4.5 1/1 GILLIES STREET, HAMPTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/719/1 WARD: CENTRAL

City Planning and Amenity - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/275970

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Urbis 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>22 November 2018 (Amended)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>43 Days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Site area</td>
<td>183 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>No</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>No</td>
</tr>
</tbody>
</table>

Proposal

The application seeks alterations and additions to an existing dwelling on a lot less than 500 square metres comprising an area of 183.4 square metres. Key details of the proposal are as follows:

- Construction of a first floor extension comprising of a master bedroom, sitting area and the relocation of bedroom 2 upstairs
- The overall building height is 6.665 metres
- Site coverage 62%
- Permeability 15%

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 32.09-5 (Neighbourhood Residential Zone Schedule 3) – Construction and extension of one dwelling on a lot.

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>
</tbody>
</table>

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 4 objections were received.

Four objections remain outstanding at the time of this report.

The following concerns were raised:
• Neighbourhood character;
• Overlooking to adjoining properties;
• Overshadowing to adjoining properties;
• Non – compliant side setbacks;
• Landscaping in common areas; and
• Building over common property/body corporate.

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

Consultation meeting
A consultation meeting was held on 16 August 2018 attended by the permit applicant, land owner, architect and 3 objectors. As a result of this meeting no objections were withdrawn.

It is noted the original application sought approval for the construction of a first floor addition and alteration to the ground floor level which also involved works over common property. As a result of concerns raised by residents during public notification, the applicant submitted an amended application pursuant to Section 57A of the Planning and Environment Act 1987 to remove all works within the common property areas of the broader unit development. The decision plans were circulated to the objectors on 7 November 2018. These plans now form the decision plans.
4. Recommendation

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application **2017/719/1** for the land known and described as **1/1 Gillies Street, Hampton**, for the **alterations and additions to an existing dwelling on a lot less than 500 square metres** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plan prepared by Finnis Architects, dated 20/8/2018 and revision B but modified to show:
   
a) Water Sensitive Urban Design measures in accordance with Condition 7 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 A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

**Water Sensitive Urban Design**

7. 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.

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

Tree Impact Assessment Report

9. Prior to the endorsement of plans pursuant to Condition 1, a Tree Impact Assessment Report, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The Tree Impact Assessment Report must be drawn to scale and provide details of:

a) The level of soil volume removed due to excavation required to construct the proposed deck;

b) The impacts that the deck construction has on the tree on the common property land; and,

c) The location of tree protection measures to be utilised (if required).

10. All protection measures identified in the Tree Assessment Report must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Assessment report, to the satisfaction of the Responsible Authority.

Street Tree Protection

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

12. 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

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

Permit Expiry

14. 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 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 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 E3)
- 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 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 E3. 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.

With regards to character, it is noted Gillies Street comprises a mixture of single and double storey dwellings which feature a variety of materials including render, classic brick and weatherboard. To the south west of the site is an example of a contemporary design within the area.

The proposal includes the construction of a contemporary first floor addition to an existing single storey which forms part of a five unit development with a common property access way along the southern boundary. The existing ground floor will be maintained therefore ensuring the garden setting remains. The proposal maintains the garden settings of the dwelling as well as providing front garden space as the alterations are limited above the existing dwelling and does not alter the ground floor footprint.

The proposal adequately responds to the rhythm of spacious visual separation between buildings by maintaining side setbacks at ground floor level and providing acceptable first floor side setbacks. The first floor side setbacks are adjoining neighbouring concrete driveways, adequately providing visual separation between adjoining buildings.

The proposal incorporates a range of materials and finishes in a neutral colour pallet, complementing the bayside setting, while creating a visually interesting and appealing façade. The contemporary form of the addition responds appropriately to the character of the street.

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:

Neighbourhood Character (Standard A1)

Please refer to Section 6.1 for an assessment against Neighbourhood Character.

Side and rear setbacks (Standard A10)

<table>
<thead>
<tr>
<th>First Floor</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>3.83m</td>
<td>2.856m</td>
</tr>
<tr>
<td>South (side)</td>
<td>3.74m</td>
<td>0.900m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>4.58m</td>
<td>2.181m</td>
</tr>
</tbody>
</table>

*Measurements are measured from the title boundary of the subject site.

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.
The first floor northern wall associated with the master bedroom and ensuite includes a side setback of 2.856 metres. To achieve compliance with the standard, a 3.8 metre setback is required. As such a variation of 940mm is proposed. The proposed wall is directly adjacent to the concrete driveway associated with 3 Gillies Street. The variation is considered to be acceptable as it is adjoining a driveway and continues to maintain adequate visual separation in accordance with the objective.

The proposed first floor southern wall associated with bedroom 2 is setback 900 millimetres. To achieve compliance with the standard, a 3.7 metre setback is required. The proposed wall is adjacent to a concrete driveway and landscaping, approximately 6.5 metres wide associated with 1 Gillies Street, allowing access to 4 rear units. The variation is considered to be acceptable as it is adjoining a driveway and continues to maintain adequate visual separation between dwellings.

The first floor eastern rear setback is proposed to be 2.18 metres, the standard requires a rear setback of 4.5 metres. The rear of unit 1 is adjacent to the garage and private open space of unit 2/1 Gillies Street. The variation is considered to be acceptable as it is adjacent to a garage built on boundary and the private open space of unit 2/1 Gillies Street does not receive any additional overshadowing as per the shadow diagrams provided.

**Site coverage (Standard A5)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>62%</td>
<td>12%</td>
</tr>
</tbody>
</table>

The objective of the standard is to ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site.

The existing site coverage is listed as 64% and the proposed site coverage is 62%, a reduction of 2%. As the proposal includes a first floor addition and does not increase the site coverage, the proposal is therefore considered to be acceptable.

**Permeability (Standard A6)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>20%</td>
<td>15%</td>
<td>5%</td>
</tr>
</tbody>
</table>

The objective of the standard is to reduce the impact of increased stormwater run-off on the drainage system and to facilitate on-site stormwater infiltration.

The existing permeability is listed as 15.5% and the proposed permeability is 15%, a reduction of 0.5%. As the proposal includes a first floor addition and a deck a minor reduction is considered to be acceptable and will not result in any unreasonable impacts.

It should be acknowledged that while there are a number of variations proposed, the dwelling was originally part of a five dwelling development. While the variations are based on the current strata boundaries, the dwellings setbacks and site cover would have greater compliance if it were considered in context of the entire site that it originally formed part of.

### 6.3. Landscaping

The application does not propose to remove any trees protected by the Local Law.

Council’s Arborist has no objection, however raised some concerns for the tree located in the front setback of the site. Council’s Arborist has requested the provision of a tree impact report to assess the level of soil volume removed to undertake excavation for the
proposed deck and to ensure this will not impact the tree. A tree impact assessment report has been included as a condition of the recommendation.

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

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

6.6. Objector issues not already addressed

Overlooking
Concerns were raised by an objectors in relation to unreasonable overlooking from the first floor east facing windows. The submitted plans indicate habitable room windows will have sill heights to a minimum height of 1.7 metres above finished floor level and obscured glazing to limit unreasonable overlooking to neighbours.

Overshadowing
The submitted overshadowing diagrams indicate that there will be no additional overshadowing of private open space of unit 2, therefore complying with Standard A14.

Common property/Body Corporate
Concerns were raised by objectors outlining a range of issues including common property and body corporate matters. As discussed in section 3 of this report, amended plans were submitted removing works from common property areas from the plans. Body corporate considerations are legislated under the Owners Corporation Act.

Support Attachments
1. Decision Plans
2. Site and Surrounds
3. Neighbourhood Character
4. ResCode Assessment

---
UNIT 1, 1 GILLIES STREET, HAMPTON
PROPOSED ALTERATION

<table>
<thead>
<tr>
<th>Sheet #</th>
<th>Sheet Name</th>
<th>Revision</th>
</tr>
</thead>
<tbody>
<tr>
<td>TP-00</td>
<td>COVER PAGE</td>
<td>B</td>
</tr>
<tr>
<td>TP-01</td>
<td>SITE CONTEXT PLAN</td>
<td>B</td>
</tr>
<tr>
<td>TP-02</td>
<td>PHOTO REPRINT</td>
<td>B</td>
</tr>
<tr>
<td>TP-03</td>
<td>DESIGN RESPONSE</td>
<td>B</td>
</tr>
<tr>
<td>TP-04</td>
<td>EXISTING &amp; DEMOLITION</td>
<td>B</td>
</tr>
<tr>
<td>TP-05</td>
<td>SHADOW DIAGRAMS 1</td>
<td>B</td>
</tr>
<tr>
<td>TP-06</td>
<td>SHADOW DIAGRAMS 2</td>
<td>B</td>
</tr>
<tr>
<td>TP-07</td>
<td>PROPOSED GROUND FLOOR PLAN</td>
<td>B</td>
</tr>
<tr>
<td>TP-08</td>
<td>PROPOSED FIRST FLOOR PLAN</td>
<td>B</td>
</tr>
<tr>
<td>TP-09</td>
<td>PROPOSED ELEVATIONS 1</td>
<td>B</td>
</tr>
<tr>
<td>TP-10</td>
<td>PROPOSED ELEVATIONS 2</td>
<td>B</td>
</tr>
<tr>
<td>TP-11</td>
<td>SECTIONS</td>
<td>A</td>
</tr>
</tbody>
</table>
**Design Response:**

- **A** - Proposed first floor above ground floor living and bedrooms area.
- **B** - Proposed angled roof above garage to allow storage area.
- **C** - Maintain existing highlight windows and roofs above kitchen & bath.

---

**Site Coverage**

<table>
<thead>
<tr>
<th>Description</th>
<th>Area (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site area - unit 1 (RP5698)</td>
<td>187m²</td>
</tr>
<tr>
<td>Existing ground floor</td>
<td>110m²</td>
</tr>
<tr>
<td>Existing eaves</td>
<td>10m²</td>
</tr>
<tr>
<td>Existing building footprint</td>
<td>120m²</td>
</tr>
<tr>
<td>Proposed ground floor</td>
<td>110m²</td>
</tr>
<tr>
<td>Extent of first floor above</td>
<td>6m²</td>
</tr>
<tr>
<td>Proposed building footprint</td>
<td>115m²</td>
</tr>
</tbody>
</table>

**Ground Floor Area**

- Existing: 110m²
- Proposed: 67m²

Total Building Area: 177m²

---

**Permeability**

<table>
<thead>
<tr>
<th>Description</th>
<th>Area (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing site coverage*</td>
<td>120m²</td>
</tr>
<tr>
<td>Driveway &amp; paving</td>
<td>38m²</td>
</tr>
<tr>
<td>Total unpermeable area</td>
<td>158m²</td>
</tr>
<tr>
<td>Existing permeability</td>
<td>15.5%</td>
</tr>
<tr>
<td>Proposed site coverage</td>
<td>116m²</td>
</tr>
<tr>
<td>Driveway &amp; paving</td>
<td>44m²</td>
</tr>
<tr>
<td>Total unpermeable area</td>
<td>160m²</td>
</tr>
<tr>
<td>Proposed permeability</td>
<td>15%</td>
</tr>
</tbody>
</table>

---

**Private Open Space**

<table>
<thead>
<tr>
<th>Description</th>
<th>Area (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing private open space</td>
<td>40m²</td>
</tr>
<tr>
<td>Proposed private open space</td>
<td>48m²</td>
</tr>
</tbody>
</table>
Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⭕️</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from Gillies Street

Figure 3 View towards the neighbouring site (1A Gillies Street)
Figure 4 View towards the neighbouring site (3 Gillies Street)
Figure 5 View towards the subject site from Gillies Street (View of driveway)
Figure 6 View towards 47 Linacre Road (side facing Gillies Street - example of contemporary design)
## Neighbourhood Character Precinct E3

### Preferred Future Character Statement

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

### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>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 form of these dwellings and be appropriate to the building era.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds The proposal retains the existing unit and proposes to include a first floor addition on top.</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 The ground floor footprint is not being altered.</td>
</tr>
<tr>
<td>To provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>Responds The ground floor footprint is not being altered. The addition is limited to be constructed above the existing dwelling.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Responds First floor side setbacks are adjoining driveways of adjoining properties, adequately maintaining visual separation.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>• Locate garages and carports behind the line of the dwelling. • Minimise paving in front garden areas including driveways and crossovers.</td>
<td>Car parking structures that dominate the façade or view of the dwelling Front setbacks dominated by</td>
<td>N/A – car parking structure remains in same location.</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 ensure new development respects the dominant building scale and forms within the streetscape. | - Recess upper storey elements from the front facade  
- Incorporate pitched roof forms with eaves. | Impervious surfaces.                                                          | Does not respond  
The proposal does not include a pitched roof nor does it include recessed upper storey elements. |
### 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 changes are proposed to the ground floor footprint.</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>Yes</td>
<td>Minimum: Average of adjoining properties: 6.34m</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>Proposed: 6.2m (Ground floor – Existing), 6.015m (First floor) First floor balcony encroaches setback by 905mm but is not included in the street setback calculation as it does not include walls.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A4 Building Height</td>
<td>Yes</td>
<td>Required: 9m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 6.665m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A5 Site Coverage</td>
<td>No</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 62% Refer to report.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A6 Permeability</td>
<td>No</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 15% Refer to report.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A7 Energy Efficiency</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 makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### A8 Significant Trees
Development respects the landscape character of the neighbourhood and retains significant trees on site.

- **Yes**
- **Refer report.**

### 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.

- **No**
- **Refer report and table below. Areas of non-compliance are underlined.**

<table>
<thead>
<tr>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
</tr>
<tr>
<td>North (side)</td>
</tr>
<tr>
<td>South (side)</td>
</tr>
<tr>
<td>East (rear)</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.

- **N/A**
- **No new proposed walls on boundary.**

### A12 Daylight to existing windows
To allow adequate daylight into existing habitable room windows.

- **Yes**
- **The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.**

### A13 North Facing Windows
Allow adequate solar access to existing north-facing habitable room windows.

- **Yes**
- **No north facing windows on adjoining properties are affected.**

### A14 Overshadowing Open Space
Ensure buildings do not unreasonably overshadow existing secluded private open space.

- **Yes**
- **Shadow diagrams submitted with the application demonstrate no additional overshadowing to neighbouring private open space.**

### A15 Overlooking
Limit views into existing secluded private open space and habitable room windows

- **Yes**
- **Windows include obscured glazing or 1.7 metre high sill heights.**

### A16 Daylight to New Windows

- **Yes**
- **All habitable windows have direct access to daylight.**
<table>
<thead>
<tr>
<th>Requirement</th>
<th>Status</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>A17 Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 48 square meters</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>A19 Design Detail</td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>A20 Front Fences</td>
<td>N/A</td>
<td>No front fence proposed.</td>
</tr>
</tbody>
</table>
4.6 7 CARPENTER STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2018/422/1 WARD: NORTHERN

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Keen 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>9 July 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>115 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (GRZ2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Special Building Overlay (SBO)</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay (DDO11)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (DCPO1)</td>
</tr>
<tr>
<td>Site area</td>
<td>481m²</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>6</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes - $1010</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>No</td>
</tr>
</tbody>
</table>

**Proposal**

The application seeks to construct two apartments in a three storey building (plus basement) on a lot with an area of 481 square metres. Key details of the proposal are as follows:

- Two dwellings are proposed, both with three bedrooms;
- Proposed building would be three storeys, with the third storey an attic;
- Unit 1 comprises the ground floor and Unit 2 the upper two storeys;
- The proposed building height is 10.678m at its maximum point;
- A basement level is included containing 7 car spaces (three additional spaces are provided over the parking requirement);
- Site coverage equates to 56.9%;
- Permeability equates to 29.8%;
- Garden area equates to 35.3%.
- External finish is modern, with large areas of flexbrick and rendered finish to the façade with a pitched roof.

The application plans and photomontages are provided at Attachment 1.
An aerial image and photographs of the site and surrounds are provided at Attachment 2.

**History**

Planning Application 5/2017/742/1 was refused under delegation on 25 May 2018 for the construction of one dwelling on a lot less than 500 square metres in a Design and Development Overlay and Special Building Overlay.

2. **Planning controls**

   **Planning Permit requirements**

   A planning permit is required pursuant to:
   
   - Clause 32.08-6 (General Residential Zone Schedule 2) – Construction of two or more dwellings on a lot.
   - Clause 43.02-2 (Design and Development Overlay Schedule 11) – Construction of buildings and works.
   - Clause 44.05-2 (Special Building Overlay) – Construction of a building or carry out works.

   **Planning Scheme Amendments**

   Planning scheme amendment VC148 was gazetted on 31 July 2018. This amendment introduces changes to the Victoria Planning Provisions (VPP) and all planning schemes arising from the Victorian Government’s Smart Planning program. The program aims to simplify and modernise Victoria’s planning policy and rules to make planning more efficient, accessible and transparent.

3. **Stakeholder consultation**

   **External referrals**

   The application was referred to the following authorities:

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

   **Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Waste Management</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Heritage Advisor</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 six objections were received.

   Six objections remain outstanding at the time of this report.

   The following concerns were raised:
   
   - Neighbourhood character;
- Tree impact;
- Lack of landscaping opportunities along the side boundaries;
- Visual bulk;
- Amenity impact;
- Noise;
- Traffic;
- Overlooking;
- Overshadowing; and
- Inadequate impact on adjoining heritage properties

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

Consultation meeting

A consultation meeting was held on 17 October 2018 attended by the permit applicants and two 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 2018/422** for the land known and described as **7 Carpenter Street, Brighton**, for

- General Residential Zone Schedule 2: Construction of a three storey multi-dwelling building over a basement car park.
- Design and Development Overlay Schedule 11: Construct a building with a building height more than 9 metres.
- Special Building Overlay: Construction of a dwelling

in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application and advertised) prepared by in2 Pty Ltd referenced RUUHM, date May 2018 and revision number 2 but modified to show:

   a) Details to demonstrate all the windows and the balcony to the Living Room of Unit 2 comply with Standard B22 (Overlooking) of the Bayside Planning Scheme.
   
   b) Allocation of the proposed storage areas for each dwelling.
   
   c) Details to demonstrate both dwellings achieve compliance with Standard B41 (Accessibility) of the Bayside Planning Scheme.
   
   d) Manufacture specifications of the proposed car turntable.
e) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).

f) A Landscaping Plan in accordance with Condition 9 of this permit.

g) Tree Management Plan in accordance with Condition 12 of this permit.

h) Waste Management Plan in accordance with Condition 20 of this permit.

i) Construction Management Plan in accordance with Condition 21 of this permit.

j) Development Contributions in accordance with Condition 22 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. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

Landscaping

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by COS Design, project name: Carpenter Street LANDSCAPE DESIGN, dated 14 August 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 and removed on the site.

b) A survey, including botanical names, of all existing trees on neighbouring properties where their Tree Protection Zones (calculated in accordance with AS4970-2009) encroach into the subject site.
c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

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

e) Details of proposed planting box for the Honey Locust (*Gleditsia triacanthos* “Sunburst”) and Ornamental Pears (*Pyrus calleryana* ‘Capital’) proposed for the private open space including:
   - Soil depth and volume
   - Proposed irrigation system

f) The relocation of the proposed BBQ to outside the TPZ of Tree #1 and #2

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

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

**Tree Management and Protection Plan**

12. 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 all the retained trees shown on the Tree Protection Plan including street tree, 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.

13. 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.

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

15. 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.

16. 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.

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

Drainage

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

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

Waste Management Plan

20. Before the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:
   
   a) Dimensions of storage waste areas.
   
   b) Storm water drains in storage areas should be fitted with a litter trap.
   
   c) The number and size of bins to be provided.
   
   d) Facilities for bin cleaning.
   
   e) Method of waste and recyclables collection.
   
   f) Types of waste for collection, including colour coding and labelling of bins.
   
   g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
   
   h) Method of hard waste collection.
   
   i) Method of presentation of bins for waste collection.
j) Sufficient headroom within the basement to accommodate waste collection vehicles.

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

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

m) Compliance with relevant policy, legislation and guidelines.

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

Construction Management Plan

21. Before the commencement of works, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:

a) A detailed schedule of works including a full project timing.

b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.

c) The location for the parking of all construction vehicles and construction worker vehicles during construction.

d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.

e) Proposed traffic management signage indicating any inconvenience generated by construction.

f) Fully detailed plan indicating where construction hoardings would be located.

g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.

h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

l) Restoration of any Council assets removed and/or damaged during construction.

m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).
n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).

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


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

r) Details of crane activities, if any.

Development Contributions

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

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

Permit Expiry

23. 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.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 12  Environmental and Landscape Values
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 19  Infrastructure
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.04  Environmental and Landscape Values
- Clause 21.06  Built Environment and Heritage
- Clause 21.10  Infrastructure
- Clause 21.11  Local Areas (Church Street Major Activity Centre)
- Clause 22.06  Neighbourhood Character Policy (Precinct B2)
- Clause 32.08  General Residential Zone (Schedule 2)
- Clause 43.02  Design and Development Overlay (Schedule 11)
- Clause 44.05  Special Building Overlay
- Clause 52.06  Car Parking
- Clause 55  Two or more dwellings on a lot
- Clause 65  Decision Guidelines
6. Considerations

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

6.1. Strategic Context

State Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres.

Clause 21.03 (Settlement and Housing) identifies the need for Bayside to play its role in accommodating for the forecast population increase of Melbourne, specifically stating that “Activity Centres will play an increasingly important role in providing for future housing needs, particularly as opportunities diminish elsewhere due to neighbourhood character, heritage and environmental constraints”.

Subsection 1 of Clause 21.03 relates specifically to Activity Centres, of which Church Street is identified as one of four Major Activity Centres within Bayside. The objectives require that medium density development be directed to Major Activity Centres to deliver increased housing density and diversity. Within policy, strategies include:

- Encourage redevelopment of larger sites for higher density residential dwellings.
- Discourage the replacement and construction of single dwellings.

The Local Areas policy (Clause 21.11-3) contains a subsection relating specifically to the Church Street Major Activity Centre. Policy seeks to increase the number and variety of dwelling types through the redevelopment of sites for higher density living. The subject site is designated for three storeys in Map 1 to Clause 21.11-3.

It is considered that the proposal meets the above policy aspirations, and the subject site clearly sits in an area suitable to a development of this general scale and form (as identified in both State and Local Planning Policy)

6.2. Design and Development Overlay

The subject site is covered by Schedule 11 to the Design and Development Overlay, that controls built form standards for the Church Street Major Activity Centre.

The site sits within Precinct E in Map 1 at subsection 5, where the maximum building height is 11m (3 storeys). Evidence of this is detailed below:

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>13.5m (4 storeys)</td>
<td>-</td>
</tr>
<tr>
<td>C</td>
<td>11.0m (3 storeys)</td>
<td>-</td>
</tr>
<tr>
<td>Precinct</td>
<td>Preferred building height</td>
<td>Maximum building height</td>
</tr>
<tr>
<td>----------</td>
<td>---------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>E</td>
<td>-</td>
<td>11.0m (3 storeys); or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more</td>
</tr>
<tr>
<td>E1</td>
<td>11.0m (3 storeys); or</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more</td>
<td></td>
</tr>
</tbody>
</table>

For clarity purposes, the following map shows where the proposed development is located in relation to the ‘E Built Form Precinct Map’.
With a maximum height of 10.67m and three storeys the development complies with the maximum height requirements as stipulated under the overlay.

In addition to the maximum height requirements, under the heading ‘Residential Precincts’ at section 2.0, there is a requirement for development to comply with the setback requirements of Clause 55, except for the second floor that should be setback 4.0m behind the front wall of the floor immediately below unless the second floor is an attic. The proposed development is a three storey building including the second floor (third storey) as a recessed attic style setback 4.2 metres from the floor below which is encouraged by the policy.
With respect to the setback requirements of Clause 55, the proposed development achieves 100% compliance (refer Section 6.4 of this report).

6.3. Neighbourhood character

As a starting point, it must be acknowledged that the site is located within the Church Street Major Activity Centre and is covered by the DDO11, where 3 storey apartment development is encouraged.

In achieving the objectives of the relevant policies that seek more intense development on this site (as has been discussed previously), there will obviously be a contrast in character between those buildings constructed under the current planning controls and the existing housing stock that was built many years ago under a very different planning regime.

This is acknowledged at the introductory sections of Council’s Neighbourhood Character Policy (Clause 22.06), including:

Objective points 3 and 4 at clause 22.06-2 that state:

- To recognise the need for change around activity centres while respecting the desired future character of the area.
- To recognise the need for new or additional Design Objectives and Design Responses for areas affected by structure planning outcomes and Melbourne 2030 housing objectives.

Furthermore, at the Policy section in Clause 22.06-3 (headed ‘Exercising Discretion’), it is stated that (underlined for emphasis):

*Where a permit is required to develop or subdivide land in residential areas it is policy to take into account:*

- The preferred future character and the precinct guidelines including objectives, design responses and avoid statements for each precinct as described in this policy.
- The extent to which the characteristics of the built and natural environment in the immediate vicinity of the site may determine a preferred future character that is different from that applying to the remainder of the precinct in which the site is located.
- Whether the site is located within a residential opportunity area as shown on the Strategic Framework Plan of the Municipal Strategic Statement and the extent to which this may alter the relevance of the design responses to consideration of the proposal.

The underlined section above applies to the development given it is located in the Church Street Activity Centre, and the relevance of the Neighbourhood Character Precinct B2 is diminished by the sites inclusion in the Church Street Activity Centre and the DDO11.

Failure to acknowledge such a contradiction would result in an assessment whereby one would effectively ‘have one foot on the accelerator and one foot on the break’. For example, the intensive development sought under the DDO11 (and various other State and Local Policy) would be severely restricted by the objectives of Clause 22.06 (Neighbourhood Character Policy) that effectively requires development to respect the surrounding, largely single and double storey housing stock.

Notwithstanding the above, an assessment has been undertaken against Neighbourhood Character Precinct B2, and a high level of compliance has been achieved with the preferred future character statement and precinct guidelines as contained in Attachment 3.
The proposed development contains generous areas of landscaping for a development of this type, allowing for an appropriate level of landscaping to soften the built form impact to the streetscape. Car parking is located at basement level and hence would be largely hidden from the public realm. The building contains good levels of articulation and would not unreasonably overwhelm any of the adjacent 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:

Overlooking (Standard B22)

The proposal includes a number of first floor windows serving habitable rooms that are within 9 metres of the secluded private open space (SPOS) and habitable room windows at adjoining properties. The submitted plans are notated to show first floor windows as ‘OB glazing’ for all the sections below 1.7m to prevent overlooking issues to adjoining properties. However the submitted plan contains a clerical error which ‘OB’ has wrongly nominated to ‘Sliding window/door’ in the Legend & Abbreviations. As such, this should be required to be rectified as a condition on any planning permit that maybe issued for the development.

Furthermore, the balcony to the Unit 2’s living is required to be screened so to comply with the standard should a planning permit be issued. A condition is included in the recommendations to address this.

Accessibility (Standard B41)

It is noted the size of the dwelling is generous however the plan does not demonstrate the compliance of this standard. A condition is included in the recommendation requiring compliance with this Standard.

Waste and Recycling (Standard B45)

Council’s Waste Coordinator has assessed the proposal and confirmed that a private collection is required. Alternatively, the owners are required to place the bins on Chavasse Street. A condition is included in the recommendations requiring the provision of a Waste Management Plan.

6.5. Landscaping

The subject site does not have any existing trees and therefore the application does not propose to remove any trees protected by the Local Law.

Tree Nos. 1 to 5 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. A condition to this effect is included in the recommendation.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable in regard to the proposed location, species and provisions of landscaping in general subject to conditions. These are included in the recommendation.

6.6. Street tree(s)

Tree No. 7 is located within the nature strip and is proposed for retention. Council’s Street Tree Arborist has advised that the proposed access to the property will be via the rear laneway, off Chavasse Street. The street tree asset will not be affected. However a standard Tree Management Plan condition will also be imposed to ensure no damage will be occurred during the construction. This is included in the recommendations.
6.7. Car parking and traffic

The subject site is located within PPTN and the car parking rate in Column B under the Table 1 of Clause 53.06-5 is applied.

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. No visitor car parking space is required to be provided.

The development comprises 2 x three bedroom dwellings. A total of 4 car parking spaces are therefore required. Seven parking spaces have been provided with the basement, three spaces in excess of that required.

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 manufacture specifications of the proposed car turntable. This is included as a condition in the recommendations.

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. 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.

6.9. Development contributions levy

The subject site is located within catchment area 11A.

Based on the proposed application and the below recommendation, a payment of $1,010 is required. The payment of the development contributions is included as a condition of permit.

6.10. Special Building Overlay

The subject site is located in a Special Building Overlay. The proposal has been referred to Melbourne Water who had no objection and no conditions.

6.11. Objector issues not already addressed

Inadequate respect for abutting heritage place

An independent heritage consultant has been engaged by Council to provide comments in relation to the potential heritage impacts of the proposed development on the abutting significant heritage properties, known as 9, 11 and 13 Carpenter Street. The heritage advisor is of the opinion that the proposed building with the same front setback as 9 Carpenter Street and the façade ‘steps in’ on the north end will not adversely impact on the neighbouring heritage properties. Furthermore, the proposed building is setback from the common side boundary which enables oblique views of the heritage house to be retained. The top level of the building is set back and expressed as an attic within a pitched roof. This provides an appropriate transition in scale (and contextual reference) from 9 Carpenter Street (with its prominent gabled bay) to the houses to the south, which have prominent gabled first floor roofs.

The placing of the vehicular access to the rear maintains the front garden setback and the proposed front fence is of an appropriate height (1.5m) in a contemporary picket style, which complements the traditional picket fence to 9 Carpenter Street.

The proposed building has a simple, contemporary design with a muted colour scheme that will sit comfortably between 9 Carpenter Street (and the two Victorian houses) and the much-altered houses to the south.
As there will be no heritage impacts, no changes are required to the development and no specific conditions are required having regard to heritage issues.

Support Attachments

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

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

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objectors</td>
</tr>
</tbody>
</table>

Objector is not shown on the above map:

Po Box 212 Brighton
Figure 2: Looking from south west to 7 Carpenter Street (subject site).
Figure 3: Looking towards the subject site.
Figure 4: Looking from north east to 7 Carpenter Street.
**Attachment 3**

**Neighbourhood Character Precinct B2**

**Preferred Future Character Statement**

The diverse dwelling styles, with a continued presence of pre WW2 dwellings, sit within established gardens with occasional tall canopy trees. Side setbacks on both sides, and the setting back of car ports/garages from the dwelling, allows for vegetation to flow around the dwellings. New buildings blend with the existing, through using a variety of materials or colours within front façades, and by respecting the older building styles and scales without replicating them. Open style front fencing improves the visual connection between the dwelling and the street. Street tree planting consistency is improved to provide a unifying element to the area.

**Precinct Guidelines**

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>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. | Responds                    |
|                                                                           |                                                                                 |                                                                      | The subject site is not covered by heritage overlay. Noted the building has been demolished. |
| To maintain and enhance the garden settings of the dwellings.              | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation.                     | Responds                    |
|                                                                           |                                                                                 |                                                                      | There is sufficient space to provide substantial trees to maintain and enhance the garden settings of the dwellings. |
| To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Loss of front garden space.                                               | Responds                    |
|                                                                           |                                                                                 |                                                                      | There is sufficient area for the provision of landscaping to occur within the front setback of the proposed development. The spacing between dwellings have been well maintained by the proposed side setbacks. |
| To minimise the loss of front garden space and the dominance of car parking facilities | • Locate garages and carports behind the line of the dwelling.  
• Provide only one vehicular crossover per typical site frontage.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage | Car parking facilities that dominate the façade or view of the dwelling. | Responds                    |
<p>|                                                                           |                                                                                 |                                                                      | Basement parking is proposed with a single vehicular access to the rear laneway. |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses.</td>
<td>doors do not dominate the façade and the front setback area is retained as predominantly garden space. &lt;br&gt;Articulate the form of buildings and elevations, particularly front façades. &lt;br&gt;Recess upper storey elements from the front façade.</td>
<td>Large buildings with poorly articulated facades.</td>
<td>Responds &lt;br&gt;Carpenter Street contains various forms of development including contemporary design. The proposed development will enhance the existing and emerging character of the area by utilizing similar forms of materials, finishes; and, landscaping. &lt;br&gt;The dwellings feature articulated forms and second storey elements will be recessed from the side walls and surfaces. The recessed upper storey elements from the front façade respond to the neighbourhood character of the Carpenter Street. &lt;br&gt;It is considered that due to the architectural design found throughout Carpenter street, the proposed development is considered to be appropriate as it meets the existing and emerging neighbourhood character of the street.</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. &lt;br&gt;Imitation or reproduction of historic building styles and detailing.</td>
<td>Responds &lt;br&gt;An independent heritage consultant has been engaged by Council to provide comments in relation to the potential heritage impacts of the proposed development on the abutting significant heritage properties. Refer to report 6.11.</td>
</tr>
<tr>
<td>To use a variety of building materials and finishes that provide visual interest in the streetscape.</td>
<td>Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design. &lt;br&gt;Use simple building details.</td>
<td>Exclusive use of one material on external wall facades.</td>
<td>Responds &lt;br&gt;The proposal utilises a variety of materials, including render and flexbrick. The palette of colours is considered appropriate and assists in reducing visual bulk.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>------------------</td>
<td>----------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid fences</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td>The front fencing would be of a height up to 1.5 metres with appropriate transparent it is considered the fence does not present as a dominant feature as it is in keeping with the surrounding area.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### BAYSIDE PLANNING SCHEME – CLAUSE 55

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>features of the site and surrounding</td>
<td></td>
<td></td>
</tr>
<tr>
<td>area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a three storey building comprising two (2) dwellings is supported by relevant policies for this site.</td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td></td>
</tr>
<tr>
<td>consistent with housing policies in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the SPPF, LPPF including the MSS and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>local planning policies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support medium densities in areas to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>take advantage of public transport and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling</td>
<td></td>
<td></td>
</tr>
<tr>
<td>sizes and types in developments of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.</td>
</tr>
<tr>
<td>Provides appropriate utility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services and infrastructure without</td>
<td></td>
<td></td>
</tr>
<tr>
<td>overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The proposed 1.5m high picket fence has appropriate transparency which maintains local accessibility and integration with the street.</td>
</tr>
<tr>
<td>Integrate the layout of development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Required: 4.4m Proposed: 4.6m</td>
</tr>
<tr>
<td>The setbacks of buildings from a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>street respect the existing or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>preferred neighbourhood character and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>make efficient use of the site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| B7 | Building Height | Yes | Maximum allowed: 11m  
Proposed: 10.67m |
|----|----------------|-----|----------------------|
| B8 | Site Coverage  | Yes | Maximum allowed: 60%  
Proposed: 56.9% |
| B9 | Permeability and Stormwater management | Yes | Minimum: 20%  
Proposed: 29.8%  
Four 2500L water tanks have been provided in accordance with the submitted STORM Rating Report which demonstrates a 101% STORM Rating Compliance. |
| B10| Energy Efficiency | Yes | The proposal provides appropriate solar access to the dwellings.  
No solar panels are located on adjoining properties. |
<p>| B11| Open Space | N/A | |
| B12| Safety | Yes | The proposal provides clear legibility and access to the dwellings from the Street through the side entrance. The proposal allows for stairs and a lift to each apartment. |
| B13| Landscaping | Yes | Refer report. |</p>
<table>
<thead>
<tr>
<th>B14 Access</th>
<th>Yes</th>
<th>Refer report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B15 Parking Location</th>
<th>Yes</th>
<th>Refer report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
<th>Yes</th>
<th>Refer the table below.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m - 1m</td>
<td>0m - 1m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m - 1m</td>
<td>0m - 2m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m - 1m</td>
<td>7.4m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>Yes</th>
<th>Height 3.6 (max allowable 3.6m)</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 amenity impacts on existing dwellings.</td>
<td></td>
<td>Average Height 3.2m (max allowable 3.2m)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Length 10.5m (max allowable 17.8m)</td>
</tr>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Yes</td>
<td>The proposal is setback from property boundaries to ensure daylight to existing windows is maintained and comfortably complies with the setback requirements of the standard.</td>
</tr>
<tr>
<td>-------------------------------------</td>
<td>-----</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>N/A</td>
<td>There are no existing north facing habitable room windows within 3 metres of the boundary of an adjoining lot. The north east facing windows of 5 Carpenter Street do not meet the definition of north-facing windows.</td>
</tr>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>No</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Yes</td>
<td>The proposed first or second floor (Unit 2) does not overlook to the ground floor (Unit 1).</td>
</tr>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility. A lift is provided for access to the upper level dwellings. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Yes</td>
<td>The entrance point is located to the east side of the dwelling which is identified by a flexbrick arbor. It is easily identified from the street and also provide a sense of identity.</td>
</tr>
<tr>
<td>Provide a sense of identity to each dwelling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>Allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Yes</td>
<td>All balconies are 8sqm or greater with a minimum width of 1.6 metres. The proposed ground floor apartments have an area of 25sqm plus open space with convenient access from a living and a minimum dimension of 3 metres or more.</td>
</tr>
<tr>
<td>Provide reasonable recreation and service needs of residents by adequate posi.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>No</td>
<td>External storage is provided in the basement to each apartment to meet the requirements of his standard. A condition will be required to nominate each storage room to the relevant dwelling.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Yes</td>
<td>A 1.5 metre high front fence is proposed which complies with the standard requirement.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Yes</td>
<td>Common property is easily identifiable and is limited to the basement and pedestrian access to the apartments.</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Yes</td>
<td>Plans show storage, bin storage and clothesline areas.</td>
</tr>
</tbody>
</table>

**Clause 55.07: Apartment Development**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard B35 Energy efficiency objectives</td>
<td>Yes</td>
<td>Each apartment has its living area and an area of private open space that will receive north daylight.</td>
</tr>
<tr>
<td>Standard</td>
<td>Details</td>
<td>Complies</td>
</tr>
<tr>
<td>----------</td>
<td>---------</td>
<td>----------</td>
</tr>
<tr>
<td><strong>B36 Communal open space</strong></td>
<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>N/A</td>
</tr>
<tr>
<td><strong>B37 Solar access to communal outdoor open space</strong></td>
<td>To allow solar access into communal outdoor open space.</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>B38 Deep soil areas and canopy trees objective</strong></td>
<td>To promote climate responsive landscape design and water management in developments to support thermal comfort and reduce the urban heat island effect.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>The application involves appropriate landscaping including planters to balconies and ground level planting. Deep soil area is not applicable to this site given the area less than 750sqm.</td>
<td></td>
</tr>
<tr>
<td><strong>B39 Integrated water and stormwater management</strong></td>
<td>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.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>The application is accompanied by a WSUD report which highlights that the proposal complies with this requirement.</td>
<td></td>
</tr>
<tr>
<td><strong>B40 Noise impacts</strong></td>
<td>To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>The proposed air-conditioners are located within the proposed basement and away from any existing residential dwellings. No other external noise resources are identified within the Noise influence area as listed in the Table B6.</td>
<td></td>
</tr>
<tr>
<td>Standard B41 Accessibility</td>
<td>No</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>----------------------------</td>
<td>----</td>
<td>-----------------</td>
</tr>
<tr>
<td>To ensure the design of dwellings meets the needs of people with limited mobility.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B42 Building entry and circulation</th>
<th>Yes</th>
<th>As previously discussed, the entrance is not obscured and it is quite easily to be identified.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide each dwelling and building with its own sense of identity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure internal communal areas provide adequate access to daylight and natural ventilation.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B43 Private open space above ground floor</th>
<th>Yes</th>
<th>All SPOS areas comply.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide adequate private open space for the reasonable recreation and service needs of residents.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B44 Storage</th>
<th>No</th>
<th>Refer to report. The proposal fails to demonstrate the internal storage compliance and it will be conditioned in the permit in accordance with this requirement.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide adequate storage facilities for each dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B45 Waste and recycling</th>
<th>No</th>
<th>Refer to report</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure dwellings are designed to encourage waste recycling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that waste and recycling facilities are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B46 Functional layout</th>
<th>Yes</th>
<th>All bedroom and living areas are appropriately dimensioned.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure dwellings provide functional areas that meet the needs of residents.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B47 Room depth</th>
<th>Yes</th>
<th>Each habitable room has a minimum of one</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>To allow adequate daylight into single aspect habitable rooms.</td>
<td>window in an external wall of a building. No bedrooms require a secondary area within the bedroom for natural daylight.</td>
<td></td>
</tr>
<tr>
<td><strong>Standard B48 Windows</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>To allow adequate daylight into new habitable room windows.</td>
<td>No bedrooms require a secondary area within the bedroom for natural daylight. all rooms are appropriately sited to ensure receipt of daylight.</td>
<td></td>
</tr>
<tr>
<td><strong>Standard B49 Natural ventilation</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>To encourage natural ventilation of dwellings.</td>
<td>Each apartment is appropriately designed to achieve dual aspect / orientation and consequently the each dwelling will receive appropriate ventilation.</td>
<td></td>
</tr>
</tbody>
</table>
4.7 21 DUDLEY STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2018/517/1 WARD: NORTHERN

City Planning and Amenity - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/294193

1. Application details

<table>
<thead>
<tr>
<th><strong>Recommendation</strong></th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant</strong></td>
<td>Murray Dovey c/o Nicholas Day Architects</td>
</tr>
<tr>
<td><strong>Title/Covenant/S173 Agreement</strong></td>
<td>The site is subject to restrictive covenant 0708469. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td><strong>Date application received</strong></td>
<td>7 August 2018</td>
</tr>
<tr>
<td><strong>Current statutory days</strong></td>
<td>89 days</td>
</tr>
<tr>
<td><strong>Zoning</strong></td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td><strong>Overlays</strong></td>
<td>Design and Development Overlay (Schedule 1) Development Contributions Plan Overlay Schedule 1 (Schedule 3)</td>
</tr>
<tr>
<td><strong>Site area</strong></td>
<td>950sqm</td>
</tr>
<tr>
<td><strong>Number of outstanding objections</strong></td>
<td>3</td>
</tr>
<tr>
<td><strong>Is a Development Contribution Levy applicable?</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Is the site located within an area of cultural heritage sensitivity?</strong></td>
<td>No</td>
</tr>
</tbody>
</table>

Proposal
The application seeks permission to construct a roof deck in a Design and Development Overlay, Schedule 1 (DDO1). Key details of the proposal are as follows:

- A centrally located roof deck set within the Georgian style roof form.
- The roof deck will have an area of approximately 48sqm.

The application plans are provided at Attachment 1.

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

It should be noted that the substantive works with regard to the proposed construction of the dwelling do not require planning permission. It is only the roof deck which triggers a planning permit requirement.

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 43.02-2 (Design and Development Overlay, Schedule 1) – Construct a roof deck located above the second storey of a building.

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
   There are no referrals to Council departments required to be made for this application.

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and three (3) objections were received.

Three objections remain outstanding at the time of this report.

The following concerns were raised:

   Overall height and bulk, particularly the height of the external access stair;
   Overlooking; and
   Detriment to trees as a result of the construction of the building and removal of a gum tree located at the subject site.

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

Consultation meeting
The applicant declined a consultation meeting and provided a written response addressing the concerns raised for Council’s consideration.

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 5/2018/0517/1 for the land known and described as 21 Dudley Street, Brighton, for the construction of a roof deck in a Design and Development Overlay Schedule 1 (DDO1) in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. 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

2. 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.

3. 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.
4. Any pipes (excluding downpipes), fixtures, fittings and vents servicing the roof deck must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

**Permit Expiry**

5. 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.

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 15 Built Environment and Heritage
- 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 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 proposal relates solely to the provision of a roof deck. A new dwelling is proposed to be constructed on the site, which does not require a planning permit. Only the roof deck therefore can be given consideration.

The roof deck will be sited within and behind the ridge of the Georgian style roof form of the dwelling, which will minimise its visibility to the street and adjoining properties. This is considered to be the appropriate response to such a roof deck ensuring the two storey appearance of the house is maintained.

6.2. Design and Development Overlay Schedule 1 (DDO1)

The decision guidelines of the Design and Development Overlay controls seek to ensure:

- The bulk, location and appearance of any proposed buildings and works will be in keeping with the character and appearance of adjacent buildings, the streetscape or the area.
- The design, form, layout, proportion and scale of any proposed buildings and works is compatible with the period, style, form, proportion, and scale of any identified heritage places surrounding the site.

More specifically the permit requirements outlined in Schedule 1 seek to ensure roof decks:

- Are designed and constructed of materials that integrate with the architectural style and form of the building.
- Are setback at least 2 metres from the roof edge immediately below on all sides to minimise the visual impact on the street, coastal environs and adjoining properties.
- Are designed to limit views into secluded private open space and habitable room windows of adjacent dwellings.
- Do not include any structures or elements that exceed a height of 1.7 metres, apart from an access structure.
- Are accessed by a structure that is designed and located to have minimal impact on the street and adjoining properties.
- Do not enclose any useable floor space and/or do not exceed 2.4 metres in height (measured from floor level at the point of access onto the roof deck).

The proposed roof deck positively responds to the above requirements by being sunken into the actual roof form, behind the roof ridge and setback approximately 14.7m from the Dudley Street frontage to limit its visibility to the street and adjoining neighbours. It will be setback in excess of 2 metres from each of the edges of the roof slope.

The proposed 6.4m setbacks from each side boundary and approximately 700mm wide planter boxes located along the northern, eastern and western sides of the roof deck will assist in limiting unreasonable overlooking into immediately adjoining properties, in particular to adjoining sensitive private open space areas.

The roof deck will be an open structure to minimise visual bulk impacts to neighbours.
The proposed roof access structure will be sited within the Georgian Style roof form and limited to a maximum 2.4m height measured from the second floor level and will be constructed in a smooth render finish and painted in a neutral tone to minimise its visual bulk impact to the street and adjoining neighbours and complement the preferred coastal aesthetic desired by Precinct C1.

6.3. Objector issues not already addressed

Concerns have been raised with respect to the built form proposed, overlooking and impacts to vegetation located on neighbouring land and removal of an established gum tree at the subject site.

It should be noted this application is restricted to the assessment of the proposed roof deck against the decision guidelines of the Design and Development Overlay (Schedule 1). Therefore, any consideration regarding the removal of on-site trees, the impact on any neighbouring vegetation, building construction matters, adverse off site impacts and the building envelope proposed to be constructed all fall outside Council’s ambit of discretion in this instance.

Support Attachments

1. Development Plans
2. Site and Surrounds
3. Neighbourhood Character
Figure 1 Aerial photograph showing subject site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚪️</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site as seen from Dudley Street.

Figure 3 View of subject site as seen from Dudley Street, junction with 20 Dudley Street.
Neighbourhood Character Precinct C1

Preferred Future Character Statement

The mix of dwelling styles, including a substantial presence of pre WW2 dwellings, sit within spacious gardens and do not dominate or overwhelm the streetscape. Garden plantings, and well-articulated façades and roof forms, assist in minimising the dominance of buildings from within the street space, as well as providing visual interest. Front setbacks allow planting of substantial trees and shrubs and side setbacks on both sides maintain a sense of spaciousness in the area. Trees are a mixture of exotic and natives, with an increasing frequency of traditional coastal and indigenous species; strengthening the visual connection of the area with the coast. Open style front fences retain an ability to view buildings from the street. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | N/A                         |
| 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                         |
| 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. | N/A                         |
| 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                         |
| 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.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the façade or view of the dwelling.  
Loss of front garden space. | N/A                         |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that new buildings 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>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or massing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use a mix of materials including timber or other non-masonry wall materials in building design.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Use simple building details and articulate roof forms.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To encourage the use of a variety of building materials, finishes and design detail that 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></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To encourage the openness of the streetscape.</td>
<td>• Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.</td>
<td>Buildings that have no relationship to the foreshore setting.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Poorly articulated roof and building forms.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide a fence or landscaping treatment to delineate the property boundary fronting the foreshore reserve.</td>
<td>Highly reflective materials or glazing.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td>Blank walls facing the foreshore.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lack of distinction between public and private.</td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
<td>------------------</td>
<td>-------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>spaces along the foreshore.</td>
</tr>
</tbody>
</table>
4.8 27 EDRO AVENUE, BRIGHTON EAST  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2018/32/1  WARD: CENTRAL

City Planning and Amenity - Development Services  
File No: PSF/15/8755 – Doc No: DOC/18/290486

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Mr George Mandalos</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The site is subject to restrictive covenant 1234000. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>23 January 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>14 days (formally amended on 6 December 2018)</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>Site area</td>
<td>717.90 square metres</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>17 (18 objections and 1 withdrawn)</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; however, works are exempt given that the lot is:</td>
</tr>
<tr>
<td></td>
<td>• less than 0.11 hectares in size; and</td>
</tr>
<tr>
<td></td>
<td>• not within 200 metres of the coast or the Murray River.</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the construction of two dwellings and a front fence exceeding a height of 1.2 metres.

Key details of the proposal are as follows:

- 2 double storey dwellings with a maximum building height of 7.18 metres
- Site coverage 52.2%
- Permeability 33.1%
- Garden area 36.57% (261.4 m²)
- Up to five on-site car spaces with three car spaces allocated to Unit 1 and two car spaces allocated to Unit 2.
- 1.5 metre high rendered front fence.
- Construction materials include concrete render, timber cladding and colourbond.

The application plans are provided at Attachment 1.
An aerial image and photographs of the site and surrounds are provided at Attachment 2.

**History**

2016/651 – Construction of two double storey dwellings on a lot – Withdrawn.

2. **Planning controls**

   **Planning Permit requirements**

   A planning permit is required pursuant to:
   - Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot and a front fence exceeding 1.2 metres in height.

   **Note:** Clause 32.09-4 requires that for the construction of a dwelling or residential building on a lot above 650 square metres, a lot must provide a minimum of 35% garden area at ground floor level.

   The development plans confirm that the development has a garden area of 36.57% (261.4m²) which exceeds the minimum 35% garden area required by this Clause.

   **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>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

   **Public notification**

   The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 19 objections. The following concerns were raised:
   - Neighbourhood character;
   - Front and side setbacks;
   - Walls constructed on the boundary;
   - Height;
   - Overshadowing;
   - Permeability;
   - Traffic;
   - Landscaping opportunities;
   - Construction management;
   - Accuracy of the plans;
   - Clarity of material uploaded to Council’s website.

   The number of objections received for this application is consistent across Council’s record management systems.
Consultation meeting
A consultation meeting was held on 19 September 2018 attended by the permit applicant and five objectors. As a result of this meeting the applicant circulated draft amended plans to all objecting parties after the meeting.

The proposed changes incorporated the following:

**Ground Floor:**
- Finished floor levels to the entry, laundry and bedroom 1 of both units lowered by 0.15 metres.
- Finished floor levels to kitchen and living area of both units lowered by 0.3 metres.
- Increasing rear paling fence height to 2.1 metres.

**First Floor:**
- Finished floor levels of Unit 1 lowered by 0.15 metres, ceiling height to bedroom 3 and 4 lowered by 0.15 metres
- Finished floor levels of Unit 2 lowered by 0.15 metres, ceiling height to rumpus, bathroom and bedroom 4 lowered by 0.15 metres.
- Increased western side setback to stairwell wall (2.03 metres to 2.87 metres) and rumpus room wall (2.57 metres to 2.870 metres).

**Elevations:**
- All walls on boundary lowered by 0.3 metres
- Overall building height lowered by 0.3 metres and 0.6 metres in line with the aforementioned.

One objection was withdrawn based on the aforementioned changes.

These plans were formally amended pursuant to Section 57A of the Planning and Environment Act 1987 on 6 December 2018. The amended plans detailed one additional change beyond the above changes, increasing the first floor rear setback from 8.08 metres to 9.16 metres to Unit 1 and 9.66 metres to Unit 2.

The additional changes were not formally re-advertised given the amendments result in a reduction in built form, which in turn is less detrimental.

**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 2018/32/1 for the land known and described as 27 Edro Avenue, Brighton East, for the construction of two dwellings and a front fence exceeding a height of 1.2 metres in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application prepared by Ecostruct Design referenced as TP1 to TP11 inclusive (all Rev.6) dated 31 October 2018 but modified to show:
a) The rear setback to Unit 1 and 2 increased by 2 metres at ground and first floor with no further increase to the building envelope. Any changes to the internal layout and/or location, size or type of any windows to either unit must be to the satisfaction of the Responsible Authority.

b) Unit 2’s pedestrian pathway reduced so it returns to its driveway and deletion of the associated gate within the front fence.

c) Provision of an externally accessible window or door to the ground floor walk-in robe associated with Unit 1

d) A reduction to the extent of Unit 1’s rear deck to accommodate a small canopy tree within the rear setback of each dwelling.

e) All windows to be screened in accordance of Standard B22 Overlooking of Clause 55 of the Bayside Planning Scheme.

f) Screening between the secluded private open space of Units 1 and 2 in accordance with Standard B23 Internal Views of Clause 55 of the Bayside Planning Scheme.

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

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

i) A note on the plans stating the street tree asset will be removed and replaced at the developer’s cost.

j) Correct annotation of brick fence height / wall constructed along the eastern boundary.

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

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

m) Development Contribution Levy payment in accordance with Condition 14 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.
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 drawn to scale with dimensions and three copies must be provided in accordance with the Bayside Landscape Design Guidelines (2016). The plan must show:
   a) At least one (1) small canopy tree within the front setback of each dwelling to grow to a minimum height of 8m at maturity
   b) At least one (1) small canopy tree within the rear setback of each dwelling to grow to a minimum height of 6m at maturity. This may necessitate a reduction to Unit 1’s rear timber deck to accommodate the canopy tree.
   c) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   e) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   f) Details of surface finishes of pathways and driveways
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.

**Traffic**

13. Before the occupation of the development starts, the area(s) set aside for vehicle parking and accessways must be constructed and drained to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times. Any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

**Development Contributions**

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

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

**Drainage**

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

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

17. Council records indicate that there is a 1.83m wide drainage and sewerage easement along the northern property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the responsible Authority/Authorities.

**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.

- Before the vehicle crossing application will be approved, the applicant must pay $9,214.49 to the Responsible Authority for the removal and replacement of the existing street tree (Asset No. 752376). This amount has been determined in accordance with Council's current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible authority.

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

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

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

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

Relevant strategies of the Council plan include:

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

- Ensure new development responds to preferred neighbourhood character in activity centres.

Bayside Planning Scheme

- Clause 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 E1)
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 45.06 Development Contributions Plan Overlay
• Clause 52.06 Car Parking
• Clause 53.18 Stormwater Management in Urban Development
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct E1. 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 prevailing streetscape character within Edro Avenue is eclectic comprising a mix of existing single storey facebrick or render housing stock and recently constructed double storey dwellings, generally with a rendered finish and traditional pitched tiled roof.

Front setbacks along Edro Avenue are fairly uniform with garages generally sited to the side of dwellings abutting one side boundary and accessed via a single crossover. A small number of properties have garages encroaching into their front setback. Landscaping within Edro Avenue front setbacks is typically limited.

The proposed 9.4 metre front setback with limited hard paving associated with driveways and pedestrian pathways is considered generous and will provide space for landscaping opportunities to enhance the average garden character. A condition reducing Unit 2’s pedestrian pathway to return to its driveway will further improve landscaping in the front setback. Similarly, the side setbacks, in particular off-setting Unit 1’s garage from the western boundary is considered reasonable and will provide a sense of space and separation between built form and an appropriate level of landscaping to reflect the prevailing and preferred garden setting and streetscape character.

Council’s Open Space Arborist supports the removal of the street tree asset subject to appropriate replacement street tree planting at the applicant’s cost.

Further, the proposed 1.5m high rendered front fencing with no vehicular gates to restrict views of future front setback landscaping will match the varied front fence height and styles evident within Edro Avenue and is considered acceptable.

The extent of building footprints, including the number of walls constructed to shared boundaries is considered acceptable and accords with the standard to alleviate objector concerns.

Similarly, the double storey scale of the development is consistent with the prevailing and preferred low scale residential character evident within the precinct.

The proposed development technically extends boundary to boundary with the entry and primary living areas to Unit 1 being constructed on the boundary and the garage and living areas to Unit 2 also being constructed on the boundary. Due to the 19 metres recess of the built form from the site frontage on the western boundary, the development continues to respect the objective of providing a visual separation and street rhythm.
within the streetscape. Further to this, the irregular front façade building line at both ground and first floor levels ensures the presentation to the streetscape is sufficiently staggered to limit any perception of building bulk or dominance of car parking structures. The presentation of the timber cladding to the double width garage door and recessed location of the single width garage ensures that the dwellings present an activated frontage and opportunities for passive surveillance to the streetscape.

The first floor footprint cantilevers slightly towards the streetscape, yet it is comparatively smaller than the ground floor envelope immediately below, is well articulated and incorporates parapets facing the street. It culminates in a design response that provides an interesting façade treatment that features reverse articulation to the Edro Avenue streetscape whilst minimising visual bulk and massing impacts to immediately adjoining neighbours to the east and west.

However, the overall length of the ground and first floor envelope is considered excessive and extends deep into the site. As such, a condition of approval requiring the reduction to the built form at both ground and first floor by 2 metres, generally in line with the building footprint at 25 Edro Avenue. This condition will protect the open rear corridor and ‘backyardscape’ that extends behind properties facing Edro Avenue. It is noted that the proposed changes to the built form can easily be accommodated by reducing the size of generously proportioned open plan kitchen, living and meals areas at ground floor and ensuites, walk-in-rob and bathrooms at first floor.

In two previous the Victorian Civil and Administrative Tribunal decisions within this municipality, Juzva v Bayside CC [2006] VCAT 2411 and Mansour v Bayside CC [2007] VCAT 304, the impact of development on the surrounding secluded private open spaces was found unacceptable. Whilst it is acknowledged that the rear setback generously exceeds the numerical requirement, it is considered that further increasing the rear setbacks is warranted based on the clear pattern of generous backyards and opportunities for planting that is displayed along Edro Avenue.

Concerns in relation to this being the first dual-occupancy within the street have been raised in objections. The planning scheme does not restrict the number of units that can be located within a given area. Therefore each planning permit application must be assessed against the relevant provisions of the Bayside Planning Scheme. The existence of a high number of dwellings in the area would not be sufficient grounds for Council to justify refusal of the application before the Victorian Civil and Administrative Tribunal. It is noted that 15 and 15A Edro Avenue present a side by side development whilst 35 and 35A includes a dwelling to the rear. The proposed built form and massing, subject to conditions, presents no greater visual bulk than single dwellings on a lot.

Subject to the above improvements to the overall design, the development is considered acceptable and will successfully enhance the preferred streetscape and wider neighbourhood character envisaged by Council objectives.

6.2. Compliance with Clause 55 (ResCode)

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

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

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

The 2.2% transgression is considered minor and the extent of site coverage will allow sufficient side and rear setbacks and space for landscaping to respond to the preferred pattern of development and garden character within the immediate area. It is further
noted that conditions of permit requiring an increased in the rear setbacks to ground and first floor will achieve a site coverage of 48% thus achieving compliance.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First floor</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>3.68m - 3.94m</td>
<td>master bedroom</td>
<td>0m, 1.2m, 2.1m and 4.2m</td>
<td>3.8m</td>
<td>(ensuite and bedroom 2)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.38m</td>
<td>(ensuite and bedroom 2)</td>
<td></td>
<td>3.8m</td>
<td>(stairwell)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.18m</td>
<td>(Rumpus, bathroom and bedroom 4)</td>
<td></td>
<td>3.19m</td>
<td>(Rumpus, bathroom and bedroom 4)</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>3.62m - 3.86m</td>
<td>master bedroom, ensuite walk-inrobe</td>
<td>0, 1m, 1.72m, 5.41m</td>
<td>2.57m</td>
<td>(master bedroom, ensuite walk-inrobe)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.14m</td>
<td>(rumpus)</td>
<td></td>
<td>2.87m</td>
<td>(rumpus)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.62m</td>
<td>(bathroom and WC)</td>
<td></td>
<td>3.85m</td>
<td>(bathroom and WC)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.02m</td>
<td>(bedroom 3)</td>
<td></td>
<td>2.57m</td>
<td>(bedroom 3)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.14m</td>
<td>(bedroom 4)</td>
<td></td>
<td>3.46m</td>
<td>(bedroom 4)</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
<td>4.32m</td>
<td></td>
<td>7.92m and 9.0m</td>
<td>9.15m and 9.66m</td>
<td></td>
</tr>
</tbody>
</table>
and is concealed by a carport forward of the entry. The proposed variation is considered to continue to respond to the street rhythm and character of the area, where development are generally constructed to at least one side boundary and feature setbacks comparable with that proposed.

A 1 metre side setback to the walk-in-robe associated with Unit 1 is considered acceptable at it provides additional solar access to rooms abutting the window. The proposed break in the wall constructed along the boundary is considered to be a positive design outcome and provides visual relief to 25 Edro Avenue. It is however considered reasonable to include a condition requiring an externally accessible door or window in this location so as to enable suitable maintenance and cleaning of this area as it may otherwise become a litter trap.

At first floor a 3.38 metre side setback is proposed in lieu of a 3.68 – 3.94 metres setback to the side wall associated with the master bedroom of Unit 2 (eastern boundary). A variation between 0.3 and 0.56 metres is therefore sought. The setback to the rumpus room wall of Unit 2 is proposed at 2.87 metres in lieu of 3.14 metres, a variation of 0.27 metres. The proposed setbacks are considered acceptable and are proposed opposite a car port and first floor blank wall associated with 29 Edro Avenue. On this basis the proposed variations to the setbacks are not considered to result in material detriment to the adjoining property.

The western first floor seeks a 2.57 metres setback to the master bedroom, ensuite and walk-in-robe associated with Unit 1 in lieu of a 3.62 – 3.86 metres. A 2.87 metre setback is proposed in lieu of 3.14 metres to the rumpus room. The proposed variation of 1.29 metres (at its greatest point) is considered acceptable as the setback requirements are resultant of the sloping roof form which provides visual interest to the streetscape and assists in providing an effective design response to a long and narrow site profile. It is further noted a setback of 5.5 metres is provided to the first floor windows associated with 25 Edro Avenue and is therefore not considered to result in visual bulk to first floor habitable room windows of this property given the articulated sloping roof form, lowering from the front façade. It is noted these setbacks are also comparable to those at 25 Edro Avenue and found elsewhere along the streetscape.

The proposed 2.57 metre setback in lieu of the required 3.02 metre to bedroom 3 of Unit 1 is also considered acceptable. The non-compliant wall length only extends for 4.5 metres and is offset from habitable room windows associated with 25 Edro Avenue therefore minimising any perception of visual bulk. As previously discussed in comments relating to ‘backyardscape’ the rear setback to bedroom 4 is recommended to be increased by an additional 2 metres and therefore this will assist in off-setting any perception of visual bulk to the rear garden outlook of adjoining dwellings (see Section 6.1 for further discussion).

As mentioned above the proposed double storey building height responds to the preferred low scale residential character of the area. Although the proposed ground and first floor side setbacks do not meet the numerical requirements of the Schedule 3 to the Neighbourhood Residential Zone by approximately 0.3 metres to 1.29 metres it is considered that the extent of the proposed building envelopes and setbacks adequately respond to the existing pattern of development within the street and wider neighbourhood and will not pose any significant amenity detriment through unreasonable visual bulk or massing impact to neighbours to the east or west.

It is considered appropriate that the proposed variations to the side setbacks are acceptable and the siting and massing of the development is appropriate due to the relatively narrow site frontage of 15.24 metres and depth of the site of 46.81 metres. The profile of the site and inherent difficulty in complying with the side setbacks, warrants variations to the side setbacks. The proposed development is well resolved with non-compliant first floor side setbacks extending for only short wall lengths and being well-articulated through a change in roof forms, resultant breaks in the roof form, material
finishes and changes to window profiles.

The proposed built form at first floor level occupies 8.5 metres of the site frontage (approximately 55%) whilst the development at 25 Edro Avenue has a 8.3 metre width at first floor (approximately 54%) of the site frontage. The proposal therefore is therefore indicative of the existing scale and massing of the built form within this area albeit this development encompasses two dwellings which is supported by planning policy.

The setback of Unit 1’s garage from the side boundary and providing a generous front setback in well excess of 9 metres and generous rear setback will allow for the planting of new vegetation throughout the site which will enhance the garden character in the area. This outcome can be managed via a recommended condition requiring a landscape plan featuring small canopy tree planting in accordance with the Bayside Landscape Design Guidelines (2016).

Internal Views (Standard B23)

The objective seeks to limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.

The submitted plans fail to clearly show how internal views within the development, especially between Unit 1 and 2’s rear private open space will be limited.

A condition is recommended in the recommendation.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Edro Avenue</td>
<td>1.2m</td>
<td>1.5m</td>
<td>0.3m</td>
</tr>
</tbody>
</table>

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

The schedule to the zone prefers front fencing to have a maximum height of 1.2 metres. However, front fencing within Edro Avenue is mixed, yet generally extends to a height of 1.5 metres. As a result the proposed 1.5 metres high rendered brick front fence is supported and will complement the streetscape character.

6.3. Landscaping

The application does not propose to remove any trees protected by the Vegetation Protection Overlay (VPO3) or the Local Law.

The front setback is generous and will allow sufficient space for appropriate landscaping opportunities that will enhance the existing low vegetative streetscape character. It is recommended that conditions of approval seek the submission of a Landscape Plan in accordance with the Bayside Landscape Design Guidelines (2016) to accommodate canopy tree planting throughout the site, in particular within the front and rear setbacks. A reduction to the overall size of Unit 2’s separate pedestrian pathway is also recommended to gain additional space for canopy tree planting within the front setback.

An increase to the rear setback by 2 metres and a reduction in the size of the decking area will ensure appropriate planting can establish outside of the easement.

Vegetation partially defines the northern and rear eastern site boundary. It is noted the existing development incorporates a swimming pool within the rear setback and given no development is proposed to occur on or near the easement or extend any further north than the current built form on the eastern boundary, no detriment to the health of the vegetation is likely to occur.
6.4. Street tree

An existing *Lagunaria patersonii* (Norfolk Island hibiscus) street tree asset is located within the nature strip and is proposed for retention. Council’s Street Tree Arborist has advised that a minimum 2 metres setback from Unit 2’s new crossover is required. If the setback cannot be achieved, then the tree may be removed under the clause 6.5 of the Street and Park Tree Management Policy (2016) at a cost to the applicant.

Redesigning the crossover to achieve a 2 metres setback to the street tree asset will adversely impact sightlines for motorists accessing Unit 2’s driveway, therefore a financial payment is required to the Responsible Authority for the removal and replacement of the existing street tree (Asset No. 752376) is recommended.

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.

Each dwelling will comprise four bedrooms and is afforded at least two car parking spaces in the form of either a single or double garage with tandem outdoor parking.

The proposed provision of up to five on-site car spaces exceeds the requirements of Clause 52.06-5.

The proposed vehicle access and arrangement is considered appropriate and provides adequate sightlines and internal parking dimensions in accordance with Clause 52.06 to suit the needs of future residents.

6.6. Development contributions levy

The subject site is located within catchment area 11B.

Based on the proposed application and the below recommendation, a payment of $2,020 is required. The payment of the development contributions is included as a condition of permit.

6.7. 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.

6.8. Objector issues not already addressed

**Accuracy of plans / insufficient information**

Sufficient information to enable an informed view of the application has been made available for viewing at Council Offices as part of the notification process, which has been carried out in accordance with Section 57 of the *Planning and Environment Act 1987*. Additional information submitted with the application has been made available at the request of interested parties.

Concerns have been raised regarding detailing and accuracy of the plans, specifically in relation to a wall references as being 3 metres high along the eastern boundary. A condition has been included requiring this to be accurately noted. This annotation does not alter the assessment outcome of this report.

**Construction management**

Building work can sometimes affect adjoining properties. An owner who is proposing building work has obligations under the *Building Act 1993* to protect adjoining property from potential damage from their work. If building work is close to or adjacent to adjoining
property boundaries, then the relevant building surveyor may require the owner to carry out protection work in respect of that adjoining property. This is to ensure that the adjoining property is not affected or damaged by the proposed building work. Protection work provides protection to adjoining property from damage due to building work. It includes but is not limited to underpinning of adjoining property footings, including vertical support, lateral support, protection against variation in earth pressures, ground anchors, and other means of support for the adjoining property. This process is not controlled or overseen via the planning process and regulations. It is a matter addressed at the building permit stage.

The potential for damage arising to the property during construction are outside the scope of the planning process and are not sufficient to warrant the refusal of the application. These matters are dealt with by the building surveyor.

Some noise and other off site impacts are inevitable when any construction occurs. The developer will be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

Clarity of online material on Council’s website

Concerns relating to the legibility of plans on Council website have been raised as a concern. It is noted that the Development Services Department are currently moving towards adopting a paperless office and feedback regarding the quality of the online information has been acknowledged and will inform future improvements with online services.

It is noted a hard copy of the plans are available to view at Bayside City Council Corporate Centre.

Support Attachments

1. Development Plans ▼
2. Site and Surrounds Imagery ▼
3. Neighbourhood Character Assessment (Precinct E1) ▼
4. Clause 55 (ResCode) Assessment ▼
TP1: COVER SHEET
TP2: EXISTING SITE PLAN
TP3: PROPOSED GROUND FLOOR SITE PLAN
TP4: PROPOSED FIRST FLOOR PLAN
TP5: ROOF PLAN
TP6: ELEVATIONS
TP7: TP13 - SHADOW DIAGRAMS
TP7: TP1 - SENSITIVE WATER URBAN DESIGN
TP15: STREETSCAPE

27 EUDO AVENUE, BRIGTON EAST
PROPOSED TWO UNIT DEVELOPMENT
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial overview of site context.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2. Objection Map

<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>
<tr>
<td>Objection Withdrawn</td>
<td>△</td>
</tr>
</tbody>
</table>
Figure 3. Looking north from Edro Avenue to the subject site.
Figure 4. View looking north to 25 Edro Avenue with the subject site to the right of the photograph.

Figure 5. View looking north to 23 Edro Avenue with 25 Edro Avenue to the right of the photograph.
Figure 6. View looking north to 29 Edro Avenue

Figure 7. View looking south from Edro Avenue to No. 26.
Figure 8. View looking south from Edro Avenue to No. 26 and 28 Edro Street.

Figure 9. View looking south to 32 Edro Avenue.
Figure 10. View looking south to 34 Edro Avenue.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct E1)

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in the design of new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The prevailing streetscape character is eclectic comprising a mix of existing single storey housing stock and recent double storey single dwellings. Therefore, it is considered the existing single storey dwelling doesn’t contribute any significant value to the street and can be removed and replaced by the proposed development. |
| To maintain and enhance the garden settings of the dwellings.             | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.  
• Retain large trees and provide for additional trees wherever possible. | Lack of landscaping and substantial vegetation.  
Removal of large trees. | Responds  
Front setbacks on the northern side of Edro Avenue are fairly uniform averaging 8.5m – 9m to the street frontage with garaging generally abutting one side boundary access via a single crossover.  
Landscaping within these front setbacks is limited. Therefore the proposed front and side setbacks and number of crossovers are considered reasonable in this instance and will provide an appropriate level of |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>landscaping to reflect the prevailing and preferred garden setting and streetscape character.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>In addition, Council’s Open Space Arborist supports the removal of the street tree asset subject to appropriate replacement street tree planting at the applicant’s cost.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>In addition, a condition requiring the submission of a landscape plan to accommodate canopy tree planting in the front and rear setbacks in accordance with the Bayside Landscape Design Guidelines (2016) is recommended</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>These requirements can be controlled via conditions of approval.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Further, the proposed 1.5m front fencing with no apparent vehicular gates is supported and will allow views of the landscaped front setback.</td>
</tr>
<tr>
<td>To provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>As mentioned above the front setback and extent of hard paving, subject to a reduction to Unit 2’s separate pedestrian pathway will allow space for future canopy tree planting.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Further, the proposed side and rear setbacks are appropriate and will also facilitate reasonable vegetation to be planted throughout the site. A reduction to the rear setbacks and decking areas within the back yard will further assist in providing landscaping opportunities.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------</td>
<td>-------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td>- Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Responds</td>
</tr>
</tbody>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | - Locate garages and carports behind the line of the dwelling.  
- Minimise paving in front garden areas including driveways and crossovers. | - Car parking structures that dominate the façade or view of the dwelling.  
Front setbacks dominated by impervious surfaces. | Responds |

The extent of walls constructed to shared boundaries is considered acceptable and accord with the standard. Similarly, the double storey scale of the development is consistent with the prevailing and preferred low scale residential character evident within the precinct.

Whilst the first floor footprint cantilevers slightly beyond the ground floor facing the street, it is comparatively smaller than the ground floor envelope, adequately articulated to minimise visual bulk and massing impacts to neighbours and offers reverse articulation and interest to Edro Avenue.

However, the overall length of the first floor envelope is excessive and extends to far down the length of the site. As such a condition of approval requiring increased rear setbacks at ground and first floor level is recommended to protect the open rear corridor that extends behind properties facing Edro Avenue.

As mentioned above the front setbacks are adequate and will provide sufficient landscaping to suitably reflect the neighbourhood character.

The proposed mix of a single and a double garage which will be set off the western boundary provides relief and reduces the dominance of garaging to the street.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure new development respects the dominant building form and scale of buildings in the Precinct. | • Recess second storey elements from the front façade.  
• Articulate front facades, and provide roofs with eaves. | Reproduction of historic building styles. | Responds  
The proposed contemporary design response featuring parapets at first floor and a pitched roof towards the rear and a maximum double storey height minimises adverse visual bulk amenity impacts to neighbours and responds to the preferred low scale residential character evident in Edro Avenue and wider Precinct E1. |
| To respect the identified heritage qualities of adjoining buildings. | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design. | Buildings that dominate heritage buildings by height, siting or massing.  
Period reproduction detailing. | N/A |
| To encourage building facades to add visual interest to the streetscape. | • Use a mix of materials, colours and finishes in building facades, drawn from the palette commonly found in the area. | Excessive use of render or one material on external wall surfaces. | Responds  
The proposed mix of external materials featuring render, timber cladding and alucobond in neutral tones will appropriately complement the referred streetscape character. |
# ATTACHMENT 4
## ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Compiles with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | On balance, the proposal is considered generally appropriate with regard to providing site services and facilities to support the construction multiple dwellings on a lot of this size and responding to preferred characteristics evident within the streetscape, yet the extent of the first floor is excessive and is recommended to be reduced to respond to the existing open corridor which extends behind dwellings facing Edro Avenue.  
Refer to Attachment 3 and report for further discussion. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Yes | As above.  
Refer to Attachment 3 and report for further discussion. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Yes | The 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 contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street | Yes | The proposed design response featuring parapets at first floor and a traditional pitched roof form with eaves to the rear, moderate building envelopes with a well articulated first floor, subject to |
conditions, landscaped front and rear, complementary fenestration and external materials that respond to the preferred residential character will appropriately integrate within the preferred streetscape character and provide a suitable transition and visual separation to adjoining properties.

The side setbacks are generally acceptable with the objectives of Standard B17 and considered to be reflective of its immediate adjoining properties at 25 and 29 Edro Avenue and wider built form character.

The overall building height of 7.18m is acceptable and reads well within the prevailing streetscape context.

Refer to Attachment 3 and the report for further discussion.

<table>
<thead>
<tr>
<th>B6 Street Setback</th>
<th>Yes</th>
<th>Requirement: 9m</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Proposed: 9.4m – 10.5m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B7 Building Height</th>
<th>Yes</th>
<th>Maximum: 9m</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Proposed: 7.7m (2 storeys)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B8 Site Coverage</th>
<th>No</th>
<th>Maximum: 50%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Proposed: 52.2%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Section 6.2 of report for further discussion</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B9 Permeability</th>
<th>Yes</th>
<th>Minimum: &gt;20%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Proposed: 33.1%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B10 Energy Efficiency</th>
<th>Yes</th>
<th>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.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>B11 Open Space</th>
<th>N/A</th>
<th>There is no communal open space in or adjacent to the development.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Yes</td>
<td>The pedestrian entry points are clearly recognisable from Edro Avenue, including Unit 1’s entry which is setback further from the street frontage. While upper floor levels will allow for the passive surveillance of the street.</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>Yes</td>
<td>The extent of the building footprints, hard paving and setbacks to side and rear boundaries are considered to be generally acceptable, providing sufficient space for landscaping opportunities. A condition of permit requiring a landscape plan featuring suitable canopy tree planting throughout the site in accordance with the Bayside Landscape Design Guidelines (2016) to soften and screen the development when viewed from the street and/or adjoining neighbours is recommended. In addition, a reduction to the rear setbacks and decking area provides additional space for a small canopy tree, due to the width of the easement abutting the northern boundary. Refer to Attachment 3 and the report for further discussion.</td>
</tr>
<tr>
<td><strong>B14 Access</strong></td>
<td>Yes</td>
<td>The proposed number and location of new crossovers facing Edro Avenue respect the preferred neighbourhood character and will provide appropriate vehicular access, including sightlines for motorists. Further, Council’s Open Space Arborist advises that the existing street tree asset may be removed and replaced at the cost of the applicant. This is supported and recommended as condition of permit part of this approval. Refer to the report for further discussion.</td>
</tr>
<tr>
<td><strong>B15 Parking Location</strong></td>
<td>Yes</td>
<td>On-site car parking will be provided in the form of either a single or double width garage with tandem parking in front conveniently located adjacent to the entry of each dwelling in accordance with Clause 52.06-5 of the scheme and ResCode requirement. Unit 1’s double garage will also be set off from the western boundary to provide visual separation between buildings and minimise bulk to the streetscape.</td>
</tr>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td>No</td>
<td>Refer to the report for further discussion.</td>
</tr>
</tbody>
</table>
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

<table>
<thead>
<tr>
<th>Location</th>
<th>Ground floor</th>
<th>First floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>0m, 1.2m, 2.1m and 4.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m, 1m, 1.72m, 5.41m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
<td>7.92m and 9.0m</td>
</tr>
</tbody>
</table>

Areas of non-compliance are underlined.
| B18 Walls on Boundaries | Yes | **East boundary**  
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.  
| | | **Maximum Height:** 3.6m  
**Proposed:** 2.87m and 2.95m  
**Maximum Length:** 19.24m  
**Proposed:** 6.46m + 11.78m = 18.24m  
**West boundary**  
**Maximum Height:** 3.6m  
**Proposed:** 2.92m & 2.99m  
**Maximum Length:** 19.15m  
**Proposed:** 5.27m + 2.49m + 10m = 17.76m  
The proposed wall height and length accords with the standard. |
| B19 Daylight to Existing Windows | Yes | The development has been sufficiently setback from existing habitable room windows located at 25 and 29 Edro Avenue to achieve a minimum 3m² lightcourt with a minimum dimension of 1m clear to the sky in satisfaction of the standard. |
| B20 North Facing Windows | N/A | There are no adjoining north facing habitable room windows within 3m of any boundary. |
| B21 Overshadowing Open Space | Yes | The submitted shadow diagrams indicate small portions of adjoining open space towards the east and west will experience additional overshadowing in the morning and afternoon at 3pm due to the orientation of the lots. However, the additional shadowing is considered reasonable and meets the test within the standard.  
It is noted that conditions requiring a reduction in the built form will further reduce overshadowing impacts. |
<p>| <strong>B22 Overlooking</strong> | Yes | The submitted elevations indicate north, east and west facing first floor habitable room windows will have either high sills or shaded glazing to a minimum height of 1.7m/1.8m above finished floor level to prevent unreasonable overlooking to adjoining properties. It is assumed that the shaded glazing will be obscured to limit unreasonable views from these windows, however this is unclear. Therefore, a condition of permit requiring screening to be fully in accordance with the standard is recommended. In addition, the existing 2.4m high boundary fencing, including 3.6m high walls constructed to the shared eastern boundary will provide adequate protection to immediately adjoining properties from unreasonable overlooking to/from ground floor windows. |
| <strong>B23 Internal Views</strong> | No | The submitted plans fail to clearly show how internal views within the development, especially between Unit 1 &amp; 2's rear private open space will be limited. A condition of permit can address this anomaly to ensure the standard is met. See section 6.2 of report for further discussion. |
| <strong>B24 Noise Impacts</strong> | Yes | It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses. |
| <strong>B25 Accessibility</strong> | Yes | Entries are accessible for people with limited mobility. In addition, each unit will have a bedroom located at ground floor to accommodate people with limited mobility. Further, the development could be retrofitted in the future if required, particularly the step down to the primary living areas. |
| <strong>B26 Dwelling Entry</strong> | Yes | The development faces Edro Avenue providing each dwelling with a sense of address and a clearly identifiable entries. |
| <strong>B27 Daylight to New Windows</strong> | Yes | All habitable windows will open out onto a space clear to the sky. |</p>
<table>
<thead>
<tr>
<th>B26 Private Open Space</th>
<th>Yes</th>
<th>Minimum: 25m² secluded, 40m² overall with a minimum dimension of 3m  No balconies are proposed.  Proposed:  The units meet the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents.  It is noted that Clause 32.09-4 of the Bayside Planning Scheme requires a minimum garden area at ground floor level of 35% of the site area. This equates to 250.14m².  The development plans confirm that the development has a garden area of 36.57% (261.4m²) which exceeds the minimum 35% garden area required by 1.57%.  Conditions of permit relating to rear setbacks will further increase the garden area provisions of this development.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Private Open Space</td>
<td>Secluded Private Open Space</td>
<td></td>
</tr>
<tr>
<td>Unit 1</td>
<td>&gt;60m²</td>
<td>60.84m²</td>
</tr>
<tr>
<td>Unit 2</td>
<td>&gt;60m²</td>
<td>68.39m²</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Yes</td>
<td>Each dwelling will have access to north facing secluded private open space.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Yes</td>
<td>The submitted plans indicate 6m² of storage will be provided adjacent to and accessed via each garage. Whilst the storage is not externally accessible it is considered convenient and meets the objective, whilst also ensuring minimum internal garage dimensions in accordance with Clause 52.00-9 are maintained.</td>
</tr>
</tbody>
</table>
| **B31 Design Detail** | Yes | Refer to Attachment 3 and the report for further discussion.  
Encourage design detail that respects the existing or preferred neighbourhood character.  
The proposed building height, roof form and external finishes, including building envelopes and side and rear setbacks respond appropriately to the preferred character and pattern of built form to provide sufficient visual separation between buildings within Edro Avenue by ensuring:  
- Setbacks provide reasonable space for landscaping, including canopy tree planting throughout the site  
- Unit 1’s garage is off-set from the western side boundary to reduce bulk and provide separation to the street and property to the west  
- The siting of walls constructed to shared boundaries comply with the standard and respond to adjoining built form to the east and west  
- The first floor is recessed from all side boundaries and well articulated, subject to a reduction in overall length towards the rear  
- Views from first floor habitable room windows are adequately restricted, subject to a condition clarifying the shading to some windows to fully comply with the standard  
- The chosen external materials are varied and will complement the preferred finishes evident in the precinct |
| **B32 Front Fences** | No | The schedule to the zone requires front fences to be restricted to a max. height of 1.2m.  
Encourage front fence design that respects the existing or preferred neighbourhood character.  
Front fences within the immediate area vary in their style and construction yet are generally in the ordered of 1.5m in height.  
Therefore, the proposed 1.5m high rendered brick front fence is supported and will complement the streetscape. |
| **B33 Common Property** | N/A | There is no common property.  
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.  
Avoid future management difficulties in common ownership areas. |
<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
</tr>
</tbody>
</table>
4.9 57 WELL STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2018/263/1 WARD: NORTHERN

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Keen 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>7 May 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>129 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (GRZ2)</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>703m²</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>3</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>No</td>
</tr>
</tbody>
</table>

Proposal
The application seeks the construction of a three storey building comprising five (5) dwellings with basement car parking and a front fence exceeding a height of 1.5 metres.

Key details of the proposal are as follows:

- 5 dwellings;
- 3 storey building with a maximum building height of 11m, comprising 2 x two bedroom units and 3 x three bedroom units;
- Vehicle access via a 3.6m wide ramp to basement car park from Well Street;
- A total of 12 car spaces will be provided on-site within the basement car park;
- Site coverage is 57.2%;
- Permeability is 20%; and
- Garden area is 35% = 249m².

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 and a front fence exceeding 1.5 metres in height.

Planning Scheme Amendments

Planning scheme amendment VC148 was gazetted on 31 July 2018. This amendment introduces changes to the Victoria Planning Provisions (VPP) and all planning schemes arising from the Victorian Government’s Smart Planning program. The program aims to simplify and modernise Victoria’s planning policy and rules to make planning more efficient, accessible and transparent. VC148 reduced car parking requirements for land within 400 metres of the Principle Public Transport Network, the (PPTN) area. As the site is located within the PPTN area, this amendment is applicable to the 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 four objections were received.

Three objections remain outstanding at the time of this report.

The following concerns were raised:

- Demolition of original dwelling;
- Overdevelopment of the land;
- Neighbourhood character;
- Overlooking;
- Overshadowing;
- Loss of views;
- Building bulk;
- Limited space for future landscaping opportunities;
- Non-compliant with several ResCode standards.
The number of objections received for this application is consistent across Council’s record management systems.

Consultation meeting

The applicant declined a consultation meeting at Council’s offices but met with objectors from adjoining properties separately. As a result of this meeting one objection was 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 5/2018/263/1 for the land known and described as **57 Well Street, Brighton** for the **construction of a three storey building comprising five (5) dwellings with basement car parking and a front fence exceeding a height of 1.5m** 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 Rigney Scerri Architects Pty Ltd referenced as Drawing Nos TP1, TP2, TP3, TP4, TP5, TP10 & TP11 (all Rev.A) dated 15 July 2018 and Landscape Plan prepared by COS Design Page 1 of 1 (Version 1) and dated 18 July 2018 but modified to show:

a) Existing crossover to have a maximum width of 3.6m and incorporate a 1m wide splitter island between the crossovers to the subject site and No. 59 Well Street.

b) Column locations within the basement to be in accordance with AS2890.1.

c) A sign to be located within the basement stating “Waste collection vehicles must exit in a forward direction” and “No stopping between the hours of 6am – 7am on collection day/s”.

d) A minimum 1m blind aisle to be provided adjacent to car spaces 4 and 8 in accordance with AS890.1. Any resulting relocation of storage areas to be provided within the basement envelope. The location and type of storage must be to the satisfaction of the Responsible Authority.

e) The relocation of the water tank within the front setback of Apartment 1 to within the basement or alternate area within the site to the satisfaction of the Responsible Authority. The area in front of Apartment 1 must be retained for landscaping only.

f) Reduction of hard standing in the front setback to have a maximum depth of 3 metres and a maximum width of 6 metres.

g) Provision of an externally accessible window or door to the ground floor study of apartment 2.

h) Inclusion of a window to the kitchen of apartment 3 on the Well Street elevation.

i) Inclusion of a window on the first floor of the north west elevation for apartment 3.
j) Compliance with Standard B35 (Energy Efficiency) of the Bayside Planning Scheme in relation to the maximum cooling loads.

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

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 8.

n) A Waste Management Plan in accordance with Condition 10.

o) An amended Landscaping Plan in accordance with Condition 11.

p) Provision of the development contribution fee in accordance with Condition 20.

All to the satisfaction of the Responsible Authority.

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

3. Before the 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.

Waste Management

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

a) Dimensions of storage waste areas.

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

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

d) Facilities for bin cleaning.

e) Method of waste and recyclables collection.

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

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

h) Method of hard waste collection.

i) Method of presentation of bins for waste collection.

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

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

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

m) Compliance with relevant policy, legislation and guidelines.

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

Landscaping

11. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the Landscape Plan prepared by COS Design Page 1 of 1 (Version 1), dated 18th July 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A tree-pit design to include sufficient soil volumes for all canopy trees to the satisfaction of the Responsible Authority.
b) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

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

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

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

f) Changes required by condition 1.

g) Details of surface finishes of pathways and driveways.

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

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

**Street tree protection**

14. Soil excavation must not occur within 2 metres from the edge of the *Platanus orientalis* (Oriental Plane) street tree asset’s stem at ground level.

15. 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.

16. 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.

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

**Drainage**

18. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where stormwater is drained under gravity to the Council network.
19. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s City Assets and Projects Department.

Development Contribution

20. Prior to endorsement of the plans 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

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

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

Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a 'Road Opening Permit' must be obtained to facilitate such work.
- A 'Road Opening / Stormwater Tapping Permit' is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- 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 neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.09 Transport and Access
- Clause 21.11 Local Areas (Church Street Major 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 Development Contributions Plan Overlay
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct B2. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in [Attachment 3](#).

In addition, the land is located in Precinct E of the Church Street MAC, which is undergoing change due to recent development being constructed in proximity to the subject site. As a result, a 2-3 storey built form character is emerging in response to the preferred character envisaged by Council’s strategic policy direction and objectives.

On balance, it is considered that the proposal to construct a contemporary 3 storey
residential building comprising 5 dwellings is modest and achieves an appropriate outcome that will respect and enhance the preferred built form and garden character evident in Well Street and wider Neighbourhood Character Precinct B2.

The proposal seeks the removal of existing on-site vegetation, none of which appear to be protected by the VPO or any Local Law. Council’s Arborist is generally supportive of the proposed landscaping as shown on the concept landscape plan prepared by COS Design Page 1 of 1 (Version 1) dated 18 July 2018, including the proposed removal of on-site vegetation, subject conditions requiring appropriate tree-pit design to be provided including sufficient soil volumes.

The proposed setbacks from all boundaries are considered appropriate, providing a reasonable transition to immediately adjacent properties and respond to the preferred and emerging pattern of development within the immediate precinct. Further, the setbacks at all levels will maintain and enhance the visual separation between buildings and the extent of the basement envelope will allow space for appropriate landscaping opportunities, particularly towards the street frontage. A condition will require the water tank proposed within the front setback to be relocated to either within the basement or other location to the satisfaction of the Responsible Authority. This is to provide more space for landscaping within Apartment 1’s front setback to respond to the preferred garden setting prevalent within Precinct B2. In addition, a condition will require the hard paved area in the front setback to be reduced for the same reason.

The contemporary built form with flat roof form featuring selected render and stone cladding with matching front fence results in an acceptable articulated built form outcome that will complement external materials, finishes and colours within the street and wider surrounds as preferred by Council’s policy objectives outlined in Neighbourhood Character Precinct B2 and Church Street MAC Precinct E. A condition will require the submission of a schedule of external materials, colours and finishes, including paint/material samples. In addition, the rear section of the land will be cut to combat the slope and accommodate Apartment 2 to ensure the development poses minimal amenity impacts, through unreasonable visual bulk to neighbouring properties.

Finally, the proposed 2m high stone cladded front fence with metal picket features and gate is considered appropriate and respects the generally high front fence aesthetic within Well Street.

6.2 Design and Development Overlay (DDO11)

The site is located in Precinct E of the Church Street Major Activity Centre (MAC) as set out in Schedule 11 to the Design and Development Overlay (DDO11).

The site sits within Precinct E in Map 1 at subsection 5, where the maximum building height is 11m (3 storeys). Evidence of this is detailed below:

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>13.5m (4 storeys)</td>
<td>-</td>
</tr>
<tr>
<td>C</td>
<td>11.0m (3 storeys)</td>
<td>-</td>
</tr>
</tbody>
</table>

Refer to Built Form Precinct Map at the end of the schedule.
<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>E</td>
<td>-</td>
<td>11.0m (3 storeys); or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more</td>
</tr>
<tr>
<td>E1</td>
<td>11.0m (3 storeys); or</td>
<td>12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more</td>
</tr>
<tr>
<td></td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

For clarity purposes, the following map shows where the proposed development is located in relation to the 'E Built Form Precinct Map'.
The proposed development has a maximum overall height of 11 metres and 3 storeys, in accordance with the maximum building height for the precinct.

In addition to the maximum height requirements, under the heading ‘Residential Precincts’ at section 2.0, there is a requirement for development to comply with the setback requirements of Clause 55, except for the second floor that should be setback 4.0m behind the front wall of the floor immediately below unless the second floor is an attic.

The building is setback appropriately in accordance with the objectives of the requirements of Clause 55 as set out in Section 6.3 of this report. With respect to the second floor, this is set back 4 metres behind the first floor, immediately below in
accordance with the requirement for the precinct.

6.3. Compliance with Clause 55 (ResCode)

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

Street setback (Standard B6)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Well Street</td>
<td>9m</td>
<td>7.5m – 9.5m (ground floor)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9.6m (first floor)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>13.6m (second floor)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.5m (ground floor)</td>
</tr>
</tbody>
</table>

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

A street setback of 9m from Well Street is required. However, there is a 1.5m shortfall at ground floor to apartment 1’s living room area. The setbacks along this stretch of Well Street average 7.5m – 8.5m and the proposed 7.5 metre setback is broadly consistent with the 7.8m front setback of the property next door at No. 55 Well Street. Furthermore, the development has been appropriately articulated with a variety of materials, ensuring that the built form will not appear overly dominant within the streetscape.

A single driveway is proposed to the basement parking area which means that the majority of the front setback can be given over to landscaping. A condition is recommended requiring the area of hard standing within the front setback to be reduced to a maximum of 3 metres (depth) by 6 metres (width) to ensure that there is sufficient landscaped area within the front setback so that the development maintains a garden setting. Council’s arborist has also commented that the proposed canopy tree planting within the front setback is in accordance with the Bayside Landscape Guidelines (2016).

For these reasons, the proposed 7.5m setback is considered to make efficient use of the site whilst respecting the character of the neighbourhood.

Side and rear setbacks (Standard B17)

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>North-west</td>
<td>0m – 1m</td>
<td>0m – 1.3m – 2.8m</td>
</tr>
<tr>
<td>(side)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South-east</td>
<td>0m – 1m</td>
<td>0m – 1.2m – 2.6m</td>
</tr>
<tr>
<td>(side)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>North-east</td>
<td>0m – 1m</td>
<td>4m</td>
</tr>
<tr>
<td>(rear)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The objective of the standard seeks 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.
The proposed side and rear setbacks are reasonably compliant with Council’s varied setback requirement. However, some of the setbacks at first and second floors fail to meet the prescribed standard by a distance of between 290mm and 990mm as underlined in the table above.

At first and second floor level on the north-west elevation, the non-compliant setbacks of the lobby stairs and apartments 3 and 4 are considered to be reasonable. These aspects of the building abut an existing laneway (3.15metres in width) which offers a suitable buffer and reduces adverse visual bulk and amenity to the adjacent dwelling at 55 Well Street.

Similarly, for the south-eastern elevation at the second floor level, the range of non-compliance ranges from 9 centimetres to 1.19m. The greatest area of non-compliance relates to the kitchen and terrace area for apartment 5. This area of the building is adjacent to the driveway of the neighbouring property at 59 Well Street, where it is considered to have a limited impact on the amenity of this property.

In this instance, the proposed setbacks are considered to be sufficient to maintain an appropriate appearance of visual separation between the development and existing dwelling next door to respond to Council objectives. The setback transgression is therefore considered to be acceptable.

Walls on boundaries
The extent of wall proposed to be constructed along the north-western boundary exceeds the maximum height required by the standard.

The objective seeks to ensure the location, length and height of any wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

The height of the wall is supported as it will abut an existing laneway of 3.15m in width. It is considered that this provides an adequate buffer and separation between the subject site and adjoining property at 55 Well Street, including the neighbouring courtyard. As such it is considered that it will result in minimal, if any, unreasonable visual bulk impacts to this neighbour.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Well Street</td>
<td>1.5m</td>
<td>2m</td>
<td>500mm</td>
</tr>
</tbody>
</table>

A fence of up to 2 metres in height is proposed to the front boundary of the site on Well 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.

Whilst the proposed front fence will be 2 metres high, it will be stone clad for the lower 1.6 metres with the upper 400mm portion and entry gate comprising metal pickets allowing some privacy for the occupants of apartment 1, whilst maintaining some views into and out of the site.

The front fences along Well Street are varied in style and include a number of high, solid fences and therefore the proposal is considered to be appropriate and respects the character of the streetscape.

6.4. Landscaping

The application does not propose to remove any trees protected by the Local Law.
Tree No’s 5, 6, 7 and 10, are proposed to be removed from the site and their removal is considered to be acceptable subject to appropriate replacement planting.

Council’s Arborist has commented that the neighbouring trees adjacent to the south-east corner of the site are contained in a planter bed arrangement these trees will not be unduly impacted by the proposal. The proposed development is set back sufficiently from the remaining neighbouring trees.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan, by COS DESIGN, dated 18 July 2018, Version 1 and advised that it is considered to meet the requirements of the Neighbourhood Character Precinct (B2) and provides sufficient, suitable canopy tree planting in the form of two large trees (Sunburst) and one small tree (Crimson Sentry) in accordance with the Bayside Landscape Guidelines (2016).

Consideration must be given to the extent of soil provided for the establishment of the larger canopy trees proposed. A revised landscape plan will be required to be provided including tree pit and structural soil design to ensure that sufficient soil volumes are provided so that the proposed canopy trees are capable of establishing to their full capacity. A condition to this affect is included in the recommendation.

6.5. Street tree

Tree No. 4 is a *Platanus orientalis* (Oriental Plane) located within the nature strip and is proposed for retention.

Council’s Street Tree Arborist has advised that the proposed vehicle access arrangement provides a suitable clearance to the street tree asset and is supported subject to conditions requiring the tree to be protected during demolition and construction of the development.

6.6. Car parking and traffic

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

Adequate provision of on-site car parking will be allocated to all dwellings and provided within the basement in accordance with Clause 52.06-5 of the Bayside Planning Scheme.

It is noted that the site is located within the PPTN area and, in accordance with VC148, Column B as set out in Table 1 of Clause 52.06 sets out the parking requirement for the site. As such, no visitor parking spaces are required to be provided. However, the 1 visitor space proposed is considered to be acceptable in this instance.

The application was referred to Council’s Traffic Engineer who supports the proposal subject to the inclusion of a blind aisle adjacent to car spaces 4 and 8. This will result in the relocation of four (4) storage areas via a condition of approval and may require over bonnet storage if no other space within the basement can be achieved.

Whilst this style of storage is undesirable it is considered convenient and continues to allow use of the car space for parking to provide appropriate storage to suit the needs of future residents of the development.

6.7. Cultural Heritage management plan

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

6.8. Development contributions levy

The subject site is located within catchment area 11A.

Based on the proposed application and the below recommendation, a payment of $5,050
is required. The payment of the development contributions is included as a condition of permit.

6.9. Objector issues not already addressed

**Overdevelopment of land**

The proposal satisfies the substantive requirements of Clause 55 in respect to site coverage, permeability, car parking, and garden area provision and therefore the proposal is not considered to be an over development of the site. State Government Policy, as well as Council Policy supports higher densities in areas that are within Activity Centres, and within areas with good access to public transport and other services.

**Demolition of original dwelling**

Demolition does not require planning permission pursuant to the Design and Development Overlay, including specific requirements of Schedule 11 (DDO11). The existing dwelling and land is not protected by a Heritage Overlay.

**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 and Surrounds
3. Neighbourhood Character Assessment
4. Clause 55 Assessment
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>
<tr>
<td>Withdrawn</td>
<td>▲</td>
</tr>
</tbody>
</table>

Note: An objection was also received from 3/144 Were Street, BRIGHTON, outside of the map area.
Figure 2 View towards the site from the south

Figure 3 View towards the site from the west
Figure 4 View to the nature strip adjacent to the site
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>
</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. | Responds
The applicant seeks to demolish the existing rendered dwelling at 57 Well Street and construct a contemporary 3 storey building comprising 5 dwellings and a basement car park. It is recognised that the existing dwelling contributes to the character of the precinct, however as the dwelling is not located within a Heritage Overlay, its demolition is considered to be acceptable. The subject site falls within the Church Street MAC Precinct E of DDO11. The prevailing built form character within the street and surrounding area is varied, featuring 1, 2 & 3 storey building heights. This is primarily due to the sites GRZ2 zoning, strategic MAC designation in the DDO11 and close proximity to the Middle Brighton Railway Station and shopping precinct, resulting in an emerging multi-level built form character created by recent infill development constructed in the area. As such it is considered that the new development will respect the preferred 2-3 storey neighbourhood. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>- Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed 7.5m – 9.5m front setback provides a reasonable transition between immediately adjoining properties and will accommodate suitable landscaping opportunities including canopy tree planting subject to an amended landscape plan via a condition of permit.</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.</td>
<td>Loss of front garden space.</td>
<td>Responds</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>The contemporary design response features articulated and recessive elements as the development rises to a maximum height of 11m (3 storeys). This provides appropriate interest to the streetscape and maintains adequate visual separation and space between existing and proposed buildings that will ultimately reflect the emerging and preferred 2-3 storey built form character within this precinct.</td>
</tr>
<tr>
<td>To minimise the loss of front garden space and the dominances of car parking facilities.</td>
<td>- Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>- Provide only one vehicular crossover per typical site frontage.</td>
<td></td>
<td>The construction of basement car parking negates the need for car parking structures at ground level and will allow for appropriate landscaping throughout the site, in particular towards the frontage, subject to the relocation of the water tank within the front setback to increase opportunities for landscaping. Included in the recommendation are conditions to vary the proposed combined crossover with No. 59 Well Street to achieve a single width crossing and 3.6m wide vehicle ramp accessing the basement.</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>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 ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | • Articulate the form of buildings and elevations, particularly front facades.  
• Recess upper storey elements from the front façade. | Large buildings with poorly articulated facades. | Responds  
As mentioned above, the subject site has a GRZ2 zoning and is located in MAC Precinct E of the DDO11 in close proximity to the Middle Brighton Railway Station. As a result a preferred 2-3 storey built form has emerged in recent years.
The proposed development will have an articulated façade treatment and 1st and 2nd floor elements that recede from all boundaries to minimise building bulk and massing impacts to the street and adjoining neighbours and respond to the preferred neighbourhood character. |
| To respect the identified heritage qualities of adjoining buildings. | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s, in the new building design. | Buildings that dominate heritage buildings by height, siting or massing. Limitation or reproduction of historic building styles and detailing. | Responds  
The proposed rear setbacks increase with the building height and exceed Council’s varied requirement adjacent to the heritage properties to the north at 1/6 & 172 Church Street.  
This allows for an appropriate transition to the heritage properties. |
| 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. | Responds  
As mentioned above, the built form context is varied comprising face brick, weatherboards and render.  
The selected external materials as demonstrated on the submitted elevations satisfactorily respond to the varied materials evident within the Well Street streetscape and wider precinct. |
| To improve the visual connection between the dwellings and the streetscape and | • 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  
Front fencing in this section of Well Street is generally high and constructed of various materials and styles. As a result, the proposed 2m high stone... |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
</tr>
</thead>
<tbody>
<tr>
<td>encourage views to front gardens</td>
<td></td>
<td>cladded front fence with metal picket feature and gate will match the development and is considered to be acceptable in this instance</td>
</tr>
</tbody>
</table>
**Attachment 4**

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

<table>
<thead>
<tr>
<th>CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 2 and the report for further discussion.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support the construction of a 3 storey building comprising multiple dwellings on a lot of this size.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The 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 contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
B5 Integration with the Street
Integrate the layout of development with the street

Yes
The façade treatment facing Well Street features 3 well articulated levels that increase side and rear setbacks as the building increases in height, therefore mitigating unreasonable visual bulk to the street and immediately adjoining neighbours and positively integrating within the evolving streetscape.

The proposed single crossover, front and side setbacks with a recessed top floor provides a good transition to the setbacks of immediately adjoining properties and appropriate visual separation between buildings and all floors of the development.

The overall 11m building height, inclusive of the lift well is well under the allowed max. 12m height limit specified by Precinct E of DDO11 and Schedule 2 of the GRZ. The design response also features a contemporary flat roof form to further minimise the perception of dominance, mass or bulk to the street and/or nearby residential properties.
Refer to Attachment 2 and the 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**
The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | No | Requirement: 9m
Proposed: 7.5m – 9.5m (ground floor)
9.6m (first floor)
13.6m (second floor)
Refer to the report for further discussion |
| **B7 Building Height**
Building height should respect the existing or preferred neighbourhood character. | Yes | Maximum: 12m (due to slope)
Design and Development Overlay, Schedule 11 identifies a maximum building height of 12m (3 storeys) in Precinct E of the Church Street MAC where the slope of the land exceeds 2.5 degrees. This excludes a basement but includes an attic.
Proposed: The slope of the land is approximately 3.1 degrees. The proposed height is 11m (3 storeys), inclusive of lift well. No attic is proposed. |
| **B8 Site Coverage**
Site coverage should respect the existing or preferred neighbourhood | Yes | Maximum: 60%
Proposed: 57.2% |
<table>
<thead>
<tr>
<th>Character and respond to the features of the site.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B9 Permeability</strong></td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td><strong>Minimum:</strong> 20%</td>
</tr>
<tr>
<td><strong>Proposed:</strong> 20%</td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<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>
</tr>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
</tr>
<tr>
<td>N/A</td>
</tr>
<tr>
<td>There is no communal open space in or adjacent to the development.</td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
</tr>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>The pedestrian entry point to the lobby will be adjacent to the north-west boundary and clearly recognisable from Well Street, whilst upper levels of Apartments 3 &amp; 5 will allow for the passive surveillance of the street.</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
</tr>
<tr>
<td>To provide appropriate landscaping. To encourage:</td>
</tr>
<tr>
<td>Development that respects the landscape character of the neighbourhood.</td>
</tr>
<tr>
<td>Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
</tr>
<tr>
<td>The retention of mature vegetation on the site.</td>
</tr>
<tr>
<td>Yes, subject to conditions</td>
</tr>
<tr>
<td>Council’s Arborist supports the removal of on-site vegetation and the submitted concept landscape plan prepared by COS Design Sheet 1 of 1 (Ver.1) dated 18 July 2018. Subject to the conditions included in the recommendation, it is considered that the siting of the development, including the extent of the basement envelope will allow sufficient opportunities for meaningful landscaping within the site. Refer to the report for further discussion.</td>
</tr>
<tr>
<td><strong>B14 Access</strong></td>
</tr>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
</tr>
<tr>
<td>Yes, subject to conditions</td>
</tr>
<tr>
<td>The proposed 3.6m wide basement ramp will provide safe and convenient vehicle access to/from the proposed basement car park in accordance with the standard. Conditions of permit are recommended to address concerns raised by Council’s Traffic Engineer in relation to the proposed combined crossover with 59 Well Street by adding a min. 1m wide splitter island to achieve a max. 3.6m wide single crossover. In addition, the proposed location of the crossover is supported by Council’s Open Space Arborist subject to standard</td>
</tr>
</tbody>
</table>
**B15 Parking Location**
Provide resident and visitor vehicles with convenient parking.
Avoid parking and traffic difficulties in the development and the
neighbourhood.
Protect residents from vehicular noise within developments.

Yes, subject to conditions

An appropriate provision of on-site car parking will be provided within the proposed basement car park.
Council’s Traffic Engineer suggests changes to proposed columns and requires signage related to the visitor space and waste removal within the basement. This can be managed via conditions of permit.
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**
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. | No | A new building not on or within 200mm of a boundary should be set back from side or rear boundaries at least the distance specified in a schedule to the zone, or if no distance is specified in a schedule to the zone, 1 metre, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 1 metre for every metre of height over 6.9 metres.
Areas of non-compliance are underlined.
Refer to the report for further discussion. |

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North-west (side)</td>
<td>0m – 1m</td>
<td>0m – 1.3m – 2.8m</td>
<td>1.81m – 3.39m</td>
</tr>
<tr>
<td>South-east (side)</td>
<td>0m – 1m</td>
<td>0m – 1.2m – 2.6m – 4.5</td>
<td>1.63m – 2.89m</td>
</tr>
<tr>
<td>North-east (rear)</td>
<td>0m – 1m</td>
<td>4m</td>
<td>1.6m – 1.81m</td>
</tr>
<tr>
<td><strong>B18 Walls on Boundaries</strong></td>
<td>No</td>
<td><strong>North-western boundary</strong></td>
<td></td>
</tr>
<tr>
<td>-----------------------------</td>
<td>----</td>
<td>---------------------------</td>
<td></td>
</tr>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td>Maximum Height: 3.6m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 1.5m – 3.5m – 6.9m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum Length: 17.65m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 17.5m</td>
<td></td>
</tr>
<tr>
<td><strong>South-eastern boundary</strong></td>
<td></td>
<td>Maximum Height: 3.6m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 2.8m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum Length: 17.85m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 3.6m</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B19 Daylight to Existing Windows</strong></th>
<th>Yes</th>
<th><strong>The development has been appropriately setback from all boundaries to maintain adequate daylight to existing habitable room windows of abutting properties to comply with the standard.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B20 North Facing Windows</strong></th>
<th>N/A</th>
<th><strong>There are no existing north facing habitable room windows within 3m of any shared boundary.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B21 Overshadowing Open Space</strong></th>
<th>Yes</th>
<th><strong>The submitted shadow drawings demonstrate that the private open space of the adjoining neighbour to the south-east at 59 Well Street will experience additional shadows after 1pm in the afternoon. However, the additional overshadowing is considered to be acceptable and satisfies the tests contained within the standard.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Yes</td>
<td>The submitted plans and elevations show that all first and second floor habitable room windows/balconies that have an outlook to adjoining properties within an arc of 9m will have either high sills or privacy screens measured to a minimum height of 1.7m above FFL to limit unreasonable overlooking in accordance with this standard, with the exception of Unit 4's first floor balcony which will have a 300mm planter box along its north-eastern edge. The proposed planter box in lieu of a privacy screen is considered to be acceptable in this instance and will pose no unreasonable overlooking impact to the private open space of the adjoining neighbour at 168 Church street due to the buffer created by the existing garage on the neighbouring property and additional 2.8m rear setback within the subject site. Furthermore, the existing approx. 2m high boundary fencing will provide adequate protection to immediately adjoining properties from unreasonable overlooking to/from ground floor windows.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Yes</td>
<td>The submitted plans indicate new windows/balconies have been appropriately sited and a new 1.7m high privacy screen will be erected separating Apartment 1 &amp; 2's private open space areas to limit internal views within the development.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</td>
</tr>
</tbody>
</table>
## 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>
</table>
| **B25 Accessibility**  
Consider people with limited mobility in the design of developments. | Yes | The entry to the communal lobby adjacent to the north-western boundary comprises no stairs and will be easily accessible for people with limited mobility.  
In addition, a lift will be provided allowing access from the basement to all upper floors.  
There is also scope to further retro-fit the development to accommodate people with limited mobility in the future, if required. |
| **B26 Dwelling Entry**  
Provide a sense of identity to each dwelling/residential building. | Yes | The development faces Wall Street and includes a clearly identifiable portico and dedicated pedestrian pathway to the side of the development that leads to the communal lobby. |
| **B27 Daylight to New Windows**  
Allow adequate daylight into new habitable room windows. | Yes | 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. | Yes | **Requirement:**  
25m² secluded, 40m² overall with a minimum dimension of 3m  
A balcony of 8m² with a minimum width of 1.6m.  
**Proposed:**  
All dwellings exceed the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents.  
It is noted that Clause 32.08-4 of the Bayside Planning Scheme requires a minimum 35% garden area of the site area at ground floor level. This equates to 246.05m². A total of 248.1m² will be provided according to Garden Plan, which will equate to 35%. |

<table>
<thead>
<tr>
<th>Private Open Space</th>
<th>Secluded Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartments 1 &amp; 2</td>
<td>&gt;40m² 70m² &amp; 94m², respectively</td>
</tr>
<tr>
<td>Apartments 3 &amp; 4</td>
<td>&gt;8m² (balcony) 24m² balcony &amp; 15.9m² balcony, respectively</td>
</tr>
<tr>
<td>Apartment 5</td>
<td>&gt;8m² (balcony) 23.8m² balcony (front) &amp; 12.5m² balcony (rear)</td>
</tr>
</tbody>
</table>
### B29 Solar Access to Open Space
Allow solar access into the secluded private open space of new dwellings/buildings.

| Yes | All apartments will have reasonable solar access to their private open space areas and/or balconies throughout the day to satisfy the standard. |

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

| Yes | The submitted plans indicate that each dwelling will be provided with storage located within the basement. A number of separate storage spaces are proposed ranging between 5.2m² – 22m². Each of the five dwellings will be allocated storage areas with a minimum of 6m² total space. Whilst the storage is technically not externally accessible it is deemed convenient and will meet the needs of future residents and objective of this standard. |

---

### 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>B31 Design Detail</td>
<td>Yes, subject to conditions.</td>
<td>Refer to Attachment 2 and the report for further discussion.</td>
</tr>
</tbody>
</table>
| B32 Front Fences | No | Requirement: 1.5m  
Proposed: 2m  Refer to the report for further discussion. |
| B33 Common Property | Yes | 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 | Yes | All appropriate site services can be easily catered for on-site. Mails boxes are shown towards the frontage of the site adjacent to the side pedestrian pathway for convenient access.  
Bin storage will be conveniently provided within the basement and the developer advises that they intend to use a private waste contractor to collect rubbish from the subject site.  
Waste collection can be appropriately managed via a condition of permit. |
<table>
<thead>
<tr>
<th>Clause 55.07 Apartment Developments</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard B35 Energy efficiency objectives</strong>&lt;br&gt;To achieve and protect energy efficient dwellings and buildings.&lt;br&gt;To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy.&lt;br&gt;To ensure dwellings achieve adequate thermal efficiency.</td>
<td>Complies, subject to conditions.</td>
<td>The site orientation provides adequate solar access to the proposed units and does not unreasonably reduce energy efficiency and solar access to adjoining properties. Living areas within each unit are considered to be appropriately located and solar access to north facing windows has been maximised where possible. A NatHERS Assessment has not been provided with the amended application but it is considered the proposed development provides for an appropriate level of energy efficiency. A condition has been included within the recommendation to require measures to ensure compliance with the NatHERS Cooling Load.</td>
</tr>
<tr>
<td><strong>Standard B36 Communal open space</strong>&lt;br&gt;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>N/A</td>
<td>This standard relates to developments with 40 or more dwellings.</td>
</tr>
<tr>
<td><strong>Standard B37 Solar access to communal outdoor open space</strong>&lt;br&gt;To allow solar access into communal outdoor open space.</td>
<td>N/A</td>
<td>Communal areas within this development at ground floor level to do constitute recreational outdoor open space.</td>
</tr>
<tr>
<td><strong>Standard B38 Deep soil areas and canopy trees objective</strong>&lt;br&gt;To promote climate responsive landscape design and water management in developments to support thermal comfort and reduce the urban heat island effect.</td>
<td>N/A</td>
<td>This relates to sites of more than 750sqm in area or more.</td>
</tr>
<tr>
<td><strong>Standard B39 Integrated water and stormwater management</strong>&lt;br&gt;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</td>
<td>Complies, subject to conditions</td>
<td>The supporting Planning Report notes the provision of a 7000L rainwater tank in accordance with the storm water report submitted. The plans show the provision of a 5000L rainwater tank located in the front setback of the site.</td>
</tr>
</tbody>
</table>
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.

| Standard B40 Noise impacts | Complies, subject to condition | A condition is recommended requiring the rainwater tank to be relocated to the basement to ensure that the front setback is not dominated by hard surfacing. A condition has also been included requiring the design of the stormwater treatment measure to be in accordance with an industry accepted performance measurement tool and stormwater best practice management objectives. |

Standard B41 Accessibility
To ensure the design of dwellings meets the needs of people with limited mobility.

| Standard B42 Building entry and circulation | Complies | The building entry and foyer area provides a clearly identifiable area which benefits from direct solar access and natural ventilation. Stair access is provided internally to the dwellings. |

| Standard B43 Private open space above ground floor | Complies | Requirement: An area of 15 square metres, with a minimum dimension of 3 metres at a podium or other similar base. |
| Standard B44 Storage | Complies, subject to conditions | Required: 2 bed apartments require 14 cubic metres total minimum storage volume and 9m$^3$ minimum storage volume with the dwelling. 3 bed apartments require 18m$^3$ total minimum storage volume and 12m$^3$ minimum storage volume with the dwelling.

Provided: The application documents state that a minimum of 27m$^3$ has been provided internally for all apartments in accordance with the standard.

Refer to Standard B30 for external storage provisions and conditions. |
| Standard B45 Waste and recycling | Complies, subject to conditions | The proposal provides for appropriate and conveniently located areas for waste collection on site. A waste management Plan has been included as a condition of permit requiring on-site waste collection services.

Refer to the report regarding comments for accessibility and functional layouts for these services. |
| Standard B46 Functional layout | Complies | Requirement: Bedrooms should provide for a main bedroom with a minimum dimensions of 3m x 3.4m. All other bedrooms should have a minimum dimension of 3m x 3m.

2 or more bedroom dwellings should have a minimum living area width of 3.6m with a minimum area of 12m$^2$.

Proposed: All apartments comply with |
| Standard B47 Room depth  | Complies                                                                 | **Requirement:** Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.  
**Proposed:** Many rooms have double aspects but all single aspect rooms comply with this standard. |
|-------------------------|---------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| Standard B48 Windows    | Complies                                                                 | **Requirement:** Habitable rooms should have a window in an external wall of the building. A window may provide daylight to a bedroom from a smaller secondary area within the bedroom where the window is clear to the sky. The secondary area should:  
• A minimum width of 1.2 metres.  
• A maximum depth of 1.5 times the width, measured from the external surface of the window.  
**Proposed:** All rooms have a window in an external wall of the building. |
| Standard B49 Natural ventilation | Complies                                                                 | **Requirement:** At least 40 per cent of dwellings should provide effective cross ventilation that has:  
• A maximum breeze path through the dwelling of 18 metres.  
• A minimum breeze path through the dwelling of 5 metres.  
• Ventilation openings with approximately the same area.  
**Proposed:** All dwellings are provided with appropriate natural ventilation. |
4.10 VCAT REPORT - DECISIONS MADE IN OCTOBER & NOVEMBER 2018

City Planning and Amenity - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/283342

In accordance with Section 68(b) of the Governance Local Law No: 1 - 2013, a person is not permitted to present to this item as it is a report summarising a decision already made by another body, being VCAT.

1. Executive summary

To inform Council of Victorian Civil and Administrative Tribunal (VCAT) determinations received the previous month and to show the progress of VCAT outcomes for the financial year.

All councils are required to report to the Local Government Performance Reporting Framework (LGPRF) each year on the timeliness (SP1), service standard (SP2), cost per application (SP3) and decision quality of Statutory Planning (SP4).

The LGPRF measure SP4 used by the State Government to assess the quality of Council’s decision making is the number of decisions made by Council that were not overturned or ‘set aside’ by VCAT on appeal by either the applicant or objectors.

Council has a target for 2018/19 that 55% of all Planning & Amenity Committee and Delegated Officer decisions should not be set aside by VCAT. This is comparable with other inner urban Council’s in Melbourne such as Port Phillip and Stonnington.

The LGPRF measure does not include applications to amend VCAT issued permits (Section 87A applications), consent orders or appeals which are withdrawn by the applicant or objector prior to a hearing.

For the 2018/19 financial year, Council has received 60 decisions, of which

- 28 have been settled by consent orders;
- 2 have been withdrawn; 1 has been dismissed and 2 have been struck out.

The total number of LGPRF measured decisions for the year to date is therefore 26. 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>
</tr>
</thead>
<tbody>
<tr>
<td>July 2018</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>August 2018</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>September 2018</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>October 2018</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>November 2018</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td><strong>TOTAL DECISIONS</strong></td>
<td><strong>11</strong></td>
<td><strong>15</strong></td>
</tr>
<tr>
<td><strong>LGPRF Result</strong></td>
<td><strong>42%</strong></td>
<td><strong>58%</strong></td>
</tr>
</tbody>
</table>
Attachment 1 included provides a summary of each case identifying the key issues for Council policy and strategy.

2. Recommendation
   That Council:
   1. receives and note the report; and
   2. notes the outcome of VCAT decisions on the planning applications handed down during part of October and November 2018.

Support Attachments
1. VCAT Determined Appeal - October and November 2018 ↓
**VCAT Determined Appeals from: 25/10/2018 to 28/10/2018**

**Subject land**  
7 Exley RD, HAMPTON EAST

**Application no.**  
2017.798.1

**VCAT reference no.**  
P652/2018

**Applicant**  
Exley Developments Pty Ltd

**Referral Authority**  
N/A

**Respondents**  
N/A

**VCAT Member**  
Christina Fong

**Date of hearing**  
3/10/2018

**Date of order**  
26/10/2018

**Proposal**  
Development of town houses, a fence exceeding 1.2 metres, basement parking and associated works

**Officer recommendation/Delegate determination**  
Not support

**Council determination**  
Not applicable

**Appeal type**  
Failure to Grant a Permit

**Plans substituted (prior to hearing)**  
Yes

**VCAT determination**  
Permit to Issue

**LGPRF outcome**  
SET ASIDE

**Comments:**

The subject site is located within the General Residential Zone (Schedule 1), Design and Development Overlay (Schedule 2 and Development Contributions Plan Overlay (Schedule 1)).

The applicant lodged an appeal with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s failure to grant a permit within the prescribed timeframe, pursuant to Section 79 of the Planning & Environment Act 1987.

If Council were in a position to determine the application, Council would have issued a Notice of Refusal and on the grounds of the proposal failing to respond to Clause 22.06 (Neighbourhood Character Policy); failing to comply with Clause 55 in the areas of neighbourhood character (B1), street setback (B6), energy efficiency (B10), site safety (B12), landscaping (B13), side and rear setbacks (B17), internal views (B23), accessibility (B25), dwelling entry (B26), private open space (B28), solar access to open space (B29), design details (B31), front fence (B32); and reduction in visitor parking impacting on the amenity of nearby residential areas.

Substituted plans were lodged with the Tribunal on 3 August 2018. Despite the substitution of plans, Council remained opposed to the development. However, the grounds of refusal relating to visitor parking and several areas of non-compliance with Clause 55 were no longer contested.

The Tribunal issued its decision on the land at 7-9 Exley Road on 26 October 2018. The Tribunal set aside the decision of the Responsible Authority and issued a permit subject to 24 conditions.

The key issues identified by the Tribunal were the proposals design response to the current planning context of the site and the neighbourhood character of the area, and amenity impact on adjoining dwellings. A separate issue was the application by the review applicant for the reimbursement of fees of the proceeding.
The site is in the Hampton East (formerly Moorabbin) Major Activity centre and in an area for modest growth. In applying the preferred neighbourhood character of the area, the Tribunal considered it is about recognising the need for change due to the location of the site in such an activity centre and as informed by the schedule of the General Residential Zone. As for preferred character, the design guidelines for Precinct G1 is for well-articulated buildings sited in a landscaped garden setting, one that is to maintain the rhythm of visual separation between buildings when viewed from the street.

The Tribunal considered a proper reading of the zoning and policies affecting the site is therefore not for a development to maintain the status quo, but to achieve a degree of change that is different from the existing neighbourhood character.

In this, they were not satisfied that the visual presentation of an essentially three storey building is an appropriate transition to the two storey maximum height and scale on the south side of Exley Road. Rather than a redesign of the proposal, the Tribunal required conditions of permit to increase and ground and first floor setbacks and a further setback of the second floor from the ground and first floor walls.

The Tribunal was satisfied that the interface of the development with neighbouring residential properties to the north and west would be acceptable. Furthermore that increased front setbacks required by a condition of permit would further enhance the garden and landscaped setting of the development.

In all, subject to additional conditions requiring the increase in the street setback of the development facing Exley Rd, the Tribunal was satisfied that the scale, building proportion and design of development is acceptable to the zoning and current policies of the planning scheme.

With regard amenity impacts on adjoining neighbours as a result of increase noise and traffic, construction activity and potential impact on neighbouring trees, the Tribunal was content that conditions imposed on the permit would minimise impacts on neighbours, controlling the location of plant and equipment, the requirement for a construction management plan and furthermore, the protection of trees adjacent to the site.

The Tribunal allowed the application for the reimbursement of fees directing that they be paid within 30 days of the Order.
VCAT Determined Appeals from: 1/11/2018 to 30/11/2018

<table>
<thead>
<tr>
<th>Subject land</th>
<th>2/124 Esplanade, BRIGHTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2017.204.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P332/2018</td>
</tr>
<tr>
<td>Applicant</td>
<td>B A Layther &amp; A N Magnusson</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>Keen Planning Pty Ltd</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>Juliette Halliday</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>24/08/2018</td>
</tr>
<tr>
<td>Date of order</td>
<td>12/11/2018</td>
</tr>
<tr>
<td>Proposal</td>
<td>Construction of one, two-storey dwelling on a lot of less than 500 square metres, construction of a roof deck above the second storey of a building</td>
</tr>
</tbody>
</table>

Officer recommendation/
Delegate determination Notice of decision
Council determination Not applicable
Appeal type Notice of Decision to Grant a Permit
Plans substituted No
(prior to hearing)

VCAT determination Varied Permit to issue
LGPRF outcome AFFIRMED

Comments:

The subject site is located within the Neighbourhood Residential Zone (Schedule 3), Design and Development Overlay (Schedule 1) and Development Contributions Plan Overlay (Schedule 1).

An objector to the application lodged an appeal with the Victorian Civil and Administrative Tribunal (VCAT) pursuant to Section 92 of the Planning & Environment Act 1987 to seek a review of Council’s decision to grant a planning permit.

Concerns raised by the applicant for review related to impact of reduced setbacks on the amenity of Unit 3/ 124 Esplanade due to visual bulk, loss of passive surveillance of the common driveway and impaired pedestrian and vehicle access. Also that the proposal would result in reduced spaciousness of the driveway ad limit views towards Esplanade and beyond to the Bay.

Subject to conditions increasing first and second floor setbacks from the southeast boundary with the applicant for reviews property, the Tribunal was satisfied that the built form and scale of the proposal responds adequately to the PPF and LPPF policy context, and to the relevant purposes of the NRZ3 and the design objectives of DDO1, and that it is appropriate for this site.

The Tribunal considered that the two-storey form of the proposal can be accommodated within the site, and it is consistent with the relevant purpose of the NRZ3 which recognises ‘areas of predominantly single and double-storey development’.
Furthermore, that in considering the design objectives and decision guidelines of the DDO, the proposal is acceptable as the design of the roof deck adequately integrates the structure and form and associated access with the building; the visual impact of the proposal (including the roof deck) when viewed from the street and the surrounding area will not be unreasonable; and, there are unlikely to be significant amenity impacts associated with the roof deck with respect to overshadowing, overlooking into surrounding private open spaces and views into surrounding habitable room windows.

The Tribunal are content that with the modifications to the setback on the south-east elevation of the development, the proposal will achieve an acceptable design response due to the reduction in the impact of visual bulk on the south east elevation, and will not unreasonably impact the amenity of the habitable room windows and secluded private open space of existing dwellings; and will also provide additional space for landscaping along the driveway.

Having considered the relevant decision guidelines, the Tribunal is satisfied that subject to the changes to increase the setback from the south-east boundary, the objective of clause 54.03-3 with respect to the site coverage of the proposal is achieved.

The Tribunal found that although the design of the building will be different to what exists presently, with the changes to the proposal referred to above, it will adequately provide for the safety of residents. Furthermore that the impact of the development on views towards the street and Port Phillip Bay will not be unreasonable.

At the direction of VCAT the decision of the Responsible Authority was varied and a permit issued on 12 November 2018.
Subject land

Application no.
VCAT reference no.
Applicant
Referral Authority
Respondents

9 Teddington RD, HAMPTON
2017.505.1
P668/2018
Erik and Denise Stuebe
Melbourne Water
RK Tech Studio

VCAT Member
Date of hearing
Date of order
Proposal

Tracy Watson
19/10/2018
26/11/2018
Construction of two dwellings

Officer recommendation/
Delegate determination
Council determination
Appeal type
Plans substituted
(prior to hearing)

Notice of decision
Notice of decision
Notice of Decision to Grant a Permit
No

VCAT determination
LGPRF outcome

Varied permit to issue
AFFIRMED

Comments:

The was an Application for Review pursuant to Section 82 of the Planning and Environment Act 1987 to review the decision to grant a permit. The Application for Review was lodged by an objector who had concerns with the design of the development and processing of the application.

The application proposed the construction of two, double storey dwellings on a lot. The Tribunal in its Order dated 26 November 2018 supported the decision by Council with a variation to Condition 1a of the permit requiring the replacement of the first floor south facing circulate window of Dwelling 2 to be replaced with a rectangular shaped window.
4 Susan ST, SANDRINGHAM

Application no.
2017.506.1

VCAT reference no.
P850/2018

Applicant
Lawrence D & Glenyss A Barnes

Referral Authority
N/A

Respondents
The North Planning Pty Ltd

VCAT Member
Jane Tait

Date of hearing
22/10/2018

Date of order
22/11/2018

Proposal
Construction two new dwellings

Officer recommendation/
Delegate determination
Notice of decision

Council determination
Notice of decision

Appeal type
Notice of Decision to Grant a Permit

Plans substituted
Yes

(prior to hearing)

VCAT determination
Permit to Issue

LGPRF outcome
AFFIRMED

Comments:

The subject site is located in a Neighbourhood residential Zone (Schedule 3) and a Development Contributions Plan Overlay.

An objecting party lodged an application under section 82 of the Planning and Environment Act 1987 – to review the decision to grant a permit. The main issues are whether the proposal has responded to the preferred neighbourhood character and whether there are unacceptable amenity impacts on the applicants’ dwelling. It was submitted by the applicant for review the proposal was an over-development of the site.

The applicant submitted amended plans prior to the hearing. These plans continued to be supported by Council and gave effect to conditions of the Notice of Decision. Council therefore maintained its recommendation to support, subject to conditions.

The Tribunal member noted that whilst this site is located in a Minimal Residential Growth Area, it can contribute to the urban consolidation objectives in the PPF and found the construction of two dwellings is an acceptable response in this neighbourhood and the development will not have unacceptable amenity impacts on the applicant’s property.
**Subject land**  
**Application no.** 2017.736.1  
**VCAT reference no.** P832/2018  
**Applicant** Paul Truong  
**Referral Authority** N/A  
**Respondents** Mark McLean, Susan Langdon  
**VCAT Member** Michael Neithorpe  
**Date of hearing** 22/10/2018  
**Date of order** 12/11/2018  
**Proposal** Construction of a two storey building with five apartments, basement parking and a front fence exceeding 1.2 metres in height

| Officer recommendation/ Delegate determination | Refusal |
| Council determination | Not applicable |
| Appeal type | Refusal to Grant a Permit |
| Plans substituted (prior to hearing) | Yes |
| VCAT determination | Permit to issue |
| LGPRF outcome | SET ASIDE |

**Comments:**

The Applicant appealed against Council’s failure to make a decision within the prescribed time on an Application to construct a two (2) storey apartment building containing five (5) apartments basement car parking and a front fence exceeding 1.2 metres in height at the subject site. Subsequently to the Appeal being lodged with Council, Council determined Not to Support the Application on neighbourhood character grounds and non-compliance with the Standards and Objectives of Clause 55 (Rescode) provisions of the Bayside Planning Scheme.

The Tribunal held in finding for the Permit Applicant that the proposed development was a suitable response to the NR23 Zoning of the land and recognized that the zoning does not prohibit an apartment building although it represents a new typology in this part of Church Street, Brighton. The Tribunal found that “Its two-storey scale and generous setbacks allow this building to be an acceptable response to local policy for minimal change areas and to the applicable statement of preferred neighbourhood character. Separately, I consider that its impact on the amenity of the adjoining properties is acceptably tempered by its height, design and setbacks.”

Although the land is deemed “a minimal residential growth area” pursuant to Clause 21.02-5 of the Bayside Planning Scheme, The Tribunal accepted the expert evidence of the Applicant’s Town Planner that the proposal’s two storey height and generous side setbacks distinguish it from the three (3) storey developments supported in moderate growth areas. The Tribunal was influenced by the Applicant’s submissions that the subject site was located only 80 metres from the boundary of a “moderate residential growth area.”

The Tribunal in setting aside Council’s decision ruled that the proposal respects the identified neighbourhood character of the area by adding to the diversity of dwelling styles in the area.
<table>
<thead>
<tr>
<th>Subject land</th>
<th>9 Widdop CRES, HAMPTON EAST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2017.5.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P788/2018</td>
</tr>
<tr>
<td>Applicant</td>
<td>L &amp; O Bassovitch</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>N/A</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>Jane Tait</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>23/10/2018</td>
</tr>
<tr>
<td>Date of order</td>
<td>15/11/2018</td>
</tr>
<tr>
<td>Proposal</td>
<td>Construction of two dwellings on a lot</td>
</tr>
</tbody>
</table>

| 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:

Planning Permit 2017/5 was issued by Bayside City Council on 4 April 2018 for the construction of two (2) dwellings on the subject site. Condition 1 (a) on the permit required the Applicant to increase the setback of Dwelling 2 to show no more than 10% encroachment within the Tree Protection Zone of Tree No. 3., a Jacaranda.

Council defended its condition at the hearing arguing that the Neighbourhood Character Policy at Clause 22.06 of the Bayside Planning Scheme for Precinct G1 requires as an Objective the retention of large established trees. In Council’s opinion, the tree has a moderate significance in the streetscape and there is no arboricultural justification for its removal. The Tribunal did accept that the Neighbourhood Character Policy and Precinct Guidelines for Area G1 did encourage the retention of large established trees but in this instance did not regard the Jacaranda tree as significant in the context of the neighbourhood and streetscape character.

The Tribunal in varying Council’s decision deleted Condition 1(a) and held that the tree in question was not significant and that any redesign to protect this tree would be detrimental to the neighbourhood character. It held that the replacement planting in the Landscape Plan of two (2) Evergreen Magnolias was a preferable alternative and would in time contribute more to the landscape character of the area than the existing tree.
Subject land
2/140 Esplanade, BRIGHTON
Application no.
2016.629.1
VCAT reference no.
P93/2018
Applicant
Peter Ferky
Referral Authority
N/A
Respondents
Kathryn Millet & Kevin Riley, John Wertheimer, Michael & Tracey Scott
VCAT Member
Nicholas Hadjigeorgiou
Date of hearing
24/10/2018
Date of order
13/11/2018
Proposal
Construction of two new dwellings on a lot, and roof decks in a Design and Development Overlay, Schedule 1, alteration of access to a road within a Road Zone, Category 1, and removal of easements
Officer recommendation/
Delegate determination
Not support
Council determination
Not applicable
Appeal type
Failure to Grant a Permit
Plans substituted
Yes
(prior to hearing)
VCAT determination
Permit to be Issued
LGPRF outcome
N/A

Comments:
The Application for Review was an applicant appeal to Council’s Failure to Grant a Permit relating to an application for Construction of two dwellings on a lot, and roof decks in a Design and Development Overlay, Schedule 1, alteration of access to a road zone within a Road Zone Category 1 and removal of easements. Objectors also joined as parties to the appeal.

An accompanied site visit was carried out and at compulsory conference all parties agreed on a position.

The Tribunal, in its Final Order, directed Council to issue a permit subject to a number of Conditions.
Subject land: 65 Well ST, BRIGHTON
Application no.: 2017.706.1
VCAT reference no.: P1270/2018
Applicant: L & A Bruno
Referral Authority: N/A
Respondents: Ratio Consultants
VCAT Member: Michelle Blackburn
Date of hearing: 2/11/2018
Date of order: 7/11/2018
Proposal: Construction of a three storey building (above basement level) comprising five dwellings on land affected by the Design and Development Overlay (Schedule 11)

Officer recommendation/ Delegate determination: Notice of decision
Council determination: Notice of decision
Appeal type: Hearing Dismissed
Plans substituted (prior to hearing): No
VCAT determination: Appeal Dismissed
LGPRF outcome: N/A

Comments:
The subject site is located within the General Residential Zone Schedule 2, the Design and Development Overlay Schedule 11 and the Development Contributions Overlay Schedule 1. At the Planning and Amenity Committee meeting of 15 May 2018, Council resolved to issue a Notice of Decision to Grant a Planning Permit for the construction of a three storey building (above basement level) comprising five dwellings. The Planning and Environment Regulations 2015 allow for (at that time) a 21 day timeframe for a third party Section 82 application for review to be lodged. Having been informed that no appeal was lodged within the timeframe, Council issued a planning permit on 15 June 2018. The permit applicant has subsequently lodged condition 1 plans to Council for consideration.

A Section 82 application for review by an objector was lodged with the Tribunal on 28 June 2018, outside of the allowed timeframe. A Practice Day Hearing was held on 3 August 2018, which the applicant for review could not attend and the Tribunal refused to extend the time for commencing the proceeding and struck the matter out. Written orders confirming the direction of the Tribunal were made on 6 August 2018.

On 14 September 2018, the objector lodged an application under section 120 of the VCAT Act 1998 seeking to have the order of the Tribunal dated 6 August 2018 reopened. This S120 application was lodged 38 days after the after the objector’s representative became aware of the order; outside the 14 days allowed under the VCAT Act.

A Practice Day Hearing was held on 2 November 2018 to consider the S120 application. Under S126 of the VCAT Act, the Tribunal can extend any time limit fixed by the VCAT Act if minded to do so and only if there would be no prejudice to a party.
The Tribunal was not satisfied with the explanations from the applicant for review for not attending the original practice day on 3 August as they could have easily sent their representative despite being overseas themselves. Furthermore, the lodging of the S82 application for review was outside of the timeframe allowed under the Planning and Environment Act 1987 and no evidence could be provided by the applicant that it had been submitted within the timeframe, despite being given sufficient opportunity by the Tribunal.

The Tribunal found that prolonging the determination of the application to re-open the orders of the Tribunal dated 6 August 2018 would be of prejudice to the respondent given that would call into question its ability to continue to act with certainty on the permit issued almost five months ago. AS such the Tribunal refused to extend the timeframe.
Subject land: 17 - 19 Balcombe Park LNE, BEAUMARIS

Application no.: 2017.85.1
VCAT reference no.: P2001/2018
Applicant: Matthew Finnis
Referral Authority: N/A
Respondents: Henan Hercules Pty Ltd

VCAT Member: Susan Whitney
Date of hearing: 9/11/2018
Date of order: 9/11/2018
Proposal: Construction of three (3) double storey dwellings and removal of native 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: Appeal Struck out
LGPRF outcome: N/A

Comments:

The Tribunal in its Initiating Order in this matter scheduled a Practice Day for this matter on 9 November 2018 to consider whether the matter should be struck out given that the Objector had lodged an Application for Review out of time or whether the Tribunal should exercise its discretion to allow an extension of time for the Objector to lodge his Application for Review.

Although the Applicant's representative and Council attended the Practice Day Hearing there was no appearance from the Objector and having made inquiries which determined that the Objector had neither notified the Tribunal or Council as to any reason for his non-appearance at the hearing, the Tribunal struck out the matter.

The Tribunal accepted the submissions of Council that as the Objector was the person who initiated these proceedings it was incumbent on him to prosecute his case. The Tribunal accepted these submissions and in an Order dated 9 November struck out the Appeal because it was lodged out of time and vacated the hearing date of 26 February 2019. Council issued Planning Permit No. 2017/85 on 9 November 2018.

Subsequent to this Order, the Objector on 18 November 2018 lodged an Application with the Tribunal to reopen this order pursuant to section 120 of the VCAT Act 1998. The Tribunal in an Order dated 28 November 2018 scheduled a further Practice Day for Friday for 14 December to consider whether this Application to reopen the case should be allowed.
Subject Land  
261 Beach RD, BLACK ROCK

Application no.  
2014.817.1

VCAT reference no.  
P1431/2018

Applicant  
Manor Grand Pty Ltd

Referral Authority  
N/A

Respondents  
N/A

VCAT Member  
Teresa Bisucci

Date of hearing  
14/11/2018

Date of order  
14/11/2018

Proposal  
The construction of two double storey dwellings on the lot and altered access to a Road Zone Category 1

Officer recommendation/Delegate determination  
Not support

Council determination  
Not applicable

Appeal type  
Amend a Permit

Plans substituted (prior to hearing)  
No

VCAT determination  
Amended permit to issue

LGPRF outcome  
N/A

Comments:

This application was an amended application lodged by application under the S87A Amendment to the existing Planning Permit 2014/617 through VCAT. The proposed amendments are minor in nature including a number of site services locational changes. The application was advertised and one objecting party lodged Statement of Grounds to VCAT.

After discussion with the applicant and objector, the agreement was reached and consent order was issued on 14 November 2018 at the hearing.
Subject land  
50 Well ST, BRIGHTON

Application no.  
2017 675.1

VCAT reference no.  
P1519/2018

Applicant  
Beacon 5 Pty Ltd

Referral Authority  
Melbourne Water

Respondents  
Melbourne Water, Mira Antonious & Others, Susan Carden

VCAT Member  
Nicholas Hadjigeorgious

Date of hearing  
16/11/2018

Date of order  
16/11/2018

Proposal  
Construction of a three storey building (plus basement) comprising no more than 10 dwellings

Officer recommendation/ 
Delegate determination  
Support

Council determination  
Refusal

Appeal type  
Refusal to Grant a Permit

Plans substituted  
No

(prior to hearing)

VCAT determination  
Permit to issue

LGPRF outcome  
N/A

Comments:

"The subject site is zoned General Residential Zone (Schedule 2), and is also covered by the Design and Development Overlay (Schedule 11), Special Building Overlay and the Development Contributions Plan Overlay.

The application proposed the construction of 10 apartment style dwellings over three levels and associated basement. This matter was refused at a Planning and Amenity Committee Meeting on 17 July 2018.

The applicant lodged a subsequent an appeal against Council’s refusal and the matter was set down for a Compulsory Conference on 31 October 2018.

At the compulsory conference all parties eventually agreed to some amendments and, and this design, along with the proposed permit conditions was ratified at the Planning and Amenity committee meeting of 13 November 2018.

A Planning Permit was issued in accordance with the signed Consent Order."
### Subject land

**447 Bay ST, BRIGHTON**

### Application no.
2018.139.1

### VCAT reference no.
P1298/2018

### Applicant
Wan Hao Group Pty Ltd

### Referral Authority
N/A

### Respondents
Bruce Gilmore, FR Bay Pty Ltd

### VCAT Member
S. R. Cimino

### Date of hearing
21/11/2018

### Date of order
21/11/2018

### Proposal
Construction of a four storey mixed use development with basement parking, use of land for residential purposes and reduction in the shop parking requirement

<table>
<thead>
<tr>
<th>Officer recommendation/ Delegate determination</th>
<th>Refusal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council determination</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Appeal type</td>
<td>Refusal to Grant a Permit</td>
</tr>
<tr>
<td>Plans substituted (prior to hearing)</td>
<td>Yes</td>
</tr>
<tr>
<td>VCAT determination</td>
<td>Permit to issue</td>
</tr>
<tr>
<td>LGPRF outcome</td>
<td>N/A</td>
</tr>
</tbody>
</table>

### Comments:

The Application for Review was an appeal against Council’s Refusal to Grant a Permit for the construction of a four storey mixed use development with basement parking, use of land for residential purposes and reduction in the shop parking requirement.

A Compulsory Conference was held on 21 November 2018, in which all parties reached an agreed (consented) position on the day in relation to changes to the plans. The Tribunal accepted the Consent Order at the Hearing and issued a subsequent Order.
Subject land  
2 Burgess ST, BEAUMARIS

Application no.  
2017/509.1

VCAT reference no.  
P1480/2018

Applicant  
GNL Developments

Referral Authority  
N/A

Respondents  
Graham Hawthorn & Jamie Paterson, Beaumaris Conservation Society Inc

VCAT Member  
Nicholas Hadjigeorgiou

Date of hearing  
27/11/2018

Date of order  
27/11/2018

Proposal  
The removal of 3 native trees and the construction, use and illumination of a private tennis court

Officer recommendation/ Delegate determination  
Refusal

Council determination  
Refusal

Appeal type  
Refusal to Grant a Permit

Plans substituted (prior to hearing)  
No

VCAT determination  
Permit is granted

LGPRF outcome  
N/A

Comments:

Council Officer’s recommendation to approve Planning Permit Application 2017/509/1 for the removal of six (6) native trees and the construction, use and illumination of a private tennis court was reported at the Planning and Amenity Committee meeting held on 17 July 2017. Council determined to refuse the application as it was considered that the proposal failed to meet the relevant objectives, considerations and performance requirements of the Code of Practice – Private Tennis Court Development pursuant to Clause 52.21 and the proposal’s failure to meet the purpose and objectives of Clause 42.02 (Vegetation Protection Overlay Schedule 3).

The applicant lodged an appeal pursuant to Section 77 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s refusal to grant a permit. At the Compulsory Conference held on 24 October 2018 all parties in attendance agreed to a consent position that resulted in the retention of an additional four trees that were previously signed for removal, two of which were native.

The consent order was reported to the Planning and Amenity Committee meeting held on 13 November 2018 where the decision to support the grant of a planning permit was ratified by Council. In its Order dated 27 November 2018, the Tribunal set aside Council’s decision to refuse the application and directed a permit to be issued in accordance with the endorsed plans and subject to the agreed conditions.
5. Confidential Business

Nil