
<td>Permit No.</td>
<td>2014/130/1</td>
</tr>
<tr>
<td>Applicant</td>
<td>Soner Fedai</td>
</tr>
<tr>
<td>Date application received</td>
<td>16 May 2019</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Drainage Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay (Schedule 1)</td>
</tr>
</tbody>
</table>

Proposal

Planning Permit 2014/130/1 allows:

Use and development of a child care centre, creation of an access onto a Road Zone Category 1, and display of business identification signage.

The application seeks approval for an extension of time of two (2) years to commence and complete the development – refer Attachment 1. Presently, the permit requires:

a) Commencement of development by 23 June 2019; and

b) Completion of development by 23 June 2021.

Condition 39 of the Planning Permit states that an extension of time may be requested, provided the request is lodged with the Responsible Authority in writing either before the permit expires or within six (6) months afterwards.

History

Planning Permit 2014/130/1 was refused by Council on 11 December 2014. The decision was appealed to the Victorian Civil and Administrative Tribunal (VCAT) and at the direction of VCAT, the Planning Permit 2014/130/1 was issued on 23 June 2016 for the use and development of a child care centre, creation of an access onto a Road Zone Category 1, and display of business signage.

The Permit is included at Attachment 2.

The Endorsed Condition plans are included at Attachment 3, 4 and 5.

The site and surrounds aerial image can be found at Attachment 6.

The permit was granted an extension of time on 18 September 2017 to allow:

1) Commencement of development by 23 June 2019; and

2) Completion of development by 23 June 2021.
The previous extension of time approval is included at Attachment 7.

2. Planning controls

Original planning permit requirements
A planning permit was required pursuant to:

- Clause 32.09 (Neighbourhood Residential Zone) – Use and development of a child care centre
- Clause 52.29 (Land adjacent to a Road Zone) - Creation of an access onto a road zone category 1
- Clause 52.05 (Signs) - Display of business identification signage

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

3. Stakeholder consultation

External referrals
There is no requirement to refer the application for an extension of time to any external referral authorities.

Internal referrals
The proposal was not referred to any internal Council departments because there are no changes proposed to the design and there is no change in policy that might warrant a fresh application.

Public notification
Applications made for an extension of time to the planning permit are not subject to the notice requirements of Section 52 of the Planning and Environment Act 1987. Therefore, the extension of time has not been advertised.

4. Recommendation

That Council resolve to approve the extension of time of one (1) year to Planning Permit 2014/130/1, so that the development must now commence no later than 23 June 2020 and be completed no later than 23 June 2022.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

- Clause 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 21.07 Economic Development
- Clause 22.06 Neighbourhood Character Policy (Precinct E4)
- Clause 22.07 Discretionary Uses in Residential Areas
- 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 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 65 Decision Guidelines

6. Considerations

The Victorian Civil and Administrative Tribunal and Supreme Court decisions set out relevant ‘tests’ to consider. In Kantor v Murrindindi Shire Council, 18 AATR 285, the Supreme Court, Ashley J, held that a Responsible Authority should consider the following matters when exercising its discretion to extend a permit:

**Whether there has been a change of Planning Policy**

There has been no relevant changes to Planning Policy that would affect the proposal and it is further noted that there is no change in policy since the previous extension of time was approved by Council.

**Whether the landowner is seeking to “Warehouse” the Permit**

There is no evidence that the landowner is seeking to “warehouse” the permit, for the following reasons:

- The original permit was subject to time constraints due to amendments to plans and subsequent endorsement from relevant parties;
- This is the second request for an extension of time. This second extension of time is required due to delays in document preparation from Engineers and building permits in regards to the approved amendments;
- The site has been cleared and the development is in the process of being tendered to builders; and
- The scale of the development suggests it may take some time before building works can commence, particularly given recent amendments. However, considering the application has been granted a previous extension, it is considered appropriate to grant an extension of one (1) year to the permit to allow the development to commence before 23 June 2020 and be completed by 23 June 2022.
Intervening circumstances as bearing upon grant or refusal

There are no intervening circumstances having a bearing upon the permit.

The total elapse of time

The application was made within the prescribed time (2 years from when the permit was issued) and this is the second request to extend the Planning Permit. The original extension of time was delayed by the process of seeking amendments to the approved plans.

Whether the limit originally imposed was adequate

The original time frame is considered reasonable, however an increased commencement time would also have been appropriate in consideration of the scale of the project and subsequent amendments sought due to the engineering process. The applicant sought amendments to the permit which would have subsequently delayed the onset of development.

The economic burden imposed on the landowner by the Permit

Given the nature of the proposed development, it would demand reasonably substantial financial resources to carry out.

The probability of a Permit issuing should a fresh application be made

The permit remains fundamentally appropriate in the current policy and physical context. It would be unnecessary in requiring the permit holder to apply for a new permit in the circumstances, especially given planning controls have not altered.

However, should a fresh application be made, the following reasons would support the approval of the proposed development:

- There has been no change to planning policy since the planning permit was issued that would impact on this application.
- Despite Council’s initial refusal, the amended condition plans submitted for endorsement on 17 February 2017 were revised to the satisfaction of all specialists including the internal arborist, traffic engineers, waste management department, Environmental health department and VicRoads.
- The Permit was approved at the direction of VCAT. With this in mind, it is likely that should a new application be made, the development would be approved under the current circumstances.

Support Attachments

1. Extension of Time Request
2. Extension of Time Permit
3. Endorsed Plans (1 of 3) - 14/0130
4. Endorsed Plans (2 of 3) - 14/0130
5. Endorsed Plans (3 of 3) - 14/0130
6. Site and Surrounds
7. Officers Report - Extension of Time
Request for Extension of Time to a Planning Permit

Pursuant to Section 59 of the Planning & Environment Act 1987

Fee: $1240.70

<table>
<thead>
<tr>
<th>Planning permit number:</th>
<th>2014/130/1</th>
<th>Date planning permit issued:</th>
<th>23/06/2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address of the land:</td>
<td>91 BLUFF RD, BLACK ROCK VIC 3193</td>
<td></td>
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</tr>
<tr>
<td>Approved Use/Development:</td>
<td>USE &amp; DEVELOPMENT OF CHILD CARE CENTRE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant name:</td>
<td>BLACK ROCK MATRIX PROPERTIES PTY. LTD.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Applicant's postal address:</td>
<td>26B-28B SOMERTON RD, SOMERTON VIC 3062</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Business hours telephone:</td>
<td>0393337022</td>
<td>Mobile:</td>
<td></td>
</tr>
<tr>
<td>Email:</td>
<td><a href="mailto:ACCOUNTS@ALLIEDSUNNY.COM.AU">ACCOUNTS@ALLIEDSUNNY.COM.AU</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I am the owner of the land:</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>I have obtained the consent of the owner of the land to make this application:</td>
<td>Yes</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Has the Use/Development commenced:</td>
<td>Yes</td>
<td>No</td>
<td></td>
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<tr>
<td>Extension sought to:</td>
<td>Commencement date</td>
<td>Completion date</td>
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<tr>
<td>Length of extension sought:</td>
<td>1 year</td>
<td>2 years</td>
<td></td>
</tr>
</tbody>
</table>

Corporate Centre
75 Royal Avenue
SANDRINGHAM VIC 3191

T (03) 9599 4444
F (03) 9596 4474
enquiries@bayside.vic.gov.au
www.bayside.vic.gov.au
Reason for seeking an extension of time:

<table>
<thead>
<tr>
<th>Please provide details of the reasons why an extension of time is now sought?</th>
</tr>
</thead>
<tbody>
<tr>
<td>THE DELAYS WERE CAUSED IN GETTING PLANS ENDORSED BY COUNCIL AND WE HAVE APPLIED FOR SOME CHANGES UNDER SECONDARY AMENDMENT</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Have any steps been taken thus far to develop the land in accordance with the permit (e.g. application for building permit, demolition on site etc.)? If yes, please provide evidence.</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEMOLITION AND SOME EXCAVATION WORKS HAVE ALREADY BEEN CONDUCTED</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is the land currently or about to be for sale?</th>
</tr>
</thead>
<tbody>
<tr>
<td>SITE IS FOR DEVELOPMENT OF CHAILD CARE</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Is the application being made to extend the time to complete the development within 12 months after the permit expires? If yes, please provide evidence (e.g. a statutory declaration or a dated builders’ invoice) that the development lawfully commenced before the permit expired.</th>
</tr>
</thead>
<tbody>
<tr>
<td>NO</td>
</tr>
</tbody>
</table>

Note: Council officers are required to check that all relevant planning permit conditions were satisfied prior to the commencement of works.
ABN #: 65486719651
Bayside City Council
PO Box 27
SANDRINGHAM VIC 3191
Ph 03 9599 4444  Fax 03 9598 4474
Email: enquiries@bayside.vic.gov.au
Website: www.bayside.vic.gov.au

Date  18/08/2017 15:18
Receipt  04720068:0001  Terminal  11:1492
Black Rock Matrix Properties Pty Ltd
RE 91 BLUFF RD
BLACK ROCK

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**PLANNING PERMIT**

**2014/130/1**

**Responsible Authority:** Bayside City Council

**Planning Scheme:** Bayside

**Address Of The Land:** No. 91 Bluff Road BLACK ROCK

**The Permit Allows:**

Use and development of a child care centre, creation of an access onto a Road Zone Category 1, and display of business identification signage in accordance with the endorsed plans and subject to the following conditions.

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

1. Before the use and/or 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 substituted at the VCAT hearing held on 28 and 29 April 2015 but modified to show:

   a) All externally located plant and equipment (including air conditioning units, heating units, hot water systems, exhaust fans etc.). Such equipment must, wherever possible, be located away from the bedrooms of adjoining properties.

   b) Notations in accordance with the recommendations of the acoustic assessments prepared by Timothy Marks, Marshall Day Acoustics, dated 13 April 2015.

   c) The ramp cross section clearly indicating ramp grades, length of grades and AHD levels along the internal edge of the ramp.

   d) A minimum 1m separator provided between the proposed crossover and the existing crossover servicing No. 93 Bluff Road.

   e) An electronic signal at the ground level near the ramp to the basement to indicate whether the car parking spaces are fully occupied.

   f) A 1.8 metre high semi-transparent front fence with a contemporary timber or metal style.

   g) Replacement of the freestanding V-shaped business identification sign with a business sign of no more than 2 sqm into the architecture of the building, or as a solid panel along the street front.

   h) Notation on plan that the proposed acoustic fence on side and rear boundaries to have the following properties:

      - Materials with a surface density of 10-15kg/m²;
      - Free of holes or gaps.

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**Date issued:** 23 June 2016

**Date amended:** 27 January 2017

*Signature for the Responsible Authority*

---

*Planning and Environment Regulations 2009 Form 4*

*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.*
<table>
<thead>
<tr>
<th>PLANNING PERMIT 2014/130/1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning Scheme: Bayside</td>
</tr>
<tr>
<td>Responsible Authority: Bayside City Council</td>
</tr>
</tbody>
</table>

i) The proposed acoustic fence to be independent of boundary fence and within the curtilage of the site.

j) Compliance with Standard B22 of Clause 55.04 for the east facing first balcony with regard to the service yard at 93 Bluff road.

k) A landscape plan in accordance with Condition No. 11 of this permit.

l) A Construction Management Plan in accordance with Condition No. 12 of this permit.

m) A Waste Management Plan in accordance with Condition No. 13 of this permit.

n) Compliance with VicRoads Condition No. 33 of this permit.

o) Noise Management Plan required by Condition 14.

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

3. The use may operate only between the hours of 7:00am to 6:30pm Monday to Friday.

4. No more than 102 children may be present on the premises at any one time.

5. No more than 70% of the maximum allowable number of children permitted in outdoor play areas and to the satisfaction of the Responsible Authority.

6. The north facing balcony shall be restricted to use by staff only.

7. Before the use and/or occupation of the site commences or by such later date as 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.

8. 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.

9. 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.

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

11. Before the development starts, a Landscape Plan must be submitted to and be approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be generally in accordance with the Landscape Plan submitted as part of the Expert Witness Statement by John Patrick dated April 2015, drawn to scale with dimensions and three copies must be provided. The landscaping plan must show:

   a) A survey (including botanical names) of all existing vegetation to be retained and/or removed.

   b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.

Date issued: 23 June 2016

Michael Kelleher

Date amended: 27 January 2017

Signature for the Responsible Authority

Planning and Environment Regulations 2006 Form 4

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 4.8 – Matters of Decision

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Tree protection zones of all trees on adjoining properties, where such tree protection zones extend into the subject site. Tree Protection Zones are to be calculated in accordance with AS4970.

d) Details of surface finishes of pathways and driveways.

e) Details of water sensitive urban design elements to be incorporated and the plant species to be used.

f) 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. All species selected must be to the satisfaction of the Responsible Authority.

g) The planting materials against the common boundary with 2/46 Middleton Street replaced by trees and/or shrubbery capable of reaching 4 metres in height, evergreen and have characteristics that do not cause litter or known poor root habits. The planting materials against the common boundary with 89B be replaced by the same hedge materials at 89B, and marked as clipped at a similar height.

h) Landscaping and planting within all open areas of the site.

i) An in-ground irrigation system to all landscaped areas.

12. Prior to the commencement of development, a Construction Management Plan (CMP) must be submitted to the Responsible Authority for approval. When approved, the plan will be endorsed and will then form part of this permit. The CMP must include (but is not limited to) that unless otherwise agreed by the Responsible Authority:

a) Pedestrian access will be maintained at all times along the Bluff Road footpath adjacent to the site;

b) All site facilities will be located on site during the construction period;

c) All waste material not required for further on-site processing will be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority.

d) All storage areas/external stockpiles/vacant areas must be covered and maintained to avoid dust nuisance to any residential area to the satisfaction of the Responsible Authority.

e) A truck wheel-wash must be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways to the satisfaction of the Responsible Authority.
The CMP must be implemented to the satisfaction of the Responsible Authority with all works completed in compliance with environmental health requirements.

13. Prior to the commencement of development an amended Waste Management Plan (WMP) must be submitted to the Responsible Authority for approval. When approved, the plan will be endorsed and will then form part of this permit. The WMP must be generally in accordance with the WMP prepared by Leigh Design and dated 20 February 2014 but modified to:

   a) Provide for collection entirely within the basement area of the development generally in accordance with the waste collection vehicle details provided to Council via email dated 10 November 2014.

   b) Nominate the frequency and hours for the collection of all waste and recyclables, with such hours to be outside peak hours of the centre.

   c) The storage location of all garbage bins and recycling bins.

   d) Provision for waste collection vehicle to manoeuvre within the basement during non peak drop-off and pick-up time, or outside operating hours.

   e) Staff supervision of waste collection vehicles traffic movement in the basement.

14. Prior to the commencement of buildings and works, the owner/permit holder must prepare and have approved in writing by the Responsible Authority a Noise Management Plan for the site and to the satisfaction of the Responsible Authority. The following measures must be incorporated into this plan:

   - A separate daily program generally in accordance with the document tabled at the hearing on 13 May 2015 named “Happy Hippo Bluff Road, Black Rock”, listing a time table of children activities, indoor and outdoor.

   - The program be made publicly available to parents and neighbours.

   - A contact phone number for the centre’s director be made available to neighbours to facilitate communication and to resolve any neighbourhood issues that may arise due to operation of the centre.

   - The number of children playing outdoor at any one time is limited to 70% of the total approved number.

   - Crying children to taken inside the centre and comforted.

   - The behaviour of children be monitored and modified as required by adequately trained child care workers.

   - Parents and guardians be informed of the importance of noise minimisation when entering the site, dropping off or picking up children.

   - Carers to be educated to control the level of the voice while outside.

   - Children aged 3 or over are to be accommodated on the first floor.

Date issued: 23 June 2016

Date amended: 27 January 2017

Signature for the Responsible Authority
• External pedestrian gates be fitted with door closers and soft hangers to reduce noise.
15. The amenity of the area must not be detrimentally affected by the use or development, by 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;
   e) By any other circumstances.
16. Before development commences, two copies of plans showing all details of internal works must be submitted to and approved by Council's Environmental Health Department.
17. All operations of the site (internally and externally) must comply with SEPPN-1 and/or SEPPN-2 policies and/or EPA Technical Guidelines. The Responsible Authority may direct the owner and/or occupier to undertake noise measurements by a suitably qualified acoustic consultant a report must be submitted to Council for compliance in relation to the N-1 and/or N-2 policies and/or EPA Technical Guidelines.
18. Loudspeakers shall not be permitted outside the premises.
19. Music noise shall at all times comply with the requirements of State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2.
20. Plant noise, including but not limited to carpark extraction, heating and cooling systems, shall at all times comply with the requirements of State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1
21. Before the use or occupation of the development starts, the area/s set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
   a) constructed
   b) properly formed to such levels that they can be used in accordance with the plans
   c) surfaced with an all-weather-seal coat
   d) drained
   e) line marked to indicate each car space and all access lanes
   f) clearly marked to show the direction of traffic along access lanes and driveways to the satisfaction of the Responsible Authority.
   Car spaces, access lanes and driveways must be kept available for these purposes at all times.
22. All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property.

Date issued: 23 June 2016

Date amended: 27 January 2017

Signature for the Responsible Authority

Planning and Environment Regulations 2006 Form 4

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.
23. Vehicular crossing/s must be constructed to the road to suit the proposed driveway/s to the satisfaction of the Responsible Authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.

24. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel with all costs borne by the developer, to the satisfaction of the Responsible Authority.

25. Before the use/occupation of the development starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

26. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority.

27. Before development commences the applicant must pay $2,606.18 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council’s current policy for the removal of street tree(s). 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(s) 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(s). Any replacement planting will be at the discretion of the Responsible Authority.

28. The applicant must apply for the nominated legal point of discharge for the development where stormwater run-off must be collected and free drained to Council’s drainage assets to Council standards.

29. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff at 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

30. 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. The design must meet the requirements of Council’s discharge of Pumped Subterranean Water Associated with Basements or Below-Ground Structures.

31. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:
   a) A trench grate (150mm minimum internal width) located within the property and/or
   b) Shaping the driveway so that water is collected in a grated pit on the property and/or
   c) Another Council approved equivalent.

Date issued: 23 June 2016

Date amended: 27 January 2017

Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 4

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.
32. Before the development begins, three sets of detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be lodged with Council’s Engineering Services department for approval.

33. 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.

VicRoads Condition Nos. 34-38

34. Prior to the commencement of the development, amended plans must be submitted to and approved by VicRoads. The plans must be generally in accordance with Proposed Ground Floor Plan and Site Plan (TP03, Revision B, 11-03-15) and amended to show:
   a) The crossover at the property boundary widened to 6400mm.
   b) The crossover having a 50 degree flare at the kerb with 1000mm clearance from any fixed object in the road reserve.
   c) A notation indicating that ' Landscaping not to exceed 900mm in height' within the area of the pedestrian visibility playas.

35. Vehicles must enter and exit the land in a forward direction at all times.

36. All vehicular gates and security barriers must be opened and remain open from the time the first staff member arrives on site until he last staff member departs.

37. Prior to the commencement of the use all redundant and unused crossovers are to be removed and wholly reinstated with kerb, channel, nature strip and footpath to the satisfaction of, and at no cost to, the Responsible Authority and VicRoads.

38. Landscaping within the pedestrian visibility playas must be maintained at a height no greater than 900mm.

39. 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.
   c) The use does not start within two years after the completion of the development.
   d) The use is discontinued for a period of two years.

The Responsible Authority may extend the periods referred to above if a request is made in writing:
   ➤ Before the permit expires;
   ➤ Within 6 months afterwards if the development/ use has not commenced; or
   ➤ Within 12 months afterwards if the development has lawfully commenced.
**Permit Notes**

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>27 January 2017</td>
<td>As per VCAT's order P491/2016 dated 27 January 2017 the permit is corrected as follows:</td>
</tr>
<tr>
<td></td>
<td>(a) The following condition to be inserted after h) of Condition 1 to read:</td>
</tr>
<tr>
<td></td>
<td>i) The proposed acoustic fence to be independent of boundary fence and within the curtilage of the site.</td>
</tr>
<tr>
<td></td>
<td>(b) All following conditions to be renumbered.</td>
</tr>
<tr>
<td></td>
<td>(c) Condition o) (renumbered from n) amended to read:</td>
</tr>
<tr>
<td></td>
<td>o) Noise Management Plan required by Condition 14.</td>
</tr>
<tr>
<td>18 September 2017</td>
<td>Pursuant to Section 69 of the Planning and Environment Act 1987, an extension of time is granted to allow:</td>
</tr>
<tr>
<td></td>
<td>a) Commencement of development by 23 June 2019; and</td>
</tr>
<tr>
<td></td>
<td>b) Completion of development by 23 June 2021.</td>
</tr>
</tbody>
</table>

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.
**FORM 4**

**PLANNING PERMIT**

**Sections 53 and 66**

**IMPORTANT INFORMATION ABOUT THIS PERMIT**

**WHAT HAS BEEN DECIDED?**

The Responsible Authority has issued a permit.
(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987.)

**WHEN DOES A PERMIT BEGIN?**

A permit operates:
* from the date specified in the permit; or
* if no date is specified, from—
  (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
  (ii) the date on which it was issued, in any other case.

**WHEN DOES A PERMIT EXPIRE?**

1. A permit for the development of land expires if—
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if—
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if—
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision—
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

**WHAT ABOUT APPEALS?**

* The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
* An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
* An application for review must state the grounds upon which it is based.
* An application for review must also be served on the Responsible Authority.
* Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.
CONSTRUCTION MANAGEMENT PLAN FOR PROPOSED DEVELOPMENT AT

91 Bluff Road, Black Rock, VIC

BY ALLIED & SUNNY
APRIL 2016

UPDATED 26.07.16
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  Air Dust & Sediment Management

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1.0 EXECUTIVE SUMMARY

This Construction Management Plan is for a proposed two storey child care centre development (plus a basement level car park) at 91 Bluff Road, Black Rock – Victoria.

The site is an existing residential site with an approximate total size of 1290 sqm. The site is relatively flat with no distinct slope. A single story brick veneer dwelling will be demolished to make way for the new child care centre. Significant excavation will be made to the land for the basement.

The hours of work will be from 7:00am to 6:00pm Monday to Friday and 9:00am to 1:00pm on Saturdays. There will be no works undertaken on Sundays and public holidays.

Noise from the site must comply with the requirements of the local council’s consent, the EPA’s requirements and any other Act, Standards and Guidelines that may apply to these works. During excavation and construction works, the Building Contractor shall minimise the generation of dust on the site by watering down the soil as required. In order to minimize noise, trucks and machinery will be switched off unless directly working on the site.

A formal Traffic Management Plan has been prepared and works will be implemented according to this plan. During the construction phase, vehicles delivering equipment and material will need to be carefully coordinated to avoid congestion on or near the site with the supervision of the site supervisor and/or traffic manager.

The Building Contractor must maintain control of all access to and from the site, with the site at all times secured by temporary security fences, hoardings or by other means. Emergency contact numbers for security and the Building Contractor will be displayed on a sign easily viewed from Bluff Road.

The Building Contractor will also be responsible to ensure that any excavations (if applicable) are fenced such that they do not pose a danger to life or property. The general public must also be protected from construction activities including vehicle loading and off-loading. All storage areas, external stockpiles, vacant areas must be covered and maintained to avoid dust nuisance to any residential area. A truck wheel wash will be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways.

All personnel working on site are to be inducted and given security access passes to ensure they can be identified when moving around the site and that they have completed a site induction. They must have White cards, insurance and public liability – this information will all be on a register on site.

The Building Contractor is to reinstate any public areas used for site accommodation and materials handling at the end of the project to a condition similar to that when he obtained possession of site.

Temporary service connections will be obtained via the existing services on Bluff Road. A comprehensive photographic survey and written dilapidation report on adjoining properties and local council’s footpaths, kerbs and roads will be undertaken by the Building Contractor before work commences.

A Complaints contact number will be displayed at the site entrances. A contact officer will be appointed by the Building Contractor to register, address and respond to complaints.
2.0 THE SITE

The site is at 91 Bluff Road, Black Rock.

The proposed vehicle entry will be directly from the street to the site from the northern side of the property, with the pedestrian entrance immediately beside it.

Power Lines

Power will be used via a power pole during construction. At the very least, these cables will need temporary protection against earthing.

Drainage - Storm Water and Sediment Control

Silt protection will be used in form of logs/nets to control sediment where required. Plastic tubes will be used as a temporary downpipes. Based on the nature of the subject project (slab on ground); there will be no areas where there is pooling resulting in discharge of water via pumping, rather it will be a natural run off method.

Pre-Construction Works

Local council property is to be protected by the Building Contractor and public footpaths adjoining the site are to be maintained and kept in a safe condition for use by the public at all times. Should footpaths need to be closed on a temporary basis; a safe alternative route will be arranged and maintained by the Building Contractor. Should footpaths need to be rerouted, this would be in consultation with the local council and traffic engineers, followed by remedial works as agreed.

3.0 ENVIRONMENTAL CONDITIONS

The construction of the works will comply with the requirements set by the local council as well as other regulatory bodies such as the EPA. The intent is to deliver the project in the shortest possible time through the effective management of the works whilst ensuring that noise and environmental management is maintained in accordance with consent conditions and legislation.

Working Hours

All construction work associated with this development shall be carried out in accordance to the local council's conditions. The hours of work are yet to be confirmed, but likely to be 7:00am to 6:00pm Monday to Friday and 9:00am to 1:00pm on Saturdays. Deliveries however will predominantly take place in the mornings between 8:00 to 11:00am between Mondays to Friday. There will be no work undertaken on Sundays and public holidays.

Any work outside of the Normal hours will be subject to application by the Building Contractor to the local council.

If the Police (or any other authority) require the delivery of goods outside the specified hours for safety reasons or an emergency where people or equipment are in danger, provided the applicant notifies the local council and the relevant authorities immediately, and explains the reasons for extending the specified construction hours and the likely duration, the emergency works can proceed.
Noise and Vibration control

The following guidelines are to apply to plant / equipment where used on this site:

- Trucks are not to be left standing with their engine operating.
- All vehicular movements to and from the site must only be made during the scheduled normal working hours unless approval has been granted by the relevant authority.

Notwithstanding the points above, noise from the site must comply with the requirements of the local council’s consent, the EPA’s requirements and any other Acts, Standards and Guidelines that may apply to these works.

Where it is not possible for continuous type work, such as a concrete pour, to be completed within normal hours, and the noise of this activity will impact nearby residents, then the Building Contractor is responsible to advise such residents of the intended work, the duration and times of occurrence. This is part of the Community Information - described elsewhere.

Demolition

Demolition work shall be carried out on the subject site – excavations and removal of rubbish will take place on site.

Any materials are to be removed and disposed in accordance with applicable Acts, Standards and Guidelines for safe handling and disposal.

Existing services are to be disconnected prior to demolition to ensure safety of workers and nearby residents / occupants.

Salvage and recyclable items to be removed prior to general demolition and site clean.

Air Dust & Sediment Management

During demolition and construction works, the Building Contractor shall minimise the generation of dust on the site. The Building Contractor will also be responsible to ensure that any excavations are fenced such that they do not pose a danger to life or property. All storage areas, external stockpiles, vacant areas must be covered and maintained to avoid dust nuisance to any residential area. A truck wheel wash will be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways.

Dust shall be taken to include mud, soil, and clays etc. from excavation as well as general dust from demolition and construction works. It may be windborne, waterborne or carried out by vehicles.

4.0 TRAFFIC MANAGEMENT

The Building Contractor will provide traffic control persons to assist during delivery times according the project’s Traffic Management Plan. The traffic activities will consist but not limited to the following:

- Demolition – 1 week
- Major site Cut, piling and excavation and Soil removal – (6 weeks)
- Drainage – 3 days
- Slab Pour – 2 days
- Frame timber delivery – 1 day
• Window and door delivery 1 day
• Window and door frame delivery – 1 day
• Truss delivery – 2 days
• Gutter & Fascia installation – 1 day
• Roof fall protection installation and Scaffolding – 2 days
• Brick delivery – 3 different days (1 hour per day)
• Plasterer – 2 days
• Fixing material delivery – 2 days

5.0 PUBLIC SAFETY, AMENITY AND SAFETY & SECURITY

It is imperative that the Building Contractor maintains control of all access to and from the site. The site must at all times be secured by temporary security fences, hoardings or by other means. Emergency contact numbers for security and the Building Contractor are to be displayed on a sign easily viewed from Bluff Road.

The temporary fence or hoardings are to ensure there is no entry into the construction site by the public or unauthorised personnel. Any site accommodation areas and the site compounds are all to be located on the subject property and are also to be adequately fenced off to prevent unauthorised access. Appropriate signage will also be required on the hoarding and/or temporary fences. Safety and security fencing, hoardings and signage are all required to meet the requirements of Work Cover and any other authorities having jurisdiction over the works.

The Building Contractor will be responsible to ensure that all excavations are fenced such that they do not pose a danger to life or property. The Building Contractor will also be responsible to ensure that any bills or posters applied to the fence / hoarding are removed as soon as practical.

The Building Contractor will be responsible in also providing Job Safety Analysis Forms to workers on site.

Public Areas

The Building Contractor will be responsible to determine if any parts of Bluff Road, footpath, as well as the nature strip or any other public area need to be occupied by those involved in the construction works either at ground level or above ground.

The general public must be protected from construction activities including vehicle loading and off-loading. In consultation with local council and VicRoads as appropriate, risks and precautions must be specified, including, but not limited to:
• The use of spotters and traffic controllers.
• Restriction on the hours of operation. Particularly in view of peak hour traffic to Bluff Road and the Lane to the south of the subject site.
• Restriction on the type of work being carried out.
• The plant and machinery being used.
• Redirection of pedestrian traffic.
• Barriers to separate the public from the work areas.

Induction

All personnel working on site are to be inducted to ensure they can be identified when moving around the site and that they have completed a site induction.

Site Safety Plans, Work Method Statements and the like will be developed by the Building Contractor and his sub-contractors. These documents are outside the scope of this Construction Management Plan.
Dangerous Goods

The Building Contractor will be responsible to ensure that all dangerous goods are properly signed, stored and used in accordance with relevant Acts, Standards and Guidelines as well as any requirements of WorkSafe Victoria.

Any such goods are to be stored away from emergency exit paths and stormwater routes. The Building Contractor will also put procedures in place to deal with spillages.

6.0 SITE ACCOMODATION & TEMPORARY SERVICES

Hoarding

Hoarding will be required at the front boundary at the footpath.
The Building Contractor will be responsible for the provision of signage for entries, deliveries, lunch areas and emergency routes/evacuations procedures. The type of hoarding to the frontage of the site will be in timber and at a height of 2.4 metres. The front footpath to remain unobstructed at all times during the construction phase.

Site Accommodation

During the early construction period, temporary site accommodation, ablution facilities and/or a storage area will need to be located in the form of a site shed and temporary toilet. This will be located to the front and south of the property.

Site Storage

The footprint of the building is large but there is a significant area around the perimeter allowing a rather large area of site storage.

In any event, careful scheduling will be required to minimise the amount of storage required on site due to the type of construction taking place, this should not be a problem.

Temporary Services

Temporary services connections will be obtained. These service requirements will include water supply, stormwater and sewer drains, power and W.C. The Building Contractor will be responsible for arranging all of this with the appropriate authorities.
7.0 CONSTRUCTION ISSUES

Dilapidation Report

Before work commences the Building Contractor will carry out a comprehensive photographic survey and written dilapidation report on adjoining properties and local council's footpaths, kerbs and roads surrounding the site as well as power poles and pit lids (storm water, Telstra etc.).

Construction Zone

It is understood that the council will not be approving an on-street 'loading zone' due to existing 'No Stopping' restrictions on Bluff Rd. The builder will require an off-street loading zone with truck access/egress to be undertaken with the assistance of traffic controllers. The loading zone will be within the property boundary where there is ample space in front of the proposed building. Scaffolding, formwork and waste materials will be loaded from the site onto vehicles within the loading zone for removal. This area would also serve as the main point for off-loading materials and equipment to be used in the construction works.

Demolition

Demolition will take place on site. Waste materials can be loaded into trucks and taken away from site. It is probable that these trucks will simply drive over the site with ample space for turning.

Trucks leaving the site must be adequately cleaned to ensure that mud, site debris and soil does not spill onto adjoining roads and footpaths. Cognisant that not all debris can be removed, footpaths and roads will need to be swept on a regular basis as well as on an as-needs basis. A truck wheel wash will be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways.

Excavation

To achieve the desired levels, significant excavation will be required.

Excavation of soil using normal excavating techniques should be possible. Excavated materials will be loaded out on to trucks that will be able to turn onto the site. All trucks will be loaded within the site.

Stockpile

The excavation area of the site will be significant to most of the entire site. Soil will be loaded directly into truck-trailers for transport and disposal off site at a site yet to be determined.

Construction

There is currently a structural design for the proposed building.

The new building will likely consist of a raft slab on ground and the façade is proposed to be a combination of Hebel, Bricks and rendered polystyrene and feature timber cladding and glass with balconies to selected units.
Where possible materials will be unloaded and placed immediately in place or adjacent to the element of the structure in which they are to be incorporated to minimise multiple handling and minimise storage area around the site.

**Make Good On Completion**

The Building Contractor is to reinstate the areas used for site accommodation and materials handling at the end of the project to a condition similar to that when he obtained possession of site. This will include removal of all hoardings, temporary pipes, cables, lights, switchboards, buildings, fencing and signage or any other element used during the construction of the site. Damage to the local council’s footpaths, kerbs or roadways or to adjoining properties caused by building works carried out on the subject site will be made good.

**8.0 COMMUNITY INFORMATION**

By its very nature, the construction process will at times create inconvenience in the form of noise, vibration, dust and congestion. This Construction Management Plan is a dynamic tool that will be monitored and reviewed to ensure that its operation and function fulfils the Building Contractors’ obligations.

For the construction process to progress without undue interruption it is essential that these inconveniences be acknowledged. An effective good neighbor policy will be established to avoid potential aggravation.

The Building Contractor and Project Manager will liaise on a regular basis with potentially affected neighbours. Potential issues for discussion will include:

- Recommendations for traffic movement in and out of the subject site and the effect of construction related traffic.
- The construction program and likely periods of noise, vibration and dust generation.
- How hazardous materials / goods are handled.
- Local council’s approved hours of operation for construction works on the site.
- Potential works to be performed outside of the regular working hours and why these works may be necessary.
- A complaint contact phone line.

Complaint handling procedures will be developed to ensure that all valid complaints are investigated and reported upon. (Refer to separate section in this plan)

**9.0 COMPLAINT HANDLING PROCEDURE**

A Complaints contact number will be displayed at the site entrances. A contact officer will be appointed by the Building Contractor to register, address and respond to complaints. Generally, construction complaints will be directed to the Building Contractor.

The following procedures will be implemented:

- All complaints will be recorded on the attached complaints form.
- Complaint forms will be registered in an overall register of complaints.
- Each complaint will be address by investigation and the result of the investigation will be recorded on the complaint form.
- The result of the investigation will be relayed to the complainant.
See Figure 1 overleaf for process flowchart.
Description of complaint, date/time, location of plant/equipment/activity that caused the complaint (if known), identification of location of receiver when the issue was experienced:

INVESTIGATIONS
Identify (Sub-) Contractor responsible on site at the time of the identified complaint, source information regarding plant/equipment/activities that would most likely have caused the complaint:

RESOLUTION
Date: Complaint received by: Complaint address:
Response sent to complainant: Further action:
WASTE MANAGEMENT PLAN

Proposed Development:
91 Bluff Road, Black Rock, Victoria

Prepared for:
PHHH Investments Pty Ltd

Document Control

Report Date: 31 March 2016 (supersedes all prior reports)
Prepared By: Carlos Leigh, GradIEAust

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WASTE MANAGEMENT SUMMARY

• The operator, as defined below, shall be responsible for managing the waste system and for developing and implementing adequate safe operating procedures.
• Waste shall be stored within the development (hidden from external view).
• Users shall sort their waste and dispose garbage and recyclables into collection bins.
• Waste shall be collected at the onsite basement carpark (bin infrastructure will not be placed on the kerb for collection). Collection staff shall transfer bins between the Bin Store and the waste truck.
• A private contractor shall provide waste services (not Council).

GLOSSARY

Operator: refers to the Facility Management, who shall manage site operations (via cleaners and contractors, if required).
User: refers to site staff, who shall utilise the waste system.
1 SPACE AND SYSTEM FOR WASTE MANAGEMENT

1.1 Development Description and Use
This development shall consist of a childcare centre (floor-areas are stated in Table 1, below).

1.2 Estimated Garbage and Recycling Generation
The following table summarises the waste estimate (m^3/week):

<table>
<thead>
<tr>
<th>Waste Source</th>
<th>Base Qty (est.)</th>
<th>Garbage</th>
<th>Commingled Recycling</th>
</tr>
</thead>
<tbody>
<tr>
<td>Childcare Centre</td>
<td>Internal G &amp; L1 (m^3) = 771</td>
<td>1.93</td>
<td>0.93</td>
</tr>
<tr>
<td>TOTAL (m^3/wk)</td>
<td></td>
<td>1.93</td>
<td>0.93</td>
</tr>
</tbody>
</table>

Note: Waste figures are based on information from similar facilities.

1.3 Collection Services
Based on the anticipated waste volume, a private contractor shall be required to collect all wastes. The operator shall choose a waste collection provider, negotiate a service agreement, and pay for these services.

Based on the above Council shall not collect.

Note: Every rateable tenement is liable to pay for municipal charges.

1.4 Location, Equipment, and System Used for Managing Waste
The waste management system is summarised as follows:
- Internal receptacles at work/amenity areas.
- Bin Store located at Basement Level.
- Collection bins (kept within the Bin Store - refer to Table 2).

The various collection waste-streams are summarised as follows:

Garbage: General waste shall be placed in tied plastic bags and stored within bins.

Recycling: All recyclables shall be commingled into a single type of collection bin (for paper, cardboard, glass, aluminum, steel, and plastic codes 1-7). Plastic bags not allowed in recycling. Also, bulk cardboard could be collected in dedicated bins (privately). The operator shall provide instructions and signage concerning recycling items as noted in Section 4.4.

Green Waste: Garden organics shall be collected and disposed by the future landscape maintenance contractor.

Compost: At this development, composting is considered impractical, as there would be minimal onsite demand for compost.
Other Waste Streams: The disposal of hard/electronic/liquid and other wastes (polystyrene, batteries, paint, chemicals and detox items, etc) shall be organised with the assistance of the operator.

Waste items such as e-Waste, white goods, domestic volumes of household paints, household batteries, florescent tubes and mixed globes can be taken to Bayside’s Waste Transfer and Recycling Centre at 144 Talinga Road, (fees and charges may apply) and will be organised through the operator.

Hard waste collections will be managed by the operator and will be organised through a private collection contractor, not Council. Hard waste collections shall not be placed on the nature strip or kerbside collections shall be carried out inside the property boundary.

Also, office managers shall arrange for the appropriate disposal of secured paper and toner/printer cartridges.

The following table summarises bin quantity/capacity, collection frequency, and area requirements (based on Table 1):

<table>
<thead>
<tr>
<th>Waste Source</th>
<th>Waste Stream</th>
<th>Bin Qty</th>
<th>Bin Litres</th>
<th>Collections per Week</th>
<th>Net Area m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whole Development (private bins)</td>
<td>Garbage</td>
<td>1</td>
<td>660</td>
<td>3</td>
<td>1.2</td>
</tr>
<tr>
<td></td>
<td>Recycling</td>
<td>1</td>
<td>660</td>
<td>2</td>
<td>1.2</td>
</tr>
<tr>
<td></td>
<td>Hard/Other Waste</td>
<td>-</td>
<td>-</td>
<td>TBA</td>
<td>1.0</td>
</tr>
<tr>
<td><strong>Net Waste Storage Area (excludes circulation), m²:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>3.4</strong></td>
</tr>
</tbody>
</table>

Notes:
- The operator shall organise hard waste collections (as required).
- Private bins shall be sourced by the operator (either purchased from a supplier or leased from the collection contractor).
- Subject to stakeholders’ preference/capability (and as built constraints), bin sizes and quantities can be changed. Also, recyclables can be either commingled or split into bins for separate recycling streams.

1.5 Planning Drawings, Waste Areas, and Management of the Waste System

The plans illustrate sufficient space for onsite bin storage, as required by the above schedule. The approx. Bin Store dimensions are: 3x3m (irregular shape).

Notwithstanding the above, collection days shall be staged appropriately and the operator shall stipulate procedures for effective management of the available space.
1.6 Collection Bin Information

The following bins shall be utilised (see Sect. 4.3 for signage requirements):

<table>
<thead>
<tr>
<th>Capacity (litres)</th>
<th>Height (mm)</th>
<th>Width (across front, mm)</th>
<th>Depth (side on, mm)</th>
<th>Empty Weight (kg)</th>
<th>Average* Gross Weight (kg)</th>
</tr>
</thead>
<tbody>
<tr>
<td>660</td>
<td>1250</td>
<td>1240</td>
<td>780</td>
<td>43</td>
<td>130</td>
</tr>
</tbody>
</table>

Notes:
- * = Average Gross Weight is based on domestic waste studies (which vary subject to locality and waste-type). Expect greater weight for wet or compacted waste.
- Use the above details as a guide only – variations will occur. The above is based on Sulo plastic (HDPE) bins. Also, steel 660-lt bins could be adopted, STCA.

<table>
<thead>
<tr>
<th>Bin</th>
<th>Garbage</th>
<th>Commingled Recycling</th>
<th>Green Waste</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lid</td>
<td>Green</td>
<td>Blue</td>
<td>Red</td>
</tr>
<tr>
<td>Body</td>
<td>Green</td>
<td>Blue</td>
<td>Green</td>
</tr>
</tbody>
</table>

Note: For private bins, AS4123.7 bin colours can be adopted. Private bins shall be labeled to identify the waste generator and site address.
2 ACCESS FOR USERS, COLLECTORS, AND COLLECTION VEHICLES

2.1 User Access to Waste Facilities

Staff shall dispose sorted waste into collection bins located within the Bin Store (if required, using a suitable trolley and the lift).

2.2 Collection Arrangements and Access to Waste Facilities

- Waste shall be collected at the onsite basement carpark (bin infrastructure shall not be placed on the kerbside for collection). Waste services shall be carried out within the boundaries of the property.
- The collector shall have access to the Bin Store and transfer bins to the truck and back to the store.
- The waste collection shall be carried-out by rear-lift vehicles (nom. 6.4m long, 2.1m high, and 6.4 tonnes gross vehicle mass, needing a 2.3m high clearance when collecting 660-lt bins).
- Based on planning conditions, waste collections must be carried-out outside peak hours of the centre (and during non-peak drop-off and pick-up times or outside operating hours). Also, site staff must supervise collection vehicle traffic movements in the basement. The enclosed Swept Path Assessment from GTA Consultants illustrates truck access.
3 AMENITY, LOCAL ENVIRONMENT, AND FACILITY DESIGN

3.1 Noise Minimisation Initiatives
- Collection bins shall feature rubber castors for quiet rolling during transfers.
- Waste areas shall meet BCA and AS2107 acoustic requirements.
- Local laws shall be observed for all operations in public areas and roads (in particular, Schedule 1 of Bayside City Council Local Law No. 2 Environment Section 15).
- For private services, the hours of waste collections shall be as specified in council's local laws. Also, Section 6 of the Victorian EPA Noise Control Guideline Publication 1254 (see below) shall be observed to protect the acoustic amenity of the development and surroundings.

<table>
<thead>
<tr>
<th>Victorian EPA Noise Control Guideline Publication 1254 October 2008 (excerpt)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 6: Industrial Refuse Collection (for commercial waste)</td>
</tr>
<tr>
<td>Annoyance created by industrial waste collection tends to intensify in the early morning period. To this end, early morning collections should be restricted to non-residential areas to minimize early morning disturbances. Where a residential area is impacted by noise from the collection of refuse then collections should be restricted to the times contained within the schedule.</td>
</tr>
<tr>
<td>• Refuse bins should be located at sites that provide minimal annoyance to residential premises.</td>
</tr>
<tr>
<td>• Collection should be carried out while the vehicle is moving.</td>
</tr>
<tr>
<td>• Bottles should not be broken up at collection site.</td>
</tr>
<tr>
<td>• Routes which service predominantly residential areas should be altered regularly to reduce early morning disturbances.</td>
</tr>
<tr>
<td>• Noisy verbal communication between operators should be avoided where possible.</td>
</tr>
</tbody>
</table>

SCHEDULE
One collection per week
6:30am to 8:00pm Monday to Saturday
9:00am to 8:00pm Sunday & Public Holidays
Two or more collections per week
7:00am to 6:00pm Monday to Saturday
9:00am to 6:00pm Sunday & Public Holidays

3.2 Litter Reduction and Prevention of Stormwater Pollution
The operator shall be responsible for:
- Promoting adequate waste disposal into the bins (to avoid waste-dumping).
- Securing the waste areas (whilst affording access to users/staff/contractors).
- Preventing overfilled bins, keeping lids closed and bungs leak-free.
- Abating any site litter and taking action to prevent dumping and/or unauthorised use of waste areas.
- Requiring the collection contractor to clean-up any spillage that might occur when clearing bins.

The above will minimise the dispersion of site litter and prevent stormwater pollution (thus avoiding impact to the local amenity and environment).
3.3 Ventilation, Washing, and Vermin-Prevention Arrangements
Waste areas shall feature:
- Ventilation in accordance with Australian Standard AS1668.
- Tight-fitting doors (all other openings shall have vermin-proof mesh or similar).
- Impervious flooring (also, smooth, slip-resistant, and appropriately drained).
- A graded bin wash area, hosecock, hose, and a suitable floor-waste connected in accordance with relevant authority requirements (alternatively, the operator shall engage a contractor to conduct off-site bin washing). The bin and wash areas may overlap, as stored bins can be moved so that a bin can be washed.
- Storm water drains in storage area should be fitted with a litter trap/filter installed to trap litter which can then be disposed of responsibly; any trap/filter is to be included on a regular cleaning and sanitising schedule and must be emptied regularly.

The operator shall regularly clean waste areas/equipment. Also, access doors and bin-lids shall be kept closed.

3.4 Design and Aesthetics of Waste Storage Areas and Equipment
Waste shall be placed within collection bins and stored in designated onsite areas (hidden from external view). Following waste collection activities, bins shall be returned to the storage areas as soon as practicable.

Waste facilities shall be constructed of durable materials and finishes, and maintained to ensure that the aesthetics of the development are not compromised. These facilities and associated passages shall be suitably illuminated (this provides comfort, safety, and security to users, staff, and contractors). Access doors shall feature keyless opening from within.

The design and construction of waste facilities and equipment shall conform to the Building Code of Australia, Australian Standards, and local laws.
4 MANAGEMENT AND SUSTAINABILITY

4.1 Waste Sorting, Transfer, and Collection Responsibilities
Garbage shall be placed within tied plastic bags prior to transferring into collection bins. For nappy disposal, sturdy plastic bags shall be used. Cardboard shall be flattened and recycling containers un-capped, drained, and rinsed prior to disposal into the appropriate bin. Bagged recycling is not permitted.
Refer to Section 2 for waste transfer requirements and collection arrangements.

4.2 Facility Management Provisions to Maintain & Improve the Waste System
The operator shall manage site operations (refer to the glossary in page 2).

It shall be the responsibility of the operator to maintain all waste areas and components, to the satisfaction of users, staff, and the relevant authority (users shall maintain their internal waste receptacles).

The operator shall ensure that maintenance and upgrades are carried-out on the facility and components of the waste system. When required, the operator shall engage an appropriate contractor to conduct services, replacements, or upgrades.

4.3 Arrangements for Protecting Waste Equipment from Theft and Vandalism
It shall be the responsibility of the operator to protect the equipment from theft and vandalism. This shall include the following initiatives:
- Secure the waste areas.
- Label bins according to property address.
- Waste bins shall be collected within the subject land (bins shall not be placed on the street).

4.4 Arrangements for Bins/Equipment Labelling and Ensuring Users and Staff are Aware of How to Use the Waste System Correctly
- The operator shall provide appropriate signage for the bins. Signage is available at the following internet address: www.sustainability.vic.gov.au.
- The operator shall publish/distribute “house rules” and educational material to:
  - Inform users/staff about the waste management system and the use/location of the associated equipment (provide the summary in page 2 of this report).
  - Improve facility management results (lesson equipment damage, reduce littering, and achieve cleanliness).
  - Advise users/staff to sort and recycle waste with care to reduce contamination of recyclables.
4.5 Sustainability and Waste Avoidance/Reuse/Reduction Initiatives

The Environment Protection Act 1970 includes principles of environment protection and guidance for waste management decision making. Also, the Sustainability Victoria Act 2005 established Sustainability Victoria as the statutory authority for delivering programs on integrated waste management and resource efficiency.

From a design perspective, the development shall support the acts by providing an adequate waste system with ability to sort waste.

The operator shall promote the observance of the acts (where relevant and practicable) and encourage users and staff to participate in minimising the impact of waste on the environment. For improved sustainability, the operator shall consider the following:

- Observe the waste hierarchy in the Environment Protection Act 1970 (in order of preference): a) waste avoidance, b) reuse, c) recycle, d) recovery of energy, e) treatment, f) containment, and g) disposal.
- Participate in Council and in-house programs for waste minimisation.
- Establish waste reduction and recycling targets; including periodic waste audits, keeping records, and monitoring of the quantity of recyclables found in landfill-bound bins (sharing results with users/staff).

4.6 Waste Management Plan Revisions

For any future appropriate council request, changes in legal requirements, changes in the development's needs and/or waste patterns (waste composition, volume, or distribution), or to address unforeseen operational issues, the operator shall be responsible for coordinating the necessary Waste Management Plan revisions, including (if required):

- A waste audit and new waste strategy.
- Revision of the waste system (bin size/quantity/streems/collection frequency).
- Re-education of users/staff.
- Revision of the services provided by the waste collector(s).
- Any necessary statutory approval(s).
**SUPPLEMENTARY INFORMATION**

- The operator shall ensure that bins are not overfilled or overloaded.
- Waste incineration devices are not permitted, and offsite waste treatment and disposal shall be carried-out in accordance with regulatory requirements.
- For bin traffic areas, either level surfaces (smooth and without steps) or gentle ramps are recommended, including a roll-over kerb or ramp. Should ramp gradients, bin weight, and/or distance affect the ease/safety of bin transfers, the operator shall consider the use of a suitable tug.
- The operator and waste collector shall observe all relevant OH&S legislation, regulations, and guidelines. The relevant entity shall define their tasks and:
  - Assess the Manual Handling Risk and prepare a Manual Handling Control Plan for waste and bin transfers (as per regulatory requirements and Victorian COP for Manual Handling).
  - Obtain and provide to staff/contractors equipment manuals, training, health and safety procedures, risk assessments, and adequate personal protective equipment (PPE) to control/minimise risks/hazards associated with all waste management activities. As a starting point, these documents and procedures shall address the following:

<table>
<thead>
<tr>
<th>Task (to be confirmed)</th>
<th>Hazard (TBC)</th>
<th>Control Measures (TBC)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sorting waste and cleaning the waste system</td>
<td>Bodily puncture, Biological &amp; electrical hazards</td>
<td>Personal protective equipment (PPE). Develop a waste-sorting procedure</td>
</tr>
<tr>
<td>Bin manual handling</td>
<td>Sprain, strain, crush</td>
<td>PPE. Maintain bin wheel-hubs. Limit bin weight. Provide mechanical assistance to transfer bins</td>
</tr>
<tr>
<td>Bin transfers and emptying into truck</td>
<td>Vehicular strike, run-over</td>
<td>PPE. Develop a Hazard Control Plan for transfers and collections. Maintain visibility. Use a mechanical bin-tipper</td>
</tr>
<tr>
<td>Truck access (reversing &amp; manoeuvring)</td>
<td>Vehicular incident, strike, run-over</td>
<td>PPE. Use a trained spotter. Develop a truck-manoeuvring and traffic-control procedure</td>
</tr>
</tbody>
</table>

Note: The above shall be confirmed by a qualified OH&S professional who shall also prepare site-specific assessments, procedures, and controls (refer to Section 6).
6 CONTACT INFORMATION

Bayside City Council (local council), ph 03 9599 4444
Waste Wise Environmental (private waste collector), ph 03 9359 1555
Kartaway (private waste collector), ph 1300 362 362
iDump (private waste collector), ph 1300 443 867
Eco-Safe Technologies (odour control equipment supplier), ph 03 9706 4149
Solution for Workplace Health and Safety (OH&S consultant), ph 0425 802 669
Electrodrive Pty Ltd (lug & trailer supplier – for bin transfers), ph 1800 033 002
Sabco Commercial (supplier of cleaner’s trolleys), ph 1800 066 522
Sulo MGB Australia (bin supplier), ph 1300 364 388
One Stop Garbage Shop (bin supplier), ph 03 9338 1411
Wastedrive Equipment (steel bin supplier), ph 02 9630 9333

Note: The above includes a complimentary listing of contractors and equipment suppliers. The stakeholders shall not be obligated to procure goods/services from these companies. Leigh Design does not warrant (or make representations for) the goods/services provided by these suppliers.

7 LIMITATIONS

The purpose of this report is to document a Waste Management Plan, as part of a Planning Permit Application.

This report is based on the following conditions:

• Operational use of the development (excludes demolition/construction stages).
• Drawings and information supplied by the project architect.
• The figures presented in this report are estimates only. The actual amount of waste will depend on the development’s occupancy rate and waste generation intensity, the user’s disposition toward waste and recycling, and the operator’s approach to waste management. The operator shall make adjustments, as required, based on actual waste volumes (if the actual waste volume is greater than estimated, then the number of bins and/or the number of collections per week shall be increased, STCA).
• This report shall not be used to determine/forecast operational costs, or to prepare feasibility studies, or to document operational/safety procedures.
Noise Management Plan - 91 Bluff Road, Black Rock, Victoria

Issued: 23 June 2015  Endorsed: 11 May 2017

A separate daily program generally in accordance with the document tabled at the hearing on 13 May 2015 named “Happy Hippo Bluff Road, Black Rock” listing a time table of children activities, indoor and outdoor. **Please note that a new operator will be taking over this property. The new operator entity is “Matrix Early Learning”.**

Matrix Early Learning Blackrock Program break up

<table>
<thead>
<tr>
<th>Group</th>
<th>Number</th>
<th>Total</th>
<th>Age</th>
<th>Program Breakup</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8</td>
<td>2</td>
<td>under 1</td>
<td>Take on babies routines. So could possibly be outside all together 1 1/2 hr in morning from around 9.30 am to 11 am and then they would be inside for lunch and sleep time until round 2 pm. In the afternoon from about 2.00 pm they would start to come outside until around 4 pm then as the numbers diminish the rooms start to combine.</td>
</tr>
<tr>
<td>2</td>
<td>12</td>
<td>3</td>
<td>1yr to 2</td>
<td>Indoor/outdoor program would run from around 9.30 am until around 11am when the children would all go inside for lunch and sleep. Indoor/outdoor program would resume about 2.00pm until around 4pm then as the numbers diminish the rooms start to combine.</td>
</tr>
<tr>
<td>3</td>
<td>22</td>
<td>2</td>
<td>2 to 3</td>
<td>Indoor/outdoor program about 9.30 am to 11.30 am when we will have lunch and sleep time and the children will be inside until the indoor/outdoor program commences around 1pm to around 4.30 pm. When the yard will be cleaned up and toys packed away before going indoors.</td>
</tr>
<tr>
<td>4</td>
<td>22</td>
<td>2</td>
<td>2 to 3</td>
<td>Indoor/outdoor program about 9.30 am to 11.30 am then we will have lunch and sleep time and the children will be inside until the indoor/outdoor program commences around 1pm to around 4.30 pm. When the yard will be cleaned up and toys packed away before going indoors.</td>
</tr>
<tr>
<td>5</td>
<td>16</td>
<td>4</td>
<td>over 3</td>
<td>On the first floor, Indoor/outdoor program would run from around 9.30 am until around 11am when the children would all go inside for lunch. Indoor/outdoor program would resume about 2.00pm until around 4pm then as the numbers start to diminish the rooms start to combine.</td>
</tr>
<tr>
<td>6</td>
<td>22</td>
<td>2</td>
<td>over 3</td>
<td>On the first floor Indoor/outdoor program about 9.30 am to 11.30 am. Lunch will be indoors and the children will be inside until the indoor/outdoor program commences around 1pm to round 4.30 pm. Then the yard will be cleaned up and toys packed away before going indoors.</td>
</tr>
</tbody>
</table>
From around 4.30pm once the yard has been cleaned up the children will be inside until they leave for the day and the centre closes. These routines are dependent on the UV count for the day, the weather for the day i.e., Hot, cold, rain etc., activities of the centre i.e., incursions. For example, the weather may not be suitable for any outdoor activities for days on end and can only be applied at a very small window for a relatively short time outside the parameters tabled above. This sort of circumstance will not have a negative effect, if anything would be a positive flow in terms of noise management as exposure to the outdoors would be minimal. Also note that these routines need to be adapted specifically for the best care of children and their requirements. The program cannot be strictly rigid and must have some flexibility which is in line with National Regulations, as illustrated in terms of inclement weather. However, whatever the routine may be, the impact of noise will be of utmost forethought in developing any program. This will be a permanent policy which will be implemented right through from parents, children, carers and even deliveries.

To summarize the above table:

- Children won’t be permitted outside before 9am
- Children will all be inside during their childcare lunch time until 1pm.
- Children will be taken indoors around 4.30pm in the afternoons and the doors will be closed in the rooms at this stage of the day.

- **The program will be made publicly available to parents and neighbours.**
  The daily Centre routines (program) will be made available at the entry office and a copy provided to anyone who asks. We can mail a copy to the neighbours on an A5 sized flyer 5 weeks prior to opening the centre. The contact number for the Centre Manager will be recorded on the flyer and parent pack so that parties can phone the Centre Manager. Also, the contact number for the centre will be on the website and the building signage. The parents will receive a copy as part of the welcome documents they receive.

- **A contact phone number for the centre’s director be made available to neighbours to facilitate communication and to resolve any neighbourhood issues that may arise due to operation of the centre.**
  The Centre telephone number will be provided to anyone who requests it and it will be on the Centre signage which is on public view. The number for the Centre Manager is 0420 444 739.

- **The number of children playing outdoors at any one time is limited to 70% of the total approved number.**
  This will be adhered to and staff will be educated regarding the daily impact of this condition on the program. The educators will do a head count of the number of children that are outside together and document the numbers every hour.
• **Crying children to be taken inside the centre and comforted.**
  If a child is crying the staff will try to pacify the child as soon as possible and take them inside. Appropriate strategies will be used to settle the child. Educators will comfort the child immediately and redirect them to another activity indoors until the child settles.

• **The behaviour of children be monitored and modified as required by adequately trained child care workers.**
  This is part of the daily job description of a childcare worker and is always monitored by staff. Group games and sport games will not be undertaken before 10am or during a lunch break or any later than 4.30 pm. The service will have a Behaviour Guidance policy which educators will adhere to.

• **Parents and guardians will be informed of the importance of noise minimisation when entering the site, dropping off or picking up children.**
  We will add a noise consideration paragraph to our Centre handbook which each parent gets a copy and has to sign that it has been read. Furthermore, the Centre Manager will also verbally inform parents of the importance of noise minimisation during the orientation and enrolment process. Permanent signage will be provided to inside Foyer and inside Children’s Rooms as a daily reminder to Staff and Parents to keep external noise levels to acceptable levels in consideration of the neighbours.

• **Carers to be educated to control the level of the voice while outside.**
  Shouting by educators is always discouraged and the educators will be made aware of the importance of their voice levels at the Centre. Educators will ensure that a proper tone of voice is used at all times. The service will have a Behaviour Guidance Policy which outlines strategies to be used. Educators will encourage children to use appropriate tone of voice throughout indoor and outdoor play.

• **Children aged 3 or over are to be accommodated on the first floor.**
  The building and room layouts allows for this. This has also been reflected onto the program table above.

• **External pedestrian gates to be fitted with door closers and soft hinges to reduce noise.**
  All external pedestrian gates will be fitted with automatic closers, quiet hinges and soft-closing latches to reduce noise.

  Furthermore, the following policies will be developed and adopted which will address noise levels:
  - Gate and door Policy – which will cover closing doors and gates quietly
  - Toy Purchase Policy – which will cover toys being chosen for outdoor play will be chosen with consideration of their noise factor. Thus toys like whistles and other noisy toys will be avoided.
Product Bulletin:
L.E.D. ‘FULL’ SIGN
12V dc

This LED sign is designed for car park applications where it is necessary or desirable to advise customers that the car park is full prior to them attempting to gain entry.

Made from quality materials, this LED sign is dustproof and weatherproof, and has lower energy consumption and maintenance costs than incandescent or fluorescent signs, as well as a much longer operational life. The light output is also far superior to fluorescent light boxes.

An internal selector switch provides the option to either have the sign on continuously when 12v is connected, or flash on and off at one second intervals.

The front panel of the unit hinges open to the left, and is secured by a key lockable catch on the right hand side.
Attachment 1

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>![Star]</td>
</tr>
</tbody>
</table>
City Planning and Amenity – Statutory Planning

1. Purpose and background

The following application is reported to the Planning Delegate for determination.

<table>
<thead>
<tr>
<th>Application number</th>
<th>5/2014/130/1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application address</td>
<td>91 Bluff Road BLACK ROCK (refer Attachment 1)</td>
</tr>
<tr>
<td>Applicant</td>
<td>Black Rock Matrix Properties Pty Ltd</td>
</tr>
<tr>
<td>Proposal</td>
<td>Use and development of a child care centre, creation of an access onto a Road Zone Category 1, and display of business identification signage (refer application plans)</td>
</tr>
<tr>
<td>Date application received</td>
<td>18 August 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>N/A</td>
</tr>
<tr>
<td>Recommendation</td>
<td>Approve</td>
</tr>
<tr>
<td>Planning officer</td>
<td>Fiona Farrand</td>
</tr>
<tr>
<td>Signature / Date</td>
<td>[Signature] 14/1/17</td>
</tr>
<tr>
<td>Planning delegate</td>
<td>Michael Keeler</td>
</tr>
<tr>
<td>Signature / Date</td>
<td>[Signature] 15/7/17</td>
</tr>
</tbody>
</table>

On 23 June 2015, VCAT directed Council to issue planning permit 2014/0130. This order was subsequently amended on 27 January 2017. According to condition 39 of the permit, the development allowed must commence by 23 June 2017 and be completed by 23 June 2019.

This is the first application for an extension of time. Plans were endorsed on 12 May 2017. A separate secondary consent application is currently under consideration, although the applicant has been advised that the proposed changes cannot be considered as secondary consent and a formal S72 amendment will need to be submitted.

2. Proposal
An application for an extension of time was lodged on 18 August 2017. The applicant seeks:

- Extension of time of two years, such that the new expiry date for commencement would be 23 June 2019 and for completion would be 23 June 2021.

The applicant has advised that the extension of time is required as delays were caused in getting the plans endorsed and a secondary consent application has recently been lodged.

3. Comment
The application is considered against the tests contained within Kantor v Murrundindi, as follows:

- There has been no change in planning policy (including relevant legislation and the planning scheme) that would warrant a refusal of the extension of time requested;
- The applicant is not seeking to "warehouse" a permit;
- There are no intervening circumstances having a bearing upon the permit;
- The total time elapsed since the permit was issued is not excessive;
- The original time limit, while adequate, would be difficult to implement for the applicant at this stage;
City Planning and Amenity – Statutory Planning  
Delegate Officer Report

- The economic burden placed upon the applicant is not extreme;
- It is likely that if a fresh application were made a permit would be granted.

In relation to the above criteria the following assessment is offered:

- There has been no change to the planning policy since the planning permit was issued that would impact on this application.
- This is the first request for an extension of time to commence works. There were delays in getting the plans endorsed and the applicant is proposed changes to the endorsed plans.
- There has been no development on adjoining sites that would have prevented the development commencing on time.
- Given the scale of the works, the original timeframe imposed for the commencement of works would have allowed for the development to have commenced on time. However, the planning permit could not be acted upon until the plans were endorsed, which was in May 2017. Demolition and some excavation works have been carried out.
- The permit has not resulted in an undue economic burden on the applicant that they would not have been aware of at the time of the planning application process or when they purchased the subject site.
- Whilst Council refused the application originally, it was subsequently approved by VCAT. With this in mind it is likely that should the application be made now, the development would be approved under the current circumstances.

4. Recommendation

That the Delegate resolve to:

Amend Planning Permit No. 2014/130/1 for the land known and described as 91 Bluff Road, BRIGHTON EAST, for the use and development of a child care centre, creation of an access onto a Road Zone Category 1, and display of business identification signage by inserting the following table at the end of the permit:

<table>
<thead>
<tr>
<th>Date</th>
<th>Brief description of amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>tbc</td>
<td>Pursuant to Section 69 of the Planning and Environment Act 1987, an extension of time is granted to allow:</td>
</tr>
<tr>
<td></td>
<td>a) Commencement of development by 23 June 2019; and</td>
</tr>
<tr>
<td></td>
<td>b) Completion of development by 23 June 2021.</td>
</tr>
</tbody>
</table>
4.9 12 NORTH ROAD, BRIGHTON
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2016/429/1  WARD: NORTHERN

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/166757

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street address</td>
<td>12 North Road, Brighton</td>
</tr>
<tr>
<td>Application No.</td>
<td>2016/429/1</td>
</tr>
<tr>
<td>Applicant</td>
<td>Zen Pali</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant 0684635.</td>
</tr>
<tr>
<td></td>
<td>The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>24 June 2019</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Application plans and documents TRIM Ref No</td>
<td>DOC/19/165269, DOC/19/168736 and DOC/19/169045</td>
</tr>
</tbody>
</table>

Proposal
Planning Permit 2016/429/1 allows the:

*Construction of two double storey dwellings with basement car parking*

The application seeks approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 5/2016/429/1 on a lot with an area of 1,590 square metres.

The proposed amendment is as follows:

- Installation of retractable louvres within pergola structure over the alfresco verandah area.

The application plans are provided at Attachment 1.
An aerial image of the site and surrounds are provided at Attachment 2.

History
Planning Permit 2016/429/1 was issued on 13 November 2017 under at the direction of the Victorian Civil and Administrative Tribunal (VCAT). Plans were endorsed by Council on 7 February 2018. These plans are included at Attachment 3. The development has been constructed.

2. Planning controls

Planning Permit requirements
There are no primary permit triggers to consider as part of this application. The
application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2016/429/1.

3. Stakeholder consultation

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

   Internal referrals
   There are no referrals to Council departments required to be made for this application.

   Public notification
   Applications made in accordance with the secondary consent provisions are not subject to the notice requirements of Section 52 of the Planning and Environment Act 1987. Therefore, the amended plans have not been advertised.

4. Recommendation

   That Council resolve to:

   1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 2016/429/1.

   2. Plans identified as TP05-10 be endorsed. These plans are to be read in conjunction with plans endorsed on 7 February 2019.

   3. Plans TP05-09 endorsed on 7 February 2018 be superseded.

5. Council Policy

   There are no primary Council policy matters to consider as part of the request to amend plans pursuant to the secondary consent provisions.

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:

   Does the proposed amendment result in a transformation of the proposal?

   The amendment does not result in a transformation of the proposal. The proposal involves the installation of retractable louvres to the previously approved pergolas at the rear of both dwellings, over the alfresco verandah area.

   The scale of the overall building fabric will not change. The proposal does not alter the outcome related to site coverage, permeability, overlooking or overshadowing. From a neighbourhood character perspective, the proposal will still be an appropriate outcome.

   The proposed change is considered to be minor in nature and will have no impact to the amenity of adjoining properties and will not cause material detriment to any third parties. The proposed changes do not conflict with any permit conditions, objections raised in the application for which primary consent was granted for; and, does not result in a transformation of the proposal.

   Does the proposed amendment authorise something for which primary consent is required under the planning scheme?
The primary consent was issued at the direction of VCAT for the construction of two (2) double storey dwellings with basement parking. The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

Is the proposed amendment of consequence having regard to the purpose of a planning control under which the permit was granted?

Having regard to the development and the purpose of the planning controls under which the permit was granted, the proposed amendment is considered inconsequential as there has been no material change to the nature of the planning controls and policies affecting the land. It is considered that the changes are appropriate, will not detrimentally impact on the amenity of adjoining properties nor cause material detriment to any third parties.

Is the proposed amendment contrary to a specific requirement or condition of the permit?

The proposed amendments to the endorsed plans will not contravene any specific requirement or condition of the permit and remains compliant with the relevant objectives and standards of the Bayside Planning Scheme.

Support Attachments

1. Secondary Consent Amended Plans ↓
2. Site and Surrounds Imagery ↓
3. Endorsed Plans ↓
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Attachment 2: Site and Surrounds

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>
</tbody>
</table>
Item 4.9 – Matters of Decision
This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Refuse the secondary consent amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street address</td>
<td>1/12 Minnie Street, Sandringham</td>
</tr>
<tr>
<td>Application No.</td>
<td>1996/2018/1</td>
</tr>
<tr>
<td>Applicant</td>
<td>Ms A Davies</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>30/5/2019</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Application plans and documents TRIM Ref No</td>
<td>DOC/19/143080</td>
</tr>
</tbody>
</table>

Proposal

Planning Permit 1996/2018/1 allows:

*To erect two single storey attached dwellings as a dual occupancy*

The application seeks approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 1996/2018/1 on a lot with an area of 274 square metres (the original lot was 780 square metres).

The proposed amendments are as follows:

- Removal of the Spotted gum (Corymbia maculatta) in the front setback of 1/12 Minnie Street.

The application plans are provided at Attachment 1.

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

History

Planning Permit 1996/2018/1 was issued on 8 July 1996 by the Planning and Amenity Committee. Plans were endorsed by Council on 7 August 1996.

Secondary consent was granted on 21 August 1997 for retrospective works which altered the height of the front fence, relocation of letter box for Dwelling 2, alterations to the landscaping and retention of the existing spotted gum tree.

Secondary consent was refused on 14 February 2019 for the removal of the spotted gum in the front setback of 1/12 Minnie Street.
2. Planning controls

Planning Permit requirements

There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 1996/2018/1.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Objection to removal of the tree.</td>
</tr>
</tbody>
</table>

Given this is the second application to remove this tree, the application was referred to a different Council Arborist for review and comment.

The original Arborist referral for the first application is provided at Attachment 3.

The new Arborist referral on the current application is provided at Attachment 4.

Public notification

Applications made in accordance with the secondary consent provisions are not subject to the notice requirements of Section 52 of the Planning and Environment Act 1987. Therefore, the amended plans have not been advertised.

4. Recommendation

That Council resolve to refuse the amended plans in accordance with secondary consent provisions of Planning Permit 1996/2018/1.

5. Council Policy

There are no primary Council policy matters to consider as part of the request to amend plans pursuant to the secondary consent provisions.

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:

Does the proposed amendment result in a transformation of the proposal?

The amendment does not result in a transformation of the proposal. However, the amendment would result in a significant alteration to the landscaping plan with the removal of a large canopy tree from the site. The removal of the tree, a Spotted gum (Corymbia maculatta), from within the front yard would have a significant impact on the character of the neighbourhood of the street and the site.

The Neighbourhood Character Strategy Precinct E3 sets out that the valued characteristic of the area is “gardens... typically medium sized, with a mixture of hardy
evergreen and exotic shrubs, large trees and lawn areas”. The proposal to remove the tree would result in the removal of a “large tree from the property”.

**Does the proposed amendment authorise something for which primary consent is required under the planning scheme?**

The primary consent was issued by Council to erect two single storey attached dwellings as a dual occupancy. The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

**Is the proposed amendment of consequence having regard to the purpose of a planning control under which the permit was granted?**

Having regard to the development and the purpose of the planning controls under which the permit was granted, the proposed amendment is considered inconsequential as there has been no material change to the nature of the planning controls and policies affecting the land.

However, it is considered that the removal of the tree is not appropriate, as it will cause significant impact on the amenity of the neighbourhood.

The proposal was referred to Council’s Arborist for review and comment and advised that the tree Spotted gum (Corymbia maculatta) is mature in age, has good health, good structure, high amenity value, high retention value and 20+ years life expectancy. Overall, it has advised that the tree exhibits good structure with two readily identifiable areas that require ongoing monitoring with a view to minor maintenance. Council’s Arborist does not support its removal.

Council’s Arborist has recommended measures that could be taken in terms of the long term management of the tree. Minor maintenance issues, such a cleaning of debris, is considered to be a reasonable.

**Is the proposed amendment contrary to a specific requirement or condition of the permit?**

The proposed amendments to the endorsed plans will not contravene any specific requirement or condition of the permit however is not considered that the proposed removal of the tree will appropriately respond to the relevant objectives and standards of the Bayside Planning Scheme.

**7. Other matters**

This application is identical to the secondary consent application refused in February of 2019. Despite providing the applicant with advice and options, no additional information has been submitted with this second application. In order to maintain transparency, the application was referred to a different Council Arborist who visited the site. His recommendation was consistent with that of the first Arborist in that the removal of the tree would not be supported.
Item 4.10 – Matters of Decision
Site and Surrounds Imagery

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>★</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject tree</td>
<td>☀</td>
</tr>
</tbody>
</table>

Attachment 1
**BAYSIDE CITY COUNCIL - STATUTORY PLANNING DEPARTMENT - INTERNAL REFERRAL**

<table>
<thead>
<tr>
<th>TO</th>
<th>Arborist</th>
</tr>
</thead>
<tbody>
<tr>
<td>FROM</td>
<td>Anna Faigman</td>
</tr>
<tr>
<td>ADDRESS</td>
<td>1/12 Minnie Street SANDRINGHAM, 2/12 Minnie Street SANDRINGHAM</td>
</tr>
<tr>
<td>APPLICATION NO.</td>
<td>5/1996/2018/1</td>
</tr>
<tr>
<td>PROPOSAL</td>
<td>Removal of tree in front yard</td>
</tr>
<tr>
<td>TRIM REFERENCE</td>
<td>Under assessment</td>
</tr>
<tr>
<td>COMMENTS</td>
<td>An assessment against the following is required: Previously endorsed plan – no permit triggers</td>
</tr>
<tr>
<td>DATE OF REFERRAL</td>
<td>7 February 2019</td>
</tr>
</tbody>
</table>

Please provide comment as to whether the tree is suitable for removal and if so, what tree would be recommended as a replacement.

**ARBORIST COMMENTS / CONDITIONS:**

<table>
<thead>
<tr>
<th>Tree No</th>
<th>Botanical Name: Corymbia maculata</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common Name: Spotted gum</td>
<td></td>
</tr>
<tr>
<td>Height / Canopy: 17m/10m</td>
<td></td>
</tr>
<tr>
<td>Trunk Circ @1m: 177cm</td>
<td></td>
</tr>
<tr>
<td>Location 1</td>
<td>S0</td>
</tr>
<tr>
<td>Location 2</td>
<td>E0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Origin: Indigenous</th>
<th>Victorian</th>
<th>Australian</th>
<th>Exotic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age: Young</td>
<td>Semi-mature</td>
<td>Mature</td>
<td>Over-mature</td>
</tr>
<tr>
<td>Health: Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Dead</td>
</tr>
<tr>
<td>Structure: Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Hazardous</td>
</tr>
<tr>
<td>Amenity Value: High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Life Expectancy: 20 years +</td>
<td>10-19 years</td>
<td>4-9 years</td>
<td>0 - 3 years</td>
</tr>
<tr>
<td>Retention Value: High</td>
<td>Medium</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Habitat value: High</td>
<td>Moderate</td>
<td>Low</td>
<td></td>
</tr>
<tr>
<td>Support for removal: Yes</td>
<td>No</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Tree-Habitat Value Assessment Matrix

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Category</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Origin</td>
<td>Indigenous</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Introduced</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Australian/Eclectic</td>
<td>2</td>
</tr>
<tr>
<td>Occupation by native flora</td>
<td>Occupied by native flora</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Signs of area by fauna</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>No signs of area by fauna</td>
<td>1</td>
</tr>
<tr>
<td>Diameter of tree trunk</td>
<td>&lt;10m</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Large canopy</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>&lt;5m</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Very small canopy</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Great canopy</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Dead canopy</td>
<td>1</td>
</tr>
<tr>
<td>Height of tree</td>
<td>2 points</td>
<td></td>
</tr>
<tr>
<td>Shape of canopy</td>
<td>Great canopy</td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>Dead canopy</td>
<td>1 points</td>
</tr>
<tr>
<td>Hollow-bearing tree</td>
<td>Tree having a natural hollow</td>
<td>5 points</td>
</tr>
<tr>
<td></td>
<td>Low to moderate level of maintenance</td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>No natural holes; artificial hollows can be made</td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>No natural hollow; unattractive for utilisation of artificial hollow: high level of maintenance</td>
<td>1 point</td>
</tr>
<tr>
<td>Useful life expectancy</td>
<td>&lt;10 years</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>4 - 5 years</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>0 - 1 years</td>
<td>1</td>
</tr>
<tr>
<td>Width of corridors</td>
<td>Within 6m of a green space; park or reserve</td>
<td>5 points</td>
</tr>
<tr>
<td></td>
<td>0 - 2.5 km from a green space, park or reserve</td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>Greater than 6.5 km from a green space, park or reserve</td>
<td>1 point</td>
</tr>
<tr>
<td>Impacts on adjacent tree</td>
<td>Removal of native vegetation on an indigenous tree</td>
<td>5 points</td>
</tr>
<tr>
<td></td>
<td>Removal of vegetation on an exotic tree</td>
<td>2 points</td>
</tr>
<tr>
<td>Tree</td>
<td>Removal of native vegetation on exotic trees</td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>Removal of exotic vegetation on exotic trees</td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>17 points</td>
<td></td>
</tr>
</tbody>
</table>

### Decision guideline

| The impact the vegetation removal would have on the character of the area | Limited amount of vegetation on the site. Mostly scrubs and small canopy trees. |
| The impact the vegetation removal would have on the presence of indigenous species in the locality | Reduced presence of indigenous species in the locality, particularly large canopy trees. |
| The impact the vegetation removal would have on the appearance of development | Removal would increase the presence of the built form greatly. |
| The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors | Birds where present in the tree’s canopy during the assessment. Replacement plantings have been vaguely mentioned in the application. There is a reserve nearby ~110m away to the south. |

Is tree removal supported: Yes ☐ No ☒

Comments: there is not arboricultural reason to remove this tree be it from a risk, health or structure perspective.

**Signature**

Ronan Hamill

**Date**

8/2/19
BAYSIDE CITY COUNCIL - STATUTORY PLANNING DEPARTMENT - INTERNAL REFERRAL

<table>
<thead>
<tr>
<th>TO</th>
<th>Arborist</th>
</tr>
</thead>
<tbody>
<tr>
<td>FROM</td>
<td>Fiona Farrand</td>
</tr>
<tr>
<td>ADDRESS</td>
<td>1/12 Minnie Street SANDRINGHAM, 2/12 Minnie Street SANDRINGHAM</td>
</tr>
<tr>
<td>APPLICATION NO.</td>
<td>5/1996/2018/1</td>
</tr>
<tr>
<td>PROPOSAL</td>
<td>To erect two single storey attached dwellings as a dual occupancy</td>
</tr>
<tr>
<td>TRIM REFERENCE</td>
<td>DOC/19/143080</td>
</tr>
<tr>
<td>STATUS</td>
<td>Under assessment Secondary consent</td>
</tr>
<tr>
<td>COMMENTS</td>
<td>The proposal is to remove a large tree in the front yard. An earlier secondary consent application was refused due to lack of Arboricultural reasons. No additional information has been provided under this secondary consent application, however a second Arborist opinion is sought. Thanks</td>
</tr>
<tr>
<td>DATE OF REFERRAL</td>
<td>13 June 2019</td>
</tr>
</tbody>
</table>

ARBORIST COMMENTS / CONDITIONS:

Tree dimensions were not taken, it is considered that no material change would have occurred since recent inspection.

<table>
<thead>
<tr>
<th>Tree No</th>
<th>Botanical Name: <em>Corymbia maculata</em></th>
</tr>
</thead>
<tbody>
<tr>
<td>Common Name:</td>
<td>Spotted Gums</td>
</tr>
<tr>
<td>Height / Canopy:</td>
<td></td>
</tr>
<tr>
<td>Trunk Circ @1m:</td>
<td></td>
</tr>
<tr>
<td>Location 1</td>
<td></td>
</tr>
<tr>
<td>Location 2</td>
<td></td>
</tr>
</tbody>
</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>
</tbody>
</table>
The tree exhibits good structure with two readily identifiable areas that require ongoing monitoring with a view to minor maintenance.

The small south-east stem, which is likely to be an epicormics attachment has received management, the apical stems have been removed, suppressing the growth of this stem.

Removal of the upper portion of the eastern side of this site, the part contacting the main trunk, would not be an ill-considered action in relation to long term management of the tree. See Image 1.

A previous branch failure in the mid south-east section of the canopy has compromised the structural integrity of this minor branch, ~10cm dia. Visible wound wood development in this area is optimising this point, however end weight reduction of this branch would not be against good management practices. See Image 2.

On the day of inspection the artificail turf was covered by minor dead twigs and very small dead branches. What was also observed was that the entrance path, foot path and adjacent drives did not display a buildup of small twigs and small branches from the subject tree. See Image 3.

Debris from two smaller trees, namely an Ash tree north of the subject properties drive, is been collecting for some time without clean-up.

Minor maintenance issues, such a cleaning of debris, is considered to be a reasonable undertaking in a community that wants vegetation to provide amenity contributions and all the beneficial outcomes a trees canopy provides.
Image 1: Red line indicative of pruning point. Removal of upper section, marked by blue line, will reduce likelihood of long term failure.
Image 2: Small branch in mid south-east canopy displays a previous failure, reduction of this limb will reduce the probability of long term failure.

Image 3: No debris on footpath was observed despite the extent of debris observed on the artificial turf.
4.11 STATUTORY PLANNING VCAT REPORT

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/178916

In accordance with Section 68(b) of the Governance Local Law No: 1 - 2013, a person is not permitted to present to this item as it is a report summarising a decision already made by another body, being VCAT.

1. Executive summary

To inform Council of Victorian Civil and Administrative Tribunal (VCAT) determinations received the previous month and to show the progress of VCAT outcomes for the financial year.

All councils are required to report to the Local Government Performance Reporting Framework (LGPRF) each year on the timeliness (SP1), service standard (SP2), cost per application (SP3) and decision quality of Statutory Planning (SP4).

The LGPRF measure SP4 used by the State Government to assess the quality of Council’s decision making is the number of decisions made by Council that were not overturned or ‘set aside’ by VCAT on appeal by either the applicant or objectors.

The Statutory Planning Team are also focussed on the responsible management of planning applications to minimise the need for the involvement of VCAT. A list of all applications lodged and determined in May 2019 are provided in Attachment 1 and Attachment 2 respectively for information purposes.

VCAT Appeals

Council manages a considerable number of matters which are referred to VCAT. These matters include merit appeals and compulsory conferences for decisions made by the Council and its delegates.

It should be noted that the number of appeals lodged with VCAT against a failure of the Council or delegate to make a decision is minimal, demonstrating that decisions are being made within a reasonable timeframe.

Attachment 3 includes details of upcoming VCAT hearings, including compulsory conferences.

VCAT outcomes

As a result of Council representation at VCAT, there are various outcomes/determinations. As such, this report provides details of the determinations received for the previous month and also shows the progress of VCAT outcomes for the financial year.

The LGPRF measure SP4 used by the State Government to assess the quality of Council’s decision making is the number of decisions made by Council that were not overturned or ‘set aside’ by VCAT on appeal by either the applicant or objectors.

Council has a target for 2018/19 that 55% of all Planning and Amenity Committee and delegated officer decisions should not be set aside by VCAT. This is comparable with other inner urban Councils in Melbourne such as Port Phillip and Stonnington.

The LGPRF measure does not include applications to amend VCAT issued permits (Section 87A applications), consent orders or appeals which are withdrawn by the applicant or objector prior to a hearing.

For the 2018/19 financial year, Council has received 113 decisions, of which:

- 43 have been settled by consent orders; and
10 have been withdrawn; 1 has been dismissed, 1 has been remitted and 2 have been struck out.

The total number of LGPRF measured decisions for the year to date is therefore 56. This table below reflects the new 2018/19 LGPRF reporting requirements for Council.

<table>
<thead>
<tr>
<th>Time period</th>
<th>Decisions where the Council Delegate or Committees decision has been overturned or ‘Set Aside’</th>
<th>Decisions where the Council Delegate or Committees decision has been agreed with, either having been entirely ‘Affirmed’ or the conditions of the permit ‘varied’</th>
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<tbody>
<tr>
<td>July 2018</td>
<td>3</td>
<td>3</td>
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<tr>
<td>August 2018</td>
<td>0</td>
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<tr>
<td>September 2018</td>
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<td>6</td>
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<tr>
<td>October 2018</td>
<td>4</td>
<td>1</td>
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<tr>
<td>November 2018</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>December 2018</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>January 2019</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>February 2019</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>March 2019</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>April 2019</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>May 2019</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>June 2019</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td><strong>TOTAL DECISIONS</strong></td>
<td><strong>24</strong></td>
<td><strong>32</strong></td>
</tr>
<tr>
<td><strong>LGPRF Result</strong></td>
<td><strong>43%</strong></td>
<td><strong>57%</strong></td>
</tr>
</tbody>
</table>

Attachment 4 included provides a summary of each case identifying the key issues for Council policy and strategy.

VCAT Outcomes relating to Planning and Amenity Committee meeting decisions

In June 2019, VCAT determined two applications that were a result of a Planning and Amenity Committee decision. A summary of these decisions is detailed below.

**63 Ardoyne Street, Black Rock**

The Tribunal, in an order received by Council on 7 June 2019, determined to vary the decision of the Responsible Authority and directed that a planning permit be granted for the construction of two double storey dwellings. In doing so, the Tribunal deleted condition 1(i) which was imposed by the Planning and Amenity Committee, above and beyond the conditions contained in the officer’s recommendation, when it determined to approve the application at its meeting of 13 November 2018.

Condition 1(i) required the amended plans to show the side setbacks of the master bedroom associated with Dwellings 1 and 2 to have an increased side setback to achieve the requirements of Standard B17 (Side and rear setbacks) of Clause 55 of the Bayside Planning Scheme.

In its oral decision at the conclusion of the hearing, the Tribunal noted that there was no other requirement to comply with the standard despite several other variations at both ground floor and first floor. In terms of visual bulk, the Tribunal was satisfied that the
varied side setbacks would not cause any unreasonable visual bulk impacts as the offending walls were opposite non-sensitive areas of both adjoining properties, including driveways and garages. The Tribunal concluded that there would be no amenity benefit from applying this condition and that an increased setback was not required to limit the amenity impacts.

Additionally, the Tribunal was satisfied that the varied setbacks would respond appropriately to the preferred future character, noting the increased setback sought by the condition did not result in any additional landscaping provision or improve the garden setting.

Further, the Tribunal commented that the policy seeks to recess the first floor from the ground floor front facade, not the side boundary, and in that regard the varied setbacks were consistent with the preferred future neighbourhood character. In terms of the existing neighbourhood character, the Tribunal noted that the surrounding built form was varied in nature to an extent that allowed the varied side setbacks as proposed.

Finally, in determining to delete condition 1(i), the Tribunal noted its support for the officer’s recommendation presented to the Planning and Amenity Committee meeting of 13 November 2018.

A complete copy of the VCAT order is provided at Attachment 5.

57 Well Street, Brighton

Council issued a Notice of Decision to Grant a Planning Permit for the construction of a three (3) storey building containing five apartments with basement car parking and a front fence exceeding 1.5 metres at the subject site known as No. 57 Well Street Brighton on 20 December 2018.

The Objector lodged an Application for Review against Council’s decision pursuant to section 82 of the Planning and Environment Act 1987. On 26 June 2019 the Applicant for Review withdrew their Appeal.

A complete copy of the VCAT order is provided at Attachment 6.

2. Recommendation

That Council resolve to:

- Receive and note the report; and
- Note the outcome of VCAT decisions on the planning applications handed down during June 2019.

Support Attachments

1. Application Lodged in June 2019
2. Application Determined in June 2019
3. VCAT upcoming appeals
4. VCAT Determined Appeals - June 2019
5. VCAT Order - Appeal P199.2019 - 63 Ardoyne Street, Black Rock (5.2017.478.1)
6. VCAT Order - Appeal P80.2019 - 57 Well Street, Brighton (5.2018.263.1)
Councillor Notifications
Planning Applications Summary
Lodged from 1/06/2019 to 30/06/2019

<table>
<thead>
<tr>
<th>Application</th>
<th>Property Address</th>
<th>Development Details</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.2016.439.2</td>
<td>14 Francis ST, HIGHTETT</td>
<td>2 New Dwellings</td>
<td>03/06/19</td>
</tr>
<tr>
<td>5.2018.130.2</td>
<td>2/7 Tretham ST, SANDRINGTON</td>
<td>1 Dwelling - Alts &amp; Addrs on Lot &lt; 500m2</td>
<td>03/06/19</td>
</tr>
<tr>
<td>5.2019.777.1</td>
<td>327 South RD, BRIGHTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>03/06/19</td>
</tr>
<tr>
<td>5.2019.777.5.1</td>
<td>1 Carr ST, BRIGHTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>03/06/19</td>
</tr>
<tr>
<td>5.2019.778.1</td>
<td>52 Wickham RD, HAMPTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>03/06/19</td>
</tr>
<tr>
<td>5.2019.307.1</td>
<td>10 Foam ST, HAMPTON</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>03/06/19</td>
</tr>
<tr>
<td>5.2005.110.10</td>
<td>24 - 30 Esplanade, BRIGHTON</td>
<td>Community Facility-Alts/Addrs to Bldg &amp; Use</td>
<td>05/06/19</td>
</tr>
<tr>
<td>5.2017.640.2</td>
<td>48 Lucas ST, BRIGHTON EAST</td>
<td>2 New Dwellings</td>
<td>05/06/19</td>
</tr>
<tr>
<td>5.2019.313.1</td>
<td>44 Wilson ST, HIGHTETT</td>
<td>Dwelling(s) Other - Alts/ Addrs, Bld Only</td>
<td>06/06/19</td>
</tr>
<tr>
<td>5.2019.314.1</td>
<td>4/498 - 490 Hampton ST, HAMPTON</td>
<td>Change of use from a shop retail facilities to a Restricted Recreational</td>
<td>06/06/19</td>
</tr>
<tr>
<td>5.2019.316.1</td>
<td>2 Wickham RD, HAMPTON EAST</td>
<td>Multi Unit Development</td>
<td>06/06/19</td>
</tr>
<tr>
<td>5.2016.555.2</td>
<td>174 Hightett RD, HIGHTETT</td>
<td>2 New Dwellings and Subdivision of Land (1 to 9 Lots)</td>
<td>07/06/19</td>
</tr>
<tr>
<td>5.2019.325.1</td>
<td>69 South RD, BRIGHTON</td>
<td>Construction of new vehicle crossover and associated works</td>
<td>11/06/19</td>
</tr>
<tr>
<td>5.2019.328.1</td>
<td>18 Stewart ST, BRIGHTON</td>
<td>Proposed two dwellings on a lot with associated garages and front fenc</td>
<td>13/06/19</td>
</tr>
<tr>
<td>5.2019.329.1</td>
<td>12 South RD, BRIGHTON EAST</td>
<td>A new concrete ramp and step</td>
<td>13/06/19</td>
</tr>
<tr>
<td>5.2019.778.1</td>
<td>14 Avoca ST, HIGHTETT</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>13/06/19</td>
</tr>
<tr>
<td>5.2014.427.2</td>
<td>5 Ludstone ST, HAMPTON</td>
<td>2 New Dwellings</td>
<td>14/06/19</td>
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<tr>
<td>5.2016.442.2</td>
<td>325 - 345 Bay Rd, CHELTENHAM</td>
<td>Restricted Retail Prem - New Bldg &amp; Use and Warehouse - New Building</td>
<td>17/06/19</td>
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<tr>
<td>5.2018.695.2</td>
<td>14 Railway CRESC, HAMPTON</td>
<td>1 Dwelling - Alts &amp; Addrs - Heritage</td>
<td>17/06/19</td>
</tr>
<tr>
<td>5.2013.313.1</td>
<td>324 Bluff RD, SANDRINGTON</td>
<td>Medical Centre - Alts/ Addrs to Bld Only</td>
<td>19/06/19</td>
</tr>
<tr>
<td>5.2017.500.2</td>
<td>48 Heath CRESC, HAMPTON EAST</td>
<td>3 New Dwellings</td>
<td>24/06/19</td>
</tr>
<tr>
<td>5.2019.344.1</td>
<td>250 Highett RD, HIGHTETT</td>
<td>Proposal of a new front fence and garage door to both dwellings</td>
<td>24/06/19</td>
</tr>
<tr>
<td>5.2019.345.1</td>
<td>29A Tulip ST, SANDRINGTON</td>
<td>Min Spts&amp;Rec Fac-Alts/Addrs to Bld Only and Demolition of Dwelling/Bui</td>
<td>24/06/19</td>
</tr>
<tr>
<td>5.2019.29.2</td>
<td>32 Orange RD, SANDRINGTON</td>
<td>1 Dwelling - Alts &amp; Addrs on Lot &lt; 500m2</td>
<td>26/06/19</td>
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<tr>
<td>5.2019.779.1</td>
<td>6 Daft AVE, HAMPTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>26/06/19</td>
</tr>
<tr>
<td>5.2019.351.1</td>
<td>15 Parochendale ST, HAMPTON</td>
<td>Proposed addition to the rear of a heritage dwelling</td>
<td>26/06/19</td>
</tr>
<tr>
<td>5.2019.352.1</td>
<td>110 Wickham RD, HAMPTON EAST</td>
<td>2 New Dwellings</td>
<td>26/06/19</td>
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</table>

Northern

<table>
<thead>
<tr>
<th>Application</th>
<th>Property Address</th>
<th>Development Details</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.2013.390.5</td>
<td>424 - 426 New ST, BRIGHTON</td>
<td>1 New Shop-top Dwelling</td>
<td>03/06/19</td>
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<tr>
<td>5.2019.7781.1</td>
<td>8 Howell ST, BRIGHTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>03/06/19</td>
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<tr>
<td>5.2019.7783.1</td>
<td>7 Suntyside AVE, BRIGHTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>03/06/19</td>
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<tr>
<td>5.2019.7784.1</td>
<td>14 Birdwood AVE, BRIGHTON</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>03/06/19</td>
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<tr>
<td>5.2018.172.2</td>
<td>19 Elm GVE, BRIGHTON</td>
<td>1 Dwelling - Alts &amp; Addrs on Lot &lt; 500m2</td>
<td>03/06/19</td>
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<tr>
<td>5.2019.310.1</td>
<td>1/2 Drake ST, BRIGHTON</td>
<td>4 New Dwellings</td>
<td>05/06/19</td>
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<tr>
<td>5.2019.312.1</td>
<td>10 - 12 Wilson ST, BRIGHTON</td>
<td>Signs</td>
<td>05/06/19</td>
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<tr>
<td>5.2019.317.1</td>
<td>24 Gillard ST, BRIGHTON EAST</td>
<td>Construction of an in-ground fibreglass pool at ground level with stan</td>
<td>05/06/19</td>
</tr>
<tr>
<td>5.2019.7786.1</td>
<td>6 Coronation ST, BRIGHTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>07/06/19</td>
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<tr>
<td>5.2016.612.2</td>
<td>25 Dawson AVE, BRIGHTON</td>
<td>2 New Dwellings</td>
<td>11/06/19</td>
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<tr>
<td>5.2019.323.1</td>
<td>119 St Andrews ST, BRIGHTON</td>
<td>Development of a Dependent Persons Unit</td>
<td>11/06/19</td>
</tr>
<tr>
<td>5.2019.324.1</td>
<td>49 Halfax ST, BRIGHTON</td>
<td>1 Dwelling - New - SEQ</td>
<td>11/06/19</td>
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<tr>
<td>5.2019.327.1</td>
<td>132 North RD, BRIGHTON</td>
<td>Convert existing single storey heritage dwelling into two(2) separate</td>
<td>12/06/19</td>
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<tr>
<td>5.2019.331.1</td>
<td>33 Normantty ST, BRIGHTON</td>
<td>Medical Centre - Alts/ Addrs to Bldg &amp; Use and Signs</td>
<td>13/06/19</td>
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<tr>
<td>5.2019.332.1</td>
<td>430 New ST, BRIGHTON</td>
<td>Use of the land as a restricted recreation facility</td>
<td>16/06/19</td>
</tr>
<tr>
<td>5.2019.333.1</td>
<td>6 Seymour GVE, BRIGHTON</td>
<td>VicSmart Application</td>
<td>17/06/19</td>
</tr>
<tr>
<td>5.2019.334.1</td>
<td>5 Waghstaff CRT, BRIGHTON</td>
<td>1 Dwelling - Alts &amp; Addrs - SEQ and Garage on lot &gt; 500m2</td>
<td>18/06/19</td>
</tr>
<tr>
<td>5.2019.335.1</td>
<td>11/100 Head ST, BRIGHTON</td>
<td>Construction of Front Fence and 2 Dwellings</td>
<td>18/06/19</td>
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<tr>
<td>5.2019.337.1</td>
<td>120 Cofe ST, BRIGHTON</td>
<td>Alterations and Additions in a Heritage Overlay</td>
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<td>6 Blanche ST, BRIGHTON EAST</td>
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Item 4.11 – Matters of Decision
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<td>10 Bedder Ave, BRIGHTON EAST</td>
<td>Development of a single, two story dwelling to replace existing structure</td>
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<td>5.2019 342.1</td>
<td>14 Carpenter St, BRIGHTON</td>
<td>Three Storey Apartment Building w/ Basement Car Park</td>
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<td>5.2019 343.1</td>
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<td>2 New Dwellings and Buildings &amp; Works in SBQ (Other than Dwelling)</td>
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<td>73 St Andrews St, BRIGHTON</td>
<td>Demolish existing fence and construct new 2.1m fence</td>
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<td>5.2019 349.1</td>
<td>14/29 Bay St, BRIGHTON</td>
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<td>42 Murphy St, BRIGHTON</td>
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<td>56 Church St, BRIGHTON</td>
<td>Proposed advertising signage including internally illuminated and elect</td>
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<td>1 Dwelling - Alts &amp; Adds - DDO</td>
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<td>5.2019 354.1</td>
<td>380 New St, BRIGHTON</td>
<td>Construction of 5 dwellings, subdivision of land and reduction of the</td>
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<td>5.2019 355.1</td>
<td>40A Head St, BRIGHTON</td>
<td>2 or More Additional Dwellings on a Lot and construction of 1.2m fence</td>
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<td>4 Bruce St, BRIGHTON EAST</td>
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**Southern**

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<td>6 Comport St, BEAUMARIS</td>
<td>Removal of 2 native trees in a VPO</td>
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<td>5.2019 311.1</td>
<td>1/3 Banksia Ave, BEAUMARIS</td>
<td>VPO3 - Removal x 1</td>
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<td>5.2019 322.1</td>
<td>2/4 Burgess St, BEAUMARIS</td>
<td>1 Dwelling - Alts &amp; Adds on Lot &lt; 500m²</td>
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<td>101/226 Bay Rd, SANDRINGHAM</td>
<td>1 Dwelling - Alts &amp; Adds - Heritage</td>
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<tr>
<td>5.2019 318.1</td>
<td>8 Briartiz Ave, BEAUMARIS</td>
<td>VPO3 - Removal x 1</td>
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<td>5.2019 319.1</td>
<td>180 Tramway PDE, BEAUMARIS</td>
<td>Proposed front fence to replace existing front fence, same height and</td>
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<td>5.2019 320.1</td>
<td>2 Hardinge St, BEAUMARIS</td>
<td>Alterations and additions on an existing dwelling</td>
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<td>6 Hutchison Ave, BEAUMARIS</td>
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<td>5.2019 321.1</td>
<td>3/7 Stayner St, BEAUMARIS</td>
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<td>5.2019 326.1</td>
<td>11 Reid St, BEAUMARIS</td>
<td>Remove/Destroy or Lop Native Vegetation</td>
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<td>5.2019 294.1</td>
<td>357 Balcombe Rd, BEAUMARIS</td>
<td>Licence - New &amp; Alts</td>
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<td>5.2019 330.1</td>
<td>19 Reserve Rd, BEAUMARIS</td>
<td>Remove 1 native tree</td>
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<td>5.2014 442.5</td>
<td>474 Beach Rd, BEAUMARIS</td>
<td>5 New Dwellings</td>
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<td>4 Coral Ave, BEAUMARIS</td>
<td>Removal of Vegetation</td>
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<td>5.2019 330.1</td>
<td>22 - 26 George St, SANDRINGHAM</td>
<td>Warehouse - Alts/Adds to Building &amp; Use</td>
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<td>8 Green PDE, SANDRINGHAM</td>
<td>Development of two dwellings, associated works, and front fence.</td>
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<td>44 Bluff Rd, BLACK ROCK</td>
<td>1 Dwelling - Alts &amp; Adds on Lot &lt; 500m²</td>
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<td>2/2 - 6 Warnus St, CHELTONHAM</td>
<td>Place of Assembly - Alts/Adds to Bld Only</td>
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<td>5 Halifax St, BRIGHTON</td>
<td>Development of two townhouses on a lot</td>
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Total: 87
### Planning Applications Summary - Councillor Bulletin

Determined from 1/06/2019 to 30/06/2019

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<tr>
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<td>58 Champion ST, BRIGHTON 3186</td>
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<td>60 Lynch CRES, BRIGHTON 3186</td>
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<tr>
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<td>4 Hamilton ST, BRIGHTON 3186 1 Dwelling - Alts &amp; Additions on Lot &lt; 500m2</td>
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<td><strong>Southern</strong></td>
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<td>25 North CNC, BEAUMARIS 3193 Building &amp; Works in YPO</td>
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<tr>
<td>5.2018.290.1</td>
<td>5 Mayo CRT, CHELtenHam 3102 Remove/Destroy or Lop Native Vegetation</td>
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<td>48 Bay RD, SANDRINGHAM 3191 Telecommunications Facility</td>
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<td>16 Tramway PDE, BEAUMARIS 3193 2 New Dwellings</td>
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<td>5.2018.757.1</td>
<td>31 Rossmith AVE, BEAUMARIS 3193 2 New Dwellings</td>
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<td>428 Beach RD, BEAUMARIS 3193 1 Dwelling - New - DDD and Swimming Pool on a lot &gt; 500m2</td>
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<td>5.2019.7741.1</td>
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<td>5.2019.7744.1</td>
<td>70 Iona ST, BLACK ROCK 3193 Subdivision of Land (1 to 9 Lots)</td>
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<td>5.2019.243.1</td>
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<td>5.2019.206.1</td>
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<td>16 Bay RD, SANDRINGHAM 3191 11 - 25 New Dwellings and Restaurant - New Building &amp; Use and Reducto</td>
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<td>5.2019.159.1</td>
<td>14A Haywood ST, BEAUMARIS 3193 1 Dwelling - Alts &amp; Additions on Lot &lt; 500m2</td>
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<td>5.2018.7757.1</td>
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<td>61 Cromer RD, BEAUMARIS 3193</td>
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<td>5.2019.298.1</td>
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<td>5.2019.318.1</td>
<td>8 Biamtz AVE, BEAUMARIS 3193 VPO3 - Removal x 1</td>
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<td>5.2019.326.1</td>
<td>11 Reed ST, BEAUMARIS 3193 Remove/Destroy or Lop Native Vegetation</td>
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<td>Application</td>
<td>Property Address Proposal</td>
<td>Determination</td>
<td>Determined</td>
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<td>5.2019.330.1</td>
<td>19 Reserve RD, BEAUMARIS 3193 Remove 1 native tree</td>
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<td>26/06/2019</td>
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<td>5.2019.7745.1</td>
<td>272 Beach RD, BLACK ROCK 3193 Subdivision of Land (1 to 9 Lots)</td>
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<td>5.2019.7760.1</td>
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<td>5.2019.7762.1</td>
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<td>5.2019.442.5</td>
<td>474 Beach RD, BEAUMARIS 3193</td>
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<td>5 New Dwellings</td>
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<td>5.2019.46.1</td>
<td>38 Mary ST, BEAUMARIS 3193 1 Dwelling, Alts &amp; Adds - DDO</td>
<td>Permit Granted - Delegate</td>
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<tr>
<td>5.2017.616.2</td>
<td>22 Haywood ST, BEAUMARIS 3193 Fence on a lot &gt; 500 m²</td>
<td>Amended Permit Granted - Delegate</td>
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<tr>
<td>5.2018.853.1</td>
<td>52 Spicer ST, BEAUMARIS 3103 2 New Dwellings and Removal of Vegetation</td>
<td>Permit Refused - Delegate</td>
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<td>5.2019.300.1</td>
<td>2/2 - 6 Warrua ST, CHELTENHAM 3192 Place of Assembly, Alts/Adds to Bld Only</td>
<td>Permit Granted - Delegate</td>
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<tr>
<td>5.2019.300.1</td>
<td>688 Hampton ST, BRIGHTON 3186 1 Dwelling, Alts &amp; Adds - DDO</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>26/06/2019</td>
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**Total:** 104
### Central

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<thead>
<tr>
<th>App No.</th>
<th>Property Address</th>
<th>Proposed Easement Description</th>
<th>Appeal No.</th>
<th>Appeal Type</th>
<th>Compulsory</th>
<th>Hearing</th>
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<tbody>
<tr>
<td>2018.213.1</td>
<td>79 Abbott St, SANDRINGHAM 3191</td>
<td>1 Dwelling - AL &amp; A&amp;D's - EO</td>
<td>P14752019</td>
<td>Refusal to Grant a Permit</td>
<td>29/05/2019</td>
<td>17/07/2019</td>
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<tr>
<td>2017.563.1</td>
<td>2 Magee ST, HPIGHT 3196</td>
<td>6 New Easements and Fence on a site &gt;= 500 m2</td>
<td>P5600019</td>
<td>Refusal to Grant a Permit</td>
<td>12/05/2019</td>
<td>21/06/2019</td>
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<tr>
<td>2019.25.1</td>
<td>1110 Vincenzo RD, HPIGHT EAST 3186</td>
<td>1 Dwelling - AL &amp; A&amp;D's on Lot 1 &amp; 200</td>
<td>P11162019</td>
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<tr>
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<td>753 Hornsby RD, SANDRINGHAM 3191</td>
<td>4 or More Easements</td>
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<td>Refusal to Grant a Permit</td>
<td>15/03/2019</td>
<td>2/10/2019</td>
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<tr>
<td>2017.758.1</td>
<td>7 Eyre RD, HPIGHT EAST 3198</td>
<td>Notice of Support - Refused - Delegate</td>
<td>P6320018</td>
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<td>7/11/2019</td>
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<tr>
<td>2018.775.1</td>
<td>17 Clairock ST, CHELSEA 3192</td>
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<td>Conditions</td>
<td>13/05/2019</td>
<td>6/11/2019</td>
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<td>2019.147.1</td>
<td>73 Hampton ST, BRIGHTON 3186</td>
<td>Shop - New Building &amp; Use and Office - New Building &amp; Use and Retail</td>
<td>P1360019</td>
<td>Notice of Decision to Grant a Permit</td>
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<td>21 Abbott ST, SANDRINGHAM 3190</td>
<td>Residential Lot - New Use &amp; Building</td>
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<td>2 or More Additional Easements on a Lot</td>
<td>P10882019</td>
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<td>2018.251.1</td>
<td>211 Napier Rd, HPIGHT EAST 3186</td>
<td>Advertising Signs</td>
<td>P5600019</td>
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<td>37 Morton ST, HPIGHT 3186</td>
<td>1 Dwelling - AL &amp; A&amp;D's - EO</td>
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<td>17/12/2019</td>
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### Northern

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<tr>
<th>App No.</th>
<th>Property Address</th>
<th>Proposed Easement Description</th>
<th>Appeal No.</th>
<th>Appeal Type</th>
<th>Compulsory</th>
<th>Hearing</th>
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<tr>
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<td>115 Read St, BRIGHTON 3186</td>
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<td>P16652019</td>
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<td>23/08/2019</td>
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<td>2018.763.1</td>
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<td>26/08/2019</td>
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<td>10 Havelock ST, BRIGHTON 3186</td>
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<td>28/08/2019</td>
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<td>27 Elizabeth ST, BRIGHTON 3187</td>
<td>1 New Easements</td>
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<td>2018.743.1</td>
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<td>1 Dwelling - AL &amp; A&amp;D's &amp; Lot 500 m2</td>
<td>P7350019</td>
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<td>30/09/2019</td>
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<td>277 South Rd, BRIGHTON 3185</td>
<td>2 or More Additional Easements on a Lot</td>
<td>P7730019</td>
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<td>16/10/2019</td>
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<td>2018.266.1</td>
<td>122 Esplanade, BRIGHTON 3186</td>
<td>Community Facilities - New Use &amp; Remodeling</td>
<td>P3860017</td>
<td>Notice of Decision to Grant a Permit</td>
<td>5/09/2019</td>
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<td>51 Edith CRESC, BRIGHTON 3185</td>
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<td>2 New Easements</td>
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<td>12/12/2019</td>
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<th>Appeal No.</th>
<th>Appeal Type</th>
<th>Compulsory</th>
<th>Hearing</th>
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<td>Notice of Decision Granted - Council</td>
<td>P1650019</td>
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<td>16/07/2019</td>
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<td>2018.455.1</td>
<td>20 Oaktree ST, BLACK ROCK 3193</td>
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<td>P701019</td>
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<td>17/07/2019</td>
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<td>1993.250.1</td>
<td>184 Stanley ST, BLACK ROCK 3193</td>
<td>Notice of Decision Granted - Delegate</td>
<td>P231019</td>
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<td>111 Bevan Rd, CHELSEA 3192</td>
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<td>15/09/2019</td>
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<td>P770019</td>
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<td>17/09/2019</td>
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<td>2 Marne Ave, BLACK ROCK 3185</td>
<td>VP92 - Removal</td>
<td>P840019</td>
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<td>P1142015</td>
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<td>16/05/2015</td>
<td>2/11/2019</td>
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### Appendix

| Item | 4.11 – Matters of Decision | Conditions | Page 541 of 559 |
## VCAT Determined Appeals from 1/06/2019 to 30/06/2019

<table>
<thead>
<tr>
<th>Subject land</th>
<th>109 Abbott ST, SANDRINGHAM</th>
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<td>Application no.</td>
<td>2018.353.1</td>
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<tr>
<td>VCAT reference no.</td>
<td>P1881/2018</td>
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<tr>
<td>Applicant</td>
<td>109 Abbott Street Pty Ltd</td>
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<tr>
<td>Referral Authority</td>
<td>N/A</td>
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<tr>
<td>Respondents</td>
<td>O Abbott &amp; Others, S Motherwell, C Nielsen, H Cannon &amp; Others, P Zidich, D Kunciunas</td>
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<tr>
<td>VCAT Member</td>
<td>Joel Templar &amp; Jane Tait</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>8/03/2019</td>
</tr>
<tr>
<td>Date of order</td>
<td>21/06/2019</td>
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<tr>
<td>Proposal</td>
<td>construction of four double storey buildings comprising a total of twelve dwellings above a basement level</td>
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<tr>
<td>Officer recommendation/ Delegate determination</td>
<td>Refusal</td>
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<tr>
<td>Council determination</td>
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<td>Appeal type</td>
<td>Failure to Grant a Permit</td>
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<tr>
<td>Plans substituted (prior to hearing)</td>
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<tr>
<td>VCAT determination</td>
<td>No Permit to Issue</td>
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<td>LGPRF outcome</td>
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**Comments:**

The Tribunal, in an order dated 21 June 2019, refused an application for a planning permit, affirming Council’s decision not to support the amended plans substituted for the Tribunal hearing formed at the Planning and Amenity Committee meeting on 12 February 2019. The application sought the construction of four double storey buildings comprising a total of twelve dwellings above a basement level.

The permit applicant formerly substituted amended plans prior to the Tribunal hearing. The changes to the built form shown in the amended plans include increased front setbacks, a break in the massing along the central pedestrian path and a reduction in the site coverage from 55 per cent to 50 per cent, amongst other changes. Council’s officers formed a position of support for the changes shown in the amended plans.

The Tribunal commented that ‘the site may be suitable for some form of medium density development’ and were ‘satisfied that the proposal is an acceptable response to Abbott Street’. It was also noted that ‘whilst the proposed access location to Vincent Street does not strictly comply with the Australian Standard due to its location opposite an intersection, we find it is acceptable’ and that ‘the proposed fencing is acceptable as it incorporates a variety of materials and is in streetscapes of varied fence height and appearance’.

However, the Tribunal ultimately determined to refuse the application based on ‘the scale, setbacks and extent of built form throughout the site fail to respond to the character of this neighbourhood’ and ‘the visual bulk impacts of the townhouses on some neighbouring properties’. Additionally, the Tribunal considered that ‘the opportunities for landscaping have not been made available to more accurately reflect the spacious character of the area’.

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**Item 4.11 – Matters of Decision**
Subject land: 176 Esplanade, BRIGHTON

Application no.: 2016.257.2
VCAT reference no.: P2009/2018
Applicant: Mr G J Williams
Referral Authority: N/A
Respondents: Tim Wethheimer

VCAT Member: K Birtwistle
Date of hearing: 26/03/2019
Date of order: 12/06/2019
Proposal:
- To construct alterations and additions to a semi-attached existing double storey dwelling on a lot less than 500 square metres in the Neighbourhood Residential Zone Schedule 3
- To construct buildings and works including a building greater than 6 metres in height and a roof deck above the second floor level in the Design and Development Overlay Schedule 1

Officer recommendation/ Delegate determination: Notice of decision

Council determination: N/A

Appeal type: Conditions
Plans substituted (prior to hearing): No

VCAT determination: Varied Permit to Issue
LGPRF outcome: AFFIRMED

Comments:

On 1 December 2017, the Tribunal issued a planning permit that allowed the construction of a double storey dwelling at 176 Esplanade, Brighton. The existing dwellings located on 176 & 178 Esplanade are separated by a party wall. On 2 February 2018, the Council received an application pursuant to section 72 of the Planning and Environment Act 1987 for a number of amendments to the approved dwelling including a request that the roof deck abutted the title boundary with 178 Esplanade. This was contrary to the condition that the Tribunal included in the permit that required the roof deck to be setback 2 metres from 178 Esplanade, namely Condition 1(a). The Application was advertised and the Council received 4 objections.

On 14 August 2018, the Council issued a Notice of Decision to Amend a Permit. Mr Wetherimer who resides at 178 Esplanade sought a review of the Council’s decision pursuant to section 82 of the Planning and Environment Act 1987. The Permit Holder sought to review Conditions 1(a), (c) and (j)(e) contained in the NOD pursuant to section 80 of the Planning and Environment Act 1987.

Both applications for review were heard by Member Birtwistle on 26 March 2019 who is a Town Planner. During the hearing, a question of law was raised regarding the legality of Condition 1(a). As Member Birtwistle was not a lawyer, the parties agreed that the question of law could be determined “on the papers” by a Legal Member of the Tribunal.
On 27 March 2019, Member Birtwistle issued an Interim Order that outlined the process for determining the question of law. Council made written submissions that the proposed roof deck on No. 176 Esplanade must be setback 2 metres from boundary with Mr Wertherimer’s property in accordance with the Design and Development Overlay Schedule 1. The Objectors supported the Council’s position. The Permit Applicant argued that the roof deck did not have to be setback two metres because Nos. 176 & 178 Esplanade were effectively one building for the purposes of the DDO1.

Ultimately, the Tribunal supported Council’s position and required Condition 1(a) to remain in the planning permit. With regards to the other amendments, the Tribunal approved some (for example, the proposed ensuite and the reduced sill height) and refused to support other amendments (for example the extension of the roof eave at the north west corner of the approved dwelling).
Subject land: 52 Black ST, BRIGHTON
Application no.: 2018.725.1
VCAT reference no.: P111/2019
Applicant: Alex Bragilevsky
Referral Authority: N/A
Respondents: V Creaser & others

VCAT Member: Megan Carew
Date of hearing: 13/05/2019
Date of order: 12/06/2019
Proposal: Construction of a multi-dwelling building including a fence exceeding 1.5m in height and buildings and works within the Design and Development Overlay

Officer recommendation/Delegate determination: Refusal

Council determination: N/A

Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Permit to Issue
LGPRF outcome: N/A

Comments:

An application for the construction of a three storey multi-dwelling building over basement car parking within a Design and Development Overlay, Schedule 11, was refused under delegated authority on 21 January 2019.

The permit applicant subsequently lodged an application for review against Council’s Refusal to grant a Planning Permit with VCAT pursuant to Section 77 of the Planning and Environment Act, 1987.

‘Without prejudice’ (amended) plans were presented at a Compulsory Conference on 13 May 2019, with the key amendments being summarised as follows:

- Reduction in size/extent to pavilions within the front setback
- Increased setback to the southern corner of the building
- Increased landscaping facilitated by the above two changes
- Considerable increase to the visual permeability of the front fence
- Increased articulation to the front façade
- Significant increase to the setbacks of the top floor
The above changes within the ‘without prejudice’ plans were discussed at the Compulsory Conference and, further to these, the following amendments were negotiated:

- Reduction of overall building height of 0.5m
- Recess (rebate) to the top edge of the top floor
- Further screening to windows
- Further setbacks from southwest boundary at second floor
- Further increase to landscaping

Subject to the negotiated changes, the permit applicant and all parties to the appeal agreed to a consent position.

The consent position was subsequently ratified by Council at the Planning and Amenity Committee Meeting held on 11 June 2019. An order from VCAT was then issued on 12 June 2019 directing a permit to be issued in accordance with the ‘without prejudice’ plans and the agreed conditions – the permit was issued on 12 June 2019.
### Item 4.11 – Matters of Decision

**Subject land**  
63 Ardoyne ST, BLACK ROCK

**Application no.**  
2017.476.1

**VCAT reference no.**  
P199/2019

**Applicant**  
M Sawiris & L Ardoyne Pty Ltd & L Ardoyne Trust

**Referral Authority**  
N/A

**Respondents**  
N/A

**VCAT Member**  
Michael Deidun

**Date of hearing**  
7/06/2019

**Date of order**  
7/06/2019

**Proposal**  
Construction of two double storey attached dwellings with basement car park and removal of vegetation within the Vegetation Protection Overlay (VPO3)

**Officer recommendation/ Delegate determination**  
Notice of decision

**Council determination**  
NOTICE OF DECISION

**Appeal type**  
Notice of Decision to Grant a Permit

**Plans substituted (prior to hearing)**  
No

**VCAT determination**  
Varied permit to Issue

**LGPRF outcome**  
AFFIRMED

**Comments:**

The Tribunal, in an order received by Council on 7 June 2019, determined to vary the decision of the Responsible Authority and directed that a planning permit be granted for the construction of two double storey dwellings. In doing so, the Tribunal deleted condition 1(i) which was imposed by the Planning and Amenity Committee, above and beyond the conditions contained in the officer’s recommendation, when it determined to approve the application at its meeting of 13 November 2018.

Condition 1(i) required the amended plans to show the side setbacks of the master bedroom associated with Dwellings 1 and 2 to have an increased side setback to achieve the requirements of Standard B17 (Side and rear setbacks) of Clause 55 of the Bayside Planning Scheme.

In its oral decision at the conclusion of the hearing, the Tribunal noted that there was no other requirement to comply with the standard despite several other variations at both ground floor and first floor. In terms of visual bulk, the Tribunal was satisfied that the varied side setbacks would not cause any unreasonable visual bulk impacts as the offending walls were opposite non-sensitive areas of both adjoining properties, including driveways and garages. The Tribunal concluded that there would be no amenity benefit from applying this condition and that an increased setback was not required to limit the amenity impacts.

Additionally, the Tribunal was satisfied that the varied setbacks would respond appropriately to the preferred future character, noting the increased setback sought by the condition did not result in any additional landscaping provision or improve the garden setting.
Further, the Tribunal commented that the policy seeks to recess the first floor from the ground floor front facade, not the side boundary, and in that regard the varied setbacks were consistent with the preferred future neighbourhood character. In terms of the existing neighbourhood character, the Tribunal noted that the surrounding built form was varied in nature to an extent that allowed the varied side setbacks as proposed.

Finally, in determining to delete condition 1(i), the Tribunal noted its support for the officer’s recommendation presented to the Planning and Amenity Committee meeting of 13 November 2018.
Subject land | 28 Lawrence ST, BRIGHTON
---|---
Application no. | 2018.56.1
VCAT reference no. | P1299/2018
Applicant | The Edge Development Group Pty Ltd
Referral Authority | N/A
Respondents | K Braddon, M Braddon, D Marchiandi and R Gleeson

**VCAT Member** | S.R. Cimino
**Date of hearing** | 7/06/2019
**Date of order** | 19/06/2019
**Proposal** | Demolition of two dwellings, the construction of six (6) dwellings and a front fence exceeding 1.5 metres high

<table>
<thead>
<tr>
<th>Officer recommendation/ Delegated determination</th>
<th>Refusal</th>
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<tr>
<td>Council determination</td>
<td>N/A</td>
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</table>

**Appeal type** | Refusal to Grant a Permit
**Plans substituted (prior to hearing)** | No

**VCAT determination** | Permit to Issue
**LGPRF outcome** | N/A

**Comments:**

The application sought the demolition of two dwellings and the construction of a three storey residential building consisting of 14 dwellings, a front fence exceeding 1.5 metres and the subdivision of land.

On 18 May 2018, Council Officers determined to refuse the planning application. The grounds of refusal centred around Heritage, compliance with DDO11, Neighbourhood Character, compliance with Clause 55, compliance with Clause 52.08 (Car parking) and impact on neighbouring trees.

An application under Section 77 of the Planning and Environment Act 1987 to review Council’s decision to refuse a permit for the construction of six dwellings on the subject land was lodged with VCAT.

An agreement was reached on 7 June 2019 based on the substituted plans, circulated on 23 May 2019, which included the following changes to the decision plans:

**Overall**
- Reduction of 8 dwellings.
  - From 14 apartments to 6 townhouses.
- Reduction of 18 car parking spaces.
  - From 30 spaces to 12 spaces including 8 inside basement garages.
- Deletion of the second floor.
- Changes to building envelope to allow for 4 separate buildings with central common walkway.
- Introduction of a visual break of 2.85 metres at ground floor and 7.15 metres at first floor.
- Habitable spaces and light courts introduced at basement levels for Townhouses 01-04.
- Common stair access to ground level entries for Townhouses 05-06.
- Minimum street setback increased by 590mm.
- Increased side and rear setbacks at ground and first floor levels.
- Roof profiles amended to reflect gable roof forms in the immediate precinct.
- Removal of the subdivision from the application.

The permit applicant, all 4 objector parties and Council all agreed to the above changes subject to further conditions. These were reflected in a preliminary Consent Order which was to be ratified by Council at an upcoming Planning and Amenity Committee meeting.

The Council subsequently confirmed its consent to the agreement by email dated 12 June 2019. Accordingly, all parties reached agreement requesting an order directing the grant of a permit subject to conditions.
Subject land: 439 Beach RD, BEAUMARIS
Application no.: 2018.328.1
VCAT reference no.: P2382/2018
Applicant: Chau Le
Referral Authority: N/A
Respondents: N/A

VCAT Member: Susan Whitney
Date of hearing: 7/06/2019
Date of order: 11/06/2019
Proposal: Construction of two double storey attached dwellings, a roof deck and a two storey dwelling with a storey exceeding more than 3.5 metres in Design and Development Overlay Schedule 1 and removal of native vegetation

Officer recommendation/ Delegate determination: Refusal

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<tr>
<th>Council determination</th>
<th>N/A</th>
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Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): Yes

VCAT determination: Permit to Issue
LGPRF outcome: SET ASIDE

Comments:

Council refused this Application a planning permit on a number of grounds, including that the proposal failed to adequately respond to the objectives of Clause 22.06 (Neighbourhood Character Policy, Precinct H4) of the Bayside Planning Scheme and that the proposed development failed to comply with several Objectives and Standards of Clause 55 (Rescode). Council also opposed the development as the proposal did not comply with Clause 52.06, as turning circles applicable to garage 2 were such that it could only be utilised for the parking of one vehicle. Council’s final reason for opposing this development was that the proposed Landscape Plan failed to achieve the Objectives under the Vegetation Protection Overlay Schedule 3 (VPO-3) of the Bayside Planning Scheme.

The Applicant appealed Council’s decision pursuant to section 77 of the Planning and Environment Act 1987. The Tribunal at the hearing gave oral reasons overturning Council’s decision on the basis that the development in its opinion appropriately addressed the Neighbourhood Character Policy. The Tribunal held that the existing neighbourhood character of Beach Road Beaumaris was varied and eclectic and therefore the proposed contemporary design would make an appropriate fit into this context. The Tribunal ruled that the amended Landscape Plan accompanying the Amended Plans which utilised coastal indigenous trees addressed Council’s concerns with respect to landscaping.

The Applicant produced swept diagrams at the hearing which satisfied the Tribunal that two vehicles could comfortably use the proposed garage for Unit 2.
Subject land  25 Highland AVE, HIGHTETT
Application no.  2018.488.1
VCAT reference no.  P360/2019
Applicant  Norton Homes Pty Ltd
Referral Authority  N/A
Respondents  N/A
VCAT Member  Tracey Bilton-McGillen
Date of hearing  20/06/2019
Date of order  20/06/2019
Proposal  Construction of two double storey attached dwellings and a front fence exceeding a height of 1.2 metres

Officer recommendation/ Delegate determination  Permit granted
Council determination  N/A

Appeal type  Conditions
Plans substituted (prior to hearing)  No
VCAT determination  Varied Permit to Issue
LGPRF outcome  AFFIRMED

Comments:

The Applicant appealed to VCAT pursuant to section 80 of the Planning and Environment Act 1987 against certain conditions placed in Planning Permit No. 2018/488 for the construction of two double storey attached dwellings and a front fence exceeding 1.2 metres in height at the subject site known as No. 25 Highland Avenue, Highett.

In particular, the Applicant Has appealed Conditions 1(g) and (h).

Condition 1(g) stipulates that the proposed site coverage must not exceed 50% in accordance with Standard B8 of the Bayside Planning Scheme.

Condition 1(h) requires that the ground and first floor setbacks of both dwellings must comply with Standard B17 with the exception of the side setback of Unit 1 which can be maintained at 1.5 metres not 2 metres. The Tribunal in deciding to delete both of these conditions held that:

- The proposal did not give rise to any significant non-compliance with any other ResCode Standard other than Standard B17.
- The Preferred Future Character Statement referred to space in the front and rear gardens for space and landscaping and not sideages.
- There is no reason to increase side setbacks at ground level given these are not visible from the street.
- The first floor setbacks were sufficient to provide spacing between buildings - noting a similar setback is provided to the north.
- Amenity impacts are limited due to SPOS located further to the west.
Subject land 57 Well ST, BRIGHTON
Application no. 2018.263.1
VCAT reference no. P80/2019
Applicant Mr C & Ms H Paul
Referral Authority N/A
Respondents 57 Well Street Brighton Pty Ltd

VCAT Member Cindy Wilson
Date of hearing 26/06/2019
Date of order 26/06/2019
Proposal Construction of a three storey building comprising five (5) dwellings with basement car parking and a front fence exceeding a height of 1.5m

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<td>Plans substituted (prior to hearing)</td>
<td>No</td>
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<tr>
<td>VCAT determination</td>
<td>Appeal Withdrawn</td>
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<tr>
<td>LGPRF outcome</td>
<td>AFFIRMED</td>
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Comments:
Council issued a Notice of Decision to Grant a Planning Permit for the construction of a three (3) storey building containing five apartments with basement car parking and a front fence exceeding 1.5 metres at the subject site known as No. 57 Well Street Brighton on 20 December 2018.

The Objector lodged an Application for Review against Council's decision pursuant to section 82 of the Planning and Environment Act 1987. On 26 June 2019 the Applicant for Review withdrew their Appeal.
<table>
<thead>
<tr>
<th>Subject land</th>
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<tr>
<td>Application no.</td>
<td>2018.262.1</td>
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<tr>
<td>VCAT reference no.</td>
<td>P2655/2018</td>
</tr>
<tr>
<td>Applicant</td>
<td>Nicholas Saunders</td>
</tr>
<tr>
<td>Referral Authority</td>
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<tr>
<td>Respondents</td>
<td>Victor Zheng</td>
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<tr>
<td>VCAT Member</td>
<td>Ian Potts</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>27/06/2019</td>
</tr>
<tr>
<td>Date of order</td>
<td>27/06/2019</td>
</tr>
<tr>
<td>Proposal</td>
<td>Construction and extensions to an existing dwelling on a lot less than 500m2 in a General Residential Zone and constructing a residential building exceeding a height of 9m on a lot subject to Schedule 12 of the Design and Development Overlay</td>
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<tr>
<td>Officer recommendation/Delegate determination</td>
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<tr>
<td>LGPRF outcome</td>
<td>N/A</td>
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**Comments:**

This was an Application for Review pursuant to Section 82 of the Planning and Environment Act 1987 by an objector against Council’s decision to issue a Notice of Decision to Grant a Permit. The application sought alterations and additions to the existing single storey dwelling, comprising a ground and first floor extension. Concerns were raised by the Applicant for Review (objector) that the proposal failed to achieve compliance with Standard A11 (Walls on Boundaries) and Standard A14 (Overshadowing) of the Bayside Planning Scheme and subsequently resulted in unreasonable loss of amenity to their property at 4/237 Hampton Street, Hampton.

Following discussions with the Applicant for Review, the permit applicant circulated amended plans which included additional screening, a reduced boundary wall height and an increased setback of screening. Council was supportive of the proposed changes and a consent order was subsequently arranged. The Tribunal in its Order dated 27 June 2019 directed the decision of the Responsible Authority to be varied, consistent with the changes outlined in the amended plans and agreed to by all parties. A permit was issued on 27 June 2019.
VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO. P199/2019
PERMIT APPLICATION NO. 5/2017/478/1

APPLICANT
Moses Sawiris & L Ardoyne Pty Ltd & 1 Ardoyne Trust

RESPONSIBLE AUTHORITY
Bayside City Council

SUBJECT LAND
63 Ardoyne Street, Black Rock

WHERE HELD
Melbourne

BEFORE
Michael Deidun, Member

HEARING TYPE
Short Case Hearing

DATE OF HEARING
7 June 2019

DATE OF ORDER
7 June 2019

ORDER

1 In application P199/2019 the decision of the responsible authority is varied.

2 The Tribunal directs that planning permit 5/2017/478/1 must contain the conditions set out in planning permit 5/2017/478/1 issued by the responsible authority on 18 December 2018 with the following modifications:

   (a) Condition 1(i) is deleted.

3 The responsible authority is directed to issue a modified planning permit in accordance with this order.

Michael Deidun
Member
APPEARANCES

For applicant Morgan Livingstone, Town Planner of Song Bowden Planning
For responsible authority Nik Muhllechner, Town Planner of Bayside City Council

INFORMATION

Description of proposal Construction of two dwellings in a side by side arrangement
Nature of proceeding Application under section 80 of the Planning and Environment Act 1987 – to review the conditions contained in the permit.
Planning scheme Bayside Planning Scheme
Zone and overlays Neighbourhood Residential Zone 3
Design and Development Overlay 3
Development Contributions Plan Overlay
Vegetation Protection Overlay 3
Permit requirements Clause 32.09-6 to construct two or more dwellings on a lot on land within the Neighbourhood Residential Zone
Clause 42.02-2 to remove, destroy or lop vegetation from land to which the Vegetation Protection Overlay applies
Relevant scheme policies and provisions Clauses 10, 11, 12, 13, 15, 16, 18, 21, 22.06, 32.09, 42.02, 52.06, 55, 65 and 71.02.
Land description The land is a rectangular allotment with a frontage to Ardoyne Street of 18.29 metres, a depth of 42.1 metres, and an overall area of 772 square metres. The land presently supports a single storey detached dwelling.
REASONS

1 Moses Sawiris & L Ardoyne Pty Ltd & L Ardoyne Trust seek to review a condition imposed by Council on a permit allowing the construction of two dwellings on land at 63 Ardoyne Street, Black Rock.

2 I have decided to vary the Council’s decision, and delete the contested condition, which sought an increased side boundary setback for one part of the first floor wall on each of the two dwellings. Reasons for my decision were given orally at the conclusion of the hearing.

Michael Deidun
Member
VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST
VCAT REFERENCE NO. P80/2019

APPLICANT
Chris and Haylee Paul

RESPONSIBLE AUTHORITY
Bayside City Council

RESPONDENT
57 Well Street Brighton Pty Ltd

SUBJECT LAND
57 Well Street, Brighton

WHERE HELD
Melbourne

BEFORE
Cindy Wilson, Member

DATE OF ORDER
26 June 2019

ORDER

1. Pursuant to section 74 of the Victorian Civil and Administrative Tribunal Act 1998, leave is given to the applicant to withdraw the application and the application is withdrawn accordingly.

2. The hearing scheduled at 10.00am on 24 July 2019 is vacated. No attendance is required.

Cindy Wilson
Member
5. Confidential Business

Nil