Agenda
Members of the Gallery

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies
2. Declarations of Interest
3. Adoption and Confirmation of the minutes of previous meeting
4. Matters of Decision
   4.1 329 New Street, Brighton Notice of Decision to Grant a Permit Application No: 2019/162/1 Ward: Northern
   4.2 Bus Stop Advertising Applications Grant Eleven Permits Application Nos: 2019/251/1, 2019/252/1, 2019/254/1, 2019/255/1, 2019/257/1, 2019/262/1, 2019/264/1, 2019/265/1, 2019/266/1, 2019/267/1, 2019/268/1 Wards: Southern, Central & Northern
   4.3 25 Dawson Avenue, Brighton Notice of Decision to Grant an Amended Permit Application No: 2016/612/2 Ward: Northern
   4.4 1 Orlando Street, Hampton Notice of Decision to Grant a Permit Application No: 2018/540/1 Ward: Central
   4.5 178 South Road, Brighton East Issue a Notice of Decision to Grant a Permit Application No: 2019/216/1 Ward: Central
   4.6 111 Dendy Street, Brighton Notice of Decision to Grant a Permit Application No: 2019/288/1 Ward: Northern
   4.7 24 Carr Street, Brighton East Notice of Decision to Grant a Permit Application No: 2018/715/1 Ward: Central
   4.8 14-16 Grenville Street, Hampton Support the Grant of a Permit (VCAT Substituted Plans) Application No: 2018/814/1 Ward: Central
   4.9 Statutory Planning - VCAT Report
5. Confidential Business
Next Meetings 2019

Tuesday 12 November 2019
Monday 9 December 2019
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 10 September 2019.
4. Matters of Decision

4.1 329 NEW STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2019/162/1 WARD: NORTHERN

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/251957

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>The Edge Group Development</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
</tbody>
</table>
| Date application received             | Initial Application – 27 March 2019
                                        | 57A Amendment – 19 August 2019               |
| Current statutory days                | 32 days                                      |
| Zoning                                | Commercial 1 Zone                            |
| Overlays                              | Design and Development Overlay (Schedule 2)
                                        | Development Contributions Plan Overlay
                                        | (Schedule 1)                                |
| Site area                             | 1,395sqm                                     |
| Number of outstanding objections      | 5                                            |
| Is a Development Contribution Levy applicable? | No                                      |
| Is the site located within an area of cultural heritage sensitivity? | No                                           |

Proposal
The application seeks to display four (4) electronic signs. Key details of the proposal are as follows:

- Retrospective application to authorise the display of four existing electronic signs;
- Dimensions:
  - Signs 1, 2 and 4 are 2600mm x 900mm; and
  - Sign 3 is 2900mm x 900mm;
- Luminance levels: none specified; however, there are proposed conditions within the applicant’s lighting report.
- Electronic display (dwell) times per sign: 2 minutes;
Display hours:
- None specified for signs 2, 3 or 4.
- Proposed reduction in luminance level for sign 1 from 6-9pm;

Reduction in extent of existing signage to the building.

The application plans are provided at Attachment 1.

An aerial image and photograph of Signs 1 – 4 (Electronic Signs) are provided at Attachment 2.

A photograph of Signs 5 – 14 (Existing Signage) are provided at Attachment 3.

History

There are various planning permits associated with this site. The following permits have signage approvals associated with them, and existing signs currently being displayed.

**Planning permit 2009/427/1** was issued by VCAT on 11 August 2010 for use and installation of 50 electronic gaming machines and buildings and works to the existing hotel. This permit allows for the two (2) New Bay vertical signs on Bay Street (shown as Sign 5 and 7 in Attachment 3). These plans were endorsed on 29 September 2010. An inspection of the site demonstrates these signs are currently being displayed.

On 22 March 2019, Council advised the owner/occupant that the existing electronic signs on site required a planning permit and were therefore operating unlawfully. The applicant submitted a retrospective permit application (the application the subject of this report) to authorise the display of electronic signage.

Council officer’s met with the applicant on 15 August 2019 and advised that there were concerns regarding the total amount of signage on the building, and that most of the signage being displayed did not have planning permission. As a result, the applicant submitted a Section 57A amendment deleting some of these existing signs.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 52.05-11 (Signs) – Display of an Electronic Sign (Section 2 sign within a Category 1 – Commercial Areas).

Planning Scheme Amendments

Planning Scheme Amendment C126 applies to the subject site. This amendment has been approved by Council, and is with the Minister for Planning for approval. This amendment will result in the land directly opposite the site (to the north) at 331 New Street, Brighton being rezoned from Neighbourhood Residential Zone to Commercial 1 Zone. Additionally, the Design and Development Overlay will be amended with the introduction of Schedule 15. The proposed Design and Development Overlay relates to the built form.

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>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 seven objections and one letter of support were received.

Five objections remain outstanding at the time of this report.

The following concerns were raised:

- Aesthetics;
- The bright light of the signs impact on residential amenity;
- Traffic Safety;
- Extent of Signage;
- Character of the area;
- Visual clutter; and
- Property values.

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 chose to meet with the objectors privately. As a result, two objections were withdrawn and a Section 57A Amendment was lodged to respond to objector concerns.

4. Recommendation

That Council resolve to issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application 2019/162/1 for the land known and described as 329 New Street, Brighton, for the display of signage (including electronic signage) in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by The Edge Group Development referenced Site Analysis TP01 and Elevation TP01, date May 2019 but modified to show:

   a) Deletion of Sign 1 (electronic sign facing the car park).
   b) Deletion of Sign 4 (electronic sign on New Street frontage).
   c) Deletion of both pokies signs (coloured blue) directly above the proposed electronic signs.
d) Signage under the windows on New Street to the left of the entrance door to be removed and replaced with a solid material painted to match the existing building colour.

e) The TAB sign located to the southern end of the red building under the awning to be removed.

f) The TAB sign adjacent to the entrance of the building painted red on New Street to be removed.

g) All plans and elevations updated to show all existing signage and proposed signage.

All to the satisfaction of the Responsible Authority.

2. The use/operation of the signs shall remain in full accordance with the endorsed plans at all times and 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. The signs shall be maintained to the satisfaction of the Responsible Authority.

4. No advertisement on the electronic signs may be displayed for less than 120 seconds.

5. The electronic signs must only be lit between the hours of 7am and 10pm.

6. The signs and advertising content must not dazzle or distract road users due to their colouring.

7. The luminance of the advertising signs must be such that they do not give a veiling luminance to the driver, of greater than 0.25 cd/m², throughout the driver’s approach to the advertising sign.

8. No more than 30% change in illuminance levels between successive images.

9. The transition from one advertisement to another must be instantaneous.

10. The following types of images or messages must not be displayed:
   a) Scrolling text, videos and sequences of images giving the illusion of continuous movement.
   b) Images capable of being mistaken as a traffic control device because they, for example, contain red, amber or green circles, octagons, crosses or triangles.
   c) Images or text capable of being mistaken as an instruction to a road user.
   d) Flashing backgrounds, flashing text or flashing images.

Permit Expiry

11. 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 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 34.01 Commercial 1 Zone
- Clause 43.02 Design and Development Overlay (Schedule 2)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.05 Signs
- 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. Clause 52.05 (Signs)

Clause 52.05-8 sets out the decision guidelines for sign applications. The relevant assessment criteria includes the impact upon the character of the area and impact of illumination on residential amenity and road safety.
Impact upon the character of the area and the relationship with the streetscape

The character of Bay Street and New Street is a mix of commercial and residential, with the subject site on the periphery of the commercial area, abutting residential uses. Signage is fairly minimal within the area, with signage limited to business identification signage in the immediate area. The subject site is located on the corner of New Street and Bay Street, both Road Zone Category 2 roads, both carrying higher than average volumes of traffic.

The principle of electronic advertising signs are considered to be acceptable given the location of the site and use of the site within a Commercial 1 Zone. However, consideration must be given to the size, positioning and nature of the signs in relation to their context.

The four signs are proposed to be located as follows:

- Sign 1 – on the façade in the car park, near Bay Street, facing towards the adjoining residence at 62 Bay Street;
- Sign 2 – on the Bay Street frontage, near the corner of New Street;
- Sign 3 – on the New Street frontage, near the corner of Bay Street; and
- Sign 4 – on the New Street frontage, towards the south of the building.

Sign 1 is 2600mm x 900mm in size and is located 2.95m above ground level.

Sign 2 is 2600mm x 900mm in size and is located 3.6m above ground level, with a setback of 2.2m from the corner of the site.

Sign 3 is 2900mm x 900mm in size and is located 3.6m above ground level, with an offset 0.85m from the corner of the site.

Signs 4 is 2600mm x 900mm in size and is located 4.4m above ground level, above the roof level of the building.

All signage will be visible from multiple angles, with Signs 2 and 3 being most prominent, viewed from both New Street and Bay Street (given the corner location). Signs 1 and 4 would have more limited views, generally restricted to traffic flow along just the one road.

Given the existing signage on the building, the addition of the proposed signage is considered to cause visual clutter, and needs to be rationalised to be more appropriate for this setting.

Sign 1 in particular is considered to be the most sensitive, as it faces residential properties, and is most isolated from the commercial areas (as the New Bay Hotel is the only commercial building on the west side of New Street fronting Bay Street). This sign is considered to be inappropriate as it is out of character with the area, impacts on residential amenity and should be removed as part of any approval granted.

Sign 2 and 3, with their locations on the corner of the site are considered to be the most appropriate locations for this type of sign. Their location ensures maximum visibility and limits impact upon the more sensitive areas. The signs would be located in areas of similar signage (to be removed through condition), and would not look out of place for hotel establishments of this nature.

Sign 4 is located above the roof line further down the building on New Street. This sign has some prominence, though integrates poorly with the host building, failing to have due regard to the architectural features of the building. The sign impacts negatively on
streetscape character and should therefore be removed.

Extent of signage

This proposal seeks to add an additional four (4) signs to a building that already has a large number of business identification and promotional signage. Based on a review of Council’s records, many of these signs do not have planning permission and are illegally displayed.

The cumulative effect of this signage results in visual disorder and a clutter of signs. An assessment of all the signs on the building was undertaken as part of this application, to determine whether the addition of the proposed new signage was considered acceptable or whether some of the existing signage would need to be removed.

Based on this assessment it was considered that there was a large number of signs erected on the site which appeared to have occurred in an ad-hoc manner without a holistic or coordinated plan. There is an oversupply of signage on the building and given it is at an intersection with traffic lights, there is a need to provide a simple and effective level of signage that does not distract drivers by an overabundance of visual stimulation.

As such, conditions should be included as part of any planning permit issued to rationalise the amount of signage on the site. It is recommended that signs (as depicted and labelled in Attachment 3) be removed:

- Signs 6 and 8 on the corner of Bay Street and New Street directly above the proposed electronic signs;
- Sign 10 located under the windows on New Street to the left of the entrance door be replaced with a solid material painted to match the existing building colour;
- Sign 13 located adjacent to the entrance of the building painted red on New Street; and
- Sign 14 located to the southern end of the red building under the awning.

In addition to the above, the removal of Sign 1 and 4 (the proposed electronic signs) will ensure that visual cluttered will be minimised and there will be an appropriate level of business and promotional signage for the subject site and in context with the area.

In light of the above, it appears there should be a more coordinated approach for signage on this building. The signage appears to have been added to the building over a number of years without any regard to the cumulative effect of the confusing messages. Council officers would encourage the permit applicant to consider a complete review of all signage on the building, which may yield more signs but in an appropriate manner for this prominent corner and building.

Views and vistas

The signs are not considered to impede any important views, being the surrounding area which is residential and commercial. The signs are not considered to impede views to other signs.

Residential amenity

The signs are located within the Commercial 1 Zone, where the protection of residential amenity holds less weight than residential zones. However, the site is also adjacent to the Neighbourhood Residential Zone, being along the west and northern sides.

Immediately to the north, south and west of the site, there are apartments and dwellings,
which are considered to be sensitive uses, and are located between 10-20 metres away from the signage. Based on accepted standards around lighting (Australian Standard 2482), a lighting report was prepared by the applicant. As a result of the report, a condition should be added to any approval granted requiring the luminance levels of the signs to be limited to 0.25 cd/m² and static images to be displayed with a dwell time of 120 seconds. This will ensure that drivers are less impacted by moving images.

Given this consideration, and the removal of Signs 1 and 4, as they are the closest to residential interfaces, it is considered that the residential amenity will not be unduly impacted. Furthermore, a condition will be added requiring the signs to only be lit during the hours of 7am-10pm, further limiting the impact to these sensitive interfaces.

A condition has also been added to the recommendation as proposed by the applicant’s Lighting Report requiring changes of illuminance between successive images to be no more than 30%. This will also aid to reduce the impact on residences through rapid changes in lighting levels.

The applicant’s Lighting Report is provided as Attachment 4.

Road Safety

The applicant provided a Traffic Engineering Assessment in support of the application. Council’s Traffic Engineer reviewed this assessment and considered the findings to be satisfactory, and that the signs would not cause detriment to the road safety of the area.

Both the applicant’s report and Council’s Traffic Engineer consider appropriate conditions are required to outline the levels of light permitted and dwell times on the signage. As such, relevant conditions have been added to the recommendation to ensure safety of road users.

The applicant’s Traffic Report is provided at Attachment 5.

6.2. 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.

6.3. Development contributions levy

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

6.4. Objector issues not already addressed

Property values

The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the Planning and Environment Act 1987, or the Bayside Planning Scheme.

Support Attachments

1. Development Plans
2. Site Surrounds and Proposed Signage
3. Existing Signage
4. Applicant’s Lighting Report
5. Applicant’s Traffic Report
Proposed - full view of Hotel (new street side) looking from corner of Bay and New street

New Bay Hotel - Signage

Proposed removal of signage.
Item 4.1 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Proposed Signage

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 5: A photo of Sign 1, located in the car park of the subject site.

Figure 3: A photo of the subject site looking at the Bay Street façade. This photo shows Sign 2.
Figure 2. A photo of the subject site from the corner of New Street and Bay Street, Brighton. This photo shows signs 2 and 3.

Figure 8. A view of the New Street façade, directly opposite the subject site and Sign 4.
<table>
<thead>
<tr>
<th>Sign Number</th>
<th>Sign Description</th>
<th>Status</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Proposed electronic sign</td>
<td>Applied for in this permit</td>
<td>Recommended for deletion from application</td>
</tr>
<tr>
<td>2</td>
<td>Proposed electronic sign</td>
<td>Applied for in this permit</td>
<td>Recommended for approval</td>
</tr>
<tr>
<td>3</td>
<td>Proposed electronic sign</td>
<td>Applied for in this permit</td>
<td>Recommended for approval</td>
</tr>
<tr>
<td>4</td>
<td>Proposed electronic sign</td>
<td>Applied for in this permit</td>
<td>Recommended for deletion from application</td>
</tr>
</tbody>
</table>
ATTACHMENT 3
Existing Signage

Figure 1. A photo of the subject site looking at the Bay Street façade, showing existing signs 5, 6 and 7. Signs 5 and 7 are the New Bay signs and sign 6 is the Pokies sign.

Figure 2. A photo of the subject site looking at the corner of New Street and Bay Street, showing existing signs 5-8. Signs 5 and 7 are the New Bay signs and signs 6 and 8 are the Pokies signs.
Figure 3. A photo of the New Street façade looking south. This shows signs 9-11. Sign 9 is a TAB sign directly above the entrance door. Sign 10 is the under-window signs. Sign 11 is the New Bay sign.

Figure 4. A photo of the existing signage on the New Street façade in the middle of the building. This shows signs 9-13. Sign 9, 12 and 13 are TAB signs. Sign 10 is the under-window signage, and sign 11 is the New Bay signage.
Figure 5. A photo showing the southern end of the New Street façade, with signs 12-14. All three signs are TAB signs.

Figure 6. A photo showing the southernmost TAB sign under the awning.
<table>
<thead>
<tr>
<th>Sign Number</th>
<th>Sign Description</th>
<th>Status</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>New Bay sign on Bay Street façade</td>
<td>Has a permit</td>
<td>Applicant requested removal</td>
</tr>
<tr>
<td>6</td>
<td>Pokros sign on Bay Street façade</td>
<td>Does not have a permit</td>
<td>Applicant requested for retention, Council Officers' recommending removal</td>
</tr>
<tr>
<td>7</td>
<td>New Bay sign on corner of New Street and Bay Street</td>
<td>Has a permit</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>8</td>
<td>Pokros sign on New Street façade</td>
<td>Does not have a permit</td>
<td>Applicant requested for retention, Council Officers' recommending removal</td>
</tr>
<tr>
<td>9</td>
<td>TAB sign above entranceway on New Street</td>
<td>Does not have a permit</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>10</td>
<td>Under window signage on New Street façade</td>
<td>Does not have a permit</td>
<td>Applicant requested for retention, Council Officers' recommending removal, and the area painted to match the existing building</td>
</tr>
<tr>
<td>11</td>
<td>New Bay sign on New Street façade</td>
<td>Has a permit</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>12</td>
<td>TAB sign</td>
<td>Does not have a permit</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>13</td>
<td>TAB sign</td>
<td>Does not have a permit</td>
<td>Applicant requested for retention, Council Officers' recommending removal</td>
</tr>
<tr>
<td>14</td>
<td>TAB sign</td>
<td>Does not have a permit</td>
<td>Applicant requested for removal</td>
</tr>
</tbody>
</table>
Lighting Impact Assessment

Outdoor Signage at Hotel Newbay, 329 New Street, Brighton VIC 3186

28.06.2019

The Edge Development Group

Doc No: LR.036.A
Rev: 1A

---

A Billion Suns
ABN: 69 628 183 442
1/200 Smith Street
Collingwood, VIC 3066
1. Introduction

A Billion Suns have been appointed by The Edge Development Group to undertake a Lighting Impact Assessment on the planned illuminated signage units on the Hotel Newbay at 329 New Street, Brighton.

Four signage units are proposed, one on Bay Street Western Facade, one on Bay Street Northern Facade and two on New Street Eastern Facade. The objective of the assessment is to report on compliance with the Bayside Planning Scheme 52.05 Signs through VicRoads Advertising Policy and AS4282-2019 Control of the Obtrusive Effects of Outdoor Lighting.

2. Site Description & Scope

The location of the proposed four electronic signs are on three existing facades of the Hotel Newbay at 329 New Street, Brighton. Electronic Sign 1 (Type A) is located on the western facade adjacent to Bay Street. Electronic Sign 2 (Type A) is located on the northern facade on Bay Street. Electronic Sign 3 (Type B) is located at the north end of the eastern facade on New Street. Electronic Sign 4 (Type A) is located at the south end of the eastern facade on New Street. Refer to Appendix A for proposed signage location plan and elevations.

- Electronic Sign Type A: Length 2.6 meters, height 0.9 meters, with an active display (illuminated) area of 2.34 m².
- Electronic Sign Type B: Length 2.9 meters, height 0.9 meters, with an active display (illuminated) area of 2.61 m².

The digital sign is illuminated using LEDs installed to the front surface. The brightness of the LEDs can be controlled to provide minimum and maximum thresholds as required for operation through day and night time ambient lighting conditions.

The manufacturer of the electronic sign is noted as iCatcher, model type PH10mm LED Screen with performance parameters as outlined in Appendix B. The signage includes baffles which mitigate upward waste light, resulting in an Upward Light Ratio (ULR) of less than 50%.
3. Design Guidelines and Standards

The Lighting Impact Assessment will review the proposed digital signage against the following Design Guidelines and Standards.

- Bayside Planning Scheme 52.05 Signs (VC148 31/07/2018)
- VicRoads Advertising Policy for Advertising On, Over and Adjacent to VicRoads declared Road Reserves.
- AS 4282-2019 Control of the Obtrusive Effects of Outdoor Lighting.

4. Bayside Planning Scheme

The Hotel Newbay site being located in Brighton falls under the local council jurisdiction of Bayside City Council. The Bayside Planning Scheme in section 52.05 Signs, part 8 Decision Guidelines, states that the following illumination assessments must be made.

The impact of any illumination:

- A. The impact of glare and illumination on the safety of pedestrians and vehicles.
- B. The impact of illumination on the amenity of nearby residents and the amenity of the area.
- C. The potential to control illumination temporarily or in terms of intensity.

Criteria A - Pedestrian and Vehicular compliance will be assessed against criteria in AS4282-2019 (refer Section 5) and VicRoads Advertising Policy for Advertising On, Over and Adjacent to VicRoads declared Road Reserves (refer Section 6).

Criteria B - Residential and Area compliance will be assessed against AS4282-2019 Control of Obtrusive Effects of Outdoor Lighting (refer Section 7).

The iCatcher, model type PH10mm LED Screen has onboard control which allows for the screen intensity to be dimmed and therefore meets the requirements of Criteria C.
5. Luminance Assessment

The maximum acceptable night time luminance of the signage is calculated through determining the Environmental Zone in AS4282 which is most applicable to the existing site conditions. After assessment the site is deemed to be located in Environmental Zone A3, with a permissible maximum average luminance of 250 cd/m².*

No maximum daytime luminance levels for signage are included in AS4282. For operation during morning and evening twilight periods the maximum permissible luminance for each of the four electronic signs is outlined in the tables below, in order to responsibly transition between day and night time conditions.

<table>
<thead>
<tr>
<th>Lighting Condition</th>
<th>Max. Permissible Luminance (cd/m²)</th>
<th>Compliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day Time</td>
<td>No Limit</td>
<td>Yes</td>
</tr>
<tr>
<td>Morning and Evening Twilight</td>
<td>700</td>
<td>Yes</td>
</tr>
<tr>
<td>Night Time</td>
<td>250</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lighting Condition</th>
<th>Max. Permissible Luminance (cd/m²)</th>
<th>Compliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day Time</td>
<td>No Limit</td>
<td>Yes</td>
</tr>
<tr>
<td>Morning and Evening Twilight</td>
<td>700</td>
<td>Yes</td>
</tr>
<tr>
<td>Night Time</td>
<td>80**</td>
<td>Yes</td>
</tr>
</tbody>
</table>

* Lighting Impact Assessment | Hotel Newbay 3
Table 3: Luminance Levels for Electronic Sign 3

<table>
<thead>
<tr>
<th>Lighting Condition</th>
<th>Max. Permissible Luminance (cd/m²) #</th>
<th>Compliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day Time</td>
<td>No Limit</td>
<td>Yes</td>
</tr>
<tr>
<td>Morning and Evening Twilight</td>
<td>700</td>
<td>Yes</td>
</tr>
<tr>
<td>Night Time</td>
<td>210**</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Table 4: Luminance Levels for Electronic Sign 4

<table>
<thead>
<tr>
<th>Lighting Condition</th>
<th>Max. Permissible Luminance (cd/m²) #</th>
<th>Compliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day Time</td>
<td>No Limit</td>
<td>Yes</td>
</tr>
<tr>
<td>Morning and Evening Twilight</td>
<td>700</td>
<td>Yes</td>
</tr>
<tr>
<td>Night Time</td>
<td>250</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The proposed four electric signage units have a maximum brightness (luminance) of 7000 cd/m². The signs shall be commissioned on site to yield a maximum luminance of 7000 cd/m² during day time operation, 700 cd/m² during twilight and 250 cd/m² (Sign 1), 80 cd/m² (Sign 2), 210 cd/m² (Sign 3), 250 cd/m² (Sign 4) during night time.

# The signage is to be dimmed onsite to ensure the maximum luminance nominated in the tables above for each sign is not exceeded.

* A3 Environmental Zone description: Medium district brightness e.g. suburban areas in towns and cities.

** The maximum permissible luminance allowed under AS4282 is 250cd/m². The luminance limit shown in the tables above was derived as a result of the Vic Roads Veiling Luminance Assessment calculation outlined in Part 6 of this report.
6. VicRoads Veiling Luminance Assessment

The VicRoads Operational Requirements for Variable Advertising Message Signs outlines a maximum veiling luminance of 0.25 cd/m² for a driver throughout the approach to an illuminated sign.

The proposed illuminated signage (and surrounding environment) was modeled in lighting calculation program AGI32 to determine the veiling luminance for the eastbound and westbound traffic on Bay Street, northbound and southbound traffic on New Street, New Street turning onto Bay Street, Bay Street turning onto New Street and Barkly Street turning onto New Street. Photometric data for the screen was based on a diffused light panel (approximating a lambertian emitter) with a luminance corresponding to the night time limit outlined in the table above. Appendix C shows the lighting model and the results of the calculations.

The calculation grids were located at 1.5m above ground level for general traffic approaches with an approach viewing distance of between 5 m to 125 m from the sign and a windsreen cutoff angle of 20 degrees (as outlined in AS1158). The calculation results of the model show that the veiling luminance from the signage does not exceed 0.248 cd/m² for all traffic approaches (refer Appendix C).

The signs therefore comply with the maximum veiling luminance of 0.25 cd/m² as described in VicRoads Advertising Policy for Advertising On, Over and Adjacent to VicRoads declared Road Reserves, provided the signs are dimmed as specified in Tables 1-4 in Section 5.
7. AS4282 Assessment

The proposed digital signage has already been assessed against AS 4282-2019 Control of the Obtrusive Effects of Outdoor Lighting as outlined in Section 5.

7.1 Illuminance Assessment

Two sets of limiting values for obtrusive spill light are stipulated in AS4282 based on whether the lighting is operating in Non-curfew (6am - 11pm) or Curfew (11pm-6am) periods. As it is intended that the digital signage be illuminated all night, the assessment will review the proposed signage under more stringent Curfew limits.

The AS4282 assessment includes a review of nearby residential dwellings and calculation of the amount of vertical illuminance (measured in Lux) that the properties are likely to receive from the signage during night time operation periods. The acceptable level of illuminance is determined through a combination of Environmental Zone the dwellings reside in and the Curfew period.

Based on assessment of the surrounding area, the nearest dwellings potentially affected by the signage are at the following locations, environmental zones with maximum permissible vertical spill illuminances outlined in the Table 5 below.

<table>
<thead>
<tr>
<th>Address</th>
<th>Environmental Zone</th>
<th>Operation Period</th>
<th>Max. Vertical Illuminance (Lux)</th>
</tr>
</thead>
<tbody>
<tr>
<td>62 Bay Street</td>
<td>A3</td>
<td>Curfew</td>
<td>2</td>
</tr>
<tr>
<td>60 Bay Street</td>
<td>A3</td>
<td>Curfew</td>
<td>2</td>
</tr>
<tr>
<td>63 Bay Street</td>
<td>A3</td>
<td>Curfew</td>
<td>2</td>
</tr>
<tr>
<td>65 Bay Street</td>
<td>A3</td>
<td>Curfew</td>
<td>2</td>
</tr>
<tr>
<td>65A Bay Street</td>
<td>A3</td>
<td>Curfew</td>
<td>2</td>
</tr>
<tr>
<td>335 New Street</td>
<td>A3</td>
<td>Curfew</td>
<td>2</td>
</tr>
<tr>
<td>68 Bay Street</td>
<td>A3</td>
<td>Curfew</td>
<td>2</td>
</tr>
</tbody>
</table>
The proposed signage (and surrounding built environment) was modelled in lighting calculation program AGI32 to determine the effect of the light spill on the nearby residences in Table 5. The results from each of the calculations are outlined in Table 6 below.

<table>
<thead>
<tr>
<th>Address</th>
<th>Max. Vertical Illuminance (lux)</th>
<th>Max. Calculated Vertical Illuminance (lux)</th>
<th>Compliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>62 Bay Street</td>
<td>2</td>
<td>1.25</td>
<td>Yes</td>
</tr>
<tr>
<td>60 Bay Street</td>
<td>2</td>
<td>0.19</td>
<td>Yes</td>
</tr>
<tr>
<td>63 Bay Street</td>
<td>2</td>
<td>0.16</td>
<td>Yes</td>
</tr>
<tr>
<td>65 Bay Street</td>
<td>2</td>
<td>0.19</td>
<td>Yes</td>
</tr>
<tr>
<td>65A Bay Street</td>
<td>2</td>
<td>0.19</td>
<td>Yes</td>
</tr>
<tr>
<td>335 New Street</td>
<td>2</td>
<td>0.50</td>
<td>Yes</td>
</tr>
<tr>
<td>68 Bay Street</td>
<td>2</td>
<td>0.46</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The illuminance levels above comply with the maximum AS4282 limits for Curfew periods. Calculations were also conducted for Non-curfew hours under AS4282 requirements along the property boundaries closest to the site. A maximum vertical illuminance of 2.69 lux at 62 Bay Street was calculated, which is well under the 10 lux maximum allowance in AS4282. Appendix C shows the lighting model and the results of the calculations.

7.2 Threshold Increment Assessment

The Threshold Increment was calculated as part of Section 6 as per AS4282 requirements. The results show that the Threshold Increment does not exceed 4.46% for all traffic approaches (the allowable maximum under the standard is 20%).

7.3 Additional Requirements

The signage operator must ensure that the average luminance difference between successive images does not exceed 30% to ensure compliance with AS4282. The dwell time shall be 10 seconds or greater.
8. Summary

A. The proposed signs at Hotel Newbay, 329 New Street, Brighton, shall be commissioned on site to yield the maximum luminances outlined in Tables 1-4 in Section 5.

B. The proposed signs have been assessed and comply with the maximum veiling luminance of 0.25 cd/m² as described in VicRoads Advertising Policy for Advertising On, Over and Adjacent to VicRoads declared Road Reserves, when commissioned to the levels in Tables 1-4 in Section 5.

C. The proposed sign have been found to comply with all relevant requirements of AS 4282-2019 Control of the Obtrusive Effects of Outdoor Lighting.

D. The signage operator must ensure that the average luminance difference between successive images does not exceed 30% to ensure compliance with AS4282. The dwell time shall be 10 seconds or greater.

In complying with the above requirements, the proposed signs should not result in unacceptable glare nor should it adversely impact the safety of pedestrians, residents or vehicular traffic. Additionally, the proposed signage should not cause any reduction in visual amenity to nearby residences.

Jackson Stigwood | BDes, MArch
Design Director | Lighting Designer
A Billion Suns
28/06/2019
### Appendix B - Signage Specification

#### Photoluminescent LED Screen quotation:

<table>
<thead>
<tr>
<th>LED Parameter</th>
<th>Technical Parameter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
<td>Value</td>
</tr>
<tr>
<td>1</td>
<td>Red LED</td>
</tr>
<tr>
<td>2</td>
<td>Green LED</td>
</tr>
<tr>
<td>3</td>
<td>Blue LED</td>
</tr>
</tbody>
</table>

### Module Parameter:

<table>
<thead>
<tr>
<th>Module Parameter</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Power Factor</td>
<td>120W</td>
</tr>
<tr>
<td>Physical Density</td>
<td>100000 V/2</td>
</tr>
<tr>
<td>Reaction Force</td>
<td>N.A.</td>
</tr>
<tr>
<td>Virtual Density</td>
<td>N.A.</td>
</tr>
<tr>
<td>Driver</td>
<td>DIP</td>
</tr>
<tr>
<td>LED Configuration</td>
<td>1P1T1B</td>
</tr>
<tr>
<td>Module Size</td>
<td>160 x 480 x 15</td>
</tr>
<tr>
<td>Module Weight</td>
<td>200 x 160</td>
</tr>
<tr>
<td>Drive Mode</td>
<td>Dynamic &amp; Duty, Constant Current</td>
</tr>
</tbody>
</table>

### Control Parameter:

<table>
<thead>
<tr>
<th>Control Parameter</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cabinet Size</td>
<td>800 x 1200 x 50</td>
</tr>
<tr>
<td>Cabinet Material</td>
<td>DIP</td>
</tr>
<tr>
<td>Module Quality</td>
<td>25</td>
</tr>
<tr>
<td>Cabinet Weight</td>
<td>85 kg</td>
</tr>
<tr>
<td>Brightness</td>
<td>2700 x 000</td>
</tr>
<tr>
<td>Contrast</td>
<td>1200:1</td>
</tr>
<tr>
<td>View Angle</td>
<td>120° (H), 80° (V)</td>
</tr>
<tr>
<td>Mini View Distance</td>
<td>120</td>
</tr>
<tr>
<td>Gray Scale</td>
<td>128 x 128</td>
</tr>
<tr>
<td>Color Capacity</td>
<td>1.67 x 16</td>
</tr>
<tr>
<td>Maximum Power Consumption</td>
<td>1800 x 0.02</td>
</tr>
<tr>
<td>Average Power Consumption</td>
<td>400 x 0.02</td>
</tr>
<tr>
<td>Operating Power Source</td>
<td>14V DC / 220V AC 50/60Hz</td>
</tr>
<tr>
<td>Frame Frequency</td>
<td>60Hz</td>
</tr>
<tr>
<td>Refresh Rate</td>
<td>60Hz</td>
</tr>
<tr>
<td>Brightness adjustment</td>
<td>0-100%</td>
</tr>
<tr>
<td>Gamma Correction</td>
<td>(-2.0 - +2.0)</td>
</tr>
<tr>
<td>Correction Screen Level</td>
<td>1600</td>
</tr>
<tr>
<td>Color Temperature</td>
<td>5000K ± 500K</td>
</tr>
<tr>
<td>Brightness Correction</td>
<td>FMW (Philips Co., Ltd.)</td>
</tr>
<tr>
<td>Input Signal</td>
<td>S-Vide, R, G, B, I, Y, C, 200KHz, 1/V/V, Composite</td>
</tr>
<tr>
<td>Operation System</td>
<td>Windows 2000, XP, Vista</td>
</tr>
<tr>
<td>Control Mode</td>
<td>Synchronization with PC</td>
</tr>
<tr>
<td>Control Diameter</td>
<td>100M CAT5E, 120V, Multi-Block Fiber 324 x 12 x 324 x 12</td>
</tr>
<tr>
<td>Stock Temperature</td>
<td>-20 to +40°C</td>
</tr>
<tr>
<td>Operating Temperature</td>
<td>-20 to +40°C</td>
</tr>
<tr>
<td>Operating Humidity</td>
<td>80% RH</td>
</tr>
<tr>
<td>Life span</td>
<td>50000 hours</td>
</tr>
<tr>
<td>MTBF</td>
<td>50000 hours</td>
</tr>
<tr>
<td>Protection Rating</td>
<td>IP55</td>
</tr>
<tr>
<td>Assembly Process</td>
<td>Side</td>
</tr>
<tr>
<td>Cold Cut Control Rule</td>
<td>0.5</td>
</tr>
</tbody>
</table>

---

**Planning Application No.: 5/2019/162/1**

Date: July 2019
Appendix C - Veiling Luminance and Obtrusive Lighting Calculations

Oblusive Lighting Calculation Summary

<table>
<thead>
<tr>
<th>Location</th>
<th>Calculation</th>
<th>Units</th>
<th>Max</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>EAGLE STREET</td>
<td>Obtrusive</td>
<td>lux</td>
<td>120</td>
<td>100%</td>
</tr>
<tr>
<td>EAGLE STREET</td>
<td>Obtrusive</td>
<td>lux</td>
<td>110</td>
<td>100%</td>
</tr>
<tr>
<td>EAGLE STREET</td>
<td>Obtrusive</td>
<td>lux</td>
<td>124</td>
<td>100%</td>
</tr>
<tr>
<td>EAGLE STREET</td>
<td>Obtrusive</td>
<td>lux</td>
<td>135</td>
<td>100%</td>
</tr>
<tr>
<td>EAGLE STREET</td>
<td>Obtrusive</td>
<td>lux</td>
<td>110</td>
<td>100%</td>
</tr>
<tr>
<td>EAGLE STREET</td>
<td>Obtrusive</td>
<td>lux</td>
<td>120</td>
<td>100%</td>
</tr>
<tr>
<td>EAGLE STREET</td>
<td>Obtrusive</td>
<td>lux</td>
<td>110</td>
<td>100%</td>
</tr>
<tr>
<td>EAGLE STREET</td>
<td>Obtrusive</td>
<td>lux</td>
<td>124</td>
<td>100%</td>
</tr>
<tr>
<td>EAGLE STREET</td>
<td>Obtrusive</td>
<td>lux</td>
<td>135</td>
<td>100%</td>
</tr>
</tbody>
</table>

Lighting Impact Assessment | Hotel Newbay

Item 4.1 – Matters of Decision
Appendix C - Veiling Luminance and Obtrusive Lighting Calculations

Threshold Increment Calculation Summary

<table>
<thead>
<tr>
<th>Calculation Summary</th>
<th>Date Type</th>
<th>Mrd</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baysville Street - North Bound</td>
<td>1</td>
<td>1.05</td>
<td>100</td>
</tr>
<tr>
<td>Baysville Street - South Bound</td>
<td>2</td>
<td>1.07</td>
<td>100</td>
</tr>
<tr>
<td>Baysville Street - South East Bound</td>
<td>3</td>
<td>1.04</td>
<td>100</td>
</tr>
<tr>
<td>Baysville Street - West Bound</td>
<td>4</td>
<td>1.03</td>
<td>100</td>
</tr>
<tr>
<td>Baysville Street - South West Bound</td>
<td>5</td>
<td>1.09</td>
<td>100</td>
</tr>
<tr>
<td>Baysville Street - North West Bound</td>
<td>6</td>
<td>1.11</td>
<td>100</td>
</tr>
<tr>
<td>Baysville Street - South East Bound</td>
<td>7</td>
<td>1.09</td>
<td>100</td>
</tr>
</tbody>
</table>

Note: AGI32 outputs "Threshold Increment" values as described in AS4282, however this is directly related to the Veiling Luminance by the relationship Tl = 65Lv / 5*0.8. A maximum Veiling Luminance of 0.25cd/m2 is equivalent to a maximum Threshold increment of 4.48%. It can be seen from the results table that the maximum Threshold Increment is 4.46%. For simplicity all values have been correspondingly converted to Veiling Luminance in the main body of the report.
Appendix D - Definitions

Illuminance
The physical measure of illumination is illuminance. It is the luminous flux arriving at a surface divided by the area of the illuminated surface. Unit: lux (lx). 1 lx = 1 lm/m².

A. Horizontal illuminance (EH) The value of illuminance on a designated horizontal plane.
B. Vertical illuminance (EY) The value of illuminance on a designated vertical plane.

Where the vertical illuminance is considered in the situation of potentially obtrusive light at a property boundary, it is referred to as environmental vertical illuminance (Eve).

Luminance
The physical quantity corresponding to the brightness of a surface (e.g., a lamp, luminaire or reflecting material such as the road surface) when viewed from a specified direction. SI Unit: candela per square metre (cd/m²) - also referred to as “nits”.

Luminous Intensity
The concentration of luminous flux emitted in a specified direction. Unit: candela (cd).

Obtrusive Light
Spill light which, because of quantitative, directional or spectral attributes in a given context, gives rise to annoyance, discomfort, distraction or a reduction in the ability to see essential information.

Threshold Increment
The measure of disability glare expressed as the percentage increase in contrast required between a standard object and its background (the carriageway) for it to be seen equally as well with the source of glare present. This metric is directly related to Veiling Luminance.

NOTE: The required value is a maximum for compliance of the lighting scheme.

AGI32 Light Simulation Software
AGI32 (by U.S. company Lighting Analysts) is an industry standard lighting simulation software package that can accurately model and predict the amount of light reaching a designated surface or workplace. AGI32 is a has been independently tested against the International Commission On Illumination (CIE) benchmark, CIE 171:2006, Test Cases to Assess the Accuracy of Lighting Computer Programs.

Upward Light Ratio (ULR)
The ratio between the luminous flux emitted above the horizontal plane to the total flux emitted by a light source. The ULR is used as a measure to limit direct spill light to the sky.
Item 4.1 – Matters of Decision

Bayside City Council
Planning and Environment Act 1987

ADVERTISED PLAN
Planning Application No.: 5/2019/162/1
Date: July 2019
Table of contents:

Chapter / Section

1 Introduction: .......................................................... 5
  1.1 Introduction....................................................... 5

2 Existing Conditions: .................................................. 8
  2.1 Site Locale.......................................................... 8
  2.2 Road Environment............................................... 7
  2.3 Historical Signage............................................... 8
  2.4 Crash Statistics Review....................................... 8

3 Proposal: ............................................................... 9
  3.1 Specific Proposal................................................. 9

4 Traffic Assessment: .................................................. 11
  4.1 Function and Positioning of Traffic Signal Faces .......... 11
  4.2 Visibility of the Electronic Signs on Each Approach .. 12

5 Statutory Requirements: ............................................. 31
  5.1 Overview.......................................................... 31
  5.2 Decision Guidelines.......................................... 31

6 Conclusion: .......................................................... 35
  6.1 Conclusions....................................................... 35
1.1 Introduction

Ratio Consultants Pty Ltd was commissioned by Brighton Renewables Pty Ltd to undertake a traffic engineering assessment of the four wall-mounted electronic signs at 329 New Street in Brighton.

Further, this report responds to item 7 in Council's Request for Further Information (RFI) dated 10 April 2019. Council's RFI requested the following information:

— Provide a Traffic Safety Assessment which demonstrates that the placement of the signs will not unduly impact upon vehicles or pedestrians in terms of movement and / or safety, the assessment shall include but not be limited to:

- Whether it is likely to create a confusing or dominating background that may reduce the clarity or effectiveness of a traffic control device.
- Whether it could dazzle or distract driver's due to its size, design or colouring, or it being illuminated, reflective or flashing.
- Whether it is at a location where particular concentration is required, such as intersections.
- Whether it is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has circles, octagons, crosses, triangles or allows.
2.1 Site Locale

The subject site (Hotel Newbay) is located in the southeastern corner of New Street and Bay Street in Brighton, as shown in Figure 2.1 and in Figure 2.2.

Figure 2.1 Subject Site Location

Source: Melways
The subject site is located within a Commercial 1 Zone and land use in the immediate vicinity of the site in generally residential in nature with some commercial and retail land uses located along Bay Street and New Street. A land use zoning map is provided in Figure 2.3.
2.2 Road Environment

The intersection of Bay Street, New Street and Barkly Street is controlled by traffic signals. A description of each road is provided below.

**Bay Street** is a Major Council Road generally aligned in an east-west direction between Nepean Highway in the east and its termination adjacent to Port Phillip Harbor in the west.

Adjacent to the site, Bay Street has one westbound and one eastbound trafficable lane with an additional short eastbound lane on the approach to the signalised intersection.

Bay Street has a posted speed limit of 60km/h.

**New Street** is a Major Council Road that extends in a north-south orientation between Glen Huntly Road and Nepean Highway in the north and Beach Road in the south.

Adjacent to the site, New Street has one southbound and one northbound trafficable lane with an additional short northbound lane on the approach to the signalised intersection.

New Street has a posted speed limit is 60km/h.

**Barkly Street** is a local road generally aligned in a northwest-southeast orientation between New Street to the north and Inner Crescent to the south.

On the south-east approach to the intersection, Barkly Street provides one traffic lane in each direction and a dedicated left turn slip lane to Bay Street.
Barkly Street has a posted speed limit of 50km/h.

2.3 Historical Signage

The Hotel Newbay has historically provided wall mounted advertising signage that is visible from all approaches to the intersection.

Prior to the recent hotel upgrade, the signage consisted of two horizontal and one vertical static sign on the northern facade, seven horizontal static signs on the eastern facade and one vertical static sign on the northeastern corner of the building.

The building’s historical advertising signage provision is outlined in Figure 2.4 and Figure 2.5.

Figure 2.4 View from Bay Street of the Northern Facade of the Hotel Building

Figure 2.5 View from Barkly Street of the Eastern Facade of the Hotel Building

2.4 Crash Statistics Review

A review has been conducted of the VicRoads’ CrashStats database at the intersection of Bay Street, New Street and Barkly Street.

No casualty crashes have been reported within 50 metres of the intersection within the last five years of available data. This indicates that the intersection and surrounding road network is operating in a relatively safe manner.
3.1 Specific Proposal

It is proposed to apply for a retrospective planning permit for the following types of external mounted electronic signs on the façade of the New Bay Hotel at 329 New Street, Brighton. The signs have been erected as shown in Figure 3.1 below:

- One electronic sign is located on the northern façade and has replaced a static sign that previously occupied the space. The sign is visible to southbound traffic on New Street and eastbound traffic on Bay Street.
- One electronic sign is located on the eastern façade and this has replaced a static sign that previously occupied this space. The sign is visible to eastbound traffic on Bay Street and Barkly Street.
- One electronic sign is located on the eastern façade and is visible to northbound traffic on New Street.
- One electronic sign is located on the western façade and is visible to eastbound traffic on Bay Street.

Figure 3.1 Location of Electronic Signs
The northernmost electronic sign on New Street measures 2.9 metres wide and 0.9 metres high. The remaining three electronic signs measure 2.6 metres wide and 0.9 metres high.

We have reviewed a letter from iCatcher Digital Signs dated 15 May that states that the brightness of the signs are to vary automatically with the varying outdoor ambient light between 1 and 25 Lux.

We are advised that the signs will cycle static images with no animation or scrolling images.
4.1 Function and Positioning of Traffic Signal Faces

Introduction
The four electronic signs have been assessed against relevant industry standard documents in the sections below. These are:

- Austroads Guide to Traffic Management Part 10
- Austroads Guide to Road Design Part 3

Austroads Guide to Traffic Management Part 10

The Austroads Guide to Traffic Management Part 10: Traffic Control and Communication outlines the design requirements for signalised intersections.

Section 8.4.1 of the guide provides details and functions of each signal face / lantern.

Figure 4.1 Main Function of Signal Faces (Table 8.1)

<table>
<thead>
<tr>
<th>Location of signal face</th>
<th>Main functions performed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary</td>
<td>Warning: Yes, Stopping: Yes, Staying: Yes, Maneuvering: No</td>
</tr>
<tr>
<td>Secondary</td>
<td>Warning: Yes, Stopping: Yes, Staying: No, Maneuvering: No</td>
</tr>
<tr>
<td>Tertiary</td>
<td>Warning: No, Stopping: No, Staying: Yes, Maneuvering: No</td>
</tr>
<tr>
<td>Overhead primary</td>
<td>Warning: Yes, Stopping: No, Staying: No, Maneuvering: No</td>
</tr>
<tr>
<td>Overhead secondary</td>
<td>Warning: No, Stopping: No, Staying: Yes, Maneuvering: No</td>
</tr>
<tr>
<td>Overhead tertiary</td>
<td>Warning: No, Stopping: No, Staying: Yes, Maneuvering: No</td>
</tr>
</tbody>
</table>

A summary of the main function of each signal face / lantern is detailed below:

- **Primary Signal Face**: Warns approaching traffic of the state of the signals and stops traffic at the correct position.
- **Secondary Signal Face**: Acts as a back-up to the primary signal face and provides direction to stationary traffic.
- **Tertiary Signal Face**: Acts as a back-up to the secondary signal face.

The signal face designations for cross intersection and T-intersection's are presented in Figure 4.2.

Figure 4.2 Signal Face Designations for a Cross Intersection and T Intersection

**Driver 'Decision Window' on the approach to an intersection**

Austroads Part 10: Traffic Control and Communication Devices provides guidance on recommended stopping and warning distances on the approach to signalized intersections.
Figure 4.3 Recommended Aiming Distances (Table 5.3)

<table>
<thead>
<tr>
<th>Approach speed (km/h)</th>
<th>Stopping (metres from stop line)</th>
</tr>
</thead>
<tbody>
<tr>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>50</td>
<td>60; 100</td>
</tr>
<tr>
<td>60</td>
<td>80; 130</td>
</tr>
<tr>
<td>70</td>
<td>100; 150</td>
</tr>
<tr>
<td>80</td>
<td>120; 170</td>
</tr>
</tbody>
</table>

As taken from the table above, the critical ‘decision window’ lies between the warning and stopping distances:

- 60-100 metres from the stop line in a 50km/h speed environment.
- 80-130 metres from the stop line in a 60km/h speed environment.

Within the ‘decision window’, an approaching driver will note the state of the signals and make a decision to either slow down or continue through the intersection.

**Austroads Guide to Road Design Part 3**

As a secondary reference, the *Austroads Guide to Road Design Part 3: Geometric Design* has been used.

Table 5.5 of Austroads Part 3 outlines the absolute minimum and desirable minimum stopping sight distances for cars on sealed roads. Based on a reaction time of two seconds, the absolute and desirable minimum stopping distances in 50km/h and 60km/h speed zones are as follows:

- In a 50km/h speed environment, the absolute and desirable minimum stopping sight distance is 49 metres and 55 metres, respectively.
- In a 60km/h speed environment, the absolute and desirable minimum stoppage distance is 64 metres and 73 metres, respectively.

Beyond the absolute minimum stopping sight distances, insufficient distance is available for a driver to safety bring a vehicle to a stop.

A driver will decide to either stop at or proceed through the intersection before reaching the absolute minimum stopping distance.

The ‘decision window’ is therefore defined as the distance from the stop line between the ‘warning distance’, as defined in Austroads Part 10: Traffic Control and Communications Devices (130 metres for a 60km/h speed zone) and the absolute minimum stopping distance (69 metres and 64 metres in a 50km/h and 60km/h speed zone respectively).

**4.2 Visibility of the Electronic Signs on Each Approach**

A site visit was undertaken to determine the visibility of each sign on the approach to the signalized intersection.

**New Street North Approach**

Figure 4.4 outlines the visibility of the electronic sign on the north approach to the intersection. The following photos are taken at 10 metre intervals, north of the New Street stop line. The electronic sign is displaying a grey image and is highlighted in red.
On the north approach, the electronic sign is visible for up to 40 metres from the stop line and at no point will the sign form a background with the adjacent secondary signal face or any other traffic control devices.

Beyond 40 metres, the sign will not be visible to approaching motorists.

Figure 4.4 Views at 20 metre intervals on the north approach (New Street) to the intersection:

- 10 metres north of the stop line
- 20 metres north of the stop line
30 metres north of the stop line

40 metres north of the stop line

The sign is partially obstructed at 40.0m.

50 metres north of the stop line

The sign is not visible from 50.0m
Bay Street West Approach

Figure 4.5 outlines the visibility of the electronic sign on the west approach to the intersection.

The photos displayed are taken at 10 metre intervals from the Bay Street stop line. The electronic sign is displaying a grey image and is highlighted in red.

On the west approach, at least one of the two signs will be fully visible between 20 and 50 metres from the intersection. Further west, trees and foliage begin to obstruct a driver’s view of the sign on the western facade. Beyond 80 metres from the Bay Street stop line, the electronic signs are not visible on the western approach.

At no time will the signs form a background with the adjacent secondary signal face / lantern or interfere with any other traffic control device.

Figure 4.5 Views at 10 metre intervals on the West approach (Bay Street) to the intersection

10 metres west of the stop line

20 metres west of the stop line

Northern electronic sign visible
Item 4.1 – Matters of Decision
Item 4.1 – Matters of Decision
Bay Street East Approach

Figure 4.6 outlines the visibility of the electronic sign on the east approach. The photos displayed are taken at 10 metre intervals east of the Bay Street stop line. The sign is displaying a grey image and is highlighted in red.

On the east approach, at least one of the two signs will be fully visible between 10 and 40 metres from the stop line. Further east, trees and foliage begin to obstruct a driver’s view of the sign on the eastern facade. As the sign on the northern facade is north facing, the angle between the sign and the oncoming drivers deems the sign barely visible when approaching from more than 40 metres from the stop line.

Figure 4.6 Views at 10 metre intervals of the sign from the Bay Street East Approach

10 metres east of the stop line

20 metres east of the stop line

The sign is fully visible at 10.0m

The sign is visible at 20.0m
Barkly Street South Approach

Figure 4.7 outlines the visibility of the electronic sign on the south-east approach to the intersection (Barkly Street approach).

The photos displayed are taken at 10 metre intervals from the Barkly Street stop line. The electronic sign is displaying a grey image and is highlighted in red.

The electronic sign will be visible from the Outer Crescent and Barkly Street roundabout and at no time will the subject sign form a background with the signal lanterns or interfere with any other traffic control device.

Figure 4.7 Views at 10 metre intervals of the sign from Barkly Street

10 metres southeast of the stop line

20 metres southeast of the stop line

r:
30 metres southeast of the stop line

40 metres southeast of the stop line

50 metres southeast of the stop line
Item 4.1 – Matters of Decision
New Street South Approach
Figure 4.7 outlines the visibility of the electronic sign on the south-east approach to the intersection (New Street south approach).

The photos displayed are taken at 10 metre intervals from the New Street southern stop line. The electronic sign is displaying a grey image and is highlighted in red.

On the south approach, at least one of the two signs will be fully visible between 10 and 60 metres from the intersection. Further south, the signs become barely visible due to the small angle between the sign and the oncoming driver.

Figure 4.8 Views at 10 metre intervals of the sign from the New Street South Approach

10 metres south of the stop line

20 metres south of the stop line
Item 4.1 – Matters of Decision
50 metres south of the stop line

Northernmost sign no longer visible due to shallow angle between sign and drivers line of sight

60 metres south of the stop line

Street light post obstructs view of sign
4.3 VicRoads Standard Conditions

Standard conditions adopted by VicRoads for electronic advertising provide guidance on the display and content parameters to be adopted to ensure that sign content does not cause undue distraction or is mistaken for traffic signals and traffic control devices.

These conditions1 are reproduced below:

— No advertisement or image may be displayed for less than 30 seconds.
— The transition from one advertisement to another must be instantaneous.
— In relation to the images displayed on the sign:
  a) Sequences of images giving the illusion of continuous movement must not be displayed.
  b) Images capable of being mistaken for traffic signals or traffic control devices because they, for example, contain red, amber or green circles, octagons, crosses or triangles, must not be displayed.
  c) Images or text capable of being mistaken for an instruction to a road user must not be displayed.
  d) Flashing background, flashing text or flashing images must not be displayed.
— The sign must not dazzle or distract road users due to its colouring.
— The luminance of the sign must be such that does not give a veiling luminance to the driver, of greater than 0.25cd/m² throughout a driver’s approach to the advertising sign.

We recommend that equivalent conditions be adopted to manage the display and content for the subject signs.

---

1 From “OHM/IMedia Pty Ltd v Port Phillip CC [2016] VCAT 480”
5.1 Overview

Clause 52.05 of the Bayside Planning Scheme outlines the requirements for advertising signs. The purpose of the clause is to:

— To regulate the development of land for signs and associated structures.
— To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
— To ensure signs do not contribute to excessive visual clutter or visual disorder.
— To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road.

5.2 Decision Guidelines

The following decision guidelines relate to traffic matters exclusively. Before deciding on an application, in addition to the decision guidelines in Clause 66, the responsible authority must consider the following:

The impact of any illumination:

— The impact of glare and illumination on the safety of pedestrians and vehicles.
— The impact of illumination on the amenity of nearby residents and the amenity of the area.
— The potential to control illumination temporarily or in terms of intensity.

The impact on road safety. A sign is a safety hazard if the sign:

— Obstructs a driver’s line of sight at an intersection, curve or point of egress from an adjacent property.
— Obstructs a driver’s view of a traffic control device or is likely to create a confusing or dominating background that may reduce the clarity or effectiveness of a traffic control device.
— Could dazzle or distract driver’s due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.
— Is at a location where particular concentration is required, such as a high pedestrian volume intersection.
— Is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has red circles, octagons, crosses, triangles or arrows.
— Requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic.
— Invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely.
— Is within 100 metres of a rural railway crossing.
— Has insufficient clearance from vehicles on the carriageway.
— Could mislead drivers or be mistaken as an instruction to drivers.

Table 5.1 below summarises the responses to the decision guidelines and this assessment should be read in conjunction with Section 4 of this report.
Table 5.1 Clause 52.05-8 Decision Guidelines

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Discussion</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact of glare and illumination on the safety of pedestrians and vehicles.</td>
<td>The applicant is willing to accept a planning permit condition that restricts the glare and illumination of the sign to 3 lux. The luminance of signs lies outside the outdoor field of traffic expertise. The letter from Kitcher Digital Signs dated 15 May states that the brightness of the signs are to vary automatically with the varying outdoor ambient light between 3 and 25 Lux.</td>
</tr>
<tr>
<td>The impact of illumination on the amenity of nearby residents and the amenity of the area.</td>
<td>This is not a traffic engineering issue.</td>
</tr>
<tr>
<td>The potential to control illumination temporally or in terms of intensity.</td>
<td>This is not a traffic engineering issue.</td>
</tr>
<tr>
<td>Obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property.</td>
<td>The signs are mounted on the walls of the hotel and will not obstruct a driver's line of sight at the intersection, curve or point of egress from an adjacent property.</td>
</tr>
</tbody>
</table>
| Obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background that may reduce the clarity or effectiveness of a traffic control device. | **North Approach (New Street)**

The signs will not be placed on any traffic signal lanterns on the north approach to the intersection.

The sign will be located to the right of approaching motorists and will be visible for up to 60 metres from the stop line. Beyond 60 metres, the sign will be visible to approaching motorists. Important: as the sign will not be visible during the critical decision-making window (between 64 - 130 metres from the intersection). Motorists will have made a decision whether to stop at or proceed through the intersection, before the sign comes into view.

On this basis, we are satisfied the sign will not obstruct a driver's view of a traffic control device or create a confusing or dominating background that may reduce the clarity or effectiveness of a traffic control device.

**West Approach (Bay Street)**

The sign will not be placed on any traffic signal lanterns on the west approach to the intersection.

The sign will be located to the right of an approaching motorists and will only be fully visible for a short distance between 40 and 50 metres from the intersection. The sign is partially visible between 50 and 80 metres.

Importantly, the sign will not be fully visible during the critical decision-making window (between 64 - 130 metres from the intersection). Motorists will have made a decision whether to stop at or proceed through the intersection, before the sign comes into view.

On this basis, we are satisfied the sign will not obstruct a driver's view of a traffic control device or create a confusing or dominating background that may reduce the clarity or effectiveness of a traffic control device.

**East Approach (Bay Street)**

The signs will be visible up to 40 metres from the stop line and beyond this point, the sign on the eastern facade will be obscured by trees and foliage. As the sign on the northern facade is north facing, the shallow angle between the sign and the ongoing driver's line of sight does not show the sign clearly visible when approaching from more than 40 metres from the stop line.
We acknowledge the sign backgrounds the primary signal lantern for a very short distance (between 20 and 40 metres from the stop line), however this is considered acceptable for the following reasons:

- The sign will background the primary lantern for a very short distance (20 metres).
- The sign is not visible to approaching motorists during the critical decision-making window (between 0-30 metres from the intersection). Motorists have made a decision whether to stop at or proceed through the intersection, before the sign comes into view.
- The secondary and tertiary signal faces are unobstructed and visible to motorists at all times.
- The electronic sign that can be viewed on the east approach is replacing a static sign that also backgrounds the primary lantern between 20 and 40 metres from the stop line.

On this basis of the above, we are satisfied the sign will not obstruct a driver's view of a traffic control device or create a confusing or dominating background that may reduce the clarity or effectiveness of a traffic control device.

**South East Approach (Barkly Street)**

On the south-east approach, the electronic sign will be visible from the Outer Crescent roundabout.

We acknowledge the sign backgrounds the primary signal lantern for a very short distance (between 20 and 30 metres from the stop line), however this is considered acceptable for the following reasons:

- The sign will background the primary lantern for a very short distance (10 metres).
- The secondary and tertiary signal faces are unobstructed and visible to motorists at all times.
- The electronic sign that can be viewed on the southeast approach is replacing a static sign that also backgrounds the primary lantern between 20 and 30 metres from the stop line.

On this basis of the above, we are satisfied the sign will not obstruct a driver's view of a traffic control device or create a confusing or dominating background that may reduce the clarity or effectiveness of a traffic control device.

**South Approach (New Street)**

The two signs will be visible on the left-hand side of the road between 10 and 60 metres from the stop line of the New Street south approach.

We acknowledge the sign slightly backgrounds the primary signal lantern for a very short distance at 10 metres from the stop line, however this is considered acceptable for the following reasons:

- The sign will background the primary lantern for a very short distance.
- The sign is not visible to approaching motorists during the critical decision-making window (between 0-130 metres from the intersection). Motorists have made a decision whether to stop at or proceed through the intersection, before the sign comes into view.
- The secondary and tertiary signal faces are unobstructed and visible to motorists at all times.
- The electronic sign that can be viewed on the south approach is replacing a static sign that also backgrounds the primary lantern 10 metres from the stop line.

On this basis of the above, we are satisfied the sign will not obstruct a driver's view of a traffic control device or create...
Table:

<table>
<thead>
<tr>
<th>Condition</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>A confusing or dominating background that may reduce the clarity of</td>
<td>The electronic signs are similar in size to the road signs.</td>
</tr>
<tr>
<td>effectiveness of a traffic control device.</td>
<td>The content of the sign (luminance, colour, image dwell time, image</td>
</tr>
<tr>
<td></td>
<td>complexity, animation [if permitted]) can reasonably be controlled</td>
</tr>
<tr>
<td></td>
<td>through conditions.</td>
</tr>
<tr>
<td>At a location where particular concentration is required, such as a high</td>
<td>All pedestrian movements at the intersection are controlled by</td>
</tr>
<tr>
<td>pedestrian volume intersection.</td>
<td>pedestrian operated signals such decision making and pedestrian</td>
</tr>
<tr>
<td></td>
<td>concentration is limited.</td>
</tr>
<tr>
<td>Likely to be mistaken for a traffic control device, because it contains</td>
<td>The content of the sign (luminance, colour, image dwell time, image</td>
</tr>
<tr>
<td>red, green or yellow lighting, or has red circles, octagons, crosses,</td>
<td>complexity, animation [if permitted]) can reasonably be controlled</td>
</tr>
<tr>
<td>triangles or arrows.</td>
<td>through conditions.</td>
</tr>
<tr>
<td>Requires close study from a moving or stationary vehicle in a location</td>
<td>The content of the sign (luminance, colour, image dwell time, image</td>
</tr>
<tr>
<td>where the vehicle would be unprotected from passing traffic.</td>
<td>complexity, animation [if permitted]) can reasonably be controlled</td>
</tr>
<tr>
<td></td>
<td>through conditions.</td>
</tr>
<tr>
<td>Invites drivers to turn where there is fast moving traffic or the sign</td>
<td>The content of the sign (luminance, colour, image dwell time, image</td>
</tr>
<tr>
<td>is so close to the turning point that there is no time to signal and turn</td>
<td>complexity, animation [if permitted]) can reasonably be controlled</td>
</tr>
<tr>
<td>safely.</td>
<td>through conditions.</td>
</tr>
<tr>
<td>Within 100 metres of a rural railway crossing.</td>
<td>The signs are not within 100 metres of a rural railway crossing.</td>
</tr>
<tr>
<td>Has insufficient clearance from vehicles on the carriageway.</td>
<td>The four electronic signs are wall mounted on the façade of the</td>
</tr>
<tr>
<td></td>
<td>existing building located at the subject site.</td>
</tr>
<tr>
<td>Could mislead drivers or be mistaken as an instruction to drivers.</td>
<td>It is understood that the sign will not mimic road control devices.</td>
</tr>
<tr>
<td></td>
<td>The content of the sign (luminance, colour, image dwell time, image</td>
</tr>
<tr>
<td></td>
<td>complexity, animation [if permitted]) can reasonably be controlled</td>
</tr>
<tr>
<td></td>
<td>through conditions.</td>
</tr>
</tbody>
</table>

**Summary**

The electronic sign on the northern and the northernmost sign on the eastern façade of the existing building at the subject site have replaced static signs of similar sizes.

The electronic signs on the western façade as well as the southernmost sign on the eastern façade are new.

For the reasons discussed, in our view it is unlikely that there is an existing safety issue in proximity to the subject site.
6.1 Conclusions

Based on the analysis and discussions presented within the report, the following conclusions are made:

- The applicant is seeking a retrospective planning permit for four electronic advertising signs of which two have replaced static signs in the same location.
- The signs will be visible to traffic on the:
  - New Street north approach;
  - Bay Street west approach;
  - Bay Street east approach;
  - Barkly Street south approach; and
  - New Street south approach.
- An assessment has been undertaken of the visibility of the signs on each approach to the intersection. A driver’s “decision window” was determined as an assessment tool. The decision window represents the distance from the stop line on the approach whereby a driver will react to a prompt from the traffic signals. It can be concluded that:
  - On the New Street north and south approaches as well as the Bay Street east approach, the signs are not visible to motorists within the critical ‘decision window’.
  - On the Bay Street west approach, the signs are partially visible within the ‘decision window’, however the signs do not form a background or interfere with a driver’s view of the signal lanterns.
  - On the Barkly Street southeast approach, the sign is visible within the ‘decision window’. Nevertheless, the sign does not form a background or interfere with a driver’s view of the signal lanterns. In addition, the electronic sign has replaced a static sign to a similar size.
- We recommend that VicRoads standard conditions for electronic advertising signs be adopted as benchmark conditions to manage the display and content of the subject signs.
4.2 BUS STOP ADVERTISING APPLICATIONS
GRANT ELEVEN PERMITS
APPLICATION NOS: 2019/251/1, 2019/252/1, 2019/254/1, 2019/255/1,
2019/257/1, 2019/262/1, 2019/264/1, 2019/265/1, 2019/266/1, 2019/267/1,
2019/268/1 WARDS: SOUTHERN, CENTRAL & NORTHERN

City Planning & Amenity - Statutory Planner
File No: PSF/19/962 – Doc No: DOC/19/243567

Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Grant Eleven Planning Permits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Plan A</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>25 June 2019</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>77-80 days (as of 8 October)</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>None.</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>No</td>
</tr>
</tbody>
</table>

Proposal

The applications seek to display one internally illuminated promotion sign and one internally illuminated electronic promotion sign per bus stop. There are a total of eleven (11) bus stops proposed to be upgraded. Key details of the proposal are as follows:

- One signage structure proposed (with two sides, one sign per side);
- One sign comprises a 1.53m² digital LCD Visual Display internally facing the bus stop, (930mm x 1650mm);
- The other sign comprises a 1.99m² internally illuminated static visual display, (1145mm x 1745mm) on the external face of the bus stop.
- The locations and details of each of the bus stops are as follows:

<table>
<thead>
<tr>
<th>No.</th>
<th>App No.</th>
<th>Site Location</th>
<th>Zones / Adjacent</th>
<th>Overlays</th>
<th>Vicroads referral</th>
<th>Sign Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2019/251/1</td>
<td>Stop 1412, 236 New Street, BRIGHTON</td>
<td>RDZ2 / NRZ3</td>
<td>DDO2, DCPO1</td>
<td>N/A</td>
<td>Cat. 3</td>
</tr>
<tr>
<td>2</td>
<td>2019/252/1</td>
<td>Stop 3234, 47 South Road, BRIGHTON</td>
<td>RDZ1 / NRZ3</td>
<td>H0342 (adjacent), DDO1, DCPO1</td>
<td>No objection, w conditions</td>
<td>Cat. 3</td>
</tr>
<tr>
<td>3</td>
<td>2019/254/1</td>
<td>Stop 3369, 264 South Road, BRIGHTON EAST</td>
<td>RDZ1 / NRZ3</td>
<td>DDO2, DCPO1</td>
<td>No objection, w conditions</td>
<td>Cat. 3</td>
</tr>
<tr>
<td>4</td>
<td>2019/255/1</td>
<td>Stop 3375, 120 South Road, BRIGHTON EAST</td>
<td>RDZ1 / NRZ3</td>
<td>DDO2, DCPO1</td>
<td>No objection, w conditions</td>
<td>Cat. 3</td>
</tr>
<tr>
<td>5</td>
<td>2019/257/1</td>
<td>Stop 3376, 102 South Road, HAMPTON</td>
<td>RDZ1 / NRZ3</td>
<td>DDO2, DCPO1</td>
<td>No objection, w conditions</td>
<td>Cat. 3</td>
</tr>
</tbody>
</table>
The application documents for application 2019/255/1 (Bus stop 4) are provided at Attachment 1. This application is indicative of all the proposals, including justification, plans, and accompanying luminance reports and referrals, and advertising codes.

A map of Bayside indicating the bus stop locations and photographs of the site and surrounds are provided at Attachment 2.

History

There is no planning permit history relevant to this application.

1. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 36.04 (Road Zone) – A permit is required to display a sign over the road formation or over land within 600 millimetres of the road formation (applicable to all applications except Bus Stop 7);
- Clause 52.05 (Signs) – A permit is required for an internally illuminated sign in a Category 3 Zone (NRZ3) (applicable to Bus stops 1–7, and 10); and
- Clause 52.05 (Signs) – A permit is required for an internally illuminated sign exceeding 1.5 square metres in a Category 1 Zone (C1Z, C2Z) (applicable to Bus stops 8, 9, and 11).

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

2. Stakeholder consultation

External referrals

All applications (except for Bus Stop No.1) were required to be referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads (Original response was received on 13 June 2019. A subsequent letter was received on 18 September 2019, removing conditions)</td>
<td>No Objections subject to the following conditions: 1. No image may be displayed on the electronic sign for less than 20 continuous seconds. 2. The luminance of the advertising signs must be such that it does not give a veiling luminance to the driver,</td>
</tr>
</tbody>
</table>

---

The application documents for application 2019/255/1 (Bus stop 4) are provided at Attachment 1. This application is indicative of all the proposals, including justification, plans, and accompanying luminance reports and referrals, and advertising codes.

A map of Bayside indicating the bus stop locations and photographs of the site and surrounds are provided at Attachment 2.

History

There is no planning permit history relevant to this application.

1. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 36.04 (Road Zone) – A permit is required to display a sign over the road formation or over land within 600 millimetres of the road formation (applicable to all applications except Bus Stop 7);
- Clause 52.05 (Signs) – A permit is required for an internally illuminated sign in a Category 3 Zone (NRZ3) (applicable to Bus stops 1–7, and 10); and
- Clause 52.05 (Signs) – A permit is required for an internally illuminated sign exceeding 1.5 square metres in a Category 1 Zone (C1Z, C2Z) (applicable to Bus stops 8, 9, and 11).

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

2. Stakeholder consultation

External referrals

All applications (except for Bus Stop No.1) were required to be referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads (Original response was received on 13 June 2019. A subsequent letter was received on 18 September 2019, removing conditions)</td>
<td>No Objections subject to the following conditions: 1. No image may be displayed on the electronic sign for less than 20 continuous seconds. 2. The luminance of the advertising signs must be such that it does not give a veiling luminance to the driver,</td>
</tr>
</tbody>
</table>
of greater than 0.25cd/m², throughout the driver’s approach to the advertising sign.

3. The control of the electronic sign must be in accordance with the two submitted lighting reports, which must form part of any issues planning permit:

4. The transition between images must be instantaneous.

5. The advertising content of the sign must not:
   a) Consist of more than one static image at a time
   b) Contain any animation.
   c) Consist of a sequence of images giving the illusion of movement from one image to the next
   d) Contain or consist of images which are capable of being interpreted as projections beyond the face of the advertising screen, such as through the use of 3D technology.
   e) Contain or consist of video, movie or television broadcasts.
   f) Contain or consist of present-time or other contemporary update information such as relation to news, weather or time.
   g) Contain any flashing, blinking, brightening or fading elements that create the illusion of movement or change.
   h) Be capable of being mistaken for a traffic signal or a traffic control device. This includes the use of red amber or green circles, octagons, crosses or triangles.
   i) Be a traffic instruction, or be capable of being mistaken as, an instruction to a road user. This includes the use of the wording stop, give way, slow, turn left or turn right.

6. The advertising area must not be split into 2 screens (horizontally or vertically) with different messages.

7. The sign advertising content must not dazzle or distract road users’ due to its colouring or content

8. The use of sound or motion to activate the sign is not permitted.

9. The use of sound to interact with any road user is not permitted.

10. The advertising sign must shut down and cease any form of visual display (and must remain in shut down mode until the issues are resolved, in the event of:
   a) An attack by a computer hacker, virus or similar resulting in the unauthorised display of visual images.
   b) Any malfunction to the advertising sign.
NB: Whilst application 2019/251/1 (Bus Stop 1) did not require formal notification to VicRoads, the conditions provided for the remaining applications will still be implemented for consistency, and also because the stated conditions implement quality controls to protect the neighbourhood amenity.

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

Public notification
The applications were advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and nil (0) objections were received.

Recommendation

**Grant a Permit** under the provisions of the Bayside Planning Scheme for the display of a sign within 600mm of a road zone, display of an internally illuminated sign and display of an electronic sign in a Category 3 area in respect of the following Planning applications for the land known and described as:

- 2019/252/1, Bus Stop 3234, 47 South Road Brighton
- 2019/254/1, Bus Stop 3369, 264 South Road Brighton East
- 2019/255/1, Bus Stop 3375, 120 South Road Brighton East
- 2019/257/1, Bus Stop 3376, 102 South Road Hampton
- 2019/262/1, Bus Stop 3488, 163 South Road Brighton East
- 2019/264/1, Bus Stop 3494, 337 South Road Brighton East
- 2019/267/1, Bus Stop 10109, 484 Balcombe Road Beaumaris

**Grant a Permit** under the provisions of the Bayside Planning Scheme for the display of an internally illuminated sign and display of an electronic sign in a Category 1 area in respect of the following Planning applications for the land known and described as:

- 2019/266/1, Bus Stop 7321, 37 Bluff Road Black Rock
- 2019/268/1, Bus Stop 16023, 298 Bay Road Cheltenham

**Grant a Permit** under the provisions of the Bayside Planning Scheme for the display of an internally illuminated sign and display of an electronic sign in a Category 1 area in respect of the following Planning applications for the land known and described as:

- 2019/265/1, Bus Stop 3588, 37 Willis Street Hampton

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

1. The location and details of the signs, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
2. All signs must be located wholly within the boundaries of the land.
3. The brightness of the proposed lighting must be adjustable and brightness levels must be to the satisfaction of the Responsible Authority.
4. The signs must be constructed and maintained to the satisfaction of the Responsible Authority.

VicRoads Conditions (5-14)

5. No image may be displayed on the electronic sign for less than 20 continuous seconds.

6. The luminance of the advertising signs must be such that it does not give a veiling luminance to the driver, of greater than 0.25cd/m², throughout the driver’s approach to the advertising sign.

7. The control of the electronic sign must be in accordance with the two submitted lighting reports, which must form part of any issues planning permit:

8. The transition between images must be instantaneous.

9. The advertising content of the sign must not:
   a) Consist of more than one static image at a time.
   b) Contain any animation.
   c) Consist of a sequence of images giving the illusion of movement from one image to the next.
   d) Contain or consist of images which are capable of being interpreted as projections beyond the face of the advertising screen, such as through the use of 3D technology.
   e) Contain of consist of video, movie or television broadcasts.
   f) Contain or consist of present-time or other contemporary update information such as relation to news, weather or time.
   g) Contain any flashing, blinking, brightening or fading elements that create the illusion of movement or change.
   h) Be capable of being mistaken for a traffic signal or a traffic control device. This includes the use of red amber or green circles, octagons, crosses or triangles.
   i) Be a traffic instruction, or be capable of being mistaken as, an instruction to a road user. This includes the use of the wording stop, give way, slow, turn left or turn right.

10. The advertising area must not be split into 2 screens (horizontally or vertically) with different messages.

11. The sign advertising content must not dazzle or distract road users due to its colouring or content.

12. The use of sound or motion to activate the sign is not permitted.

13. The use of sound to interact with any road user is not permitted.

14. The advertising sign must shut down and cease any form of visual display and must remain in shut down mode until the issues are resolved, in the event of:
   a) An attack by a computer hacker, virus or similar resulting in the unauthorised display of visual images.
   b) Any malfunction to the advertising sign.

Permit Expiry

15. This permit will expire if one of the following circumstances applies:
   a) The signs are not erected within two years of the date of this permit.
b) The permit expires 15 years from the date of issue.

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.

**Grant a Permit** under the provisions of the Bayside Planning Scheme for the display of a sign within 600mm of a road zone, display of an internally illuminated sign and display of an electronic sign in a Category 3 area in respect of the following Planning applications for the land known and described as:

- 2019/251/1, Bus Stop 1412, 236 New Street Brighton

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

1. The location and details of the signs, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
2. All signs must be located wholly within the boundaries of the land.
3. The brightness of the proposed lighting must be adjustable and brightness levels must be to the satisfaction of the Responsible Authority.
4. The signs must be constructed and maintained to the satisfaction of the Responsible Authority.
5. No image may be displayed on the electronic sign for less than 20 continuous seconds.
6. The luminance of the advertising signs must be such that it does not give a veiling luminance to the driver, of greater than 0.25cd/m2, throughout the driver’s approach to the advertising sign.
7. The control of the electronic sign must be in accordance with the two submitted lighting reports, which must form part of any issues planning permit:
8. The transition between images must be instantaneous.
9. The advertising content of the sign must not:
   a) Consist of more than one static image at a time.
   b) Contain any animation.
   c) Consist of a sequence of images giving the illusion of movement from one image to the next.
   d) Contain or consist of images which are capable of being interpreted as projections beyond the face of the advertising screen, such as through the use of 3D technology.
   e) Contain of consist of video, movie or television broadcasts.
   f) Contain or consist of present-time or other contemporary update
information such as relation to news, weather or time.
g) Contain any flashing, blinking, brightening or fading elements that create the illusion of movement or change.
h) Be capable of being mistaken for a traffic signal or a traffic control device. This includes the use of red amber or green circles, octagons, crosses or triangles.
i) Be a traffic instruction, or be capable of being mistaken as, an instruction to a road user. This includes the use of the wording stop, give way, slow, turn left or turn right.

ten. The advertising area must not be split into 2 screens (horizontally or vertically) with different messages.

11. The sign advertising content must not dazzle or distract road users due to its colouring or content.

12. The use of sound or motion to activate the sign is not permitted.

13. The use of sound to interact with any road user is not permitted.

14. The advertising sign must shut down and cease any form of visual display and must remain in shut down mode until the issues are resolved, in the event of:

a) An attack by a computer hacker, virus or similar resulting in the unauthorised display of visual images.

b) Any malfunction to the advertising sign.

Permit Expiry

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

a) The signs are not erected within two years of the date of this permit.

b) The permit expires 15 years from the date of issue.

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.

3. 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.

Bayside Planning Scheme

- Clause 15 Built Environment and Heritage
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.09 Transport and Access
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 34 Commercial Zones
- Clause 36.04 Road Zones
• Clause 52.05 Signs
• Clause 65 Decision Guidelines

4. Considerations

In assessing these applications, consideration has been given collectively in regards to the State and Local Planning Policy Frameworks, the provisions of the Bayside Planning Scheme, and the individual merits of the application.

Public Transport Victoria has commissioned the same advertising company (Ooh!Media) for the upgrade of bus shelters across metropolitan Melbourne. The design proposed is to be identically implemented across the City of Bayside and the remainder of Metropolitan Melbourne.

The bus stop infrastructure depicted in the proposal plans already exists at every site with the exception of Bus stop 2 (47 South Road) which requires an upgrade (It must be noted that the construction of the structure itself is exempt from requiring a permit pursuant to clause 62.02-2). Each of these Bus Stops (again excepting Bus Stop 2) already contains two internally illuminated signs, which would be removed and replaced with that currently proposed.

The location of the signs, along the main road network, will ensure that no unreasonable light spill would occur as the roadways are already well lit (subject to conditions restricting illumination). Furthermore, the specific location of each individual sign are well detached from any area of high sensitivity, with the lack of any objection being a strong indicator of this.

Considering the widespread implementation of this identical proposal across multiple sites, the bus shelter upgrade and implementation of illuminated and electrical advertising signs will encourage consistency and high quality transport facilities across Bayside. The advice from VicRoads will also ensure that the signs will remain safe, functional and appropriate for road users and pedestrians.

The following is an assessment against the decision guidelines of Clause 52.02 (Signage):

<table>
<thead>
<tr>
<th>Clause 52.05-8 of the Bayside Planning Scheme</th>
<th>Compliance</th>
<th>Signs - Decision Guidelines</th>
</tr>
</thead>
<tbody>
<tr>
<td>Character of Area</td>
<td>Yes</td>
<td>• The proposed signs are to be integrated into the existing infrastructure with the inclusion of an electronic screen. Given that illuminated signs already exist within the structures (which would be removed to accommodate the proposed signs), impact upon character would be negligible.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• The proposal does not increase bulk or visual clutter to the area.</td>
</tr>
<tr>
<td>Impacts on Views and Vistas</td>
<td>Yes</td>
<td>• The signage will not obstruct any important views or vistas, noting that they would largely replace existing signage of the same size and location.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• No views to existing signs obscured or lost.</td>
</tr>
</tbody>
</table>
| Relationship to the Streetscape | Yes | - The proposal would be an appropriate size to be visible for passing car traffic, whilst remaining respectful to the residential environment.  
- The signage is designed to retain the position and height of the existing bus shelter (excluding Stop 2), thus there will be no change to siting of existing buildings and landscaping elements.  
- The surface area of signage is appropriate for the bus shelter and is consistent with bus shelter advertising throughout Bayside City Council boundaries.  
- No elements of the sign structure will be visible. |
| Relationship to Site and Building | Yes | - The signs would be an appropriate inclusion to the surrounds, the proposal is to be implemented within the existing bus shelter structure and therefore there would be no additional visual obstructions caused. |
| The Impact of Structures Associated with the Sign | Yes | - There are no additional structural elements required for the signs. (Excluding Stop 2 – however the bus stop structure itself is exempt from consideration). |
| The Impact of Illumination | Yes | - Due to the VicRoads imposed conditions the luminance, content and animation of the signs will all be controlled to minimise danger to drivers and any impact to neighbouring properties.  
- The signage would be illuminated from approximately 8pm until 6am as controlled by a PE sensor. |
| The Impact of any Logo Box Associated with the Sign | Yes | - The existing 'ooh!Media' logo is proposed to be retained on the framing of the signs, it is static and considered consistent with bus shelter branding in the area. |
| Road Safety | Yes | - The extensive conditions imposed by VicRoads ensures illumination of the signs would not cause any danger to road users. |

**Support Attachments**

1. Attachment 1 - Bus Stop Application Documents ↓
2. Attachment 2 - Bus Stop Location Map ↓
3. Attachment 3 - Bus Stop Site Images ↓
10 May 2019

Bayside City Council
PO Box 27
Sandringham VIC 3191

Email: planning@bayside.vic.gov.au

To Whom It May Concern,

RE: Planning Permit Application for the erection of signage
    Bus Stop No. 3375

We act on behalf of oOh!media and seek to apply for a planning permit for the erection of advertising signs at recognised bus stop number 3375.

Accompanying this letter is the following documentation:

- A completed application form.
- A planning report including:
  - Assessment of the application against the relevant clauses, policies and decision guidelines of the Bayside Planning Scheme
  - Site Card and Plans
  - VicRoads Referral Response
  - Veiling Luminous Reports prepared by Steve Jenkins and Associates Pty. Ltd.
  - OMA Model Advertising Devices Code
- A cheque containing the application fee of $1,119.90.
- A USB containing an electronic copy of the documents.

The prepared information provides details of the proposal.
It is considered that the proposal meets the requirements of the Bayside Planning Scheme and as such a planning permit should be issued for the proposed signage.

Should you have any questions please do not hesitate to contact the undersigned on 0422 393 719 or via email annaborthwick@planaplanning.com.au.

Kind Regards

Anna Borthwick
Director
PLAN A
Application for Planning Permit

Use this form to make an application for a planning permit and to provide the information required by section 47 of the Planning and Environment Act 1987 and regulations 15 and 38 of the Planning and Environment Regulations 2005.

Supplementary information requested in this form should be provided as an attachment to your application. Please print clearly or complete the form electronically (refer to How to complete the Application for Planning Permit form).

Privacy notice

Information collected with this application will only be used to consider and determine the application. It will be available for public inspection in accordance with section 51 of the Planning and Environment Act 1987.

Need help with the application?

If you need help to complete this form, read How to complete the Application for Planning Permit form. For more information about the planning process, refer to Planning: a Short Guide. These documents are available from your local council, the Planning Information Centre (Ph: 03 9637 6610, 8 Nicholson Street, Melbourne), or www.dse.vic.gov.au/planning.

Contact council to discuss the specific requirements for this application and obtain a planning permit checklist. Insufficient or unclear information may delay your application.

1. Has there been a pre-application meeting with a council officer?

   Yes ☑ No

   If yes, with whom: ____________________________ Date: ___ / ___ / ___

The land

2. Address of the land: Complete the Street Address and one of the Formal Land Descriptions.

   Street No.: _______ Street Name: _______

   Stop 3375 Adjacent to 128 South Road

   Suburb/Locality: Brighton East

   Postcode: 3187

   Formal Land Description

   Lot No.: _______ on Lodged Plan, Title Plan or Subdivision Plan No.: _______

   OR:

   Crown Allotment No.: _______ Section No.: _______ Parish Name: _______

3. Title information.

4. Describe how the land is used and developed now: 

   eg. single dwelling, three dwellings, shop, factory, medical centre, with two practitioners, licensed restaurant with 80 seats.

5. Plan of the land.

   Bus shelter containing two internally illuminated promotion signs

   □ Attach a plan of the existing conditions. Photos are also helpful.

---

Item 4.2 – Matters of Decision

Page 93 of 619
The proposal

⚠️ You must give full details of your proposal and attach the information required to assess the application.

If you do not give enough detail or an adequate description of the proposal you will be asked for more information. This will delay your application.

6. For what use, development or other matter do you require a permit?

- How to complete the Application for Planning Permit form if you need help in describing your proposal.

7. Additional information about the proposal.

- Contact council or refer to council planning permit checklists for more information about council's requirements.

8. Encumbrances on title.

- Encumbrances are identified on the certificate of title.

 perseverance

To display one internally illuminated promotion sign and one internally illuminated electronic promotion sign in accordance with Clause 35.044.

- Attach additional information providing details of the proposal, including:
  - Any information required by the planning scheme, requested by council or outlined in a council planning permit checklist.
  - Plans showing the layout and details of the proposal.
  - If required, a description of the likely effect of the proposal (e.g. traffic, noise, environmental impacts).

- Note

Council must not grant a permit that authorises anything that would result in a breach of a registered restrictive covenant (sections 61(4) and 62 of the Planning and Environment Act 1987). Contact council and/or an appropriately qualified person for advice.

Costs of buildings and works/permit fee

Most applications require a fee to be paid. Where development is proposed, the value of the development affects the fee. Contact council to determine the appropriate fee.

- Estimated cost of development for which the permit is required.

<table>
<thead>
<tr>
<th>Cost</th>
<th>$30,000</th>
</tr>
</thead>
</table>

⚠️ You may be required to verify this estimate.

- Write NIL if no development is proposed (e.g. change of use, subdivision, removal of covenant, liquor licence)

- Do you require a receipt for the permit fee?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>
Contact, applicant and owner details

Provide details of the contact, applicant and owner of the land.

Contact
The person you want Council to communicate with about the application.

| Name: Isabel Spinks |
| Organisation: Plan A |
| Postal address: PO Box 8066 Newtown VIC |
| Contact phone: (03) 4225 5594 |

Indicate preferred contact method

Applicant
The person or organisation who wants the permit.

| Same as contact. If not, complete details below. |
| Name: |
| Organisation (if applicable): oOhmedia |
| Postal address: 17 Rocklea Drive, Port Melbourne VIC |

Owner
The person or organisation who owns the land.

| Same as contact: N/A - Public land |
| Organisation (if applicable): |
| Postal address: |

Checklist

Have you?

- [ ] Filled in the form completely?
- [ ] Paid or included the application fee?
- [ ] Attached all necessary supporting information and documents?
- [ ] Completed the relevant council planning permit checklist?
- [ ] Signed the declaration on the next page?
**Declaration**

This form must be signed. Complete one of A, B or C

<table>
<thead>
<tr>
<th>A Owner/Applicant</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>I declare that I am the applicant and owner of the land and all the information in this application is true and correct.</td>
<td>Date: D / M / Y Y Y Y</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B Owner</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>I declare that I am the owner of the land and I have seen this application.</td>
<td>Date: D / M / Y Y Y Y</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>I declare that I am the applicant and all of the information in this application is true and correct.</td>
<td>Date: D / M / Y Y Y Y</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>C Applicant</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>I declare that I am the applicant and:</td>
<td>Date: 10 / 05 / 2019</td>
</tr>
<tr>
<td>- I have notified the owner about this application.</td>
<td></td>
</tr>
<tr>
<td>- All the information in this application is true and correct.</td>
<td></td>
</tr>
</tbody>
</table>

**Lodgement**

Lodge the completed and signed form and all documents with:

Bayside City Council
PO Box 27, SANDRINGHAM VIC 3191
Corporate Centre, 75 Royal Avenue, SANDRINGHAM VIC 3191
Telephone: (03) 9599 4966
Fax: (03) 9596 4474

For help or more information

Email: planning@bayside.vic.gov.au
TTY: (03) 9599 4800
PLANNING PERMIT APPLICATION REPORT

TO ERECT TWO ADVERTISING SIGNS
AT
BUS STOP ID NO. 3375

MAY 2019
1. Executive Summary ........................................................................................................3
2. Introduction ......................................................................................................................4
3. Background ....................................................................................................................6
4. Proposal ........................................................................................................................7
5. Subject Site and Surrounding Context ...........................................................................8
6. Planning Controls .........................................................................................................12
   6.1. Zones .....................................................................................................................12
   6.2. Overlays ................................................................................................................12
   6.3. Particular Provisions ............................................................................................14
7. Planning Policy Consideration ....................................................................................20
   7.1. Planning Policy Framework ..................................................................................20
   7.2. Local Planning Policy Framework .......................................................................22
8. Decision Guidelines ......................................................................................................25
9. Proposed Conditions .....................................................................................................32
   9.1. Proposed oOhlMedia Conditions ........................................................................32
10. Conclusion ...................................................................................................................33

Appendix 1 – Plans

Appendix 2 – Referral Response from VicRoads

Appendix 3 – Veiling Luminous Reports

Appendix 4 – OMA Model Advertising Devices Code
1. Executive Summary

<table>
<thead>
<tr>
<th>Application Details</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Plan A on behalf of oOh!media</td>
</tr>
<tr>
<td>Address</td>
<td>No formal property address. Site recognised as South Road/Imbros Street – Bus Stop No. 3375.</td>
</tr>
<tr>
<td>GPS Coordinates</td>
<td>Latitude: -37.929736  \nLongitude: 145.006392</td>
</tr>
<tr>
<td>Proposal</td>
<td>To erect one internally illuminated promotion sign and one internally illuminated electronic promotion sign.</td>
</tr>
<tr>
<td>Relevant Planning Controls</td>
<td></td>
</tr>
</tbody>
</table>
| Planning Policy Framework | Urban Design Guidelines for Victoria 2017  
Clause 15 – Built Environment and Heritage  
Clause 15.01-15 – Urban Design |
| Local Planning Policy Framework | None relating to advertising |
| Zone                | Road Zone – Category 1 |
| Overlays            | Design and Development Overlay – Schedule 2  
Development Contributions Plan Overlay – Schedule 1 |
| Particular Provisions | Clause 52.05 – Signs |
| Permit Requirements | A planning permit is required to display an internally illuminated promotion sign and an internally illuminated electronic promotion sign in accordance with Clause 36.04 Road Zone. |
| Required Referrals  | VicRoads  
In accordance with Clause 52.05-1 An application to display an animated or electronic sign within 60 metres of a freeway or arterial road declared under the Road Management Act 2004 must be referred in accordance with Section 55 of the Planning and Environment Act 1987 to VicRoads (as specified in Clause 66.03 or a schedule to that clause).  
Refer Appendix 2 – Confirmation from VicRoads.  
No referrals for this application are required under the Schedules of both Clause 66.04 and Clause 66.06 |
2. Introduction

We act on behalf of oOh!media and seek to apply for a planning permit to erect one internally illuminated promotion sign and one internally illuminated electronic promotion sign. It is proposed that these signs are to be erected on an existing bus shelter located near the corner of South Road and Imbros Street, Brighton East – Bus Stop No. 3375.

The subject site is located within the Road Zone Category 1. The site is affected by the Design and Development Overlay Schedule 2 and the Development Contributions Plan Overlay Schedule 1.

In accordance with the Bayside Planning Scheme a planning permit is required for the following:

- To display an internally illuminated promotion sign and an internally illuminated electronic promotion sign in accordance with Clause 36.04 Road Zone.

As specified in Clause 62.2.2 a planning permit is not required to carry out any works associated with a bus shelter unless specifically required by the Planning Scheme. In this instance there are no specific controls relating to street furniture in any of the zones or overlays affecting this land.

The following documentation has been prepared to accompany this application:

- A completed planning permit application form.
- Site plans and elevations (refer Appendix 1).
- In principle support from VicRoads, including proposed conditions (Refer Appendix 2).
- Two veiling luminous reports, prepared by Steve Jenkins and Associates Pty. Ltd. (Refer Appendix 3).
- OMA Model Advertising Devices Code (Refer Appendix 4).
It is considered that the proposed advertising signs will contribute to the vibrancy of South Road and will provide visual interest to patrons of the bus shelter. The illumination of the advertising signs will also contribute to the lighting of the shelter at night and as such increase the night time comfort and safety of the shelter.
3. Background

oOh!media has recently been awarded the contract by Public Transport Victoria to both provide a number of new bus shelters and upgrade existing bus shelters throughout the Melbourne Metropolitan area.

This contract also provides oOh!media with the opportunity to display advertising signs within the shelters.

oOh!media is one of the most recognised names in street furniture and advertising and provides high quality serviceable products.

oOh!media have over 20 years’ experience in both providing and servicing street furniture and advertising.

oOh!media acknowledges and recognises the responsibility in ensuring its products remain clean and safe for public use. As such oOh!media implement a well-planned and organised maintenance program for all its products.

Complementary to this is oOh!media’s utilisation and implementation of signage and advertising, oOh!media work with all stakeholders including; clients, the OMA and various authorities to ensure signage is appropriate in both its content and location. oOh!media also seek to ensure that signage is relevant, up to date and reflects new technologies in advertising.
4. Proposal

This application seeks to erect two advertising signs, comprising of one internally illuminated promotion sign and one internally illuminated electronic promotion sign.

The internally illuminated promotion sign will have a height of 1.745m and a width of 1.145m, encompassing an advertising area of 1.99m². The sign will be mounted on a bus shelter, and as such will be erected 0.150m from the ground. The sign is to be erected on the shelter to face externally to the street.

It is proposed that the sign will contain static branded promotional advertising signs as per oOh!media’s posting schedule and client requirements. oOh!media proposes to create the smartest connections for the community.

The internally illuminated electronic sign will have a height of 1.650m and a width of 0.930m encompassing an area of 1.53m². The sign is to be erected 0.200m above ground level and is orientated to face internally into the bus shelter.

The promotional material to be shown on the electronic sign will transition from one display to another instantaneously. It is proposed that the signs will have a dwell time of 10 seconds per promotional slide.

oOh!media acknowledges the safety of pedestrians and road users, and therefore the display will ensure that there are no sequence of images that may give the illusion of continuous movement or be mistaken for traffic signals. No flashing within the electronic component is proposed. Lighting will not be greater than 0.25cd/m³ throughout the driver’s approach.

Both signs are to be erected on an existing bus shelter that will be retrofitted to accommodate the new signs. The bus shelter is currently located near the corner of South Road and Imbros Street and is recognised as Bus Stop 3375.

Please refer to Appendix 1 – Plans (reference no. Drawing Description/Site Card, PERMITDWG_C-010-100194-02 sheets 1-3).
5. Subject Site and Surrounding Context

There is no formal property address by which the subject site is recognised, however the subject site can be identified as 'opposite 126 South Road, Brighton East and Bus Stop No. 3375'.

The site is located on the south side of South Road, approximately 196m west of Imbros Street.

The area of the site can be described as primarily low-rise residential development. Directly to the rear of the subject site is a secondary school.

An existing bus shelter is currently located at the site. This shelter is located 0.370m from the road formation and contains two internally illuminated promotion signs which will be removed and replaced with the proposed new signs.

The carriageway of South Road within this location accommodates 4 laneways of vehicle traffic and 2 dedicated bike lanes. Traffic signals are located approximately 45m to the east and 196m to the west of the subject site.

Refer images 1, 2, 3, 4 and 5. Please note the existing bus shelter can be seen in image 4.
Item 4.2 – Matters of Decision

Image 1: Location of bus shelter

Image 2: North of the bus shelter
Image 3: East of the bus shelter

Image 4: South of the bus shelter
Image 5: West of the bus shelter
6. Planning Controls

6.1. Zones

Clause 36.04 – Road Zone Category 1

The subject site is located within the Road Zone – Category 1.

The purpose of the Road Zone includes:

- ‘To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify significant existing roads.
- To identify land which has been acquired for a significant proposed road’.

In accordance with Clause 36.04-4 a planning permit is required to display two signs over land within 600 millimetres of the road formation.

![Subject site](image1)

Figure 1 – Zone Map

6.2. Overlays

Clause 43.02 – Design and Development Overlay Schedule 2 (Building Height Control – Inland Areas)

The subject site is located within the Design and Development Overlay Schedule 2 (Building Height Control – Inland Areas).
The purpose of the Design and Development Overlay includes:

- ‘To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas which are affected by specific requirements relating to the design and built form of new development’.

The Design Objectives of Schedule 2 include:

- ‘To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.
- To preserve the existing character and amenity of the areas as low rise (up to two storeys) suburb areas with a strong garden character.
- To maintain the prevailing streetscape rhythm building scale and height of neighbourhoods.
- To maintain a strong landscape character with buildings set within vegetated surrounds’.

No planning permit is required under Clause 43.02 or Schedule 2.

**Clause 45.06 – Development Contributions Plan Overlay Schedule 1**

The subject site is located within the Development Contributions Plan Overlay – Schedule 1 (Bayside Drainage Development Contributions Plan).

The purpose of the Development Contributions Plan Overlay includes:

- ‘To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.
No planning permit is required under Clause 45.06 or Schedule 1.

Refer Figure 2 – Overlay Maps


Clause 52.05 – Signs

The purpose of Clause 52.05 – Signs includes the following:

- 'To regulate the development of land for signs and associated structures.
- To ensure signs are compatible with the amenity and visual appearance of an area, including the existing or desired future character.
- To ensure signs do not contribute to excessive visual clutter or visual disorder.
- To ensure that signs do not cause loss of amenity or adversely affect the natural or built environment or the safety, appearance or efficiency of a road'.

As specified in Clause 52.05-1 Requirements; an application to display an animated or electronic sign within 60 metres of a freeway or arterial road declared under the Road Management Act 2004 must be referred in accordance with Section 55 of the Planning and Environment Act 1987 to the referral authority specified in Clause 66.03 or a schedule to that clause.
The application has therefore been informally referred to VicRoads by oOh!media.

VicRoads’ has now had the opportunity to assess the application including; undertaking a site visit and assessing the existing road conditions, assessing the existing bus stop infrastructure and reviewing information received by oOh!media.

As such VicRoads state that they ‘do not object to the granting of a planning permit, subject to requiring that the following draft conditions are included in any planning permit granted by Council:

1. No image may be displayed on the electronic sign for less than 10 continuous seconds.

2. The luminance of the advertising signs must be such that it does not give a veiling luminance to the driver, of greater than 0.25 cd/m², throughout the driver’s approach to the advertising sign.

3. The control of the electronic sign must be in accordance with the two submitted lighting reports, which must form part of any issued Planning Permit:
   b. Report on Field Measurements of luminance of Adshel Displays At Tram Stops by Steve Jenkins & Associates Pty Ltd, dated 8 May 2017

4. The transition between images must be instantaneous.

5. The advertising content of the sign must not:
   a. Consist of more than one static image at a time.
   b. Contain any animation.
   c. Consist of a sequence of images giving the illusion of movement from one image to the next.
d. Contain or consist of images which are capable of being interpreted as projections beyond the face of the advertising screen, such as through the use of 3D technology.

e. Contain or consist of video, movie or television broadcast.

f. Contain or consist of present-time or other contemporary update information such as relating to news, weather or time.

g. Contain any flashing, blinking, brightening or fading elements that create the illusion of movement or change.

h. Be capable of being mistaken for a traffic signal or a traffic control device. This includes the use of red, amber or green circles, octagon, crosses or triangles.

i. Be a traffic instruction, or be capable of being mistaken as, an instruction to a road user. This includes use of the wording stop, give way, turn left or turn right.

j. Contain phone numbers, pricing or email addresses.

k. The sign must not contain any more than 6 words in its display to ensure legibility to road users.

6. The advertising area must not be split into two screens (horizontally or vertically) with different messages.

7. The sign and advertising content must not dazzle or distract road users’ due to its colouring or content.

8. The use of sound or motion to activate the sign is not permitted.

9. The use of sound to interact with any road user is not permitted.

10. The advertising sign must shut down and cease any form of visual display (and must remain in shut down mode until the issues are resolved), in the event of:

   a. an attack by a computer hacker, virus or similar resulting in the unauthorised display of visual images or messages.

   b. any malfunction of the advertising sign.
In accordance with Clause 52.05-6 an application to display an advertising sign must be accompanied by specific information. This is set out in Table 1 – Application Requirements.

**Table 1 – Application Requirements**

<table>
<thead>
<tr>
<th>Application Requirement</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>A site context report, using a site plan, photographs or other methods to accurately describe:</td>
<td>Please refer to Sections 4 and 5.</td>
</tr>
<tr>
<td>- The location of the proposed sign on the site or building and distance from property boundaries.</td>
<td></td>
</tr>
<tr>
<td>- The location and size of existing signage on the site including details of any signs to be retained or removed.</td>
<td></td>
</tr>
<tr>
<td>- The location and form of existing signage on abutting properties and in the locality.</td>
<td></td>
</tr>
<tr>
<td>- The location of closest traffic control signs.</td>
<td></td>
</tr>
<tr>
<td>Identification of any view lines or vistas that could be affected by the proposed sign.</td>
<td></td>
</tr>
<tr>
<td>The location, dimensions, height above ground level and extent of projection of the proposed sign.</td>
<td>Internally illuminated promotion sign: Height: 1.745m Width: 1.145m Area: 1.99m² Height above ground level: 0.150m</td>
</tr>
<tr>
<td>Application Requirement</td>
<td>Response</td>
</tr>
<tr>
<td>--------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Internally illuminated electronic promotion sign: Height: 1.650m Width: 0.930m Area: 1.53m² Height above ground level: 0.200m</td>
<td>The signs are to be totally contained within the bus shelter. Refer Appendix 1 – Plan Reference PERMITDWG..010-10014-02 sheets 1-3.</td>
</tr>
<tr>
<td>The height, width, depth of the total sign structure including method of support and any associated structures such as safety devices and service platforms.</td>
<td></td>
</tr>
<tr>
<td>Details of associated on-site works.</td>
<td>The signs are to be erected on an existing bus shelter. No on-site works associated with the erection of the signage are required.</td>
</tr>
<tr>
<td>Details of any form of illumination including details of baffles and the times at which the sign would be illuminated.</td>
<td>The signage will be illuminated from dusk until dawn. This is approximately 8:00pm – 6:00am as controlled by a PE sensor. Lighting will not be greater than 0.25cd/m³ throughout the driver’s approach. Refer Appendix 3 – Luminance Reports (prepared by Steve Jenkins and Associates Pty. Ltd).</td>
</tr>
<tr>
<td>Application Requirement</td>
<td>Response</td>
</tr>
<tr>
<td>-------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>The colour, lettering style and materials of the proposed sign.</td>
<td>The proposed branded promotional advertising signs will reflect oOh!Media’s posting schedule and client requirements. As such the information to be provided on the signs will change intermittently. All advertising signs displayed will be in accordance with the OMA Advertising Devices Code (Refer Appendix 4). The signs will also reflect oOh!Media’s posting schedule and client requirements.</td>
</tr>
<tr>
<td>The size of the display (total advertising area including all sides of a multi-sided sign).</td>
<td>Internally illuminated promotion sign: 1.99m²</td>
</tr>
<tr>
<td></td>
<td>Internally illuminated electronic promotion sign: 1.53m²</td>
</tr>
<tr>
<td>The location of any corporate logo box and proportion of display area occupied by such a logo box.</td>
<td>A static ‘oOh!Media’ logo will be provided on the framing of the advertising signs.</td>
</tr>
<tr>
<td>For animated or electronic signs, a report addressing the decision guidelines at Clause 52.05-3 relating to road safety.</td>
<td>Refer Table 2.</td>
</tr>
<tr>
<td>Any landscaping details.</td>
<td>No landscaping is proposed.</td>
</tr>
</tbody>
</table>
7. Planning Policy Consideration

7.1. Planning Policy Framework

*Urban Design Guidelines for Victoria 2017*

The Urban Design Guidelines for Victoria 2017 have been developed to ensure places and spaces are ‘functional and enjoyable places for people to live, work, and spend leisure time’.

The objective of the guidelines is to create ‘neighbourhoods that foster community interaction and make it easy for people of all ages and abilities to live healthy lifestyles and engage in regular physical activity’.

Overall the guidelines aim to achieve the following:

- Accessible, safe, diverse and provide choice.
- Enjoyable, engaging and comfortable to be in and move around.
- Conducive to people being more physically active.
- Accommodating of people of all abilities, ages and cultures.
- Distinctive and celebrate their social, cultural and natural heritage.

It is considered that there are two elements of the Urban Design Guidelines that relate specifically to this proposal. These include the following:

- Element - 2.6 Public transport on roads

The relevant objectives in achieving this element include:

- 2.6.3 To maximise informal surveillance of public transport stops and their access routes.
- 2.6.4 To maintain the amenity of public transport stop environs.

and

- Element 6.6 Signs and way-finding.
The relevant objectives of this element include:

- 6.6.2 To ensure signs contribute to the amenity and local character of an area.
- 6.6.3 To ensure signs can be read and understood.
- 6.6.4 To ensure sensitive uses adjacent to illuminated signage areas are protected from light spill.
- 6.6.5 To manage the placement, currency and design of signs in public spaces.

**Clause 15 – Built Environment and Heritage**

Clause 15 outlines that ‘planning should ensure all land use and development appropriately responds to its surrounding landscape and character, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value’. Further, the policy outlines that ‘planning must support the establishment and maintenance of communities by delivering functional, accessible, safe and diverse physical and social environments, through the appropriate location of use and development and through high quality buildings and urban design’.

Overall planning should promote ‘excellence in the built environment and create places that:

- Are enjoyable, engaging and comfortable to be in.
- Accommodate people of all abilities, ages and cultures.
- Contribute positively to local character and sense of place.
- Reflect the particular characteristics and cultural identity of the community.
- Enhance the function, amenity and safety of the public realm’.
Clause 15.01-15 – Urban Design

The objective of Clause 15.01-15 is ‘to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity’.

The relevant strategies for achieving this objective include:

- ‘To ensure development supports public realm amenity and safe access to walking and cycling environments and public transport.
- To ensure that development, including signs, minimises detrimental impacts on amenity, on the natural and built environment and on the safety and efficiency of roads.
- Promote good urban design along and abutting transport corridors’.

A relevant strategy to achieve this objective is ‘to ensure transport corridors integrate land use planning, urban design and transport planning and are developed and managed with particular attention to urban design aspects’.

7.2. Local Planning Policy Framework

None relating to advertising.


The signs are to be located on South Road in Brighton East. This is a vibrant area, and as such it is considered that the signs will positively contribute to this urban environment.

The proposed advertising signs will be sited within an existing bus shelter at a recognised bus stop. The siting of the shelter ensures that it is visible from nearby buildings, roads and footpaths. This siting assists in supporting the safety of the stop.
oOh!media proposes to include both the bus shelter and signs within their maintenance program ensuring both elements are well maintained to a high-quality standard.

The proposed size and style of the signs is reflective of similar signage found throughout the Melbourne metropolitan area, with particular regard to signage located on bus and tram shelters.

The illumination of the signs from dusk till dawn will assist in ensuring the bus shelter is well lit, while also contributing to the illumination of the immediate area surrounding the bus shelter. It is considered that this outcome will assist with increasing safety for patrons of the bus shelter and pedestrians.

The level of illumination is considered appropriate and will not contribute to glare, and/or dazzle viewers at night time. Importantly the illumination will not intrude into any sensitive uses. Overall the proposed signs support the relevant objective of the Urban Design Guidelines for Victoria.

The signs will be located within an existing bus shelter ensuring they do not dominate the streetscape or distract from the overall built form character of the street. The siting of the signs will also ensure that existing views and vistas are not obstructed and as such are maintained.

It is considered that the amount and siting of the proposed signage is appropriate for a bus shelter.

The proposed signs will not detrimentally impact the safe and efficient functioning of the adjacent road network. This is evidenced by VicRoads in principle support of the proposal.

The signs will be sited a significant distance from any recognised heritage building ensuring that no impact is caused to these spaces. It is considered that the proposal
addresses the relevant urban design principles as set out in Clause 15.01-2 – Urban design principles.
8. Decision Guidelines

The proposed signs have been designed by oOh!media to ensure they are high quality signs that clearly display information and do not dominate the streetscape, or cause distraction to drivers as well as meeting client needs.

The Decision Guidelines that are applicable to the application include:

- Clause 36.04 – Road Zone
- Clause 52.05 – Signs

Refer to Table 2 – Response to Decision Guidelines for an assessment of the proposal against the relevant Decision Guidelines.

Table 2 – Response to Decision Guidelines

<table>
<thead>
<tr>
<th>Decision Guidelines</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clause 36.04 – Road Zone</strong></td>
<td></td>
</tr>
<tr>
<td>The views of the relevant road authority.</td>
<td>Refer Section 6.3.</td>
</tr>
<tr>
<td>The effect of the proposal on the operation of the road and on public safety.</td>
<td>Refer Section 6.3.</td>
</tr>
<tr>
<td><strong>Clause 52.05 – Signs</strong></td>
<td></td>
</tr>
<tr>
<td>The character of the area including:</td>
<td></td>
</tr>
<tr>
<td>- The sensitivity of the area in terms of the natural environment, heritage values,</td>
<td>The signs are to be located on South Road in Brighton East. This is a vibrant and busy thoroughfare. It is considered that the</td>
</tr>
</tbody>
</table>
### Decision Guidelines

- Waterways and open space, rural landscape or residential character.
- The compatibility of the proposed sign with the existing or desired future character of the area in which it is proposed to be located.
- The cumulative impact of signs on the character of an area or route, including the need to avoid visual disorder or clutter of signs.
- The consistency with any identifiable outdoor advertising theme in the area.

### Response

- Proposed setback from surrounding residential development is an appropriate distance from these dwellings to ensure the existing level of amenity is maintained for residents.
- The proposed signs are consistent and compatible with the existing character of the area.
- The signs have been designed to form part of the bus shelter and are not directly sited adjacent to existing signage, avoiding visual clutter or disorder.
- The siting and design of the proposed signage is reflective of existing bus and tram shelter signage located throughout the City of Bayside.

### Impacts on views and vistas:

- The potential to obscure or compromise important views from the public realm.
- The potential to dominate the skyline.
- The potential to impact on the quality of significant public views.

- The proposed signage will not impact on any important views or vistas.
- The signage is located at ground level and will therefore not dominate the skyline.
- The siting of the signs will ensure that significant public views are not impacted.
## Decision Guidelines

<table>
<thead>
<tr>
<th>Relationship to the streetscape, setting or landscape:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- The proportion, scale and form of the proposed sign relative to the streetscape, setting or landscape.</td>
</tr>
<tr>
<td>- The position of the sign, including the extent to which it protrudes above existing buildings or landscape and natural elements.</td>
</tr>
<tr>
<td>- The ability to screen unsightly built or other elements.</td>
</tr>
<tr>
<td>- The ability to reduce the number of signs by rationalising or simplifying signs.</td>
</tr>
<tr>
<td>- The ability to include landscaping to reduce the visual impact of parts of the sign structure.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>No views to existing signs will be obscured or lost.</td>
</tr>
<tr>
<td>The signs are considered to be of an appropriate size to complement the existing streetscape including landscaping.</td>
</tr>
<tr>
<td>The siting of the signage within the bus shelter infrastructure will ensure that it does not protrude above existing buildings or landscaping elements.</td>
</tr>
<tr>
<td>The signage has been designed to form part of the bus shelter infrastructure, ensuring the shelter remains attractive.</td>
</tr>
<tr>
<td>The number of signs is considered appropriate for a bus shelter and the number of signs is reflective of what is contained within other bus and tram shelters throughout the City of Bayside.</td>
</tr>
<tr>
<td>No elements of the sign structure will be visible.</td>
</tr>
</tbody>
</table>
### Decision Guidelines

- The scale and form of the sign relative to the scale, proportion and any other significant characteristics of the host site and host building.
- The extent to which the sign displays innovation relative to the host site and host building.
- The extent to which the sign requires the removal of vegetation or includes new landscaping.

### Response

- The scale of the proposed signs is considered appropriate and in proportion to the bus shelter.
- The signs have been designed to work with the bus shelter and to present an attractive interface to the street and from within the shelter.
- No vegetation is required to be removed.

The impact of structures associated with the sign:

- The extent to which associated structures integrate with the sign.
- The potential of associated structures to impact any important or significant features of the building, site, streetscape, setting or landscape, views and vistas or area.

The signs have been designed to integrate with the bus shelter infrastructure.

The impact of any illumination:

- The impact of glare and illumination on the safety of pedestrians and vehicles.

The internally illuminated signs have been designed to ensure the safety of pedestrians and vehicles.
<table>
<thead>
<tr>
<th>Decision Guidelines</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>• The impact of illumination on the amenity of nearby residents and the amenity of</td>
<td>It is considered that given the presence of an existing bus shelter and illuminated signage at the subject site, no additional impacts will be</td>
</tr>
<tr>
<td>the area.</td>
<td>created from the proposed signage. It is considered that the proposed setback from surrounding residential development is an appropriate distance</td>
</tr>
<tr>
<td>• The potential to control illumination temporally or in terms of intensity.</td>
<td>from those dwellings to ensure the existing level of amenity is maintained for residents. The signage will be illuminated from dusk until dawn.</td>
</tr>
<tr>
<td></td>
<td>This is approximately 8:00pm – 6:00am as controlled by a PE sensor. Details of illumination are provided within the accompanying report prepared by Steve Jenkins and Associates Pty. Ltd. (Refer Appendix 3).</td>
</tr>
</tbody>
</table>

The impact of any logo box associated with the sign:
• The extent to which the logo box forms an integral part of the sign through its position, lighting and any structures used to attach the logo box to the sign.
• The suitability of the size of the logo box in relation to its

A static ‘oOh!media’ logo will be provided on the framing of the advertising signs. This inclusion and siting is considered reflective of common practice for bus and tram shelters.
<table>
<thead>
<tr>
<th>Decision Guidelines</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>identification purpose and the size of the sign.</td>
<td>It is considered that the proposed signage is appropriate and will contribute to the overall design of the bus shelter. It will also contribute to the vibrancy of the streetscape and the street’s character.</td>
</tr>
<tr>
<td>The need for identification and the opportunities for adequate identification on the site or locality.</td>
<td></td>
</tr>
<tr>
<td>The impact on road safety. A sign is a safety hazard if the sign:</td>
<td></td>
</tr>
<tr>
<td>• Obstructs a driver’s line of sight at an intersection, curve or point of egress from an adjacent property.</td>
<td>The application has been referred to VicRoads to obtain ‘in principle’ support of the proposal. As such it is considered that the signs will not distract drivers.</td>
</tr>
<tr>
<td>• Obstructs a driver’s view of a traffic control device, or is likely to create a confusing or dominating background which might reduce the clarity or effectiveness of a traffic control device.</td>
<td>All information contained within the signs will be designed to the design requirements of the OMA Model Advertising Devices Code and oOh!media.</td>
</tr>
<tr>
<td>• Could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing.</td>
<td>The siting and design of the signage on the bus shelter will also ensure no vehicles movements are impacted or drivers are distracted.</td>
</tr>
<tr>
<td>• Is at a location where particular concentration is required, such as a high pedestrian volume intersection.</td>
<td>The colours and shape of the sign will be easily identifiable and will ensure that the</td>
</tr>
</tbody>
</table>
### Decision Guidelines

- Is likely to be mistaken for a traffic control device, because it contains red, green or yellow lighting, or has red circles, octagons, crosses, triangles or arrows.
- Requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic.
- Invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely.
- Is within 100 metres of a rural railway crossing.
- Has insufficient clearance from vehicles on the carriageway.
- Could mislead drivers or be mistaken as an instruction

### Response

- Signs are not to be mistaken for a traffic control device.
  - The signs are sited to ensure they do not distract drivers’ concentration.
  - The signs will be readable from a vehicle and will not require close study. The proposed dwell time of 10 seconds has also been implemented to ensure drivers are not distracted.
  - N/A
  - N/A
- The signs are sited a sufficient distance from the carriageway.
  - The signs will not contain any information or details that could be misconstrued as instructions.
9. Proposed Conditions

9.1. Proposed oOh!media Conditions

It is requested that the following conditions please be included on any planning permit issued for the proposed signage:

- The internally illuminated electronic promotion sign can revert to an internally illuminated promotion sign when required without the requirements for an additional planning permit.
- The responsible authority will extend the timing of the permit if a request is made in writing six months before the permit expires or within six months afterwards.

It is proposed that the relevant authorities and the City of Bayside will be notified accordingly, should there be a need to change the electronic promotion sign to an internally illuminated promotion sign. The structure will be maintained to ensure lighting is no greater than 0.25cd/m² throughout the drivers approach to the sign.

No building or works are required for changing an internally illuminated electronic promotion sign to an internally illuminated promotion sign. The electronic promotion site will be replaced with a lightbox if required in the future.

oOh!media note that lightboxes must always contain signage and electronic promotion signs must always have content displaying on the screen to prevent the public from reporting faults (missing/stolen posted, blank/black screen) at the structure.
10. Conclusion

The proposal seeks the erection of one internally illuminated promotion sign and one internally illuminated electronic promotion sign.

The signs have been sited and designed to contribute to the vibrancy of South Road, and to also ensure road safety for vehicles, buses and bicycles is not compromised.

It is requested that a planning permit be issued for the erection of the proposed signs for the following reasons:

- The proposal is in accordance with the overall objectives and strategies of the Bayside Planning Scheme.
- The proposal is consistent with the Planning Policy Framework and the Urban Design Guidelines for Victoria (2017).
- The proposal is consistent with the Local Planning Policy Framework, Municipal Strategic Statement and Local Policies.
- The application responds to the requirements of Clause 36.04 and Clause 52.05.
- The proposal will contribute to the vibrancy of South Road.
- The proposal will assist in increasing the safety of the street through the provision of lighting.

On the basis of the above we submit that Bayside City Council support this planning permit application for the erection of one internally illuminated promotion sign and one internally illuminated electronic promotion sign.
Appendix 1 – Plans
Notes:
1. Boulevard shelter
2. Digital sign to be installed on the approach and Static on departure.

DRAWING DESCRIPTION - EXISTING
Appendix 2 – Referral Response from VicRoads
26 March 2019

Dear Sir/Madam,

VICROADS REFERENCE NO: 03790/19
oOh! MEDIA REFERENCE NO: 30330
PROPERTY ADDRESS: ADJACENT TO 126 SOUTH ROAD, BRIGHTON

Pre-application enquiry response

Thank you for the oOh! Media pre-application documentation received by the VicRoads on 5 March 2019.

Your pre-application enquiry has been given the above VicRoads reference number, which should be quoted in further correspondence with VicRoads.

Using the documentation provided, VicRoads has reviewed oOh! Media’s proposal to erect and display one double sided electronic promotion sign.

While VicRoads official response to the oOh! Media proposal will be provided after being referred an application for a planning permit by the municipal Council (in accordance with section 55 of the Planning & Environment Act 1987 and the Victoria Planning Provisions), I advise that the following is VicRoads current position based on its assessment.

N.B. This letter is not for the purpose of section 55(1)(b) of the Planning & Environment Act 1987.

Subject to review of a future application for planning permit that is consistent with the pre-application documentation, VicRoads would not object to the granting of a planning permit, subject to requiring that the following draft conditions are included in any planning permit granted by the Council.

VicRoads draft Conditions:

1. No image may be displayed on the electronic sign for less than 10 continuous seconds.

2. The luminance of the advertising signs must be such that it does not give a veiling luminance to the driver, of greater than 0.25 cd/m², throughout the driver’s approach to the advertising sign.

3. The control of the electronic sign must be in accordance with the two submitted fighting reports, which must form part of any issued Planning Permit:


4. The transition between images must be instantaneous.

5. The advertising content of the sign must not:
   a. Consist of more than one static image at a time.
   b. Contain any animation.
   c. Consist of a sequence of images giving the illusion of movement from one image to the next.
   d. Contain or consist of images which are capable of being interpreted as projections beyond the face of the advertising screen, such as through the use of 3D technology.
   e. Contain or consist of video, movie or television broadcasts.
   f. Contain or consist of present-time or other contemporary update information such as relating to news, weather or time.
   g. Contain any flashing, blinking, brightening or fading elements that create the illusion of movement or change.
   h. Be capable of being mistaken for a traffic signal or a traffic control device. This includes the use of red, amber or green circles, octagons, crosses or triangles.
   i. Be a traffic instruction, or be capable of being mistaken as, an instruction to a road user. This includes the use of the wording stop, give way, slow, turn left or turn right.
   j. Contain phone numbers, pricing or email addresses.
   k. The sign must not contain any more than 6 words in its display to ensure legibility to road users.

6. The advertising area must not be split into 2 screens (horizontally or vertically) with different messages.

7. The sign and advertising content must not dazzle or distract road users’ due to its colouring or content.

8. The use of sound or motion to activate the sign is not permitted.

9. The use of sound to interact with any road user is not permitted.
10. The advertising sign must shut down and cease any form of visual display (and must remain in shut down mode until the issues are resolved), in the event of:
   
   a. an attack by a computer hacker, virus or similar resulting in the unauthorised display of visual images or messages.
   
   b. any malfunction of the advertising sign.

In the event that a formal application for planning permit is submitted to the municipal Council, pursuant to clause 52.05 (Advertising Signs) of Victoria Planning Provisions, the Council must refer the application to VicRoads (being a determining referral authority under Section 55 of the Planning and Environment Act 1987). VicRoads will assess that application having regard to this pre-application advice and will respond to the Council in accordance with section 56 of the Planning and Environment Act 1987).

Having already considered this proposal as a pre-application advice, VicRoads will endeavour to respond to the Council within 5 business days of receipt of the referral documentation from the Council.

N.B. VicRoads pre-application advice provided in this letter is subject to oOh! Media making formal application for a planning permit. VicRoads reserves the right to amend its position if considered necessary, such as if any details in the formal application are different to those provided as pre-application information.

Note VicRoads lighting policy/standard is currently being reviewed. If VicRoads new policy/standard is released prior to receipt of a formal application the new lighting condition(s) will replace the current condition(s).

Should you have any enquiries regarding this matter, please contact Mariham Tadros on 03 9313 1294 or Mariham.Tadros@roads.vic.gov.au

Yours sincerely

Mariham Tadros

MARIHAM TADROS
ON BEHALF OF
ALAN KING
STATUTORY SIGNAGE OFFICER
Cc: Bayside City Council (Planning Department)
Appendix 3 – Veiling Luminous Reports, prepared by Steve Jenkins and Associates Pty. Ltd.
Steve Jenkins & Associates Pty Ltd

Report on field Measurements of luminance of Adshel Displays
At Tram Stops

by Steve Jenkins and Associates Pty. Ltd.

Introduction

Steve Jenkins and Associates was requested by Sparke Helmore to make field
measurements of luminance from displays at Tram Stops and compare them with the
maximum limits based on a VicRoads requirement (Advertising Policy for Advertising On,
Over and Adjacent to VicRoads Declared Road Reserves – 2017):

"The sign’s level of illumination and the manner in which the lighting output of the sign will be
managed ensures that it does not give a veiling luminance to the driver, of greater than 0.25
cd/m², throughout the driver’s approach to the sign."

A limit is placed on veiling luminance as it causes disability glare. The disabling effect of
the glare arises from the light scattered by the opacities within the eye. This causes a light
"veil" across the whole of the visual scene which reduces the luminance contrast of objects
in the scene.

The luminance contrast of an object is defined as:

\[ Co = \frac{(Lo - Lb)}{Lb} \]

where Lo is the luminance of the object and Lb is the overall ambient luminance that
determines the state of light adaptation of the eye.

If a veiling luminance, Lv, is added to the whole visual scene then the contrast of the object
with the glare source (Cg) becomes

\[ Cg = \frac{[(Lo+Lv) - (Lb+Lv)]}{(Lb + Lv)} \text{ and so} \]

\[ Cg = \frac{(Lo - Lb)}{(Lb + Lv)} \]

which is clearly less than Co.

How much contrast is lost depends on the relative values of the ambient luminance (Lb)
and the veiling luminance (Lv). During the daytime Lb is very large compared with Lv and
so the loss in contrast is very small and is negligible (we do not have a problem with
car headlights on during the day). At night when the ambient luminance (Lb) is low then glare from bright sources may be a problem.

The quantitative limit on disability glare used by VicRoads is derived from the limits for disability glare in the Australian Standard for Road Lighting (AS/NZS 1158.1.1:2005). This limit is described in terms of Threshold Increment (TI%) which is the percentage increase in contrast of an object required for it to be seen as equally well with the glare source present as it was without the glare source. The greater TI is then the greater is the level of glare. The Road Lighting Standard places a maximum limit of 20% on TI. This in turn limits the veiling luminance to 0.25 cd/m² for an ambient luminance of 0.75 cd/m², which is the most common luminance level for main roads at night in Australia.

For higher levels of ambient luminance, for example at dusk, higher levels of veiling luminance can be allowed and still meet the TI% limit of 20%. However, the VicRoads requirement is for a veiling luminance limit of 0.25 cd/m² with no mention of the ambient luminance. In practice, this restriction in glare can only be applied to night-time driving.

The expression for the calculation of veiling luminance used is:

\[ L_v = \left(10^6 \frac{E_g}{\Theta^2}\right) \times \left[1 + \left(\frac{\text{Age}}{70}\right)^4\right] \]

where \( E_g \) is the illuminance falling on the driver’s eye from the glare source, \( \Theta \) is the angle between the driver’s line of sight and the direction of the glare source, and Age is the age of the driver in years. The formula is valid for values of \( \Theta \) from 1° to 30°. It can be seen from the equation for veiling luminance that disability glare becomes a serious problem for older drivers and so, in order to include the great majority of drivers, the Age variable was fixed at 70 years. In which case, the expression for the veiling luminance used in these calculations is:

\[ L_v = 20^6 \frac{E_g}{\Theta^2} \]

From this equation, the level of veiling luminance for drivers will change as they approach the glare source in that, on the approach, the illuminance falling on their eyes (\( E_g \)) will increase and \( \Theta \) will increase.

The main determinants of disability glare are:
- the illuminance from the sign falling on the driver’s eye which depends on the sign luminance and the area of the sign directed towards the driver and how far away the driver is from the sign and
- the angle between the driver’s line of sight and the direction of the sign
So the brighter the display and the greater area of the sign the driver can see then the higher the veiling luminance. The closer the driver’s line of sight is to the sign then the higher the veiling luminance. Calculations were made for two sets of conditions; one where the sign face is aligned with the run of the road and one where the sign face is perpendicular to the run of the road.

When used at some tram stops, the sign is aligned with the run of the road and could be either facing outwards into the road or facing inwards into the tram stop. The measurements made in this report were made on signs that faced inwards into the tram stop. For these signs, the calculations demonstrated that a reasonable estimate of the maximum average luminance of a sign display should be no greater than 300 cd/m². Calculations had been made that provided a reasonable estimate of the maximum average luminance a sign could be and still meet the veiling luminance requirements of VicRoads.

**Method**

The measurements were taken at night and at a time when there were few cars. Luminance measurements were taken with a calibrated luminance meter using a measurement aperture of 3°, such that when standing approximately 15 m from the display, the measurement area almost covered the width of the display. Then three readings were taken of the top, middle and bottom of the display. These three readings were then averaged and the average taken as the luminance of the display. For each sign there were various displays which each lasted about 30 to 60 seconds. Examples of the displays are shown in Appendix 1.

The luminances of all LED displays at eight different sites were made. All displays were aligned with the run of the road and faced into the body of the Tram Stop.

**Results**

The results of the luminance measurements are given for each site in the Tables below. Some sites had two signs and some just one and they all had multiple displays.

<table>
<thead>
<tr>
<th>Site ID 143</th>
<th>Luminance (cd/m²)</th>
<th>Avg E (cd/m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign 1 Telstra</td>
<td>134.8</td>
<td>74.9</td>
</tr>
<tr>
<td>Violence against women</td>
<td>53.0</td>
<td>57.9</td>
</tr>
<tr>
<td>nab</td>
<td>104.4</td>
<td>87.3</td>
</tr>
<tr>
<td>Foxtel</td>
<td>30.2</td>
<td>37.6</td>
</tr>
<tr>
<td>Sign 2 Iselect</td>
<td>124.3</td>
<td>135.6</td>
</tr>
<tr>
<td>Obela</td>
<td>71.2</td>
<td>45.1</td>
</tr>
<tr>
<td>Travel</td>
<td>55.2</td>
<td>27.7</td>
</tr>
<tr>
<td>Groupon</td>
<td>20.3</td>
<td>23.5</td>
</tr>
<tr>
<td>Visa</td>
<td>99.6</td>
<td>37.6</td>
</tr>
</tbody>
</table>
### Site ID 133

<table>
<thead>
<tr>
<th>Site ID</th>
<th>Luminance (cd/m²)</th>
<th>Ave L (cd/m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telstra</td>
<td>212.0</td>
<td>46.8</td>
</tr>
<tr>
<td>Violence against women</td>
<td>106.1</td>
<td>27.0</td>
</tr>
<tr>
<td>nab</td>
<td>163.8</td>
<td>98.1</td>
</tr>
<tr>
<td>Foxtel</td>
<td>55.0</td>
<td>55.6</td>
</tr>
<tr>
<td>Power Rangers</td>
<td>144.0</td>
<td>39.1</td>
</tr>
</tbody>
</table>

### Site ID 134

<table>
<thead>
<tr>
<th>Site ID</th>
<th>Luminance (cd/m²)</th>
<th>Ave L (cd/m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telstra</td>
<td>189.3</td>
<td>81.7</td>
</tr>
<tr>
<td>Violence against women</td>
<td>105.8</td>
<td>20.7</td>
</tr>
<tr>
<td>nab</td>
<td>53.4</td>
<td>38.5</td>
</tr>
<tr>
<td>Foxtel</td>
<td>113.4</td>
<td>77.4</td>
</tr>
<tr>
<td>Violence against women</td>
<td>53.7</td>
<td>20.6</td>
</tr>
<tr>
<td>nab</td>
<td>54.6</td>
<td>93.1</td>
</tr>
<tr>
<td>Foxtel</td>
<td>26.6</td>
<td>13.9</td>
</tr>
</tbody>
</table>

### Site ID 135

<table>
<thead>
<tr>
<th>Site ID</th>
<th>Luminance (cd/m²)</th>
<th>Ave L (cd/m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telstra</td>
<td>113.0</td>
<td>68.4</td>
</tr>
<tr>
<td>Violence against women</td>
<td>60.5</td>
<td>15.5</td>
</tr>
<tr>
<td>nab</td>
<td>125.2</td>
<td>67.5</td>
</tr>
<tr>
<td>Foxtel</td>
<td>30.9</td>
<td>14.1</td>
</tr>
</tbody>
</table>

### Site ID 29 into City

<table>
<thead>
<tr>
<th>Site ID</th>
<th>Luminance (cd/m²)</th>
<th>Ave L (cd/m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Obela</td>
<td>102.1</td>
<td>41.4</td>
</tr>
<tr>
<td>Groupon</td>
<td>63.6</td>
<td>27.4</td>
</tr>
<tr>
<td>iSelect</td>
<td>16.7</td>
<td>140.4</td>
</tr>
<tr>
<td>Violence against women</td>
<td>65.6</td>
<td>20.7</td>
</tr>
<tr>
<td>Travel</td>
<td>50.8</td>
<td>26.5</td>
</tr>
<tr>
<td>Visa</td>
<td>94.6</td>
<td>31.0</td>
</tr>
<tr>
<td>Site ID 27 into City</td>
<td>Luminance (cd/m²)</td>
<td>Avg L (cd/m²)</td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Sign 1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Obela</td>
<td>105.8</td>
<td>37.6</td>
</tr>
<tr>
<td>Groupon</td>
<td>53.2</td>
<td>36.0</td>
</tr>
<tr>
<td>iselect</td>
<td>176.4</td>
<td>90.3</td>
</tr>
<tr>
<td>Violence against women</td>
<td>63.2</td>
<td>59.4</td>
</tr>
<tr>
<td>Travel</td>
<td>34.3</td>
<td>30.9</td>
</tr>
<tr>
<td>Visa</td>
<td>104.0</td>
<td>24.5</td>
</tr>
<tr>
<td>HM</td>
<td>13.1</td>
<td>9.53</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site ID 25 into City</th>
<th>Luminance (cd/m²)</th>
<th>Avg L (cd/m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign 1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Obela</td>
<td>102.0</td>
<td>40.9</td>
</tr>
<tr>
<td>Groupon</td>
<td>79.5</td>
<td>35.0</td>
</tr>
<tr>
<td>iselect</td>
<td>171.6</td>
<td>96.0</td>
</tr>
<tr>
<td>Violence against women</td>
<td>44.0</td>
<td>22.1</td>
</tr>
<tr>
<td>Travel</td>
<td>34.9</td>
<td>34.1</td>
</tr>
<tr>
<td>Visa</td>
<td>98.5</td>
<td>47.5</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site ID 25 out from City</th>
<th>Luminance (cd/m²)</th>
<th>Avg L (cd/m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign 1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Obela</td>
<td>101.6</td>
<td>38.5</td>
</tr>
<tr>
<td>Groupon</td>
<td>73.9</td>
<td>18.9</td>
</tr>
<tr>
<td>iselect</td>
<td>168.7</td>
<td>99.9</td>
</tr>
<tr>
<td>Violence against women</td>
<td>51.6</td>
<td>20.1</td>
</tr>
<tr>
<td>Travel</td>
<td>56.1</td>
<td>65.1</td>
</tr>
<tr>
<td>Visa</td>
<td>30.3</td>
<td>35.4</td>
</tr>
</tbody>
</table>

For LED displays that were aligned with the run of the road and were facing inwards into the Tram Stop, the calculations demonstrated that a reasonable estimate of the maximum average luminance of a sign display should be no greater than 300 cd/m².

None of the displays measured had luminances that were greater than 300 cd/m² and so all the displays complied with the recommended maximum luminance requirement.
Conclusion

Field measurements of luminance were made of LED displays at tram stops. The measurements were made at night at eight different sites for ten different signs.

Calculations had been made that provided a reasonable estimate of the maximum average luminance a sign could be and still meet the veiling luminance requirement of VicRoads. For the situation of the signs measured in this report, where the sign face was aligned with the run of the road and faced inwards into the tram stop, the maximum average luminance recommended from the calculations was 300 cd/m².

All the signs have an average luminance below 100 cd/m² except one which had average luminances of 123 cd/m², 137 cd/m², 134 cd/m² and 135 cd/m² at four different sites.

All signs measured complied with the recommendations of the maximum average luminance as estimated by calculations.

Signed: S.E. Jenkins
Date: 08/05/2017

S.E. Jenkins
(Managing Director)
Appendix 1

Some examples of the LED displays at the nominated tram stops.
Item 4.2 – Matters of Decision
Appendix 4 – OMA Model Advertising Devices Code
Contents

01  Purpose of the Model Advertising Devices Code  2
02  The Outdoor Media Association  3
03  Investing in our Community  4
04  Digital Signage  5
05  Road Safety  6
06  OMA Model Advertising Devices Code: VIC  7
 Purpose of the Model Advertising Devices Code

The Model Advertising Devices Code Victoria (Model Code) is a best practice guideline for the regulation of Outdoor advertising devices. This guideline can be used by the Department of Environment, Land, Water and Planning (DELWP) and local governments when drafting planning policy for Out-of-Home (OOH) advertising devices in Victoria. The Model Code relates primarily to third party\(^1\) advertising signage, but its provisions can also be applied to on-premise\(^2\) advertising signage.

The Model Code provides a set of practical and effective planning controls for advertising devices. Overall, the Model Code aims to balance placement, design and utility outcomes for local government and the community with the commercial requirements of the OOH advertising industry.

The Model Code has been prepared to apply to advertising devices situated in both urban and rural settings. The Model Code applies to both large format (billboard style) advertising devices as well as small format styles (including bus shelter advertising panels and street level portrait advertising panels). It is not intended to apply to temporary advertising devices such as building wraps (structures installed to cover construction sites) and trailer signs, although the Outdoor Media Association (OMA) recommends that these advertising devices should be closely regulated by government.

The OMA works closely with state planning departments, state road authorities and local governments across Australia to ensure that planning controls promote safe, high quality signage and advertising that is well integrated with the surrounding environment. The OMA supports the reasonable regulation of Outdoor advertising signage and advocates for planning systems within Australia that:

- Recognize Outdoor advertising signage as a legitimate land use.
- Provide a fair and reasonable set of development standards for advertising signage.
- Allow for the evolution of the industry, including new styles of digital signage.
- Protect the industry’s existing signage investments.

In Australia, advertising content is self-regulated. The OMA works closely with the Advertising Standards Bureau, the Australian Association of National Advertisers, The Communications Council and the Alcohol Beverages Advertising Code Scheme to ensure that members only display advertising that meets acceptable community standards. The Model Code includes a new provision developed by the OMA that requires signage operators to comply with the determinations of these self-regulatory bodies regarding content.

\(^1\) A sign advertising goods and/or services not associated (sold, stored or manufactured) on the site/premise on which the advertising sign is located.

\(^2\) A sign advertising goods and/or services sold, stored or manufactured on the site/premise on which the advertising sign is located.
02 The Outdoor Media Association

The Outdoor Media Association (OMA) is the peak industry body representing 90% of Australia’s Outdoor media display companies, production facilities and some media display asset owners. The organisation operates nationally, and prior to July 2005, traded as the Outdoor Advertising Association of Australia (OAAA). It was first incorporated in 1939.

OMA members display third party advertisements across static and digital signs, including signs on buses, trams, trains, pedestrian bridges, billboards, freestanding advertising panels and street furniture (bus/tram shelters, public toilets, bicycle stations, telephone booths and kiosks), as well as in office buildings, cafes, bus stations, railway stations, shopping centres, universities and airports.

Members of the OMA adhere to an Industry Code of Ethics to ensure they operate their businesses responsibly and abide by the industry’s regulatory framework.
03 Investing in our Community

Advertising and marketing play a fundamental role in the Australian economy and are significant drivers of economic growth, contributing some $40 billion of value in 2014. This means advertising is responsible for contributing approximately 2.5% of the Gross Domestic Product. For every person directly employed by advertising another three people are reliant upon advertising for their jobs. Over 200,000 people in the workforce are there due to advertising.\(^1\)

In 2015, the Out-of-Home (OOH) industry in Australia provided more than 17,600 items of infrastructure for use by the community, including pedestrian bridges, bus shelters, retail kiosks, telephone booths, park benches and bicycles. The total replacement value for this infrastructure was estimated to be more than $350 million in December 2014.\(^2\)

The OOH industry also plays an important role in the community, supporting the arts, sports and charitable organisations. It is also widely used by government bodies to advertise community messages such as road safety messages and health awareness campaigns. In 2015, the OOH industry donated advertising space valued at more than $34 million to over 160 organisations.

\(^1\)2016, Deloitte Access Economics, Advertising Pays - The economic and business value of advertising
04 Digital Signage

In recent years, the use of digital signage has grown across Australia. As of August 2016, nearly 40% of the industry’s advertising revenue came from digital media and this percentage will continue to grow. As our cities work to improve connectivity, digital signage will play a vital role in communication, messaging and way-finding.

Digital signage can be innovative and entertaining and is becoming one of the ways that people interact with their cities. Digital signs also contribute to placemaking by adding vibrancy, colour and lighting, which are seen as part of the make-up of a contemporary global city. Public attitude testing undertaken for the City of Sydney found that 67% of people ‘expect any large city to promote the use of new technology in advertising’.

Digital signage offers a number of benefits to the Out-of-Home industry and the community including:

- **Community benefit** — digital advertising is more cost efficient for charities and governments. One digital sign can display many advertisements on a rotation without the cost of printing.
- **Utility** — digital screens can be used at short notice for emergency messaging and to provide up to date community information. They can also act as Wi-Fi hubs and charging stations.
- **Vibrancy** — digital technology allows for signage that is vibrant, has high image quality and is visually interesting, contributing to placemaking and the creation of exciting and lively urban spaces.
- **Environment** — digital screens produce no PVC or vinyl waste and can be designed to be energy efficient.

---

1 Sweeney Research, City of Sydney Outdoor Communication Report - July 2014
05 Road Safety

The Outdoor Media Association has undertaken research on driver behaviour in the presence of advertising signage, using eye-tracking glasses and a vehicle recording device. The research found that:

- Drivers spend the same amount of time (average 78%) with their eyes on the road whether in the presence of digital, static or on premise signs.
- There is no significant difference in the length of time people look (fixation duration) at digital signage compared with static signage.
- Drivers maintain the same safe average vehicle headway (distance between themselves and car in front) in the presence of all signage types.
- Over 99% of all glances towards advertising signage were less than 750 milliseconds, which is the minimum time needed by a driver to perceive and react to an unexpected event.
**06 OMA Model Advertising Devices Code: VIC**

**Introduction**
The Victoria Planning Provisions (VPP) is a state-wide document which local councils use to construct planning schemes. The VPP is prepared by the Department of Environment, Land, Water and Planning (DELWP). Clause 52.05 of the VPP is used to regulate Out-of-Home (OOH) advertising in Victoria by local councils. Where local councils have additional requirements for OOH, they are generally included within Clause 22 (Local Planning Policies) of the Planning Scheme. The OMA recommends that the DELWP and local councils apply the development parameters for OOH set out within the Outdoor Media Association's Model Code when reviewing policy within the VPP and local planning schemes.

The Model Code provides development parameters for third party advertising devices requiring consent in City Centre/Town Centre, Business/Commercial, Industrial, Mixed Use and Rural Zones. The Model Code also applies to development applications for street furniture which can also be located within residential zones.

To develop OOH signage in Victoria, an applicant lodges a planning permit application with the relevant local council. For an animated or electronic sign within 60 metres of a freeway or arterial road the local council is required to notify VicRoads as the referral authority. The local council can still seek input from VicRoads even if the application does not fall within this category. In the event of an application being refused or not being assessed (that is a deemed refusal), an applicant can appeal to the Victorian Civil and Administrative Tribunal (VCAT).

<table>
<thead>
<tr>
<th>CHARACTER, AMENITY AND VIEW CORRIDORS</th>
</tr>
</thead>
<tbody>
<tr>
<td>To promote innovative, unique and creative signs that contribute positively to the character and vibrancy of the council area and integrate well with local buildings, streetscapes, the urban skyline and also the natural setting if placed within a rural zone.</td>
</tr>
</tbody>
</table>

Advertising devices should be compatible with the existing or proposed streetscape, present a visually attractive appearance and provide for a functional purpose in public spaces.

Where placed on buildings, advertising devices should be compatible with the design of the building and with the type, nature and scale of development within the locality.

Advertising devices should not compromise access to key vistas and view corridors or excessively block sunlight and breeze flows.

Newly placed advertising devices should not unreasonably obstruct existing advertising devices that are lawfully installed.

<table>
<thead>
<tr>
<th>CHARACTER AND AREAS OF HERITAGE SIGNIFICANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the advertising device is located in an area of heritage significance its design should be sensitive to the heritage features of the building or place.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>HEALTH AND SAFETY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertising devices, even if for temporary use, must be safely secured and not pose a physical hazard or obstruction to motorists, pedestrians, cyclists or residents.</td>
</tr>
</tbody>
</table>

Agreements should be in place to manage and maintain vegetation around advertising devices for visual amenity purposes and driver safety purposes, including tree trimming.

<table>
<thead>
<tr>
<th>ECONOMIC BENEFITS OF ADVERTISING DEVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advertising devices should cater for the needs of local and national businesses and governments, giving them a communication platform to share information about their brand, products and services with the public. In this way, advertising signage drives competition and is an important source of information for the community.</td>
</tr>
</tbody>
</table>
06 OMA Model Advertising Devices Code: VIC

Performance criteria and acceptable outcomes for advertising devices

Advertising devices should be assessed against the Model Code. Compliance with the Model Code can either be assessed by the applicant (self-assessable) or by the local council (council-assessable). Advertising devices will comply with the Model Code if the ‘Performance Criteria’ and ‘Acceptable Outcomes’ listed below are addressed and achieved.

Advertising signs are an essential part of the fabric of our cities and towns. They provide critical information for the identification of local businesses, for promoting local goods and services, for informing the public about local community events and for national safety messages (e.g., driver fatigue and missing persons). Advertising signs also create a sense of place and with the application of good design can provide vibrant and active meeting places and centres of connectivity for the community.

### LOCATION AND ZONING

<table>
<thead>
<tr>
<th>Performance Criteria</th>
<th>Acceptable Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development demonstrates compliance with the following performance criteria (P)</td>
<td>Development satisfies the following deemed-to-comply requirements (A)</td>
</tr>
<tr>
<td>P1 Advertising devices to be located in appropriately zoned areas and are of a scale and nature that is compatible with both existing and/or proposed development in the zone.</td>
<td>A1 Advertising devices are usually located within the City Centre / Town Centre, Business/ Commercial, Industrial, Mixed Use or Rural Zones. Street furniture is also located in Residential Zones.</td>
</tr>
<tr>
<td>P2 Advertising devices do not detract from an identified heritage place or the overall character and amenity of the locality (such as an open space, streetscape, town entrance, landscape feature and vista or view corridor).</td>
<td>A2 The sign face area is an appropriate size for its position and location.</td>
</tr>
<tr>
<td></td>
<td>A3 Freestanding signs are supported on single or multiple pylons or on architecturally designed structures.</td>
</tr>
</tbody>
</table>

### FREESTANDING SIGNS – HEIGHT AND SIZE

<table>
<thead>
<tr>
<th>Performance Criteria</th>
<th>Acceptable Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development demonstrates compliance with the following performance criteria (P)</td>
<td>Development satisfies the following deemed-to-comply requirements (A)</td>
</tr>
<tr>
<td>P3 The height* of an advertising device complements and reflects the surrounding character and amenity of the locality and environs.</td>
<td>A4 The height of the advertising device is appropriate for its position and location.</td>
</tr>
<tr>
<td>P4 Freestanding advertising devices are of a size and scale which is considered appropriate for both the natural and built environment and does not create a physical hazard or obstruction to motorists, pedestrians, cyclists or residents.</td>
<td>A5 The sign face area is an appropriate size for its position and location.</td>
</tr>
</tbody>
</table>

*The height is measured from finished road level to the uppermost projection of the device.

An important design consideration for advertising signage is the optimum height needed to obtain effective visibility of the advertising face.
### 06 OMA Model Advertising Devices Code: VIC

#### FReestanding Signs (≤ 18m³) — Separation Distances

<table>
<thead>
<tr>
<th>Performance Criteria</th>
<th>Acceptable Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development demonstrates compliance with the following performance criteria (P)</td>
<td>Development satisfies the following deemed-to-comply requirements (A)</td>
</tr>
<tr>
<td>P5 Advertising devices are separated by distance in all zones so that the character and amenity of the locality and existing view and vista corridors are not adversely impacted.</td>
<td>A6 For all freestanding signs, a separation distance is required within the same direction of travel.</td>
</tr>
<tr>
<td></td>
<td>A7 Where the topography of the environment creates a natural visual separation between two advertising devices, the separation distance in A6 does not apply.</td>
</tr>
</tbody>
</table>

The purpose of an advertising sign is to be noticed and safely read by the audience. A requirement for a reasonable spacing between signs can achieve this goal.

When signs are well spaced, the audience has the ability to absorb each advertising message and this increases its effectiveness.

#### Advertising Wall Signs

<table>
<thead>
<tr>
<th>Performance Criteria</th>
<th>Acceptable Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development demonstrates compliance with the following performance criteria (P)</td>
<td>Development satisfies the following deemed-to-comply requirements (A)</td>
</tr>
<tr>
<td>P6 Advertising wall signs are designed to cover unused or unsightly wall spaces.*</td>
<td>A8 The sign face area is an appropriate size for its position and location.</td>
</tr>
<tr>
<td>*Advertising wall signs do not include building wraps, which are temporary structures.</td>
<td>A9 Advertising wall signs must not cover architecturally prominent building design features or other architectural elements that feature in the facade of the building.</td>
</tr>
<tr>
<td></td>
<td>A10 Advertising wall signs should be contained within the outermost projection of the wall of the building and should be designed and positioned to ensure integration with the design of the existing building and character and amenity of the surrounding area.</td>
</tr>
</tbody>
</table>

#### Advertising Device Roof Signs

<table>
<thead>
<tr>
<th>Performance Criteria</th>
<th>Acceptable Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development demonstrates compliance with the following performance criteria (P)</td>
<td>Development satisfies the following deemed-to-comply requirements (A)</td>
</tr>
<tr>
<td>P7 The advertising device is compatible with the design of the building and is consistent with the type, nature and scale of development in the locality.</td>
<td>A11 Advertising device roof signs must not cover architecturally prominent building design features or other architectural elements that feature in the facade of the building.</td>
</tr>
</tbody>
</table>

The Outdoor Media Association does not recommend a specific sign size for advertising wall signs and roof signs as this may restrict the optimal design outcomes for the space.
### BUS SHELTERS & STREET FURNITURE

<table>
<thead>
<tr>
<th>Performance Criteria</th>
<th>Acceptable Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development demonstrates compliance with the following performance criteria (P)</td>
<td>Development satisfies the following deemed-to-comply requirements (A)</td>
</tr>
<tr>
<td>P8  The advertising face is compatible with the design of the bus shelter/street furniture and does not impact on the amenity of nearby residents.</td>
<td>A12  • Advertising sign not to extend above height of bus shelter structure.</td>
</tr>
<tr>
<td></td>
<td>• Luminance of the advertising sign not to impact on local residents.</td>
</tr>
</tbody>
</table>

Advertising faces on bus shelters and street furniture require a different set of controls compared to large format signs as they are generally smaller, are often located closer together and can also be located in residential areas.

### DIGITAL ADVERTISING DEVICES

<table>
<thead>
<tr>
<th>Performance Criteria</th>
<th>Acceptable Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development demonstrates compliance with the following performance criteria (P)</td>
<td>Development satisfies the following deemed-to-comply requirements (A)</td>
</tr>
<tr>
<td>P9  Digital advertising devices, including Liquid Crystal Display (LCD) and Light Emitting Diode (LED) are allowed in appropriate zones.</td>
<td>A13  • The City Centre, Commercial, Mixed Use and Industrial Zones; and/or</td>
</tr>
<tr>
<td></td>
<td>• Locations where there is a high flow of pedestrian or vehicular traffic.</td>
</tr>
<tr>
<td>P10 Digital advertising devices do not create a road safety risk or hazard.</td>
<td>A14  The static images on LCD and LED advertising devices have a minimum dwell time of 6-8 seconds per advertisement.</td>
</tr>
<tr>
<td></td>
<td>A15  There is an instantaneous transition from one message to the next (approximately 0.1 seconds). No transitional effects such as fly-in or fade-out are supported.</td>
</tr>
<tr>
<td></td>
<td>A16  Advertisements on digital advertising devices are designed so that the amount of text is kept to a minimum and is no more than a driver can read at a short glance.</td>
</tr>
<tr>
<td></td>
<td>A17  Advertisements are designed so that content cannot be mistaken for a traffic control device.</td>
</tr>
<tr>
<td>P11 Illumination of digital advertising devices does not create a safety risk to motorists or detract from the amenity of the local community.</td>
<td>A18  The luminance of digital advertising devices are modified according to location, time of day and ambient light conditions (refer to luminance levels table on page 11).</td>
</tr>
<tr>
<td></td>
<td>A19  LCD and LED advertising devices use light sensors to adjust illumination levels according to the ambient light levels.</td>
</tr>
<tr>
<td>P12 Digital advertising devices minimise energy consumption where possible</td>
<td>A20  Where possible, digital advertising devices will be designed to minimise energy consumption.</td>
</tr>
</tbody>
</table>
Digital advertising devices differ from conventional signs in that they have the capacity to display changing digital messages. The digital effect can contribute to the vibrancy of cities, streetscapes and contribute to placemaking. The Outdoor Media Association (OMA) advocates for a 6–8 second dwell time in all speed zones and for instantaneous transition from one message to the next avoiding transition effects (generally approximately 0.1 seconds). The 6–8 second dwell time is based on international best practice and is long enough for the change not be mistaken for animation.

Advertising devices may be illuminated either externally or internally. Either method is appropriate provided that the illumination does not cause glare to surrounding residences nor impact upon the safety of drivers.

LCD and LED advertising devices can appear to be too bright if the light is not dimmed during twilight, night time and inclement weather. Luminance levels can be controlled with light sensors that adjust the illumination according to the surrounding ambient light level. If there is full sun on the face of a digital sign, it can become difficult to read and maximum luminance output is needed to ensure that the advertising message is clear to the eye, to avoid distraction. The OMA has developed the following best practice guidance for luminance levels for different locations and time of day in conjunction with a lighting expert.

OMA members will work with they community to alleviate any concerns in relation to new digital signage, particularly in relation to luminance levels.

### Lighting Condition

<table>
<thead>
<tr>
<th>Condition</th>
<th>Zone 1</th>
<th>Zone 2</th>
<th>Zone 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sun on face of signage</td>
<td>Maximum Output</td>
<td>Maximum Output</td>
<td>Maximum Output</td>
</tr>
<tr>
<td>Day time (full light</td>
<td>6,000–7,000 cd/m²</td>
<td>6,000–7,000 cd/m²</td>
<td>6,000–7,000 cd/m²</td>
</tr>
<tr>
<td>conditions)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Day time (dawn, dusk and</td>
<td>1,000 cd/m²</td>
<td>700 cd/m²</td>
<td>600 cd/m²</td>
</tr>
<tr>
<td>inclement weather)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Night time</td>
<td>500 cd/m²</td>
<td>350 cd/m²</td>
<td>300 cd/m²</td>
</tr>
</tbody>
</table>

**Zone 1** covers areas with generally very high off-street ambient lighting, e.g. central city locations.

**Zone 2** covers areas with generally high to medium off-street ambient lighting.

**Zone 3** covers areas with generally low levels of off-street ambient lighting e.g. most rural areas, many residential areas.

### Vegetation Management

<table>
<thead>
<tr>
<th>Performance Criteria</th>
<th>Acceptable Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development satisfies the following performance criteria (P)</td>
<td>Development satisfies the following deemed-to-comply requirements (A)</td>
</tr>
<tr>
<td>PI3</td>
<td>A21</td>
</tr>
<tr>
<td>Legal advertising devices are not obscured by vegetation.</td>
<td>A Vegetation Management Plan is in place to enable the pruning and maintenance of trees and shrubs adjacent to the advertising device, to ensure the sign continues to be legible for driver safety reasons.</td>
</tr>
</tbody>
</table>
### CONTENT MANAGEMENT

<table>
<thead>
<tr>
<th>Performance Criteria</th>
<th>Acceptable Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development demonstrates compliance with the following performance criteria (P)</td>
<td>Development satisfies the following deemed-to-comply requirements (A)</td>
</tr>
<tr>
<td>P14 Advertising devices should display content that is compliant with the Australian Association of National Advertisers (AANA) Code of Ethics and must comply with any decisions by the Advertising Standards Board (Ad Board).</td>
<td>A22 A system of content management and complaint handling arrangements for the content displayed on advertising structures must be in place. Advertising content should be compliant with the AANA Code of Ethics. Where an advertisement is found by the Ad Board to be in breach of the AANA Code of Ethics, the determination of the Ad Board must be complied with and the advertisement removed.</td>
</tr>
</tbody>
</table>
Figure 1 Map of Bayside indicating the location of the eleven bus stop sites.
Site and Surrounds – Site Images

No. 1 - Stop 1412, 236 New Street Brighton
No 2 - Stop 3234, 47 South Road Brighton
No. 3 - Stop 3234, 264 South Road Brighton East
No. 4 – Stop 3375, 120 South Road Brighton East
Item 4.2 – Matters of Decision

No. 5 - Stop 3376, 102 South Road Brighton East

![Image of bus stop at 102 South Road Brighton East]

No. 6 - Stop 3488, 163 South Road Brighton East

![Image of bus stop at 163 South Road Brighton East]
No. 7 - Stop 3494, 337 South Road Brighton East
No. 8 - Stop 3588, 37 Willis Street Hampton
No. 9 - Stop 7321, 37 Bluff Road Black Rock

No. 10 - Stop 10109, 484 Balcombe Road Beaumaris
No. 11 - Stop 16023, 298 Bay Road Cheltenham
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant an Amended Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Urbis</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The site is subject to restrictive covenant 0797019. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>11 June 2019</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>68 days (as of 23/09/2019)</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Site area</td>
<td>994m²</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>4</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>No – Proposal is exempt</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>Yes – Proposal is exempt</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval to amend the permit pursuant to Section 72 of the Planning and Environment Act 1987.

The list of the proposed amendments is as follows:

- The addition of a first floor rumpus room to the south of Dwelling 1;
- The addition of a pergola to the rear of Dwelling 1;
- Reduction in the ground floor rear setback of Dwelling 1 from 8.14 metres to 7.8 metres; and
- The Street setback of Dwelling 1 increased from 10.26 metres to 10.76 metres at ground and first floor.

The application plans are provided at Attachment 1.
An aerial image and photographs of the site and surrounds are provided at Attachment 4.

History

Council issued a Notice of Decision for Planning Permit 2016/612/1 at the Planning and Amenity Committee meeting on 12 September 2017. The Planning Permit was appealed to the Victorian Civil and Administrative Tribunal (VCAT) by a neighbour and a consent order was signed to dismiss the review. Planning Permit 2016/612/1 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 6 April 2018, allowing the construction of two dwellings on a lot, construction of a front fence in excess of 1.2 metres, and the construction of a roof deck above the second storey of a building. A copy of the permit is included at Attachment 2.

Plans were endorsed in accordance with the Planning Permit on 3 July 2018. A copy of the endorsed plans is included at Attachment 3.

2. Planning controls

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

Planning Permit requirements associated with amendments

A planning permit is required pursuant to:

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

Original planning permit requirements

- Clause 32.09-6 (Neighbourhood Residential Zone – Schedule 3) – Construction of two or more dwellings on a lot and construction of a front fence exceeding 1.2m in height.
- Clause 43.02 (Design and Development Overlay – Schedule 1) – Construction of a roof deck 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 five objections were received.

Four objections remain outstanding at the time of this report.

The following concerns were raised:

- Visual bulk;
- Overlooking;
- Building height;
- Side and rear setbacks of Dwelling 1;
- Overshadowing;
- Site permeability;
- Lack of trees for screening;
- Insufficient information to consider application;
- Shading of *Lophostemon confertus* (Brush Box tree); and
- Environmental impact.

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

Consultation meeting
The applicant declined a consultation meeting. However, the applicant has been in direct discussions with the majority of the neighbours, with one objector withdrawing their objection as a result of these discussions.

4. Recommendation
That Council resolve to issue a **Notice of Decision to Grant an Amended Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application 2016/612/2 for the land known and described as **25 Dawson Avenue, Brighton**, for the **construction of two dwellings on a lot**, construction of a **front fence in excess of 1.2 metres**, and the **construction of a roof deck above the second storey of a building** 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 but modified to show:
   a) Reduction of the overall height of Dwelling 1 to comply with Standard B7 of Clause 55 of the Bayside Planning Scheme.
   b) A 0.6m reduction in the width of the paved pathway adjacent to the site’s west boundary along its 26m length between the front boundary and the Dwelling 1 courtyard. The path shall have a maximum width of 1.2 metres.
   c) A detailed landscape plan in accordance with Condition 14 of this permit.
   d) Any development modifications recommended in the Tree Impact Assessment Report in accordance with Condition 17 to ensure the continued health and longevity of all trees whose Tree Protection Zones (refer AS4970-2009) fall within the subject site.
   e) A 0.8m wide splitter island added within the nature strip, to separate the two driveways.
   f) The 1 metre vehicle ramp transitions extended to 2 metres.
   g) A schedule of construction materials, external finishes and colours (incorporating, for example, paint samples).
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. All pipes (excluding down pipes), fixtures, fittings and vents servicing any building on the site must be and remain concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

5. All plant and equipment to be located away from habitable room windows of the dwellings and the adjoining properties habitable rooms.

6. 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.

7. Before occupation, screening of windows and roof decks including fixed privacy screens designed to limit overlooking as required by Standard B22 of Clause 55 of the Bayside Planning Scheme must be installed and maintained thereafter for the life of the building to the satisfaction of the Responsible Authority.

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

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

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

11. A 0.8 metre wide splitter island must be constructed within the nature strip, to separate the two driveways.

12. The 1 metre vehicle ramp transitions must be extended to 2 metres.

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

14. Prior to endorsement of plans pursuant to Condition 1, a detailed landscape plan must be submitted to, and endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan prepared by Craig Eldridge Design, titled “25 Dawson Ave Brighton, Victoria”, dated 10/04/17, Sheets TP01 – TP04, and be drawn to scale with dimensions. Three copies must be provided. The plan must show:

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

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

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

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

f) Details of surface finishes of pathways and driveways.

g) One large coastal canopy tree with the capacity to reach a mature height of 10 m and spread of 6 m at maturity, in the front setback of each new dwelling.

h) One small coastal canopy tree, with the capacity to reach a mature height of 8 m and spread of 4 m at maturity in the rear private open space of each dwelling.

i) Shrubs and ground-covers must also include coastal species.

j) All proposed plantings that were shown on Council land, removed.

k) Landscaping of the enlarged permeable area adjacent to the western boundary to be created by 0.6 metre reduction in the width of the paved pathway, in accordance with Condition 1(b).

l) **With respect to Amendment 2, a revised Landscape Plan that is in accordance with Condition 14 (g) and (h).**

15. 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.

16. 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.

17. Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to, and be endorsed by the Responsible Authority.

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

- Details of Tree Protection Zones 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;
- Comment on methods to be utilised and instruction on how to deploy them;
- Comment on when the protection measures are to be deployed;
- Comment on when the protection measures can be modified;
- Process that will be followed if any damage occurs to a tree;
- Process that will be followed if construction works require alteration to protection measures outlined in report; and
- Stages of development at which inspections will occur.

Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist. Such approval must be noted.
and provided to the Responsible Authority within 28 working days of a written request.

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

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

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

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

18. 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.

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

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

21. 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.

22. Prior to endorsement of plans pursuant to Condition 1, a Tree impact assessment report in accordance with part 2.3.5 of Australian Standard Protection of Trees on Development Sites 4970-2009 must be submitted to, and approved by, the Responsible Authority. The report must:
   a) Identify impacts that may be detrimental to the tree(s);
   b) Include design responses required to reduce any identified negative impact; and
   c) Be modified to include any recommendations made in the report.

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

24. There must be no soil excavation within 2 metres of the Ulmus parvifolia (Chinese Elm) street tree at the western end of the site frontage, measured from the edge of the trunk.

25. Before the development begins, 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.

26. Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures”.

27. 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 Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

28. 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, works to public property or occupy the building or part of the building unless all relevant building and asset protection permits are obtained. The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.

- Before any Asset Protection Permit is issued by Council, the applicant must pay $2,168.55 to the Responsible Authority for the removal and replacement of the Ulmus procera (English Elm) street tree located centrally along the site frontage. 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.

- Council records indicate that there is a 1.22m wide drainage and sewerage easement along the western property boundary as indicated on the drawings provided. The plans indicate that a decking shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

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 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct C1)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations of amendments

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

The consideration of the amendments is limited to the proposed changes sought by the applicant. Consideration has not been given to elements already approved as part of the original application but not sought to be amended.

6.1. Neighbourhood character

The site is located within the Neighbourhood Character Precinct C1. Subject to conditions, the proposal demonstrates an appropriate level of compliance with the preferred future character statement and precinct guidelines.

The proposed amendments to Dwelling 1 of the development seek approval for the addition of a first floor rumpus room to the rear, a pergola to the rear, an increase to the street setback and a reduction to the ground floor rear setback.

From a neighbourhood character perspective, the additions would not alter the approved development when viewed from Dawson Avenue (as the additional works locate to the rear).

Whilst there would be some change to ‘backyard character’ due mainly to the rumpus room addition, the length of works are not unreasonable the rear setback would still exceed that of the approved dwelling 2 of the same development. Given that works meet the setback requirements (and in fact well exceed with respect to the rear), impact on views from adjacent rear yards would not look out of place in this area.

6.2. Assessment of amendments

**First floor rumpus room**
The applicant seeks the addition of a first floor rumpus room to be located to the rear of Dwelling 1. The proposed rumpus room will result in no unreasonable amenity impacts to the adjoining neighbours to the south and west, as all relevant ResCode standards that seek to protect neighbouring amenity are complied with (overshadowing, overlooking, setbacks etc).

**Pergola**

A 3.3 metre high pergola is proposed to the rear of Dwelling 1 and is to be located within the private open space of the dwelling. The proposed pergola will not adversely impact upon the amenity of any of the adjoining properties and will improve usability of the secluded private open space by the future occupants.

**Front Setback**

The ground and first floor front setback of Dwelling 1 is to be increased from 10.26 metres to 10.76 metres. This is a positive change that would reduce visual impact of the development as it would be set further back.

**Rear Setback**

The rear setback of Dwelling 1 is to be reduced from 8.14 metres to 7.8 metres at ground floor and from 19.2 metres to 7.8 metres at first floor. The proposed decrease of 0.34 metres to the rear setback of the development will unlikely be noticeable as it still a generous setback that well exceeds the formal requirements of 3 metres. The proposed decrease at first floor level is also remains a generous setback, exceeding the 4.82 metres required by the standard.

**6.3. Landscaping**

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

A number of changes have been made to the landscape plan with respect to tree species and maturity heights. A condition of the permit will be included to submit a revised Landscape Plan that is in accordance with condition 14 g) and h) of the planning permit. Condition 14 g) requires one large coastal canopy tree with the capacity to reach a mature height of 10 metres and a spread of 6 metres at maturity, in the front setback of each new dwelling. Currently the submitted landscape plan shows a small canopy tree with capacity to reach a mature height of 8 metres in the front setback of each dwelling. Condition 14 h) requires one small coastal canopy tree, with the capacity to reach a mature height of 8 metres and a spread of 4 metres in the rear private open space of each dwelling. Currently the submitted landscape plan shows a small canopy tree with capacity to reach a mature height of 6 metres in the rear of each dwelling.

**6.4. Cultural Heritage management plan**

Based on the Aboriginal heritage planning tool questionnaire, a cultural heritage management plan is required and has been undertaken. The findings of this plan does not prohibit the granting of a planning permit.

**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**

**Building Height**

The proposed amendments will result in no change to the overall height of the building or the height of the first floor.
Insufficient information to consider application

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.

Environmental Impact

The proposed amendments result in no changes to the environmental sustainability of the development.

Shading of Brush Box Tree

The proposed first floor rumpus room is to the south of the Brush Box tree of 27 Dawson Street and due to the orientation of the site there will be no additional overshadowing that will impact upon the trees health.

Support Attachments

1. Application Plans ↓
2. Planning Permit ↓
3. Endorsed Plans ↓
4. Site and Surrounds ↓
PLANNING PERMIT
5/2016/612/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land: No. 25 Dawson Avenue BRIGHTON

Construction of two dwellings on a lot, the construction of a front fence with a height in excess of 1.2 metres, and the construction of a roof deck above the second storey of a building in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans date-stamped 7 November 2016, but modified to show:
   a) Reduction of the overall height of Dwelling 1 to comply with Standard B7 of Clause 55 of the Bayside Planning Scheme.
   b) A 0.6m reduction in the width of the paved pathway adjacent to the site’s west boundary along its 26m length between the front boundary and the Dwelling 1 courtyard. The path shall have a maximum width of 1.2 metres.
   c) A detailed landscape plan in accordance with Condition 14 of this permit.
   d) Any development modifications recommended in the Tree Impact Assessment Report in accordance with Condition 17 to ensure the continued health and longevity of all trees whose Tree Protection Zones (refer AS4970-2009) fall within the subject site.
   e) A 0.8m wide splitter island added within the nature strip, to separate the two driveways.
   f) The 1 metre vehicle ramp transitions extended to 2 metres.
   g) A schedule of construction materials, external finishes and colours (incorporating, for example, paint samples).

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.

Date issued: 6 April 2018

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
4. All pipes (excluding down pipes), fixtures, fittings and vents servicing any building on the site must be and remain concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

5. All plant and equipment to be located away from habitable room windows of the dwellings and the adjoining properties habitable rooms.

6. 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.

7. Before occupation, screening of windows and roof decks including fixed privacy screens designed to limit overlooking as required by Standard B22 of Clause 55 of the Bayside Planning Scheme must be installed and maintained thereafter for the life of the building to the satisfaction of the Responsible Authority.

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

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

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

11. A 0.8 metre wide splitter island must be constructed within the nature strip, to separate the two driveways.

12. The 1 metre vehicle ramp transitions must be extended to 2 metres.

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

14. Prior to endorsement of plans pursuant to Condition 1, a detailed landscape plan must be submitted to, and endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan prepared by Craig Eldridge Design, titled "25 Dawson Ave Brighton, Victoria", dated 10/04/17, Sheets TP01 – TP04, and be drawn to scale with dimensions. Three copies must be provided. The plan must show:

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

Date issued: 6 April 2018

Michael Henderson
Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
c) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.

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

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

f) Details of surface finishes of pathways and driveways.

g) One large coastal canopy tree with the capacity to reach a mature height of 10 m and spread of 6 m at maturity, in the front setback of each new dwelling.

h) One small coastal canopy tree, with the capacity to reach a mature height of 8 m and spread of 4 m at maturity in the rear private open space of each dwelling.

i) Shrubs and ground-covers must also include coastal species.

j) All proposed plantings that were shown on Council land, removed.

k) Landscaping of the enlarged permeable area adjacent to the western boundary to be created by 0.6 metre reduction in the width of the paved pathway, in accordance with Condition 1(b).

15. 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.

16. 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.

17. Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to, and be endorsed by the Responsible Authority.

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

- Details of Tree Protection Zones 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;

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

- Comment on when the protection measures are to be deployed;

- Comment on when the protection measures can be modified;

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

Date issued: 6 April 2018

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
• Process that will be followed if construction works require alteration to protection measures outlined in report; and
• Stages of development at which inspections will occur.

Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist. Such approval must be noted and provided to the Responsible Authority within 28 working days of a written request.

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

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

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

18. 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.

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

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

21. 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.

22. Prior to endorsement of plans pursuant to Condition 1, a Tree impact assessment report in accordance with part 2.3.5 of Australian Standard Protection of Trees on Development Sites 4970-2009 must be submitted to, and approved by, the Responsible Authority. The report must:
   a) Identify impacts that may be detrimental to the tree(s);
   b) Include design responses required to reduce any identified negative impact; and
   c) Be modified to include any recommendations made in the report.

23. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where storm-water is drained under gravity to the Council network.
24. There must be no soil excavation with in the 2 metres of the Ulmus parvifolia (Chinese Elm) street tree at the western end of the site frontage, measured from the edge of the trunk.

25. Before the development begins, 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.

26. Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.”

27. 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 Contributions Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

28. 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, works to public property or occupy the building or part of the building unless all relevant building and asset protection permits are obtained. The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.

- Before any Asset Protection Permit is issued by Council, the applicant must pay $2,168.55 to the Responsible Authority for the removal and replacement of the Ulmus procera (English Elm) street tree located centrally along the site frontage. 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.

**Note:** Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
Council records indicate that there is a 1.22m wide drainage and sewerage easement along the western property boundary as indicated on the drawings provided. The plans indicate that a decking shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities.
Item 4.3 – Matters of Decision
Item 4.3 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th>Icon</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>
Figure 2 View towards the site from Dawson Avenue
4.4 1 ORLANDO STREET, HAMPTON
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2018/540/1 WARD: CENTRAL

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/249240

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>Grollo Homes</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>12 August 2019 (amendment)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>57 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 12)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Site area</td>
<td>461sqm</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>5</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>Yes (exempt activity)</td>
</tr>
</tbody>
</table>

Proposal

The application seeks to construct one dwelling on a lot with an area less 500sqm. Key details of the proposal are as follows:

- The existing dwelling and all outbuildings would be demolished;
- The new dwelling would be double storey, with a maximum height of 8.1m;
- External material would comprise a combination of brick and render, with a contemporary appearance and a part flat / part skillion roof form;
- A double garage is proposed at the rear of the site, accessed off the existing Right of Way off Beach Road;
- Site coverage would equate to 56.3%;
- Permeability would equate to 39%; and
- The site would be cleared of existing vegetation, none of which is significant by way of species, health, prominence etc.
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 32.08-5 (General Residential Zone) – Construction of a dwelling on a lot less than 500sqm.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
</table>
| Arborist          | • No significant trees exist on site and removal is supported.  
                    | • Tree management plan required to protect neighbouring trees.  
                    | • Some modifications required to the submitted landscape plan. |
| Traffic Engineer  | • Swept path diagrams required to demonstrate functional access to and from the garage (these have since been provided).  
                    | • Redundant vehicle crossing off Orlando Street to be removed and reinstated with nature strip. |

Public notification

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

Five objections remain outstanding at the time of this report.

The following concerns were raised:

- Works may damage neighbouring vegetation.
- Request that the entire southern boundary be constructed of rendered brick at applicant’s expense.
- Contemporary appearance and lack of front fence is out of character.
- Overlooking.
- Object to the Right of Way use as subject site has no legal access rights.
- Request for a convex mirror on Beach Road to allow for better views of southbound traffic when exiting the Right of Way.

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

Consultation meeting

A consultation meeting was held on 21 March 2019 attended by the permit applicant and four objectors (over three objecting properties).

After this meeting, the applicant advises that they engaged (or attempted to engage) the objecting parties to discuss potential changes.

Amended plans were prepared and ultimately submitted to Council on 12 August 2019. Changes to the plans are described as follows:

- Increase the setback of the garage from the rear boundary, and remove mud room from structure to allow vehicles to reverse without encroaching into the carriageway easement of 68 and 69 Beach Road.
- Additional screen plantings along common boundary with 3 Orlando Street.
- Stand-alone screening device (3.4m high) erected within the proposed northern area of the SPOS to restrict views into 3 Orlando Street.

Plans were not readvertised as the nature of change and additions were all positive changes in response to objections (serving to reduce amenity impact).

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 2018/540/1 for the land known and described as 1 Orlando Street Hampton for the construction of a dwelling on a lot less than 500sqm in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and/or development start/s, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Grollo Homes dated 08/08/2019 but modified to show:

   a) Existing crossover along Orlando Street to be removed and reinstated.
   b) A Landscaping Plan in accordance with Condition 9 of this permit.
   c) Water Sensitive Urban Design measures in accordance with Condition 7 of this permit.
   d) Tree Management Plan in accordance with condition 12.

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. 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

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.

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 advertised landscape concept plan but modified to show:

   a) All relevant information as shown on the revised landscape plan prepared by Grollo Homes dated July 2019.

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 (TMP) and Tree Protection Plan (TPP), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

The TMP must include:

a) Details of Tree Protection Zones, as per AS4970, for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.

b) Protection measures to be utilised and at what stage of the development they will be implemented.

c) Appointment of a Project Arborist detailing their role and responsibilities.

d) Stages of development at which the project arborist will inspect tree protection measures.

e) Monitoring and certification by project arborist of implemented protection measures.

The TPP must:

a) Be drawn to scale.

b) Show the location of all tree protection measures to be utilised.

c) Include a key describing all tree protection measures to be utilised.

N.B. Both TMP and TPP must form one document.

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

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

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

16. The following trees are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site:

- 11, 12, 13, 14, 15, 16, 17, 18 & 19

Street tree protection

17. Soil excavation must not occur within 2 metres from the edge of the street tree asset’s stem at ground level.

18. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:

a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.

c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.

d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.

e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

19. 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 must be correctly pruned.

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

Drainage

21. 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

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

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

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

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

Permit Notes:

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

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

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

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

5. Council Policy

Council Plan 2017-2021
Relevant objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- 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 9 Plan Melbourne
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct F1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 General Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 12)
- Clause 52.06 Car Parking
- Clause 54 One Dwelling on a Lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct F1. 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 dwelling is of a reasonable height and scale, with setbacks that allow for visual separation between buildings and ensure that sufficient open areas remain for additional
landscape features, including multiple canopy trees.

No significant vegetation currently exists on site, and hence the additional plantings to be implemented through the landscape plan will provide a superior landscape outcome over time.

Whilst the predominant character along Orlando Street comprises largely smaller scale, traditional weatherboard dwellings, there are numerous examples of more modern buildings within the street. Given the location of this site towards the very end (or start) of the street, its impact on streetscape character would be minimised, and in any case the design detail provides for an acceptable balance between traditional and modern building forms.

6.2. Compliance with Clause 54 (ResCode)

An assessment against the requirements of Clause 54 is provided at Attachment 4. Those non-compliant standards are discussed below:

**Side and rear setbacks (Standard A10)**

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North (side)</strong></td>
<td><strong>South (side)</strong></td>
</tr>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>0m or 1m</td>
<td>2.1m</td>
</tr>
</tbody>
</table>

A very small area of the garage does not comply with the rear setback standards as evident in the diagram below:

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

As clearly evident in the diagram, the encroaching area is very small, and given the adjacent interface comprising a laneway, would have no impact on character or neighbouring amenity. The garage was previously proposed to run along the boundary itself (which would have been compliant), however was recessed to ensure vehicles had adequate space to reverse out of the parking structure.

The remaining built form is setback well in excess of that formally required, and more than compensates for this very minor area of non-compliance.

6.3. Landscaping

The application plans show the removal of all vegetation from the site, none of which is protected under local law and hence this removal poses no concerns from a planning perspective.

Council’s Arborist in their referral response advised that tree removal is supported, subject to the approval of a landscape plan in accordance with Council guidelines (to be required through condition).

Neighbouring trees must be protected through a Tree Management and Protection Plan, which will be required through condition.

6.4. 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.

The proposed dwelling comprises four bedrooms and is afforded two car parking spaces in the form of a double garage. The proposed on site car parking meets the requirements of Clause 52.06-5.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to clarification that turning circles were functional (this was clarified prior to a decision being made) and subject to the inclusion of standard permit conditions.

6.5. 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.

6.6. Development contributions levy

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

6.7. Objector issues not already addressed

Request that the entire southern boundary be constructed of rendered brick at applicant’s expense.

Boundary treatments are a civil matter between the two respective property owners. Council cannot involve itself in these civil matters, and they do not form part of the planning consideration process.
Object to the Right of Way use as subject site has no legal access rights.

The relevant land title states that the subject property does in fact have legal access of the rear Right of Way (further noting that the existing property already relies on such access).

Request for a convex mirror on Beach Road to allow for better views of southbound traffic when exiting the Right of Way.

Given that traffic within the Right of Way is not increasing (as the existing dwelling already accesses off this driveway), Council could not reasonably enforce such a requirement upon this particular applicant. This matter should be raised separately with Council traffic engineers (and likely VicRoads) as a request independent of this application.

Support Attachments
1. Development Plans
2. Site and Surrounds
3. Neighbourhood Character Assessment
4. Clause 54 Assessment
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
No 3 ORLANDO ROOF EXTENT INDICATIVE ONLY

REFER TO LANDSCAPE DESIGN FOR PLANTING PROPOSAL

No 3 ORLANDO ROOF EXTENT INDICATIVE ONLY

REFER TO LANDSCAPE DESIGN FOR PLANTING PROPOSAL

No 3 ORLANDO ROOF EXTENT INDICATIVE ONLY

REFER TO LANDSCAPE DESIGN FOR PLANTING PROPOSAL

**NOTE:**

COLOURS AND PERSPECTIVE VIEWS ARE INDICATIVE ONLY

---

Item 4.4 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 2. A photo of the subject site from Orlando Street.

Figure 3. A photo of rear access point off Beach Road (not existing garage – being demolished).
Figure 4. Further photo of rear access point off Beach Road.
Appendix 3

Neighbourhood Character Precinct F1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings and be appropriate to the building era.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds No planning controls exist that would allow Council to enforce the retention of the existing dwelling. Furthermore, it is not considered to be so significant as to warrant such a control.</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character.</td>
<td>• Retain established trees and vegetation. • Replace any trees removed with species that will grow to a similar height. • Encourage replanting of indigenous sandbelt vegetation. • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation.</td>
<td>Lack of landscaping and substantial vegetation. Removal of trees. Planting of environmental weeds.</td>
<td>Responds No significant vegetation exists within the site. The landscape plan submitted with the application will ensure an appropriate landscape outcome (over time as the plants mature).</td>
</tr>
<tr>
<td>To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs. • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>Loss of front garden space.</td>
<td>Responds Setbacks and open space throughout the site are sufficient to allow for various plantings, including numerous canopy trees. The front façade is setback from both side boundaries, ensuring that the sense of space along the streetscape is maintained.</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 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.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>Responds</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>The garage locates to the rear of the site, and is not visible from any streetscape.</td>
</tr>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>• Recede second storey elements from the front façade.</td>
<td>High pitched or mansard roof forms with dormer windows.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The first floor is adequately recessed, and further articulated by varied setbacks and change in material.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.</td>
<td>Large bulky buildings with flat, poorly articulated front wall surfaces.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed dwellings relationship with the adjacent heritage property to the south is appropriate.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The property to the south orientates towards Linacre Road, and suitably distinguishes itself from the remaining dwellings along Orlando Street by its siting and orientation.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed dwellings is adequately setback from the common boundary to the south, and would not overwhelm or interfere with the property in a negative way.</td>
</tr>
<tr>
<td>To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes.</td>
<td>• Incorporate a variety of timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing (e.g. Large masonry columns and piers).</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The combination of materials is acceptable for this area, which is undergoing change as older dwellings are demolished for newer, more modern forms.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposal achieves an acceptable balance between respecting the</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>--------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape and views to the dwellings.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing</td>
<td>Responds No front fence is proposed.</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with the foreshore reserve.</td>
<td>• Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.</td>
<td>Anonymous</td>
<td>Responds Whilst close to the foreshore reserve, the proposed building would unlikely be visible, certainly not to the point where it would impact on the character of this area.</td>
</tr>
<tr>
<td></td>
<td>• Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### ResCode Clause 54 (One Dwelling on a Lot)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Complies</td>
<td>Refer to section 6.1 of the report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Complies</td>
<td>The dwellings appropriately address the street and the entrance is clearly identifiable.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Complies</td>
<td>Minimum: 5.15m</td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</td>
<td>Proposed: 5.15m</td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Complies</td>
<td>Required: 11m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td>Proposed: 8m</td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Complies</td>
<td>Maximum: 60%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Proposed: 56%</td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Complies</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Proposed: 39%</td>
<td></td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Complies</td>
<td>The proposal provides appropriate solar access to the dwelling.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Complies/Does not Comply</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>4.4</td>
<td>fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
</tr>
<tr>
<td>A8 Significant Trees</td>
<td>Development respects the landscape character of the neighbourhood and retains significant trees on site.</td>
<td>Complies</td>
</tr>
<tr>
<td>A10 Side and Rear Setbacks</td>
<td>Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td>Does not Comply</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 1m</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.

Complies

Southern walls
- Maximum Height: 3.6m
- Proposed: 3.5m
- Maximum Average Height: 3.2m
- Proposed: 3.2m
- Maximum Length: 15m
- Proposed: 14.9m

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

Complies

Adequate setbacks are proposed to ensure compliance with this standard.

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

N/A
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Compliance</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A14</td>
<td>Overshadowing Open Space</td>
<td>Complies</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td>A15</td>
<td>Overlooking</td>
<td>Complies</td>
<td>Screening is utilised where required, noting that a number of windows (particularly those at the rear façade) are setback from boundaries such that screening is not formally required. A stand-alone screen has been proposed within the application site (adjacent the proposed side courtyard) to limit overlooking to the north.</td>
</tr>
<tr>
<td>A16</td>
<td>Daylight to New Windows</td>
<td>Complies</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space</td>
<td>Complies</td>
<td>SPOS well exceeds the formal requirement.</td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space</td>
<td>Complies</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail</td>
<td>Complies</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences</td>
<td>Complies</td>
<td>No front fence proposed.</td>
</tr>
</tbody>
</table>
4.5 178 SOUTH ROAD, BRIGHTON EAST
ISSUE A NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2019/216/1 WARD: CENTRAL

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/242577

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>Urban Edge Consultants 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>18 March 2019</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>5 days (as of 25 September 2019)</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td>Site area</td>
<td>793m²</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>25</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>No</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>No</td>
</tr>
</tbody>
</table>

Proposal
The application seeks the Neighbourhood Residential Zone Schedule 3: Use of land as a Medical Centre and buildings and works associated with a Section 2 use.

Key details of the proposal are as follows:

- Use of the building as a Medical Centre.
- Construction of a 263m² single-storey building with a maximum height of 6.37m.
- Alteration of vehicle access from Kingston Street.
- Provision of 11 vehicle parking spaces including 1 disabled parking space.

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 32.09-2 (Neighbourhood Residential Zone) – Use of the land for a Medical Centre.
• Clause 32.09-9 (Neighbourhood Residential Zone) – Buildings and works associated with a Section 2 use.

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

3. Stakeholder consultation

External referrals
The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>VicRoads</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>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 26 objections were received. 25 objections currently remain outstanding at the time of this report. The following concerns were raised:

• Parking;
• Traffic;
• Neighbourhood character;
• Use;
• Amenity;
• Overshadowing;
• Impact on neighbouring trees;
• Demolition/Asbestos;
• Signs; and
• Heritage.

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

Consultation meeting
A consultation meeting was held on 7 August 2019 in the form of a drop-in information session. This meeting was attended by the permit applicant and representatives for seven (7) of the objectors. As a result of this meeting, no objections were withdrawn.
Amended Plans

Plans were formally amended pursuant to Section 57A of the Planning and Environment Act 1987 by the Applicant to address objections raised by the immediate adjoining neighbours. The changes to the plans are as follows:

- Relocation of air conditioning units, bins and water tank; and
- Widening of landscape buffer between car park and western site boundary.

The changes to the plans were not considered to be required to be re-advertised as the changes would not result in material detriment to any persons. As a result of these amended plans, one (1) 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 2019/216/1 for the land known and described as 178 South Road, Brighton East, for Neighbourhood Residential Zone Schedule 3: Use of land as a Medical Centre and buildings and works associated with a Section 2 use in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (amended) prepared by Clinics by design referenced TP.01 – TP.19, dated 27 May 2019 and revision number 1 but modified to show:

   a) Car space 7 where it abuts the fence to the service area to be increased in width by 300mm with no changes to the width of the remaining car spaces.
   b) A ‘No Stopping’ sign to be installed on the nature strip adjacent to the site along Kingston Street between to vehicle access to the site and South Road.
   c) Car park to be line-marked in accordance with AS2890.1.
   d) A 3 metre by 3 metre pedestrian corner splay at the intersection of South Road and Kingston Street to be maintained.
   e) Removal of indicative sign locations.
   f) A schedule of construction materials, external finishes and colours.
   g) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit.
   h) An Arboricultural Impact Assessment in accordance with Condition 10 of this permit.
   i) Any design responses required to address findings and recommendations of the Arboricultural Impact Assessment Report.
   j) A Landscaping Plan in accordance with Condition 11 of this permit.
   k) A Tree Protection and Tree Management Plan in accordance with Condition 14 of this permit.
l) Details of the acoustic fence in accordance with Condition 17 to be shown on the plans.

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.

Use

6. Not more than three (3) practitioners may be present on the premises at any one time without the prior written consent of the Responsible Authority.

7. The use may operate only between the hours of Monday to Friday: 8:00am – 6:00pm and Saturday: 8:00am – 1:00pm unless with the prior written consent 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.

Arboricultural Impact Assessment

10. Prior to endorsement of plans pursuant to Condition 1, an Arboricultural Impact Assessment Report in accordance with Australian Standard 4970-2009
Protection of Trees on Development Sites must be approved by the Responsible Authority. The report must:

a) Identify impacts that may be detrimental to trees on neighbouring properties with their TPZ’s extending into the subject site.

b) Include design responses required to reduce any identified negative impact.

All plans associated with the development must be modified to include any recommendations made in the Arboricultural Impact Assessment Report.

**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 concept plan drawn by John Patrick Landscape Architects, reference L01, dated April 2019 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) Development Changes.

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

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

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

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

f) Details of surface finishes of pathways and driveways.

g) Removal of the proposed Japanese Elm tree in the rear south-east corner of the site and replacement with a canopy tree with the capacity to grow to a minimum height of 10 metres with a minimum canopy spread of 6 metres.

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.

**Tree Management and Protection Plan**

14. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified Arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction.
Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

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

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

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

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

16. Before the development starts, 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.

Acoustic fence

17. Before the use begins, an acoustic fence must be constructed along the southern and western boundaries of the proposed car park of the site to a minimum height of 1.8m above natural ground level. The design of the fence must be prepared in consultation with/by a suitably qualified acoustic engineer. The details of the design and acoustic qualities of the fence must be to the satisfaction of the Responsible Authority.

Street tree protection

18. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:

a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.

b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.

c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.

d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.

e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

Drainage

19. 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.

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

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.
c) The use is not started within five years of the date of this permit.
d) The use is discontinued for a period of two years or more.

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.
- Council records indicate that there is a 1.83m wide drainage and sewerage easement along the South property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities. Minimum easement width must the greater of; 2m from the boundary or 0.5m from the asset.

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 15 Built Environment and Heritage
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
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.

The proposed new medical centre building will be appropriately set back from the front, side and rear site boundaries to ensure that there is sufficient space for landscaping. This will maintain both the rhythm of visual separation between buildings within the street and the garden setting of the site. Subject to condition, appropriate canopy trees will be planted in the front and rear setbacks of the site.

The new building incorporates a pitched roof with eaves and is proposed to be constructed in light coloured render and block work, with a tiled roof. These materials will respond appropriately to the palette of materials within the neighbourhood. Vehicle parking will be open, and whilst it is noted that the area of the site given over to vehicle parking will be larger than that usually provided for a single dwelling, this area will be sited to the rear of the building, obscured from view from South Road.

The proposed front fence will be high, however this reflects the existing front fence and many of the similar front fences along this stretch of the heavily trafficked South Road. The proposed development is considered to respect the existing and preferred neighbourhood character.

6.2. Discretionary Uses in Residential Areas

The site is located in the Neighbourhood Residential Zone, the final purpose of which reads “to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations”. This is further reflected in Council’s Municipal Strategic Statement which recognises that “there are a number of important uses that should be located within residential areas of the municipality, including medical centres”.

A medical centre is listed in Clause 32.09-2 of the Bayside Planning Scheme as a Section 1 use in the Neighbourhood Residential Zone if a number of conditions are met. These
conditions are as follows: the medical centre must be located in an existing building, the gross floor area must not exceed 250m2, the site must adjoin a Road Zone and must not require a permit for car parking.

As this application seeks to construct a new building for use as a medical centre, with an area over 250m2, the conditions set out in Clause 32.09-2 of the Bayside Planning Scheme are not met. The use is therefore a Section 2 use for which a permit is required.

Clause 22.07 of the Bayside Planning Scheme provides a set of guiding principles for assessing the discretionary use of a site, including the use of a site for a medical centre in a residential area. These principles provide a guide for the appropriateness of the location for the discretionary use. These are ‘preferred’ locations and not mandatory, which suggests that other locations can also be appropriate. The preferred locational criteria and an assessment against these criteria is as follows:

<table>
<thead>
<tr>
<th>Policy:</th>
<th>Response:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The discretionary use abuts a Road Zone or collector road. Other locations may only be favourably considered where it can be demonstrated that residential amenity will not be unreasonably compromised.</td>
<td>The site directly abuts South Road, which is identified as a Road Zone Category 1.</td>
</tr>
<tr>
<td>Site consolidation is encouraged to ensure adequate on-site parking, landscaping and setbacks are provided.</td>
<td>The site is approximately 793m² in size, which is considered more than capable of providing sufficient setbacks, on-site parking and landscaping.</td>
</tr>
<tr>
<td>The discretionary use is on a corner site.</td>
<td>The site is located on the corner of South Road to the north and Kingston Street, to the west.</td>
</tr>
<tr>
<td>The discretionary use is located on the periphery of commercial areas or adjacent to other discretionary uses to provide a transition between commercial and residential areas.</td>
<td>The site is located approximately 350 and 800 metres away from commercially zoned land to the south and west respectively. Access to the Commercial Zone to the west is provided by public transport on South Road.</td>
</tr>
<tr>
<td>The discretionary use is located near similar community and support facilities.</td>
<td>The site is located in a residential area, and there are schools and childcare centres close by.</td>
</tr>
<tr>
<td>The discretionary use is located within walking distance of public transport and promotes safe and convenient pedestrian access.</td>
<td>There are bus stops located on South Road and Ludstone Street, close to the development.</td>
</tr>
</tbody>
</table>

6.3. Buildings and Works

The proposed single-storey building will be set back from the front, side and rear boundaries of the site appropriately to ensure that its siting will reflect the character of buildings within the immediate neighbourhood. The overall height of the building will be in-keeping with the prevailing building heights in the surrounding area which comprises a combination of single and double-storey dwellings.

6.4. Amenity

The impact of the application on the amenity of the surrounding area is required to be considered. The emission of light and noise are not expected to be unreasonable within the context of South Road. The vehicle and pedestrian entry points face towards
Kingston Street and are not located directly adjacent to neighbouring residential property boundaries.

The application seeks to operate the Medical Centre on an appointment only basis with 3 practitioners. The number of practitioners is linked to parking which is discussed in more detail below, and in terms of scale and intensity, it is considered that the proposal for 3 practitioners will be appropriate of the development of the site in this location.

It is proposed to operate the medical centre for the following times:

- Monday to Friday: 8:00am – 6:00pm
- Saturday: 8:00am – 1:00pm
- Sunday: Closed

The above hours of operation are considered to be reasonable and conform with the suggested hours of operation outlined at Clause 22.07 of the Bayside Planning Scheme.

Overall, the proposed use will not result in any unreasonable off-site amenity impacts provided that appropriate conditions are placed on the permit, including restrictions on the operating hours and number of practitioners.

6.5. Landscaping

The application does not propose to remove any trees protected by the Local Law. The application plans show the removal of 3 exotic trees. Council’s Arborist in their referral response has advised that these trees have a low amenity value and their removal is supported.

Tree Nos. 3, 4 and 6 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 an Arboricultural Impact Assessment is required to be provided to demonstrate design and construction methods to minimise the impact of the proposed development on these neighbouring trees.

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

The submitted landscape plan shows the planting of canopy trees in the front and rear setbacks of the site. Council’s Arborist has reviewed the submitted landscape plan and advised that the proposed planting space in the rear setback would not accommodate sufficient soil volume for the Japanese Elm tree proposed to be located here. A condition is therefore recommended requiring this Japanese Elm tree to be replaced with a suitable canopy tree of a species which will have sufficient soil volume to comfortably grow to a minimum height of 10 metres and have a minimum canopy spread of 6 metres. The landscape plan will also be required to be updated to reflect changes to the landscaping buffer along the eastern site boundary and the service areas around the building, shown on the formally amended development plans.

6.6. Street trees

There are a number of small street trees located within the nature strip adjacent to the site. These trees are proposed for retention. A condition is recommended requiring the trees to be protected during construction.

6.7. Car parking and traffic

Pursuant to the car parking requirements at Clause 52.06, a medical centre requires car parking to be provided at a rate of 5 spaces for the first practitioner and 3 spaces for each practitioner thereafter.
As this application proposes a medical centre with three (3) practitioners, eleven (11) parking spaces are required to be provided to meet the requirements set out in Clause 52.06 of the Bayside Planning Scheme. Eleven (11) off-street parking spaces are proposed. This parking provision meets the requirements of Clause 52.06 of the Bayside Planning Scheme.

Clause 22.07 of the Bayside Planning Scheme sets out specific parking requirements for discretionary uses in residential areas and requires 5 parking spaces to be provided per practitioner. 15 parking spaces would therefore be required to be provided to meet the parking rate set out in Clause 22.07.

The application was referred to Council’s Traffic Engineer who raised no concerns with respect to the number of parking spaces proposed. It is considered that there are adequate public transport routes within close proximity of the site and available parking on the surrounding streets to accommodate the shortfall of 4 spaces as recommended by the discretionary uses policy.

The proposed off-street parking spaces will allow for entry and exit in a forward direction, will include one disabled car space with a minimum width of at least 3.2 metres in accordance with the requirements of Clause 22.07 of the Bayside Planning Scheme.

Council’s Traffic Engineer expressed no concerns with the development subject to the inclusion of permit conditions to restrict the number of practitioners present on site at any time to be 3, as well as conditions relating to pedestrian sightlines, internal parking dimensions and signage on Kingston Street. These are included in the recommended conditions of the permit.

Whilst the site is located on South Road, a Road Zone Category 1, vehicle access is proposed to be via one vehicle access point from Kingston Street, located slightly to the south of the existing crossover. A permit is not required for alteration of access to a Road Zone. Nevertheless, the application was referred to VicRoads who raised no concerns.

Concerns have been raised by neighbours 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 surrounding area.

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

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

6.10. Design and Development Overlay, Schedule 3 (DDO3)

A permit is not required pursuant to the Design and Development Overlay (Schedule 3) as the proposed building is less than 8 metres in height.

6.11. Objector issues not already addressed

Heritage

Concerns have been raised in relation to heritage and specifically, the impact of the development on the Castlefield Precinct (HO652). The site is not located in or adjacent to any heritage properties or precincts. The site is located approximately 20 metres from the Castlefield Precinct. Heritage is not therefore a planning consideration for this application.
Signs
The application does not seek a permit for the display of signs. A condition is therefore included in the recommendation requiring indicative sign locations to be removed from the plans. The site is located in a Category 3 High amenity area. A permit would therefore be required for the display of signage including business identification signs.

Overshadowing
Overshadowing as a result of the proposed building will extend marginally further than the shadow cast by the existing dwelling on the site and will not unreasonably impact on the amenity of neighbouring properties.

Demolition/Asbestos
The removal of asbestos is outside of the scope of the Planning and Environment Act 1987 or the Bayside Planning Scheme. There is other legislation which administers the removal and handling of asbestos. Specifically, all asbestos must be removed in accordance with Worksafe requirements, and disposed of in accordance with EPA requirements.

Support Attachments
1. Development Plans ↓
2. Site and Surrounds ↓
3. Neighbourhood Character Assessment ↓
planning application
proposed new specialist medical consulting clinic
at 178 south rd brighton east
april 2019

Drawings
Pairs
00 Cover sheet
tp.01 Location / site analysis
tp.02 Existing site plan
tp.03 Site demolition plan
tp.04 Proposed site / roof plan
tp.05 Overall floor plan (incl carpark)
tp.06 Proposed plan
tp.07 Proposed carparking plan
tp.08 Building elevations
tp.09 Building elevations
tp.10 Spare / signage - deleted
tp.11 Streetscape elevations
012 Boundary fences
tp.13 Existing shadow plan - 9am
014 Proposed shadow plan - 9 am
015 Existing shadow plan - 12 noon
016 Proposed shadow plan - 12 noon
017 Existing shadow plan - 3pm
018 Proposed shadow plan - 3pm
019 Material / building elements schedule

view from kingston street
Item 4.5 – Matters of Decision

Attachment 1

Project: Proposed specialist medical consulting clinic

Address: 176 South Rd, Brighton East

Drawing: Proposed site / roof plan

Scale: As indicated

Date: 27 May 2019

Designer: ah

Check No: 2

This drawing is a copyright of Clinics by Design. No part of this drawing may be reproduced without the prior permission of the Copyright Owner, Clinics by Design. Contact us for all inquiries: info@clinicsbydesign.com.au or call (03) 9510 0200. The information contained in this drawing is the intellectual property rights of Clinics by Design and must not be used for any purpose other than the intended purpose. For any use other than the intended purpose, please contact Clinics by Design for permission.
Item 4.5 – Matters of Decision

Page 270 of 619
Item 4.5 – Matters of Decision

Proposed plan

Kingston Street

![Diagram of a building plan with labels and dimensions.](image-url)
Item 4.5 – Matters of Decision

Bayside City Council
Planning & Amenity Committee Meeting
8 October 2019
Attachment 1

Proposed carpark plan

Proposed specialist medical consulting clinic

Address
176 South rd. brighton east

Drawing
Proposed carparking plan

Scale
1:100

27 May 2019

Clinics by Design

This drawing is copyright the property of Clinics by Design. All print and images may be reproduced without prior written consent of the Clinics by Design Creative Team unless otherwise noted. Any unauthorized distribution or republication is strictly prohibited. Visit our studio at 30 Flinders Rd, Moorabbin. ABN: 67 073 000 509

tp.07 2
Item 4.5 – Matters of Decision

Attachment 1

Bayside City Council
Planning & Amenity Committee Meeting – October 2019

Page 279 of 619
Item 4.5 – Matters of Decision

- 1 kingston st
double storey
brick dwelling
tilted pitched roof

- private open space

- 176 south rd
single storey
brick dwelling
tilted pitched roof

- private open space

- Subject site - 178 south rd
single storey, brick veneer,
tilied pitched roof

- carparking

- 142' 10" x 30'
36.85 m

- vehicular entry

- pedestrian entry

- south road

- kingston street
Attachment 1

Item 4.5 – Matters of Decision

- Roof tile - loral, concrete tile in colour eclipse
- TSL: timber board - paint, colour dulux renstone
- sk: roof window - velux
- vent: roof vent (gable end), colour dulux white
- wr: sill acrylic wall render, colour dulux white
- block: block - austral masonry, concrete in honed finish, colour porcelain
- bz: breeze block - austral masonry, concrete in honed finish, colour porcelain
- 19 1/19 2/19 3/19 4/19 5/19 6/19 7/19 8/19 9/19
- fence and gate, metal, vertical rib, colour dulux renstone
- gf: new and existing timber paling fences - colour dulux renstone

materials schedule

Legend
- roof tile - loral, concrete tile in colour eclipse
- TSL: timber board - paint, colour dulux renstone
- sk: roof window - velux
- vent: roof vent (gable end), colour dulux white
- wr: sill acrylic wall render, colour dulux white
- block: block - austral masonry, concrete in honed finish, colour porcelain
- bz: breeze block - austral masonry, concrete in honed finish, colour porcelain
- 19 1/19 2/19 3/19 4/19 5/19 6/19 7/19 8/19 9/19
- fence and gate, metal, vertical rib, colour dulux renstone
- gf: new and existing timber paling fences - colour dulux renstone
Figure 1 Aerial overview of the site and surrounds

Legend

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objectors</td>
<td>🍊</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>△</td>
</tr>
</tbody>
</table>

Note: 10 further objections were received from No’s 2/16, 17, 18, 19, 24, 28A, 30, 34A Kingston Street, and No’s 152 and 154 South Road.
Figure 2 View towards the site from South Road to the northwest

Figure 3 View towards the site from Kingston Street from the west
Figure 4 View towards the site from Kingston Street to the southwest

Figure 5 View towards the site and Kingston Street from the north
### 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>
</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 form of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The existing dwelling on the site is not protected by the planning scheme and can be removed. |
| 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  
The application was accompanied by a Landscape Plan including the planting of four canopy trees, three of which are proposed to be located in the front setback and 1 is proposed to be located in the rear setback. A condition is recommended requiring the canopy trees proposed to be located in the rear setback to be replaced with a more appropriate species, capable of growing to maturity within the available planting area. |
| To provide space for front gardens.                                       | • Buildings should be sited to allow space for the planting of trees and shrubs.  | Loss of front garden space.                                           | Responds  
The setback of the proposed new building from South Road is considered to be sufficient to ensure that there is ample space retained for landscaping as demonstrated on the submitted landscape plan. |
<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 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>Responds</td>
<td>The proposed new building has been appropriately set back from the front, side and rear boundaries of the site to ensure that the rhythm of visual separation between buildings along both South Road and Kingston Street is maintained.</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 proposed vehicle parking spaces are all open. Whilst it is noted that the parking area will be larger than that of a traditional dwelling, this is located to the rear of the building and behind the fence, accessed from Kingston Street and will not dominate the appearance of the site. |
| To ensure new development respects the dominant building scale and forms within the streetscape. | • Recess upper storey elements from the front façade.  
• Incorporate pitched roof forms with eaves.                                                                                                          | Responds                                                                                                                                                                                             | The proposed building is single storey and incorporates a pitched roof form with eaves. The building will sit appropriately within the streetscape and will respect the existing built forms in the area. |
| To use lighter looking building materials and finishes that complement weatherboard where it predominates in the streetscape. | • Incorporate timber or other non-masonry wall materials where possible.                                                                                                                                  | Heavy materials and design detailing where weatherboard predominates (eg. Large masonry columns and piers)                                                                                         | Responds                                                                                                                                                                                             | The proposed building will be constructed in light coloured brickwork and render with a tiled roof. These materials are considered to be acceptable in the context of the varied materials on nearby properties. |
| To maintain the openness of the streetscape. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era.                                                                                                                               | High, solid front fencing                                                                                                                                                                           | Responds                                                                                                                                                                                             | The proposal includes a 1.8 metre high front fence which will be constructed of brickwork in a similar style to the existing fence. As South Road is a heavily trafficked road and there |
<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>are similar high front fences at nearby properties, this is considered to be acceptable in this instance</td>
</tr>
</tbody>
</table>
4.6 111 DENDY STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2019/288/1 WARD: NORTHERN

Item 4.6 – Matters of Decision

Proposal
This application seeks the construction of two double storey buildings in a tandem arrangement, with each building containing three dwellings. Key details of the proposal are as follows:

- A total of six dwellings, each containing three bedrooms.
- A basement consisting of 18 car parking spaces, twelve bicycle parking spaces, bin storage room, storage rooms, and two lift lobbies.
- A maximum building height of 8.926 metres and two storeys.
- Site coverage of 55.42 per cent, permeability of 20.31 per cent and a garden area of 39.46 per cent.
- Materials and finishes including face brickwork, aluminium window frames, Colorbond roof sheeting, off form in-situ concrete, expanded mesh ribbed sheet metal, obscure and clear glass, and powdercoated mild steel screens.
- The construction of a 1.8 metre high front fence.

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

History
Planning permit application 2017/701/1 sought approval for the construction of a double storey building containing eight dwellings over a basement car park. On 17 July 2018, Council’s Planning and Amenity Committee determined to refuse this planning permit application.

An application for review against the decision made by Council was lodged with the Tribunal pursuant to Section 77 of the Planning and Environment Act 1987. The application was heard at a compulsory conference (mediation) on 22 October 2018. At the compulsory conference, all parties did not reach an agreement. However, upon further discussions outside of the Tribunal process, an agreement was reached on 30
October 2018 based on a revised set of plans which reduced the number of dwellings from eight to six, amongst other changes that moderated the built form.

These amended plans were reported to Council’s Planning and Amenity Committee on 13 November 2018, where the committee supported the grant of a planning permit. However, one of the parties to the appeal withdrew their support for the agreement and the application proceeded to a hearing on 12 December 2018. Ultimately, in their decision found at Attachment 5 of this report, the Tribunal determined to refuse the application, finding:

- “…it is the result of the combination of these design techniques, that is, the very modernistic and minimalist design approach, the lack of articulation or recessive elements in the built form, the use of a singular material and form in the front façade, the non-compliant front setback and the overall height of the building in the streetscape, that the built form proposed for the review site will not sit comfortably within both the existing and preferred neighbourhood character.” (paragraph 21)

2. Planning Controls

Planning Permit Requirements
A planning permit is required pursuant to:

- Clause 32.09-6 (Neighbourhood Residential Zone) – The construction of two or more dwellings on a lot and a front fence in excess of 1.2 metres in height.

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

3. Stakeholder Consultation

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage assets engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open space arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public Notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 19 objections were received. 19 objections remain outstanding at the time of this report. The following concerns were raised:

- Overdevelopment, design response is yield driven.
- Out of character.
- Excessive bulk and scale, exceeds site coverage requirement.
- Lack of landscaping and loss of existing vegetation.
- Impacts on energy efficiency.
- Off-site amenity impacts including visual bulk impacts, an increase in noise, overlooking, overshadowing and loss of daylight.
- Insufficient car parking and increased traffic congestion.
- Bin collection location.
- Impacts during construction.
- Will set a precedent.
- Inaccuracies on application documents.
The number of objections received for this application is consistent across Council’s record management systems.

Consultation Meeting
The applicant declined a consultation meeting.

4. Recommendation
That Council resolve to issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of planning permit application 2019/288/1 for the land known and described as 111 Dendy Street, Brighton, for the construction of a three storey multi-dwelling building over basement car park including a front fence in excess of 1.2 metres in height in accordance with the endorsed plans and subject to the following conditions:

Amended Plans
1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by in2, referenced as TP01-TP15, dated 11 July 2019 and revision number D, but modified to show:
   a) The side setbacks to the east and west boundaries compliant with Standard B17 of Clause 55.03-1 of the Bayside Planning Scheme. The overall design should be maintained generally consistent with the current design.
   b) Overlooking measures in accordance with Standard B22 of Clause 55.04-6 of the Bayside Planning Scheme to the ground floor east-facing habitable room windows.
   c) Lighting along the communal pedestrian path to feature downward lighting and designed to avoid light spill on adjoining properties.
   d) The front fence to Dendy Street with a maximum height of 1.5 metres and a minimum 25 per cent transparency.
   e) The allocation of car parking spaces within the basement.
   f) The basement ramp with a minimum 2.2 metre headroom clearance.
   g) All columns within the basement.
   h) The 1 in 8 grade at the bottom of the basement ramp with a minimum length of 2.5 metres.
   i) Pedestrian sight line triangles to the satisfaction of the Responsible Authority.
   j) The width of the crossover to match the width of the driveway, with a minimum width of 3.6 metres for both.
   k) A NatHERS report demonstrating all dwellings do not exceed the maximum NatHERS annual cooling load specified in Standard B35 of Clause 55.07-1 of the Bayside Planning Scheme.
   l) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   m) A landscaping plan in accordance with condition 9 of this planning permit.
n) A tree management and protection plan in accordance with condition 12 of this planning permit.

o) A waste management plan in accordance with condition 19 of this planning permit.

p) Provision of the development contributions fee in accordance with condition 22.

q) Storage areas within the basement visible from common areas to be enclosed within a metal cladding (or similar) to ensure they are secure and goods within the storage area are not visible in accordance with Standard B44 of the Bayside Planning Scheme.

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 plan prepared by Wallbrink Landscape Architecture and dated 16 July 2019 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) The large canopy tree that exists in the rear of the current dwelling replaced with a canopy tree that will reach a minimum 16 metres at maturity.

b) All changes required by condition 1 of this planning permit, where relevant to show on the landscape plan.
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 the trees shown on the tree protection plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained remain viable post-construction. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.

The tree protection plan must be in accordance with AS4970-2009, be drawn to scale and provide details of:

a) The tree protection zone and structural root zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the tree protection zone falls within the subject site.

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

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.

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

**Street Tree Protection**

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

17. Street trees must not be removed, lopped, damaged or pruned by any party other than Bayside City Council authorised tree care contractors. There is to be no soil excavation within 2.4 metres of the street tree asset measured from the edge of the trunk. Any installation of services and drainage within the tree protection zone must be undertaken using root-sensitive, non-destructive techniques.
18. Root pruning within the tree protection zone:
   • Prior to soil excavation, a trench along the line of the proposed crossover must be dug by hand.
   • All affected roots must be correctly pruned according to AS 4373-2007.

Waste Management Plan
19. 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.

Drainage
20. 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.

21. 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
22. 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

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

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

Bayside Planning Scheme
- Clause 11 Settlement
- Clause 13 Environmental Risks
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport
• Clause 19 Infrastructure
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.04 Environmental and Landscape Values
• Clause 21.05 Environmental Risks
• Clause 21.06 Built Environment and Heritage
• Clause 21.09 Transport and Access
• Clause 21.10 Infrastructure
• Clause 22.06 Neighbourhood Character Policy (Precinct B2)
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

6. Considerations
In considering this application, regard has been given to the 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 an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

Moreover, the proposed development is considered to achieve adequate visual separation to respond to the surrounding neighbourhood character. Space within the front, side and rear setbacks is provided to promote landscaping opportunities throughout the site. First floor setbacks and articulation along the side and rear boundaries, including a physical separation between the north and south buildings offer visual interest and alleviates adverse building massing when viewed from the street and adjoining dwellings. This is further enhanced by the setbacks associated with the lift and stair wells which are offset from the eastern site boundary.

Additionally, the proposed basement ramp utilises the existing crossover adjacent to the eastern boundary, maintaining the vehicle access status quo to the subject site and ensuring minimal impact to the existing street tree located on the front nature strip.

The proposed development presents as a contemporary built form, which is responsive to other developments evident within the street, including those at 115 and 117 Dendy Street. The proposed façade treatment reflects a residential streetscape and the introduction of a pitched roof form is responsive to the predominant pitched roof forms of the surrounding area.

The first floor is also appropriately recessed from the ground floor front façade as the development presents to the street. This assists in ensuring the proposed development does not dominate the streetscape and respects the dominant building scale and form of buildings in the precinct.

Given the above, the proposal is considered to be acceptable in terms of neighbourhood character.

6.2. Compliance with Clause 55 (ResCode)
An assessment against the requirements of Clause 55 is provided at Attachment 4.
Those non-compliant standards are discussed below:

**Street Setback (Standard B6)**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dendy Street</td>
<td>9m</td>
<td>7.633m (ground floor)</td>
<td>1.367m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>8.651m (first floor)</td>
<td>0.349m</td>
</tr>
</tbody>
</table>

The objective of Standard B6 is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site. The standard, as varied by Schedule 3 to the Neighbourhood Residential Zone, requires the front setback to be the greater distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser.

The front setback of the front walls of the existing buildings on the abutting allotments are 7.62 metres and 9.63 metres. As such the required setback is 9 metres. A street setback from Dendy Street of 7.633 metres at ground floor and 8.651 metres at first floor is proposed, failing the standard. However, the variation to the front setback requirement is considered reasonable in this instance given the existing setback to the double width carport on the site is 5 metres.

The proposed front setback will accommodate substantial landscaping opportunities, including canopy tree planting to reflect the garden character of the neighbourhood and soften the appearance of the development to the street and represents an improvement upon existing conditions.

Further, the front setback matches the front setback at 1/109 Dendy Street to the west and provides an acceptable transition at ground floor to respond to the open setback at 113 Dendy Street to the east. The proposed front setback is also comparable to properties directly across the road at 104, 106, 108 and 112 Dendy Street to maintain the garden setting evident within Dendy Street.

**Site Coverage (Standard B8)**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>55.42%</td>
<td>5.42%</td>
<td></td>
</tr>
</tbody>
</table>

Standard B8 of the Bayside Planning Scheme aims to ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site. Specifically, site area covered by buildings should not exceed 50 per cent, as varied by Schedule 3 to the Neighbourhood Residential Zone.

The varied site coverage is considered acceptable given the basement footprint is modest and accommodates generous front and rear setbacks, thereby allowing for adequate post-construction landscaping opportunities. Furthermore, the proposed 39.46 per cent garden area exceeds the 35 per cent requirement and ensures minimal off site amenity impacts to immediately adjoining properties.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>West (side)</td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td></td>
<td>0m or 2m</td>
<td>2m</td>
</tr>
</tbody>
</table>
The objective of the standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

**Eastern Side Boundary:**
To the eastern side boundary, a small portion of the first floor wall and roof ridge line of the front (southern) building fails the minimum setback requirement. The variation for the first floor wall is 0.16 metres and 0.176 metres for the roof ridge line.

To ensure the off-site amenity impacts on the property to the east are minimised and the character of the surrounding area is maintained, the standard should be met in this instance. A condition contained within the recommendation section of this report requires compliance with Standard B17 of Clause 55.03-1 of the Bayside Planning Scheme.

**Western Side Boundary:**
To the western side boundary, a small portion of the first floor of both the front and rear buildings fail the minimum setback requirement. The variation at the first floor is between 0.38 metres and 0.87 metres for the front building and between 0.955 metres and 0.319 for the rear building, respectively.

Again, to ensure the off-site amenity impacts on the properties to the west are minimised and the character of the surrounding area is maintained, the standard should be met in this instance. A condition contained within the recommendation section of this report requires compliance with Standard B17 of Clause 55.03-1 of the Bayside Planning Scheme.
Overlooking (Standard B22)
Standard B22 aims to limit views into existing secluded private open space and habitable room windows. All first floor habitable room windows and balconies have been appropriately screened to minimise unreasonable overlooking.

However, the 1.6 metre high fence along the eastern boundary is proposed to be retained. This results in the east-facing ground floor habitable room windows failing the standard as the visual barrier (i.e. the side boundary fence) is required to be a minimum of 1.8 metres in height. Conditions contained within the recommendation section of this report therefore require overlooking measures to the ground floor east-fac ing habitable room windows in accordance with Standard B22 of the Bayside Planning Scheme.

Solar Access to Open Space (Standard B29)
Standard B29 aims to allow solar access into the secluded private open space of new dwellings and residential buildings. Specifically, the southern boundary of secluded private open space should be set back from any wall on the north of the space at least \((2 + 0.9h)\) metres, where ‘h’ is the height of the wall. The secluded private open space of Dwellings 4, 5 and 6 all comply with the standard.

However, the secluded private open space of Dwellings 1, 2 and 3 fail the standard as the wall height on the northern boundary of the secluded private open space exceeds the requirements, as set out in the table below:

<table>
<thead>
<tr>
<th>Dwelling</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling 1</td>
<td>8.39m</td>
<td>5.064m</td>
<td>3.326m</td>
</tr>
<tr>
<td>Dwelling 2</td>
<td>7.89m</td>
<td>3.95m</td>
<td>3.94m</td>
</tr>
<tr>
<td>Dwelling 3</td>
<td>8.37m</td>
<td>5.495m</td>
<td>2.875m</td>
</tr>
</tbody>
</table>

However, as noted by the Tribunal at paragraph 132 in 109 Abbott Street Pty Ltd v Bayside CC [2019] VCAT 884, “we acknowledge that a site with a north-south orientation may present challenges in respect of obtaining significant northern orientation whilst achieving urban consolidation policy objectives”.

In the current proposal, three of the six dwelling achieve the standard. The three non-compliant open space areas have good easterly access, only part of the secluded private
open space is non-compliant and excellent access is provided from the living room. The proposed design is considered to meet the objective in this instance.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th>Location</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dendy Street</td>
<td>1.2m</td>
<td>1.8m</td>
<td>600 mm</td>
</tr>
</tbody>
</table>

A 1.8 metre high front fence is proposed along the majority of the Dendy Street frontage, constructed of part brick veneer and part blockwork with black ribbed aluminium sheeting. In order to better integrate the development with the street and ensure that views to and from the dwellings are obtained, a condition contained within the recommendation section of this report requires the front fence to Dendy Street to be a maximum 1.5 metres in height and semi-transparent.

6.3. Landscaping

Existing Vegetation on Site
All trees on site are proposed to be removed to facilitate the development. On-site trees are not protected by the Vegetation Protection Overlay or under any local law. The large Liquidambar *styraciflua* tree, whilst contributing to the amenity value of the streetscape, is noted as having a poor–fair structure and health. Therefore, its retention is not considered necessary and replacement planting, as discussed below, will contribute to the long-term amenity of the streetscape. As such, the proposed removal of existing on-site vegetation is supported.

Vegetation on Adjoining Properties
The vegetation along the west boundary, at 109 Dendy Street Brighton, is *Pittosporum tenufolium*, and will not be impacted upon by the works for the basement. A tree management plan is considered necessary for the protection of this vegetation and is included as a condition of the planning permit in the recommendation section of this report.

Proposed Landscaping
The proposed development is sited and designed to ensure that sufficient space is provided to accommodate adequate planting given the site is located within a residential precinct.

Whilst the proposed basement takes up a significant amount of the site layout it incorporates large front and rear setbacks and sufficient side setbacks to demonstrate there are sufficient areas of open space and planting areas in which to include canopy tree planting. The submitted landscape plan includes canopy tree planting in these areas.

Council’s arborist has recommended that the large canopy tree located at the rear of the existing dwelling should be replaced with a tree that will reach a minimum 16 metres at maturity. The landscape plan submitted already provides sufficient replacement planting to maintain and enhance the garden setting of the surrounding area, including two large evergreen trees, two medium evergreen trees and four medium deciduous trees. However, a condition contained within the recommendation section of this report requires a replacement canopy tree that can reach a minimum 16 metres at maturity to replace the existing large tree.

Street Tree
A *Fraxinus oxycarpa* tree is located within the nature strip and is proposed for retention. Council’s street tree arborist has advised that given the existing crossover is to be utilised there will be minimal impact to the street tree subject to tree protection measures being
deployed during construction. These requirements are included as permit conditions in the recommendation section of this report.

6.4. 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 two car parking spaces per three or more bedroom dwelling. No residential visitor car parking is required as part of the land is identified as being within the Principal Public Transport Network Area as shown on the Principal Public Transport Network Area Maps (State Government of Victoria, August 2018).

Each dwelling comprises three bedrooms and is afforded three car parking spaces in the basement. The proposed on-site car parking therefore exceeds the requirements of Clause 52.06-5.

The application was referred to Council’s traffic engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to the allocation of car parking spaces, headroom clearance of the driveway ramp, ramp gradient, column spacing within the basement, pedestrian sight triangles and the width of the vehicle crossing/driveway. These are included as conditions of the permit in the recommendation section of this report, where relevant.

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 and the proposed development exceeds the car parking requirement of the Bayside Planning Scheme.

Traffic impacts were discussed in the Tribunal’s decision on the previous application for this site (One 11 Dendy Street Pty Ltd v Bayside CC [2019] VCAT 4, refer Attachment 5) which proposed a same number of dwellings. The Tribunal found at paragraph 25 that:

“Given the site’s abuttal to a road in a Road Zone, Category 2, which I anticipate already carries a fair volume of traffic in the peak hour, I consider that the level of increased traffic from the proposed development of the review site will likely be unable to be perceived in the surrounding road network. Further, as the proposed development on the review site is proposed to contain all of its car parking demands created by the Bayside Planning Scheme on site, and will provide for vehicle movements in and out in a forward motion, I have not been persuaded that the proposal will likely create a particular safety issue in Dendy Street.”

6.5. Cultural Heritage Management Plan

The site is located within an area of cultural heritage sensitivity. However, the Heritage Due Diligence Assessment prepared by Alpha Archaeology and dated 9 July 2018 demonstrates ‘that the entire property has been subject to significant ground disturbance’. Therefore, a cultural heritage management plan is not required for this application.

6.6. Development Contributions Levy

The subject site is located within catchment area 11A. Based on the proposed application and the below recommendation, a payment of $6,264 is required. The payment of the development contribution is included as a condition within the recommendation section of this report.

6.7. Objector Issues not Already Addressed

Outstanding concerns raised in the objections and not addressed previously in this report
are discussed below, and relate to:

**Overdevelopment**
Overdevelopment is a commonly used expression to dismiss development proposals which seek to remove existing buildings and to introduce new built form into particular neighbourhoods. An assessment against the Planning Policy Frameworks, the Bayside Planning Scheme and the provisions of Clause 55 can often demonstrate that a proposal is not an overdevelopment despite being more intensive than what existed before. An assessment against Clause 55 is detailed in the assessment section of this report and Attachment 4.

**Excessive bulk and scale**
The building’s bulk is tempered through its articulation from front and side boundaries and is further complemented by the various materials and finishes used at ground and first floors. The design response is suitable in a residential streetscape of single and double storey building form, some of which are not dissimilar to the proposed built form.

**Impacts on energy efficiency**
The proposed development meets the relevant ResCode standards in relation to daylight to existing windows, north facing windows and overshadowing, demonstrating the proposal will not unreasonable impact on the energy efficiency of adjoining dwellings.

**Visual bulk impacts**
As mentioned above, the building’s bulk is tempered through its articulation from front and side boundaries and is further complemented by the various materials and finishes used at ground and first floors. While the proposed development varies the side setback standard of ResCode, the proposed setbacks combined with the articulation and non-sensitive interfaces to part of the adjoining properties will ensure no unreasonable visual bulk impacts result.

**Increase in noise**
The proposed residential use will have noise impacts consistent with those normal to a residential zone. Speech, laughter, music, etc. are noises associated with people living their lives and are all part of life in an urban area. The proposed residential use will have noise impacts consistent with those normal to a residential zone. Additionally, all mechanical plant equipment is required to comply with the relevant Australian Standards/EPA guidelines in relation to noise emissions.

**Overshadowing**
Additional overshadowing will occur over the adjoining driveway to the west, which does not result in any amenity impacts. Additional overshadowing extends into the secluded private open space of the dwelling to the east in the afternoon. However, sufficient secluded private open space remains in daylight to meet the standard.

**Loss of daylight**
The development has been sufficiently setback from all habitable room windows on abutting properties to ensure adequate daylight is provided into existing dwellings.

**Bin collection location**
A bin storage area is provided within the basement. A condition contained within the recommendation section of this report requires the submission of a waste management plan, including the provision of a private waste collection.

**Impacts during construction**
Noise and truck movements during the construction phase of development are a temporary and unavoidable consequence of development and not justification to
withhold development of the site. The developer will be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

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.

Will set a precedent

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

Inaccuracies on application documents

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 52 of the Planning and Environment Act 1987.

Support Attachments

1. PP 5/2019/288/1 - 111 Dendy Street Brighton - Development Plans
2. PP 5/2019/288/1 - 111 Dendy Street Brighton - Site and Surrounds
3. PP 5/2019/288/1 - 111 Dendy Street Brighton - Neighbourhood Character Assessment
5. PP 5/2017/701/1 - 111 Dendy Street Brighton - Tribunal Order for Previous Application
Item 4.6 – Matters of Decision

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.6</td>
<td>Planning Committee Meeting - 8 October 2019</td>
</tr>
</tbody>
</table>

Attachment 1

Figure 4.6.1 - Diagram of the project area with key elements labeled.
Attachment 2: Site and Surrounds

Note: One further objection was received from a property which is located outside of the above map area.

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 the south on the opposite side of Dendy Street.

Figure 3 113 Dendy Street to the east of the subject site.
Figure 4 115 and 117 Dendy Street further east of the subject site.

Figure 5 109 Dendy Street to the west of the subject site.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct B2)

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>While the existing dwelling does contribute to the character of the precinct, it is proposed to be demolished to accommodate the proposed development. This is considered an acceptable outcome given the evolving character of the surrounding area and the fact there is no planning permit required for the demolition of the existing dwelling.</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large canopy trees.</td>
<td>Whilst the proposed basement takes up a significant amount of the site layout it incorporates large front and rear setbacks and sufficient side setbacks to demonstrate there are sufficient areas of open space and planting areas in which to include canopy tree planting. The submitted landscape plan includes canopy tree planting in these areas. Council’s arborist has recommended that the large canopy tree located</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Comments</td>
</tr>
<tr>
<td>------------</td>
<td>------------------</td>
<td>-------</td>
<td>----------</td>
</tr>
</tbody>
</table>
| To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Lack of front garden space. | Adequate visual separation and space within the front setback is provided to promote landscaping opportunities throughout the site. First floor setbacks and articulation along the side and rear boundaries, including a physical separation between the north and south buildings offer visual interest and alleviates adverse building massing when viewed from the street and adjoining dwellings. This is further enhanced by the setbacks associated with the lift and stair wells which are offset from the eastern site boundary. |
| To minimise the loss of front garden space and the dominance of car parking facilities. | • Locate garages and carparks behind the line of the dwelling.  
• Provide only one vehicular crossover per typical site frontage.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the façade or view of the dwelling.  
Dominance of crossovers and driveways | The proposed basement ramp utilises the existing crossover adjacent to the eastern boundary. This maintains the vehicle access status quo to the subject site and ensures minimal impact to the existing street tree located on the front nature strip. Refer to Sections 6.3 and 6.4 of this report for further discussion. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To ensure new development respects the</strong></td>
<td><strong>Articulate the form of buildings and elevations, particularly front facades</strong></td>
<td><strong>Large bulky buildings with flat, poorly articulated wall surfaces.</strong></td>
<td>The proposed development presents as a contemporary built form, which is responsive to other developments evident within the street, including those at 115 and 117 Dendy Street. The proposed façade treatment has changed significantly from that previous considered to better reflect a residential streetscape and the introduction of a pitched roof form, albeit contemporary, is responsive to the predominant pitched roof forms of the surrounding area. The first floor is appropriately recessed from the ground floor front façade as the development presents to the street. This assists in ensuring the proposed development does not dominate the streetscape and respects the dominant building scale and form of buildings in the precinct.</td>
</tr>
<tr>
<td><strong>dominant buildings forms and scale of</strong></td>
<td><strong>Recess upper storey elements from the front façade.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>buildings in the Precinct, through the use of</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>innovative architectural responses.</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To respect the</strong></td>
<td><strong>Where adjoining an identified heritage building, reflect the dominant building form,</strong></td>
<td><strong>Imitation or reproduction of historic building styles and detailing.</strong></td>
<td>There is no immediately abutting heritage properties. There is a heritage property at 743 Hampton Street in close proximity to the east of the subject site. However, the proposal is considered to be respectful of the prevailing neighbourhood character and provides a suitable transition in height, coupled with appropriate setbacks to avoid dominating the streetscape.</td>
</tr>
<tr>
<td><strong>identified heritage qualities of</strong></td>
<td><strong>height, materials and massing of the heritage buildings in the new building</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>adjoining buildings.</strong></td>
<td><strong>design.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To use a variety of</strong></td>
<td><strong>Incorporate a variety of building materials such as brick, render, timber and</strong></td>
<td><strong>Excessive use of render on external walls.</strong></td>
<td>The proposed development utilises a range of materials, with the front facade including brick.</td>
</tr>
<tr>
<td><strong>building materials and finishes that</strong></td>
<td><strong>Excessive use of render on external walls.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>provide visual.</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Comments</td>
</tr>
<tr>
<td>------------</td>
<td>------------------</td>
<td>-------</td>
<td>----------</td>
</tr>
</tbody>
</table>
| interest in the streetscape. | non-masonry into the building design.  
- Use simple building details. | | veneer, concrete and fixed glass, while the side and rear elevations consist of predominantly brick veneer, with metal cladding, glazing and expanded mesh panels. The use of these various materials ensure the proposed development provides visual interest in the streetscape and reflects the wider residential neighbourhood character. |
| To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens. | - Provide open style front fences, other than along heavily trafficked roads.  
- Front fence style should be appropriate to the building era. | High, solid front fencing. | A 1.8m solid render front fence is proposed, which exceeds the preferred 1.2m front fence required by the schedule to the zone. A condition contained within the recommendation section of this report requires a reduced height and permeable elements to be incorporated to improve safety of the street and ensure the fence responds to the preferred front fencing character. These conditional changes will allow views into the landscaped front setback. |
## Attachment 4

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

<table>
<thead>
<tr>
<th>Clause</th>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1</td>
<td>Neighbourhood Character</td>
<td>Complies</td>
<td>Refer to Section 6.1 of this report and Attachment 3 for further discussion.</td>
</tr>
<tr>
<td></td>
<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>B2</td>
<td>Residential Policy</td>
<td>Complies</td>
<td>The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size.</td>
</tr>
<tr>
<td></td>
<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>B3</td>
<td>Dwelling Diversity</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B4</td>
<td>Infrastructure</td>
<td>Complies</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.</td>
</tr>
<tr>
<td></td>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B5</td>
<td>Integration with the Street</td>
<td>Complies</td>
<td>The development will integrate appropriately within the street and will present as a single dwelling facing Dendy Street. The proposed single width basement ramp utilises the existing crossover and has been designed to ensure minimal impact to the streetscape and in particular the existing street tree. The development proposes a contemporary pitched roof form and Dwelling 1 features extensive glazing to the ground floor façade. The upper floor consists of brick veneer, fixed glazing and concrete presenting to Dendy</td>
</tr>
</tbody>
</table>
### 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>
<tbody>
<tr>
<td><strong>B6 Street Setback</strong>&lt;br&gt;The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Does not comply.</td>
<td>Requirement: 9m&lt;br&gt;Proposed: 7.633m (ground floor)&lt;br&gt;8.651 (first floor)&lt;br&gt;Refer to Section 6.2 of this report for further discussion.</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong>&lt;br&gt;Building height should respect the existing or preferred neighbourhood character.</td>
<td>Complies</td>
<td>Maximum: 9m&lt;br&gt;Proposed: 8.926m</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong>&lt;br&gt;Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Does not comply.</td>
<td>Maximum: 50%&lt;br&gt;Proposed: 55.42%&lt;br&gt;Refer to Section 6.2 of this report for further discussion.</td>
</tr>
<tr>
<td><strong>B9 Permeability and Stormwater Management</strong>&lt;br&gt;Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Complies.</td>
<td>Minimum: &gt;20%&lt;br&gt;Proposed: 20.31%</td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong>&lt;br&gt;Achieve and protect energy efficient dwellings and residential buildings.&lt;br&gt;Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td><strong>B11 Open Space</strong>&lt;br&gt;Integrate layout of development with any public and communal open space</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Item 4.6 – Matters of Decision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------------</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| B12 Safety | Complies | The pedestrian entry points are clearly recognisable while upper level habitable room windows allow for the passive surveillance of the street. Lighting should be provided to the communal pedestrian path along the western boundary to improve the safety of this space and ensure the standard is met. A condition contained within the recommendation section of this report ensures this outcome is achieved. |
| B13 Landscaping | Complies | The siting of the proposed basement creates sufficient opportunities for meaningful landscaping within front and rear setbacks and the side setbacks to allow for generous vegetation, including canopy tree planting. Refer to Section 6.3 of this report for further discussion. |
| B14 Access | Complies | The proposed basement ramp utilises the existing crossover to provide appropriate access to and from Dendy Street. The width of the accessway complies with design standards at Clause 52.06.9. The recommendation section of this report also includes standard traffic requirements to be included as planning permit conditions. Refer to Section 6.4 of this report for further discussion. |
| B15 Parking Location | Complies | On-site car parking is provided in the form of a basement car park. The recommendation section of this report also includes standard traffic requirements to be included as planning permit conditions. Refer to Section 6.4 of this 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>
<tbody>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>Does not comply</td>
<td>Refer to Section 6.2 of this report for further discussion.</td>
</tr>
<tr>
<td>Neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td>Complies</td>
<td>Length:</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>B18 Walls on Boundaries</strong></td>
<td></td>
<td>East side: 27.71m maximum</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>8.14m proposed</td>
</tr>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Complies</td>
<td>Height:</td>
</tr>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td>3.2m average and 3.6m max required:</td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Complies</td>
<td>East side: 3.1m maximum</td>
</tr>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td>The development has been sufficiently setback from all habitable room windows on abutting properties.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Complies</td>
<td>There are no north facing windows within 3 metres of the shared boundary.</td>
</tr>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td>Additional overshadowing will occur over the adjoining driveway to the west, which does not result in any amenity impacts.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Does not comply.</td>
<td>Additional overshadowing extends into the secluded private open space of the dwellings to the east in the afternoon. However, sufficient secluded private open space remains in daylight to meet the standard.</td>
</tr>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
<td>Refer to Section 6.2 of this report for further discussion.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Complies</td>
<td>All habitable room windows have been screened or sited appropriately in accordance with this standard.</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>NA</td>
<td></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>
</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>

---
<table>
<thead>
<tr>
<th>Item</th>
<th>Objective</th>
<th>Complies</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Complies</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Complies</td>
<td>Minimum: 25sqm secluded, 40sqm overall with a minimum dimension of 3m; or, A balcony of 8sqm with a minimum width of 1.6m and convenient access from a living room. Proposed: Dwelling 1 – 45sqm of SPOS, 108sqm total. Dwelling 2 – 49sqm of SPOS, 76sqm total. Dwelling 3 – 55sqm of SPOS, 77sqm total. Dwelling 4 – 66sqm of SPOS, 128sqm total. Dwelling 5 – 61sqm of SPOS. Dwelling 6 – 61sqm of SPOS.</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Does not comply.</td>
<td>Refer to Section 6.2 of this report for further discussion.</td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>NA</td>
<td></td>
</tr>
</tbody>
</table>
### B31 Design Detail
Encourage design detail that respects the existing or preferred neighbourhood character.

Complies
While the site is located within the Neighbourhood Residential Zone and the proposal incorporates a contemporary design, the proposed development is considered to respond well to the preferred neighbourhood character through the separation to boundaries and the landscaping opportunities provided. The recessed nature of the first floor from the ground floor as the development presents to the street and the contemporary pitched roof form both assist in responding to the neighbourhood character.

### B32 Front Fences
Encourage front fence design that respects the existing or preferred neighbourhood character.

Does not comply.
**Required:** 1.2m  
**Proposed:** 1.8m  
Refer to Section 6.2 of this report for further discussion.

### B33 Common Property
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.  
Avoid future management difficulties in common ownership areas.

Complies
The designated common property and communal areas of the proposed development are practical and easily maintained. The private areas (e.g. bedrooms) are clearly delineated from the communal areas, which are functional and capable of efficient management.

### B34 Site Services
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.  
Avoid future management difficulties in common ownership areas.

Complies
All appropriate site services can be easily catered for on-site. Mailboxes are located at the Dendy Street frontage and air-conditioning units are located on the roof and screened. Bin storage, bicycle parking, storage rooms and services are all located within the basement. Rain water tanks are located under the two entry lobby porches.

---

### CLAUSE 55.07 APARTMENT DEVELOPMENTS

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### B35 Energy Efficiency
To achieve and protect energy efficient dwellings and buildings.
To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy.
To ensure dwellings achieve adequate thermal efficiency.

<table>
<thead>
<tr>
<th>Item</th>
<th>Complies</th>
<th></th>
</tr>
</thead>
</table>
| The site orientation maximises the solar access and does not unreasonably reduce energy efficiency and solar access to adjoining properties. East facing areas of open space have been maximised where possible and no habitable rooms rely on borrowed light.
A NatHERS assessment has not been provided with the application. The applicant claims the development can achieve a maximum annual cooling load of 21MJ/sqm for Climate Zone 92 (Moorabbin). Therefore, it is considered that the proposed development reasonably provides for an appropriate level of energy efficiency. A condition contained within the recommendation section of this report requires compliance with the NatHERS Cooling Load. | Complies |

### B36 Communal Open Spaces
To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development.

<table>
<thead>
<tr>
<th>Item</th>
<th>NA</th>
</tr>
</thead>
</table>

### B37 Solar Access to Communal Outdoor Open Space
To allow solar access into communal outdoor open space.

<table>
<thead>
<tr>
<th>Item</th>
<th>NA</th>
</tr>
</thead>
</table>

### B38 Deep Soil Areas and Canopy Trees
To promote climate responsive landscape design and water management in developments to support thermal comfort and reduce the urban heat island effect.

<table>
<thead>
<tr>
<th>Item</th>
<th>Complies</th>
<th>Required: 108sqm (7.5%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Proposed: 152sqm (10.6%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Minimum tree provision: 1 medium tree (8-12 metres) per 50 square metres of deep soil; or, 1 large tree per 90 square metres of deep soil.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The submitted landscape plan indicates that the required trees can be easily accommodated on site. Council's Arborist confirms no objection to the proposed landscaping, subject to conditions.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Refer to Section 6.3 of this report for further discussion.</td>
</tr>
<tr>
<td>Item 4.6 – Matters of Decision</td>
<td>Page 340 of 619</td>
<td></td>
</tr>
<tr>
<td>--------------------------------</td>
<td>-----------------</td>
<td></td>
</tr>
</tbody>
</table>

**B39 Integrated Water and Stormwater Management**
To encourage the use of alternative water sources such as rainwater, stormwater and recycled water.
To facilitate stormwater collection, utilisation and infiltration within the development.
To encourage development that reduces the impact of stormwater run-off on the drainage system and filters sediment and waste from stormwater prior to discharge from the site.

**Complies**
The applicant submitted a STORM report with the application which details the stormwater management measures to be implemented in the proposed development. These measures include 15,000 litre capacity rain water tanks connected to toilets for flushing. These measures adequately respond to Council’s stormwater management objectives.

**B40 Noise Impacts**
To contain noise sources in developments that may affect existing dwellings.
To protect residents from external and internal noise sources.

**Complies**
Noise sources such as mechanical plant and lifts are appropriately located away from bedrooms in the proposed dwellings and in nearby existing dwellings. The layout of the development minimises the transmission of noise within the site, with the main secluded private open space areas not adjoining each other.

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

**Complies**
Three dwellings (50%) include the required clear openings, clear paths, main bedroom with access to an adaptable bathroom and at least one adaptable bathroom, complying with the standard.

**B42 Building entry and Circulation**
To provide each dwelling and building with its own sense of identity.
To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents.
To ensure internal communal areas provide adequate access to daylight and natural ventilation.

**Complies**
The building entry points and pedestrian pathway is clearly visible from the street. Lifts and separate stairs provided from the basement to first floor level provide convenient movement for residents. Porches provide appropriate shelter from inclement weather and lobby areas are provided with external glazing for daylight and ventilation.

**B43 Private Open Space Above Ground Floor**
To provide adequate private open space for the reasonable recreation and service needs of residents.

**Complies**
Dwelling 5 – 61sqm of SPOS.
Dwelling 6 – 61sqm of SPOS.

**B44 Storage**
To provide adequate storage facilities for each dwelling.

**Complies**
Each dwelling has a designated 12sqm storage area provided within the basement. A further minimum volume of 12 cubic metres of internal storage is provided for each dwelling.
<table>
<thead>
<tr>
<th><strong>B45 Waste and Recycling</strong></th>
<th>Complies</th>
<th>As mentioned previously, a bin storage area is provided within the basement. A condition contained within the recommendation section of this report requires the submission of a waste management plan, including the provision of a private waste collection.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To ensure dwellings are designed to encourage waste recycling.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To ensure that waste and recycling facilities are accessible, adequate and attractive.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B46 Functional Layout</strong></td>
<td>Complies</td>
<td>All bedrooms and living areas comply with the minimum widths and area.</td>
</tr>
<tr>
<td><strong>To ensure dwellings provide functional areas that meet the needs of residents.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B47 Room Depth</strong></td>
<td>Complies</td>
<td>Only Dwelling 1 has a living room with a single aspect and the depth and ceiling height comply with the standard.</td>
</tr>
<tr>
<td><strong>To allow adequate daylight into single aspect habitable rooms.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B48 Windows</strong></td>
<td>Complies</td>
<td>All habitable rooms have a window in an external wall of the building to achieve the standard.</td>
</tr>
<tr>
<td><strong>To allow adequate daylight into new habitable room windows.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B49 Natural Ventilation</strong></td>
<td>Complies</td>
<td>All dwellings are provided with effective cross flow natural ventilation in accordance with this standard.</td>
</tr>
<tr>
<td><strong>To encourage natural ventilation of dwellings.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To allow occupants to effectively manage natural ventilation of dwellings.</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

ADMINISTRATIVE DIVISION

PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NO: P1456/2018
PERMIT APPLICATION NO: 2017/01

CATCHWORDS

Bayside Planning Scheme; medium density housing response to preferred character statements; character outcomes in a main road environment; assessment of modernistic and minimalist architecture.

APPLICANT

One 11 Dendy Street Pty Ltd

RESPONSIBLE AUTHORITY

Bayside City Council

RESPONDENTS

R & L Preston, A Preston, J Sturrock, V Murray, C Dyer

SUBJECT LAND

111 Dendy Street, Brighton

WHERE HELD

Melbourne

BEFORE

Michael Deidun, Member

HEARING TYPE

Major Case Hearing

DATE OF HEARING

12 & 13 December, 2018

DATE OF ORDER

2 January 2019

CITATION

One 11 Dendy Street Pty Ltd v Bayside CC [2019] VCAT 4

ORDER

1 Pursuant to section 127 and clause 64 of Schedule 1 of the Victorian Civil & Administrative Tribunal Act 1998, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:

- Prepared by: In2 Pty Ltd
- Drawing numbers: TP01 to TP03, TP03A, TP03B, TP04, TP04A, TP05A to TP05C, TP06
- Dated: 27 November 2018

2 In application P1458/2018 the decision of the responsible authority is affirmed.
3 In planning permit application 2017/701 no permit is granted.

Michael Deidun
Member

APPEARANCES

For applicant
John Cicero, Solicitor from Best Hooper
He called the following witnesses:
- Tim Biles (town planner and urban designer) of Message Consultants
- Stephen Wallbrink (landscape architect) of Wallbrink Landscape Architecture

For responsible authority
Peter O’Leary, Town Planner of Polplan

For respondents
Robert & Lee Preston, Anna Preston, Vicki Murray and Courtney Dyer all appeared in person
### INFORMATION

<table>
<thead>
<tr>
<th>Description of proposal</th>
<th>Construction of six dwellings in two, two storey buildings, above a basement car park.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nature of proceeding</td>
<td>Application under section 77 of the Planning and Environment Act 1987 – to review the refusal to grant a permit.</td>
</tr>
<tr>
<td>Planning scheme</td>
<td>Bayside Planning Scheme</td>
</tr>
<tr>
<td>Zone and overlays</td>
<td>Neighbourhood Residential Zone 3</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay 1</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay 3</td>
</tr>
<tr>
<td>Permit requirements</td>
<td>Clause 32.09-6 to construct two or more dwellings on a lot on land within the Neighbourhood Residential Zone</td>
</tr>
<tr>
<td>Relevant scheme policies and provisions</td>
<td>Clauses 10, 11, 15, 16, 21, 22.06, 32.09, 52.06, 55, 65 and 71.02.</td>
</tr>
<tr>
<td>Land description</td>
<td>The land is almost a rectangular allotment with a frontage of 17.07 metres to Dendy Street, a depth of 80.85 metres, and a rear boundary of 18.44 metres. The land has an overall area of 1434 square metres, and presently contains a single storey detached dwelling, and a tennis court at the rear of the site.</td>
</tr>
<tr>
<td>Tribunal inspection</td>
<td>The Tribunal inspected the review site and surrounding area prior to the hearing, on 10 November 2018.</td>
</tr>
</tbody>
</table>
REASONS

WHAT IS THIS PROCEEDING ABOUT?

1 One 11 Dendy Street Pty Ltd (the ‘Applicant’) seeks a review of the decision of the Bayside City Council to refuse to grant a permit for the proposed development of eight dwellings on land at 111 Dendy Street, Brighton (the ‘review site’). The Council’s grounds of refusal raise a broad range of concerns with the proposed development. Following a compulsory conference, amended plans were prepared which reduced the development to one comprising six dwellings. All of the parties informally agreed to settle the matter subject to those changes, and at its meeting of 13 November 2018 Council’s Planning & Amenity Committee decided to support the grant of a permit, subject to conditions. It is important at this stage to note that the decision of Council’s Planning & Amenity Committee was to support the grant of a planning permit, not support the entering of a consent order, or an arrangement to settle the proceeding. Thus, Council’s position was changed by the decision of Council’s Planning & Amenity Committee, regardless of whether a consent order was eventually agreed to between the parties.

2 Following that meeting, one of the residents decided to withdraw their support for a consent order. In response, I was informed that a Council officer decided that the decision of Council’s Planning & Amenity Committee could be disregarded if an agreement had not been reached between all of the parties. As such, at the hearing the Council sought to present one officer’s professional views in opposition against the amended plans for the proposed development, as representing Council’s formal position against the grant of a permit. This is despite the fact that Council had formally determined to support the grant of a planning permit for the proposed amended development. I was even informed that this Council officer had ‘signed off’ a delegate report to refuse to grant a permit, subsequent to the decision of Council’s Planning & Amenity Committee to support the grant of a planning permit. I was not provided with a copy of this delegate report, but a copy has made its way into the possession of other parties in this proceeding. I was informed that the Council officer did not have the delegated authority to overturn the decision of the Council’s Planning & Amenity Committee.

3 I determined that I could give no weight to Mr O’Leary’s attempt to make submissions to the Tribunal that amounted to one officer’s opinion on the amended plans, and present it as Council’s formal position in this proceeding, in defiance and opposition of Council’s actual formal position. This is particularly the case when the Bayside City Council wrote to all parties, and the Tribunal, following its decision at the 13 November 2018

---

1 The submissions and evidence of the parties, any supporting exhibits given at the hearing and the statements of grounds filed have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.
meeting of Council’s Planning & Amenity Committee, to advise all of the Council’s revised position in the proceeding, to support the grant of a planning permit. No further written advice was received by either the Tribunal or other parties advising of any further change to the Council’s position, prior to the Tribunal hearing.

In these circumstances, I find that I would be at error if I accepted the opinions of a Council officer, as purporting to be the Council’s formal position and submissions in this proceeding, when Council’s Planning & Amenity Committee has already determined to support the grant of a planning permit. After seeking further instructions during the course of the hearing, Mr O’Leary for the Council accepted that the Council’s formal position must be in accordance with the 13 November 2018 decision of the Council’s Planning & Amenity Committee, and that the written submissions which had been prepared, which were contrary to this decision, could not be presented at the hearing. As such, the Council made no submissions in this proceeding concerning the merits of the proposed development, save for an explanation of two conditions sought by Council.

A number of nearby residents made various submissions against the grant of a permit, regarding the impact on the surrounding neighbourhood character, and raising a number of concerns regarding various off-site amenity impacts, drainage issues and traffic impacts.

The issues or questions for determination are:

a. Is the proposal an appropriate response to the surrounding neighbourhood character?

b. Will there be any unreasonable off-site amenity impacts?

c. Is an appropriate level of internal amenity achieved?

d. Does the proposal appropriately provide for car parking and traffic movements?

The Tribunal must decide whether a permit should be granted and, if so, what conditions should be applied. Having considered all submissions and evidence presented with regard to the applicable policies and provisions of the Bayside Planning Scheme, I have decided to affirm the Council’s original decision, and direct that no planning permit be granted. My reasons follow.

**IS THE PROPOSAL AN APPROPRIATE RESPONSE TO THE SURROUNDING NEIGHBOURHOOD CHARACTER?**

It is the evidence of Mr Biles that the review site is in a well serviced location, and thus benefits from a range of policies in the Bayside Planning Scheme that support the development of medium density housing. He also opines that as the review site abuts a main road, that this main road environment can accommodate a greater level of change to the built form character, as compared to neighbourhoods comprising quiet residential
streets. Finally, it is the evidence of Mr Biles that the variation in front setbacks proposed on the review site will be unable to be perceived in the streetscape, due to the presence of high front fences and the extent of landscaping proposed in the front setback.

9 Mr Cicero’s submissions largely drew on the evidence of Mr Biles, while identifying the existing character in this neighbourhood for landscaping to be confined to front and rear yards. This, he submits contrasts with the significant amount of landscaping proposed for the review site in a landscape plan and evidence prepared by Mr Wallbrink.

10 The review site is located within the Neighbourhood Residential Zone, and in a policy framework that places the review site outside of those locations in which medium density housing is specifically encouraged, being those locations identified in the Residential Strategic Framework Plan to Clause 21.02 of the Bayside Planning Scheme. Further, while the review site is accessible to some bus routes that do not form part of the Principal Public Transport Network, the nearest railway station is just over 1.0 kilometres walking distance away. As such, while the review site is located in an area accessible to some services and facilities, it is positioned in a neighbourhood where the policy support for increased housing and the protection of neighbourhood character is relatively balanced.

11 I am not persuaded that this balance is varied by the site’s abuttal to a main road. Dendy Road is located within a Road Zone, Category 2, and comprises just one traffic lane in each direction in front of the review site. Further, this part of Dendy Road does not support any public transport, such as a tram line or a bus route. Dendy Road is therefore not in the same category as other arterial roads that might support the Principal Public Transport Network and multiple lanes of traffic, and be located within the Road Zone, Category 1. Further, the Bayside Planning Scheme does not lend policy support to a different development approach along main roads generally within the municipality, except where identified in the Residential Strategic Framework Plan, where for example part of Hampton Street is identified for an increased level of development. I am therefore not persuaded by the evidence of Mr Biles that there is a reasonable expectation that new development along this part of Dendy Road would depart from the form expected in quieter residential streets, and the preferred character set out in policy.

12 The review site is located within Precinct B2 under Council’s Neighbourhood Character Policy at Clause 22.06 of the Bayside Planning Scheme. The preferred character statement is set out below.

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.

13 This preferred character statement is supported by a range of objectives and design responses, some of which are repeated below.

<table>
<thead>
<tr>
<th>Objective</th>
<th>Design response</th>
</tr>
</thead>
</table>
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses | • Articulate the form of buildings and elevations, particularly front facades.  
• Recess upper storey elements from the front façade. |
| 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. |

14 In response to my questions, Mr Biles conceded that the proposed development does not achieve the design responses which I have quoted above. It is appropriate to note here that while there are also many other objectives and design responses for this Precinct, these are mostly concerned with the provision of landscaping, the treatment of car parking facilities, and the response to heritage buildings. It is the objectives and design responses quoted above that seek to guide the built form outcomes in response to the preferred character statement.

15 The proposed development for the review site adopts a very modernistic and minimalist approach to its external presentation. As it presents to the public realm, this presentation comprises a two storey grey glass wall, framed predominantly by grey cement render finishes. The façades that present to the street have minimal variation between the ground and first floor components, and minimal variation between the colours and materials used. The result is a building form that could easily be confused for a suburban office building, albeit on a very small scale for an office building.

16 This highly modernistic and minimalist architectural response stands somewhat in contrast with the objectives and design responses that accompanies the preferred character statement for this precinct. For example, the proposed design does not incorporate the level of articulation sought in buildings, particularly the front façade, nor does it include any recessed elements to the top floor, within the front façade. Further, the proposed development does not incorporate a variety of building materials, nor for that matter building materials that are common in this neighbourhood. The result is a built form approach presented to the
street that will appear very different to the surrounding housing stock. That existing surrounding housing stock generally takes more traditional forms, commonly has a very high level of articulation, uses a more traditional palette of building materials and colours, and contains, almost exclusively, pitched roofs.

17 Mr Cicero submits that the proposed building is an innovative architectural response that is encouraged in the objective quoted above that accompanies the preferred character statement. When put to Mr Biles, he adopted this approach. I am not persuaded that the proposed design that is before me is innovative. In the context of which the word ‘innovative’ is used, to be innovative a design would reasonably be expected to present an unexpected or creative approach to the character guidance for this precinct. While the proposed design is modernistic and minimalist and therefore very different to the traditional housing forms in this neighbourhood, it does not feature an innovative, or cutting edge or unusual, way of respecting and responding to the dominant building forms and scale in this precinct. Instead, it seeks to use its modernistic and minimalist architectural approach as a means by which to create a built form that largely ignores the dominant form and scale and buildings in this precinct. In my view, that is not an innovative response to the existing or preferred neighbourhood character.

18 This highly modernistic and minimalist architectural response has two further features that accentuate its presence in the streetscape. The first such feature is the proposed front setback of 7.6 metres. This front setback repeats the setback to the garage on the adjoining property to the east, noting that the dwelling on the adjoining property to the east is further setback, but fails to comply with the varied front setback standard, which would require new development on the review site to be setback 9.0 metres. Even if the front setback standard were not varied by the schedule to the Neighbourhood Residential Zone, the proposal would fail to comply with the standard that is found at Clause 55.03-1 of the Bayside Planning Scheme, which would require an 8.6 metre front setback on the review site.

19 I am not persuaded by the evidence of Mr Biles that the proposed difference in front setback would not be noticeable in this streetscape. The two storey dwellings that already exist along Dandy Street are easily viewed over the high front fencing that is common in this streetscape. The front setbacks of those existing dwellings is one of the aspects of development that is easily read over these high front fences. I do not consider that a different outcome is likely on the review site. Also, I am not persuaded that it is appropriate to rely on a future mature landscape in the front garden, to achieve an appropriate built form outcome on views from the public realm. Further, the very contemporary and different front façade treatment that has been adopted for the proposed development on the review site will have a striking presence, due in part to its very different architectural language, but also because of the second feature which I come to next which also accentuates the presence of the development in the streetscape.
20 The second feature is the overall height of the proposed development. The proposed development will have a height of between 7.36 and 7.66 metres to the front façade. As opposed to how this type of height might be read on a development with a pitched roof, given the approach here to adopt a parapet form, this is representative of the height to all of the first floor walls as they appear in the public realm. As the proposed front façade adopts a relatively broad presentation to the street at both ground and first floors, the height of up to 7.66 metres will give this dwelling a significant presence in the streetscape.

21 It is my finding that it is the result of the combination of these design techniques, that is, the very modernistic and minimalist design approach, the lack of articulation or recessive elements in the built form, the use of a singular material and form in the front façade, the non-compliant front setback and the overall height of the building in the streetscape, that the built form proposed for the review site will not sit comfortably within both the existing and preferred neighbourhood character. If the proposed development had only some of these design techniques, and not others, then an appropriate outcome may well have been achieved. As such, my finding should not be read as a decision that argues against the adoption of a modernistic and minimalist design approach, or a design that does not achieve a recessed and setback first floor element, or a design that might encroach on the front setback standard, in this neighbourhood. Rather, it is the combination of all of the design techniques which I have set out in my reasons above, which produces an unacceptable design outcome for the review site.

22 While in my reasons above I have focused on the way that these design techniques impact on how the building presents to the streetscape, many of these observations can also be made about how the building presents to its interfaces to the east and west side boundaries. Here again the development, while broken into two separate buildings, presents an overall form with little appreciable variation between the ground and first floor components, little articulation or recessiveness to the upper floor, a very modernistic approach to the selection and use of colours and materials, and a very tall form for a two storey building. Given the extensive views that will be obtained to this building from the two side boundary interfaces, one of which comprises a common driveway to three dwellings, and the other which includes a very large rear area of secluded private open space including a tennis court, I find that a different design approach should be adopted in this context. That is particularly the case given that this neighbourhood is not identified as one where a level of change is sought to the existing neighbourhood character, as is the approach along other main roads in different parts of metropolitan Melbourne.

23 For these reasons I find that the proposed development is an inappropriate response to the existing and preferred character statements, and the guidance provided by the Bayside Planning Scheme. While the proposed
development contains the significant benefit of providing additional and more diverse housing in a serviced location, as well as other more minor benefits, I do not regard these benefits as being able to outweigh the disbenefit that would be caused to the existing and preferred neighbourhood character on a net community benefit analysis.

24 I will therefore affirm the original Council decision to refuse to grant a permit for the proposed development.

25 A range of other matters were raised by the parties in this proceeding. Given my finding that a different built form approach is required for the review site, I will not proceed to provide a detailed analysis and reasons in response to the other matters in dispute. I will however record the following findings in order to assist the parties in the event that an additional further application is made for the review site.

a. While I acknowledge that screening and obscured glazing of 1700 mm in height will not stop particularly tall people from overlooking adjoining properties, screening and glazing of such a height complies with the overlooking provisions as contained at Clause 55.04-6 of the Bayside Planning Scheme. As such, if I had been in a position to grant a permit for the proposed development, I would have found the screening measures at 1700 mm in height to satisfy the requirements in the Bayside Planning Scheme, and thus represent an appropriate outcome for the review site.

b. Mr Preston raised concerns regarding the drainage of the site. In the absence of any identified flooding issue within the Bayside Planning Scheme, this is a matter that would normally be addressed through a separate process between a landowner and Council, as part of the building permit process, or a process subsequent to the grant of a planning permit where drainage plans are separately approved by the Council. I have not been persuaded that the context of the review site requires a different approach.

c. The additional traffic associated with the proposed development is likely to amount to in the order of four or five vehicle movements in the peak hour, or one additional vehicle movement every 12 to 15 minutes.2 Given the site’s abutal to a road in a Road Zone, Category 2, which I anticipate already carries a fair volume of traffic in the peak hour, I consider that the level of increased traffic from the proposed development of the review site will likely be unable to be perceived in the surrounding road network. Further, as the proposed development on the review site is proposed to contain all of its car parking demands created by the Bayside

---

2 Based on the proposal to have five additional dwellings constructed on site (compared to the existing dwelling), a generation rate of 8 vehicle movements per dwelling resulting in 40 additional vehicle movements per day, and 10% of those vehicle movements occurring in any one peak hour.
Planning Scheme on site, and will provide for vehicle movements in and out in a forward motion. I have not been persuaded that the proposal will likely create a particular safety issue in Dendy Street.

d. Mr Dyer raised a concern with the loss of sunlight and daylight access into his east facing windows. Given the side setback that already exists to Mr Dyer’s dwelling on the adjoining property to the west, it is not unreasonable for a proposed development on the review site to adopt a similar setback. The Bayside Planning Scheme requires me to consider the potential for overshadowing between 9:00am and 3:00pm at the equinox. While it might be a little unclear, it appears that the shadow diagrams demonstrate that there will be no overshadowing of Mr Dyer’s east facing living room windows at that time of the day. If that is proven to be the case, then I must find that it represents an appropriate shadowing outcome for this context. The proposed setback and height of the wall proposed for the review site also complies with the standard at Clause 55.04-3 of the Bayside Planning Scheme, that relates to daylight access to existing windows.

CONCLUSION

26 For the reasons given above, the decision of the responsible authority is affirmed. No permit is granted.

Michael Deidun
Member
4.7 24 CARR STREET, BRIGHTON EAST
NOTICE OF DECISION TO GRANT A PERMIT
APPLICATION NO: 2018/715/1 WARD: CENTRAL

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/252013

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>Ask Planning Services Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is subject to restrictive covenant 1401345. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>1 July 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>21 days</td>
</tr>
</tbody>
</table>
| Zoning         | Neighbourhood Residential Zone (Schedule 3)  
                  Public Use Zone (Schedule 4) |
| Overlays       | Design and Development Overlay (Schedule 3)  
                  Development Contributions Plan Overlay (Schedule 1) |
| Site area      | 2191m²                                      |
| Number of outstanding objections | Three (3) |
| Is a Development Contribution Levy applicable? | Yes  
                  If approved $22,968.00 |
| Is the site located within an area of cultural heritage sensitivity? | Yes |

Proposal

The application seeks consent for the construction of twelve (12) double storey dwellings on a lot, construct and carry out works associated with the use of the land as dwellings in a Public Use Zone and a reduction of one (1) visitor car parking space on a lot.

Key details of the proposal are as follows:

- Irregular site at the end of a no-through road with an 81 metre wide north-east frontage to Nepean Highway and an 11m frontage with a north-west orientation to Carr Street
- The site is accessed via a single crossover
- Twelve (12) dwellings arranged within two modules surrounding a central vehicle and pedestrian accessway with garages at grade
- Northern module comprises:
  - Nine (9) double-storey semi-detached dwellings containing seven (7) x 2-bedroom (reverse living arrangement) ‘bookended’ by two (2) x 3-bedroom dwellings
  - 1 dwelling facing Carr Street
- Southern module comprises:
  - Three (3) detached double-storey, 4-bedroom dwellings
  - 1 dwelling facing Carr Street
- Overall maximum building height 8.2m
- Variation in roof forms include pitched and skillion roofs in materials and colours in muted tones.
- Garden Area 35%
- Site coverage 47.6%
- Permeability 35.5%
- Reduction of 1 statutory visitor car space
- Private waste collection

The application plans are provided at Attachment 1.

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

**History**

2. Planning controls

There is no planning permit history relevant to this application.

**Planning Permit requirements**

A planning permit is required pursuant to:

- Clause 32.09-6 (Neighbourhood Residential Zone) - Construction of two or more dwellings on a lot.
- Clause 36.01-2 (Public Use Zone) - Construct a building or construct or carry out works for the use of the land for dwellings.
- Clause 52.06 (Car Parking) - Reduce (including reduce to zero) the number of car parking spaces required under Clause 52.06-5.

**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:
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 (3) objections remain outstanding at the time of this report.

The following concerns were raised:

- Visual bulk
- Overdevelopment
- Car parking and traffic congestion
- Reduction in visitor car parking
- Pedestrian access
- Non-compliance with Clause 55 including;
  - Side and rear setbacks B17
  - Overlooking B17
  - Security on and off site

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

Consultation meeting

A consultation meeting was held on 15 July 2019 attended by the permit applicant and one (1) objector.

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 2018/715/1 for the land known and described as 24 Carr Street, Brighton, for the construction of two or more dwellings on a lot; construct and carry out works associated with the use of the land for dwellings in a Public Use Zone; and a reduction of the number of car parking spaces required under Clause 52.06-5 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans prepared by Belco Building Design and Town Planning reference 5095, date 23.04.2019 but modified to show:
a) Dwelling 12’s ground floor side setback to the western title boundary adjoining 22 Carr Street to be setback a minimum of 2 metres.

b) Dwelling 12’s first floor balcony associated with bedroom 3 to incorporate fixed screening to be no more than 25% transparent.

c) Sections to demonstrate that all first floor habitable room windows to dwellings 10 and 11 have been treated to accord with the Standard B22 - Overlooking of the Bayside Planning Scheme.

d) Demonstrate compliance with Standard B23 - Internal Views of the Bayside Planning Scheme.

e) Any fencing, walls and sections of any buildings at ground floor that encroach into the TPZ’s of Trees 50, 55 and 56 are to be constructed by a root sensitive design.

f) A ‘No Parking’ sign to be provided and located adjacent to the existing power pole immediate to the subject site and contiguous to the telecommunications pit located in the road reserve outside 19 Carr Street.

g) The waste management plan amended to restrict the hours of private waste collection to occur on weekdays and between the hours of 10am and 3pm.

h) An amended Landscaping Plan in accordance with Condition 8 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 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

8. Prior to the endorsement of plans pursuant to Condition 1, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith.
Concepts Landscape Design, dated April 2019 and Revision C and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) The proposed canopy trees to Dwellings 6 and 7 relocated a minimum of 1 metre from the immediately adjacent storage shed and all fencing.

b) The grass strip associated with the accessway substituted for a trafficable surface finish.

c) All development changes as required under Condition 1.

All to the satisfaction of the Responsible Authority.

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

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

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

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

Construction Management Plan

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

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

b) Works necessary to protect road and other infrastructure.

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

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

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

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

g) Site security.

h) Management of any environmental hazards including, but not limited to:
i) contaminated soil and ground water
ii) materials and waste
iii) dust
iv) stormwater contamination from run-off and wash-waters
v) sediment from the land on roads
vi) washing of concrete trucks and other vehicles and machinery
vii) spillage from refuelling cranes and other vehicles and machinery.

i) The construction program.
j) Preferred arrangements for trucks delivering to the land, including delivery and unloading points and expected duration and frequency.
k) Parking facilities for construction workers.
l) Measures to ensure that all work on the land will be carried out in accordance with the Construction Management Plan.
m) An outline of requests to Council/Public authorities to occupy public footpaths or roads, or anticipated disruptions to local services.
n) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.
o) The provision of a traffic management plan to comply with provisions of AS 1742.3-2002 Manual of uniform traffic control devices - Part 3: Traffic control devices for works on roads.
p) Include details of bus movements throughout the precinct during the construction period.
q) A Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with Noise Control Guideline 12 for Construction (Publication 1254) as issued by the Environment Protection Authority in October 2008. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
   i) using lower noise work practice and equipment
   ii) the suitability of the land for the use of an electric crane
   iii) silencing all mechanical plant by the best practical means using current technology
   iv) fitting pneumatic tools with an effective silencer
   v) other relevant considerations
   vi) any site-specific requirements.
During the construction:

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

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

t) Vehicle borne material must not accumulate on the roads abutting the land.

u) The cleaning of machinery and equipment must take place on the land and not on adjacent footpaths or roads.

v) All litter (including items such as cement bags, food packaging and plastic strapping) must be disposed of responsibly.

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

Drainage

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

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

Permit Expiry

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

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

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

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

Permit Notes:

- Council records indicate that there is a changed R.O.W to 3.05m (on East boundary) and 1.83m (on South boundary) wide drainage and sewerage easement as indicated on the drawings provided. The plans indicate that a number of structures/items shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities. The structures/items shall allow existing pit lids to be accessible and openable, be partially demountable over the easement, and the proposal shall require a Section 173 agreement to be created on the property title to ensure the continuation of Council rights
of drainage. Minimum easement width must the greater of; 2m from the boundary or 0.5m from the asset.

- Subsurface water must be treated in accordance with Council’s Policy for “Works on Assets within the Road Reserve Policy 2018”.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours’ notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

5. Council Policy

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct D2)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 36.01 Public Use Zone (Schedule 4)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.05 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 52.34 Bicycle Facilities
- Clause 53.18 Storm Water 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. Strategic Context

Land-use and development provisions of the Bayside Planning Scheme are contained within the State Planning Policy Framework (SPPF) which provides the overarching strategic policy framework for planning in the State. The Local Planning Policy Framework (LPPF) within the Bayside Planning Scheme contains Council's local policy and strategic planning objectives to guide land use and development within the municipality.

The Planning Policy Framework (PPF) supports the intensification of development proximate to public transport nodes and in activity centres. Further, State and Local Planning Policy direct increases in housing density in well serviced areas and on sites that are well located in relation to activity centres, employment corridors and public transport.

The Victorian State Government has provided a clear policy imperative of urban consolidation and a sustainable city which is heavily dependent on infill medium density development in areas that are well serviced, close to activity centres and along existing transport routes.

State Policy also encourages a diversity of housing choice to meet changing household needs whilst encouraging well-designed medium density development that respects neighbourhood character, makes better use of existing infrastructure and improves energy efficiency of housing.

Likewise, the Local Planning Policy Framework (LPPF) encourages urban consolidation in appropriate locations whilst recognising that poorly designed and sited medium density housing and inappropriately designed new single dwellings, can erode the preferred character and quality of some residential areas.

Although the subject site is not located in an activity centre, it is situated less than 230 metres to the edge of the recently gazetted Hampton East Activity Centre (C151).

It is commonly accepted that walking distances less than 400 metres are considered to be an 'ideal' number as walking is determined to be equally as time efficient than driving this distance.
The site benefits from good access to bus services that are found less than 200 metres north-west and south of the subject site and Patterson Train Station - located in the City of Glen Eira is less than 600 metres north-east of the subject site.

The distance to Patterson station is less than a 20-minute walk from the subject site, supporting the State Governments long term plan about living locally and the 20-minute neighbourhood as outlined in Plan Melbourne 2017-2050, the metropolitan planning strategy to manage Melbourne’s growth and change over the next three decades.

Despite the proximity to the activity centre, the subject site is located within the area identified in the Residential Strategic Framework Plan at Clause 21.02 of Bayside’s Planning Scheme for “minimal residential growth”.

This area has the purposes to recognise areas of predominantly single and double storey residential development and to manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.

Whilst the site is located in the lowest order residential zone, it is acknowledged that this does not prohibit change or as proposed, medium density development, provided it adequately responds to the existing and preferred neighbourhood character.

Furthermore, density of any development is determined from a quantitative assessment of a development’s compliance with a set of criteria set out in the Bayside Planning Scheme.

In these regards, the application has struck a balance with respecting the existing and preferred future neighbourhood character on a highly irregular shaped lot with a side boundary extending 81 metres across Nepean Highway, one of the States Principal arterial routes for the movement of people and goods.

The application meets the broad aims regarding the creation of a sustainable urban form, housing diversity, choice, affordability and critically, neighbourhood character for the reasons outlined in this report.

Moreover, the proposal would achieve the objectives of the Bayside Planning Scheme by providing a moderate level of housing growth which would benefit from the local services and public transport options available.

6.2. Public Use Zone

As evident in Image 1 below, the subject site is burdened by the Public Use Zone, Schedule 4 - Transport, across a narrow section for the entire length of the north-east boundary to Nepean Highway.

The purpose of this Zone is to recognise public land use for public utility and community services and facilities, and to provide for associated uses that are consistent with the intent of the public land reservation or purpose.

Application requirements of the zone require that a permit by a person other than the relevant public land manager must be made with general or conditional consent. However, this section of land that formed part of the former right of way adjoining the subject site was discontinued and transferred into private ownership in 1989 and despite the status of the land as privately owned, no planning scheme amendment to rezone the lane was pursued.

Notwithstanding, a permit is required to construct a building or construct or carry out works associated with the use of the land as a dwelling.

Although VicRoads is not a statutory referral authority, the applicant submitted the plans for informal comments. VicRoads advised that they did not support pedestrian gates along the Nepean Highway interface or the closure of the existing pedestrian access for
the site via Carr Street.

The intention of VicRoads comments is to maintain pedestrian access and connectivity to Nepean Highway and minimise potential conflicts between cyclists and pedestrians along the adjacent shared use path that separates the site from Nepean Highway.

As proposed, the secluded private open space of dwelling 1 to 9 (inclusive) is located along this strip of PUZ4 land, however, no pedestrian gates are proposed and the existing pedestrian access and connectivity remains unchanged from the existing conditions.

Despite this highly irregular zoning anomaly, it is evident that the existing and proposed use of the land for dwellings conforms to the use of the land for dwellings.

It is considered that the development is appropriately located and designed, in accordance with the use of the land for dwellings.

![Image 1: The location of the PUZ4 zoned land shaded in grey on the subject site.](image)

6.3. Neighbourhood character

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

The siting and massing of the dwellings has appropriately responded to its locational attributes, and with the exception of the side western title boundary, has created sufficient offsets from all boundaries.

As previously noted in Section 6.1 of this report, the proposal does not generate any neighbourhood character impacts as a result of the sites narrow 11 metre frontage to Carr Street that will host the facades of dwellings 1 and 12 or the 81 metre wide frontage to Nepean Highway.

However, as a result of the irregular shape of the lot and the siting of dwelling 12’s façade to the sites side boundary, the streetscape response results in an outcome whereby dwelling 1 will form the principle view from the dead end section of Carr Street, effectively obscuring the ‘southern’ module containing the remaining 8 dwellings.

Moreover, perceived visual bulk impacts as a result of the built form located to the rear (south) and side boundary (north-west) are effectively dispersed between four adjoining properties.
Skillion and pitched roof forms are supplemented by a material and colour scheme that reflects the dominant and emerging character found within the street. A rendered brick pier and open metal front fence will provide an openness to the streetscape currently not exploited by the site.

Subject to an amended landscaping plan, the post development outcome will be an improvement to a site devoid of any significant vegetation that contributes to the treed feel both in the public and private spheres of Carr Street.

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:

Side and rear setbacks (Standard B17)

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 current policy controls on the site require compliance with the side and rear setbacks as varied by the NRZ3. The areas of variation are underlined below.

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

Table 1: B17 Side and Rear Setbacks in accordance with the NRZ3.

The varied standard requires that all buildings not on or within 200 millimetres of a side boundary are to be setback a minimum of 2 metres and a minimum of 3 metres to a rear boundary. Accordingly, a number of variations are sought.

Firstly, dwelling 12’s ground floor side setback adjacent to the western title boundary adjoining 22 Carr Street does not comply with the statutory setback requirement at the sections associated with the garage, pantry, laundry and living areas.

This variation is demonstrated at Image 2 below, with the areas of built form located within the rectangle visually representing a sliding scale of setback noncompliance. The closer the dwelling wall to the 2 metre mark, the smaller the variation and as depicted, the garage, pantry and laundry wall seek a variation between 210mm – 2 metres from the title boundary.
Image 2: Dwelling 12’s side setback variation to the garage, pantry, laundry and living areas.

A smaller 800 millimetre variation is also sought to the wall associated with the living area that requires a setback of 1.2 metres. As a result of the angled siting of this wall, this area of non-compliance is confined to a section of the wall that increases to full compliance after a maximum width of 800 millimetres.

However, the variations are considered to be unreasonable owing to the number and extent of variations at ground floor that extend across the full length of the private open spaces and habitable room windows of the development at 22 Carr Street.

This is worsened by the siting of this dwelling whose façade faces the western title boundary, resulting in a domineering effect. Whilst the siting and massing of this dwelling reduces streetscape impacts because it is effectively obscured, it is at the expense of the amenity of future occupants at 22 Carr Street.

For these reasons it is considered that the offsite visual bulk impacts that these contraventions with the Standard will generate are unacceptable.

Additionally the reduced setbacks will create insufficient space for meaningful landscaping opportunities to soften the visual bulk of the development.

A condition of permit to ensure dwelling 12’s full compliance with the western side setback standard at ground floor adjoining 22 Carr Street is recommended.

Dwelling 9 and 10’s rear ground floor setback fails Council’s varied requirement within a range of 500 millimetres to 1.3 metres.

These ground floor variations are considered to be minor transgressions as they pose no significant visual bulk impacts to the abutting properties given the siting of the dwellings on the irregular shaped site.

Above a height of 3.6 metres, the varied NRZ3 standard requires an additional 0.6 metres for every metre of height over 3.6 metres up to 6.9 metres, plus 2 metres for every metre of height over 6.9 metres.

This results in a graduating pyramid effect to reduce off-site amenity impacts.
Dwelling 1 and 9’s first floor side setback to Nepean Highway (north-east) fails Council’s varied requirement within a range of 500 millimetres to 600 millimetres. Visual bulk impacts are minimised by breaks provide between the dwellings and the balconies that are an allowable encroachment into the setbacks of this standard provide articulation. Moreover, Nepean Highways wide Road reserve and the extensive existing vegetation will negate all off site impacts.

Similarly, dwelling 12’s first floor side setback seeks a variation between 100 millimetres to 200 millimetres from the corner of the bedroom 3 and the associated walk in robe. These walls are sited in a manner where the visual bulk impacts will be minimised, and it is considered that the areas of transgressions will not be discernible to the naked eye.

This variation is considered to be acceptable.

On balance, all supported variations sought are considered to be appropriate and demonstrate due regard to the intention sought by the policy controls.

**Overlooking (Standard B22)**

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

A habitable room windows and open spaces, should be located and designed to avoid direct views into the secluded private open space of an existing dwelling within a horizontal distance of 9 metres.

Although details to dwelling 12’s first floor balcony is lacking, the endorsed plans associated with the approved development at 22 Carr Street that is currently vacant details that all east facing windows have been treated at first floor. It is also noted that no SPOS to this development is proposed adjacent to this area.

However, whilst the balcony and bed 3 to the first floor of dwelling 12 facing the western title boundary complies with the Standard in regards to the existing (vacant site) and the proposed development at 22 Carr Street, screening of the first floor balcony to dwelling 12 will afford the future occupants a level of privacy to ensure that any perceived overlooking is mitigated.

For these reasons and considering the optimal north orientation of this balcony, requiring the treatment of this first floor balcony is considerate to be an appropriate amenity outcome, noting that treatment of the sliding door associated with this bedroom is not required due compliance with the Standard and objective.

Dwelling 10’s bed 1 and 3 at first floor require treatment to limit views into the SPOS of the adjoining dwellings at 15 and 17 Roberts Court to the South.

Dwelling 11’s bed 1 at first floor will have views into the SPOS of the approved development and treatment to accord with the standard is required.

A condition of permit requiring compliance with the standard will addresses these matters.

**Internal Views (Standard B23)**

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

The proposal has not demonstrated how views between the dwellings rear SPOS would be limited. Internal fencing at ground floor level to limits views between adjoining areas of secluded private open space within the development must be detailed.
A condition of permit requiring compliance with the standard will address this matter.

6.5. Landscaping

As outlined in the submitted Arborist Report at Attachment 5, the application plans show the removal of 42 trees from the site including 4 native trees.

The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism.

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Proposed retention</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>Trees 39 &amp; 40</td>
<td>Trees 1-3, 6-29, 31-37, 41-47, 51</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Table 2: The proposed tree removal and statutory/local laws controls.

In their referral response at Attachment 6, Council’s Arborist advised that the tree removal is supported as a result of low amenity values, poor structure and the absence of any protection measures.

Although protected by the Local Laws, the removal of tree no. 39 is supported due to its low amenity value and the removal of tree no. 40 is supported due to its poor structure.

Tree Nos. 50, 55 and 56 are located on the 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 any fencing, wall construction or buildings that occur within the TPZ of Trees No. 50, 55 & 56 are to be of a root sensitive design as outlined in the supporting Impact Assessment report by Arbor Report Victoria (12/9/18).

Additionally, the proposed canopy trees to dwellings 6 and 7 are to be relocated a minimum of 1 metre from the immediately adjacent storage shed and boundary fence, and subsequently an amended landscape plan will be required.

Lastly, a grass strip running the full length of the accessway is proposed. Given that the maintenance of this strip is unlikely to be effective to ensure its long term viability, a condition of permit will require the grass to be substituted for a trafficable surface finish.

A condition to these effects is included in the recommendation.

6.6. Car parking and traffic

Pursuant to the car parking requirements at Clause 52.06 – Car Parking of the Bayside Planning Scheme, 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.

The dwelling schedule ranges from two to four bedrooms. The required car spaces are provided to all townhouses in single and double garages located at grade, meeting the statutory requirements of Clause 52.06-5 required for dwellings.

Additionally, pursuant to Clause 52.06-5, the application is also required to provide 1 car space for visitors to every 5 dwellings for developments of 5 or more dwellings, resulting in a statutory requirement of two visitor car spaces.
One visitor space is proposed adjacent to dwelling 10 when two are required. Subsequently, a reduction of one visitor car space is proposed.

The application was referred to Council’s Traffic Engineer who expressed concern with the reduction of one visitor car space owing to scale of the development and the lack of public transport options proximate to the site.

It is noted however, that bus services are found 200 metres north-west and south of the subject site and Patterson Train Station - located in the City of Glen Eira is less than 600 metres north-east of the subject site.

Concerns regarding sufficient clearance to accommodate two-way passing traffic and access and egress from residential driveways on the narrow 7 metre width of Carr Street - a local road under the care and management of Council were also raised.

It is further noted however that the capacity of Carr Street to accommodate two-way traffic is beyond the scope of this application and reduced clearance (3 metres is ideal) already transpires on Carr Street when two cars are parked opposite each other on alternate sides of the street.

Moreover the accessibility of vehicles to private properties on Carr Street, and the management of on street parking cannot be considered through this planning permit application and the management of the aforementioned matters on local roads is controlled by Council.

Further suggestions that comments from VicRoads regarding the management of vehicles entering Bluff Road (categorised a Road Zone Category 1 and managed by VicRoads) from Carr Street should be sought, is beyond the scope of this application.

To support the reduction of the one visitor space, a car parking demand assessment was submitted with the application and surveys of the on-street parking demand of Carr Street were conducted.

The surveys demonstrate that at peak time (8pm Friday 15 December), a minimum of 26 unrestricted on-street car spaces were available on Carr Street with a minimum of 15 spaces located at any given time.

For these and the aforementioned reasons regarding the sites proximity to public transport, it is considered that a reduction of visitor one car space is considered to be appropriate.

Compliance with the Design standards relating to access and parking of the Bayside Planning Scheme at Clause 52.06 and/or AS/NZS 2890.1:2004 are in brief, confirmed to comply as demonstrated by the Swept Paths that were provided with the applications Traffic Report.

Finally, to ensure adequate sightlines to view oncoming traffic and prevent vehicular parking at the end of Carr Street that would inhibit circulation at the dead end street and impede safety and connectivity to the shared use path along Nepean Highway, Council’s Traffic Engineer have requested that area be converted to a ‘No stopping’ zone.

This requirement will not work given the private waste collection that will utilise this area for collection. It is recommended that the sign be converted to ‘No Parking’.

A condition of permit has addressed this requirement.

6.7. Waste management
As the proposal is not suitable for a Council waste/recycling service, a waste
management plan has been submitted to Council in support of the application.

Council’s Waste Management Officer has reviewed the application and advises that the proposed collection via a private waste contractor is considered acceptable.

A dedicated screened area for the storage of bins is located to the northern most corner of the subject site to Nepean Highway.

It is proposed that the bins are manually transferred from the individual dwellings and placed in this area for collection day. Waste collection is proposed to occur only outside of peak hours between 10am and 3pm Monday to Friday to minimise traffic disruption.

6.8. Construction Management Plan

As a result of the location of the site at the end of the narrow width of Carr Street, a condition of permit will require developers to submit a Construction Management Plan prior to the commencement of any building works.

The plan and report will consider all aspects of the proposed demolition and building and works. The Construction Management Plan Guidelines will outline the issues to be managed onsite including but not limited to:

- Delivery of construction materials
- Loading zones
- Public safety, amenity and site security
- Operating hours
- Noise and vibration controls
- Air and dust management
- Stormwater and sediment control
- Waste and materials reuse and traffic management.

A condition has been included as part of the recommendation.

6.9. Cultural Heritage Management Plan

As outlined at Section 1 of the Aboriginal Heritage Act 2006, the requirements for the submission of a Cultural Heritage Management Plan (CHMP) is to provide for the protection of cultural and intangible Aboriginal heritage in Victoria.

The submission of a Cultural Heritage Management Plan is required for an activity if -

(a) all or part of the activity area for the activity is an area of cultural heritage sensitivity; and

(b) all or part of the activity is a high impact activity.

The subject site is located within an area of cultural heritage sensitivity, and the proposed construction of twelve (12) dwellings on a 1100m² lot located in excess of 200 metres from of the coastal waters of Victoria is determined to be a high impact activity, triggering the statutory requirement for the submission of a CHMP.

As the Aboriginal Heritage Regulations 2018 afford a number of exemptions for the requirement for a CHMP, a Cultural Heritage Due Diligence Assessment was undertaken at the subject site and is provided at Attachment 7.

Pursuant to Regulation 44 of the Aboriginal Heritage Regulations 2018, that part of the
land within 50 metres of a registered cultural heritage place that has been subject to ‘significant ground disturbance’ is not an area of cultural heritage sensitivity.

The report has conclusively demonstrated that the whole of the subject site has been subject to ‘significant ground disturbance’. Resultantly, pursuant to Regulation 7 of the Aboriginal Heritage Regulations 2018, the application is exempt from the required submission of a Cultural Heritage Management Plan and does not prohibit the Grant of a permit.

6.10. Development contributions levy

The subject site is located within catchment area 8B.

Based on the proposed application and the below recommendation, a payment of $22,968.00 is required. The payment of the development contributions is included as a condition of permit.

6.11. Objector issues not already addressed

Security on and off site

It is noted that neighbourly relations, general safety, the tidiness of dwellings/unit developments and whether dwellings are tenanted or owner occupied is not a relevant consideration in assessing an application under the provisions of the Planning & Environment Act 1987, or the Bayside Planning Scheme.

Support Attachments

1. Development Plans
2. Site and surrounds
3. Neighbourhood Character Assessment (Precinct D2)
4. ResCode (Clause 55) Assessment
5. Arborist Report
6. Council Arborist Referral Response
7. Cultural Heritage Due Diligence Assessment
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
## STORM Rating Report

**TransactionID:** 738362  
**Municipality:** BAYSIDE  
**Rainfall Station:** BAYSIDE  
**Address:** 24 Carr Street  
**Assessor:**  
**Development Type:** Residential - Multiunit  
**Allotment Site (m²):** 2,191.00  
**STORM Rating %:** 106

<table>
<thead>
<tr>
<th>Description</th>
<th>Impervious Area (m²)</th>
<th>Treatment Type</th>
<th>Treatment Area/Volume (m² or L)</th>
<th>Occupants / Number Of Bedrooms</th>
<th>Treatment %</th>
<th>Tank Water Supply Reliability (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>dwellings</td>
<td>1,034.00</td>
<td>Rainwater Tank</td>
<td>8,000.00</td>
<td>35</td>
<td>96.00</td>
<td>62.10</td>
</tr>
<tr>
<td>driveway</td>
<td>375.00</td>
<td>Raingarden 300mm</td>
<td>10.00</td>
<td>0</td>
<td>133.00</td>
<td>0.00</td>
</tr>
</tbody>
</table>

**Date Generated:** 04-Mar-2019  
**Program Version:** 1.0.0
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds. One (1) registered objector address is located outside of the municipality.

Legend

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

Figure 2 View north towards the site's frontage from the northwest.
Figure 3 Panoramic view to the sites frontage, showing the neighbouring property at 22 Carr Street, located west of the subject site.

Figure 4 The dead end court of Carr Street and pedestrian and bicycle access to the road reserve extending along footpath.
Figure 5 The subject site interface to Nepean Highway.

Figure 6 The neighbouring property at 22 Carr Street, located west of the subject site.
Figure 7 The neighbouring property at 19 Carr Street, located northwest of the subject site.

Figure 8 The neighbouring rear lane behind the neighbouring property at 19 Carr Street
Figure 9 Panoramic View to on approach to the sites frontage, showing the neighbouring properties and court.

Figure 10 Panoramic View west of Carr Street and towards Bluff Road, showing the narrow carriageway width and consistent Council street tree planting.
ATTACHMENT 3

Neighbourhood Character Policy (Precinct D2)

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings.                                                                                      | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain existing large trees, wherever possible.                                                                                               | Lack of landscaping and substantial vegetation  
Removal of large trees.  
Loss of front garden space                                                                                                                    | Complies  
The site is characterised as informally planted with exotic gardens and is devoid of any significant vegetation.  
The siting of the building maximises the planting of vegetation around the sites permiters.  
No trees on the subject site are worthy of retention and the post development vegetated state will over time contribute to the landscaped setting of Carr Street  
Sufficient space in the front and rear setbacks have allowed for the planting of four (4) canopy trees and shrubs. | Complies                                                                 |
<p>| To maintain the rhythm of visual separation between buildings.                                                                                   | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.  |                                                                      |                            |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that buildings do not dominate the streetscape</td>
<td>• Incorporate articulated roof forms, plan form and wall surfaces in new buildings visible from the street. &lt;br&gt;• Recess second storey elements from the front façade.</td>
<td>Large bulky buildings with poorly articulated front or side wall surfaces.</td>
<td>The development has appropriately responded to its locational attributes and irregular shaped lot. &lt;br&gt;The siting and massing of the development creates sufficient offsets from all title boundaries, maximising the development on the unique lot whilst providing breaks in the built form. &lt;br&gt;To the north eastern title boundary, the subject site abuts the non-sensitive edge to Nepean Highway and is softened by a wide walkway and supplemented by existing plantings in the public area. &lt;br&gt;Currently the site abuts a vacant site to the south west at 22 Carr Street, and once the site is developed, the rhythm of visual separation between the adjoining sites will be maintained.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
<td>------------------</td>
<td>-------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>To reflect the building materials in locations where there is a particular consistency.</td>
<td>• Where consistent brick colours are present in the streetscape, use similar tonings in the colours of new buildings.</td>
<td>Brightly coloured external building materials in areas of consistent brick materials.</td>
<td>Complies Muted colours in shades of grey are complemented by warm timber and raw concrete render. These tones and materials are consistent with the existing dwellings on Carr street, reducing any perceived visual bulk due to the softening effect the combinations have.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fencing, other than along heavily trafficked roads. Where no front fencing predominates, use vegetation as an alternative.</td>
<td>High, solid fencing.</td>
<td>Complies A rendered brick pier and metal front fence of 1.2 metres in height will allow for oblique views through the site, providing an openness to the streetscape currently not exploited by the site.</td>
</tr>
<tr>
<td>To encourage development that responds to its location adjacent to the golf course.</td>
<td>• Where development directly borders the golf course, recess upper levels from the boundary nearest the open space.</td>
<td>Poorly articulated or dominating development fronting the golf course.</td>
<td>N/A</td>
</tr>
</tbody>
</table>
# ATTACHMENT 4
## ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer to Attachment 3. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPFP including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Yes | The subject site is appropriately located with regard to services and facilities to support the construction of three dwellings on a lot of this size. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | Yes | The objective seeks to encourage a range of dwelling sizes and types in developments of ten or more dwellings, including dwellings with a variation in bedroom numbers.  
The dwellings range in size and types and include 7x 2-bedroom, 2x 3 bedroom and 3x 4-bedroom dwellings.  
Dwellings 2 – 8 provide a reverse living arrangement and a single garage with the balance provided with a double garage.  
A variation in SPOS types is also provided. |
| **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 building has front setbacks in excess of 9 metres, is orientated to face Carr Street and maintains adequate vehicle and pedestrian links. |
| **B6 Street Setback** | Yes | Requirement: 9m  
Proposed: |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>GF</th>
<th>FF</th>
</tr>
</thead>
<tbody>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Maximum: 9m</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td>Minimum: &gt;20%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
<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>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided or adjacent to the development.</td>
<td>Yes</td>
<td>Communal open space is provided to the Carr Street Frontage. Fronted by dwellings 1 and 12, the POS provides outlooks and sightlines to the dwellings within the development and to the streetscape.</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage:  - Development that respects the landscape character of the neighbourhood.  - Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  - The retention of mature vegetation on the site.</td>
<td>Yes</td>
<td>The siting of the development creates sufficient opportunities for landscaping. A condition of permit will require an amended landscape plan to be submitted to ensure that adjoining trees that require protection will remain viable post development. See Section 6.5 of the report for further discussion.</td>
</tr>
<tr>
<td>B14 Access</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
<td>Maximum: 40%</td>
</tr>
</tbody>
</table>

Access is provided with the removal of the 7 metre wide crossover and the provision of a new 4 metre wide crossover reducing the length of frontage dedicated to crossovers. See Section 6.6 and 6.7 of the report for further discussion.
**B15 Parking Location**  
Provide resident and visitor vehicles with convenient parking.  
Avoid parking and traffic difficulties in the development and the neighbourhood.  
Protect residents from vehicular noise within developments.  

Yes  
See Section 6.6 of the report for further discussion.

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

No  
Refer to Section 6.4 of the Report.

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

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

N/A  
There are no walls proposed to be constructed on the boundary.

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

Yes  
The development has been sufficiently setback from all habitable room windows to abutting properties.  
The site to number 22 Carr Street is vacant.

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

Yes  
Pavilion 11 has been located in excess of 7 metres from the habitable room window of 14 Tuxton Court, located to the southern rear title boundary.

**B21 Overshadowing Open Space**  
Ensure buildings do not significantly overshadow existing secluded private open space.  
Where sunlight to the secluded private open space of an existing dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. If existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.

Yes  
The proposal comfortably accords with the standard, with the majority of shadow impacts occurring internally within the subject site and largely confined to the proposal's internal accessway.  
Overshadowing will occur to the vacant site at number 22 between the hours of 9am and 11am that as approved in permit 17/0540, will occur to the east facing covered entrance/service lane. These impacts are considered to be acceptable and accord with the standard.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>Refer to Section 6.4 of the Report.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>No</td>
<td>Refer to Section 6.4 of the Report.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>All two bedroom dwellings, 3x four bedroom dwellings and one three bedroom dwelling provide a master bedroom and ensuite facilities at ground floor. This equates to 83% of the dwellings within the development. Within the SPPF, 50% is considered to be the metric that represents compliance. Critically, the dwellings could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
<td>The development includes clearly delineated and unfenced entries to all dwellings. Shelter is provided at the dwellings entries with the provision of porches for weather protection. On balance, the design response is considered to be acceptable.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky or a covered external space which itself is open to the sky.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
<td>Reason</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
<td>--------</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Yes</td>
<td>Minimum: An area of 40 square metres, with one part of the private open space to consist of secluded private open space at the side or rear of the dwelling or residential building with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room, or; A balcony of 8 square metres with a minimum width of 1.6 metres and convenient access from a living room. Proposed: Dwellings 1, 9, 10, 11 and 12 have been provided with a minimum of 40m² of secluded private open space in accordance with the standard. Dwellings 2, 3, 4, 5, 6 and 7 provide balconies with an area of 10.2m² with a minimum width of 2.1 metres from a living room, according with the standard. An additional area of private open space is provided at ground floor to these dwellings to the ground floor master bedroom.</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the areas of secluded private open space are provided. Areas of secluded private open space located to the south and western interface will achieve varying level of solar access which is expected in any developments of two or more dwellings. Dwelling 10 is most constrained in regards to its southerly orientation however, a the POS is comprised of a number of ‘sections’ of varying sizes with a large section of dual south-west aspect provided adjacent to the living room. This area complies with the standard.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>A minimum area of 6 cubic metres of designated storage areas are provided external to all the dwellings.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer to Section 6.3 of the report and Attachment 3 for further discussion.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>A 1.2m rendered and slat front fence is proposed to the frontage and located to extend the length of frontage adjacent to dwelling 1.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Yes</td>
<td>The layout and of the communal common property are practical with regards to location and future maintenance.</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>-----</td>
<td>--------------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B34 Site Services</th>
<th>Yes</th>
<th>All appropriate site services are shown on the plans. Bin and recycling enclosures are shown within the front setback and behind the front fence for easy access off the pedestrian footpath. Mailboxes are shown adjacent to the common accessway.</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>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ArborReport Victoria
Trading as D.S. Murray & Co.
ABN 16 180 499 610

Arboricultural Consultants.
501/89 Beach St, Port Melbourne 3207
Phone: 96456006 Mob: 0412 809 571 Email: robportmel@bigpond.com

ARBORIST’S REPORT

CLIENT NAME: Zhixuan Li & Ting Lu
2 Gomi Court,
Frankston,
VICTORIA 3199

SITE/LOCATION: 24 Carr Street,
Brighton East

DATE OF INSPECTION: September 12, 2018

BACKGROUND:
The property has an existing rendered residence with outdoor living area, tennis court, swimming pool, detached studio and many trees. It is proposed to demolish the buildings and build thirteen new Townhouses on the land. Most of the existing trees will need to be removed to make way for the development and a new landscape plan.

PURPOSE OF THIS REPORT:
- To provide an arborist’s report addressing the requirements of The City of Bayside Council. The report is to cover all trees on the subject site and on adjoining land near the boundaries.
- To provide details of species, origin, age, height, trunk location, trunk diameter, and approximate canopy spread, of the trees.
- To assess the health and structure of each tree.
- To assess the retention value (RV) of each tree.
- To calculate Structural Root Zones (SRZs) where necessary.
- To list measures to protect those trees being retained during construction, including Tree Protection Zones (TPZs) Tree Protection Management Plan (TPMP).
- To consider the impact of the proposed building on existing trees, under the guidelines of Australian Standard AS 4970-2009 Protection of Trees on Development Sites.

METHODS:
Trees were assessed visually from ground level.
No trees were climbed to inspect structure or decay.
All measurements are approximate.
Access to trees on the adjoining properties was not available and their measurements are estimates.
TPZ encroachments are calculated by ArborCAD

Please refer to the accompanying Tree Protection Management Plan 9/2/2019 (the plan).
EXPLANATORY NOTE:

The term “OK” is an internationally recognised and understood expression. In the context of this report it means “everything is alright and no further comment is needed”.

The terms “low, medium, high” when used in succession are terms relating to level. In the context of this report they refer to the level of retention value. Each time such a term is used the reason for the level is explained in the comments section of the tree description.
DESCRIPTION OF THE TREES.

TREE NUMBER ON THE PLAN: T1.

SPECIES: *Cupressus macrocarpa*  COMMON NAME: Monterey Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 3.5m.

CROWN SPREAD: North-South: 3m.  
East-West: 4m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 230mm.

STRUCTURAL CONDITION:
All branches have been lopped off the East side of the trunk.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (insignificant, damaged tree). To be removed.

---

TREE NUMBER ON THE PLAN: T2.

SPECIES: *Cupressus macrocarpa*  COMMON NAME: Monterey Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 4m.

CROWN SPREAD: North-South: 3m.  
East-West: 3m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 200mm.

STRUCTURAL CONDITION:
OK.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (insignificant tree). To be removed.
<table>
<thead>
<tr>
<th>TREE NUMBER ON THE PLAN:</th>
<th>T3.</th>
</tr>
</thead>
<tbody>
<tr>
<td>SPECIES:</td>
<td><em>Cupressus macrocarpa</em></td>
</tr>
<tr>
<td>COMMON NAME:</td>
<td>Monterey Cypress.</td>
</tr>
<tr>
<td>ORIGIN:</td>
<td>Exotic.</td>
</tr>
<tr>
<td>APPROXIMATE AGE:</td>
<td>Mature.</td>
</tr>
<tr>
<td>APPROXIMATE HEIGHT:</td>
<td>3.5m.</td>
</tr>
<tr>
<td>CROWN SPREAD:</td>
<td>North-South: 3m. East-West: 3m.</td>
</tr>
<tr>
<td>TRUNK TYPE:</td>
<td>Single.</td>
</tr>
<tr>
<td>TRUNK DIAMETER 1400mm ABOVE GROUND:</td>
<td>180mm.</td>
</tr>
<tr>
<td>STRUCTURAL CONDITION:</td>
<td>OK.</td>
</tr>
<tr>
<td>HEALTH &amp; VIGOUR:</td>
<td>OK.</td>
</tr>
<tr>
<td>COMMENTS:</td>
<td>RV low (insignificant tree). To be removed.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TREE NUMBER ON THE PLAN:</th>
<th>T4.</th>
</tr>
</thead>
<tbody>
<tr>
<td>SPECIES:</td>
<td><em>Phoenix canariensis</em></td>
</tr>
<tr>
<td>COMMON NAME:</td>
<td>Canary Island Date Palm.</td>
</tr>
<tr>
<td>ORIGIN:</td>
<td>Exotic.</td>
</tr>
<tr>
<td>APPROXIMATE AGE:</td>
<td>Juvenile.</td>
</tr>
<tr>
<td>APPROXIMATE HEIGHT:</td>
<td>4m.</td>
</tr>
<tr>
<td>CROWN SPREAD:</td>
<td>North-South: 4m. East-West: 4m.</td>
</tr>
<tr>
<td>TRUNK TYPE:</td>
<td>N/A</td>
</tr>
<tr>
<td>TRUNK DIAMETER 1400mm ABOVE GROUND:</td>
<td>N/A.  TPZ: 3m.</td>
</tr>
<tr>
<td>STRUCTURAL CONDITION:</td>
<td>T4 has no trunk to measure at 1400mm above ground level.</td>
</tr>
<tr>
<td>HEALTH &amp; VIGOUR:</td>
<td>Healthy and vigorous.</td>
</tr>
<tr>
<td>COMMENTS:</td>
<td>RV high (growing in an adjacent property). To be retained.</td>
</tr>
</tbody>
</table>
TREE NUMBER ON THE PLAN: T5.

SPECIES: Yucca filamentosa  COMMON NAME: Yucca.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 3m.

CROWN SPREAD: North-South: 1m.
East-West: 1m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 60mm.

STRUCTURAL CONDITION: OK.

HEALTH & VIGOUR: Healthy and vigorous.

COMMENTS: RV low (insignificant "tree"). To be removed.

---

TREE NUMBER ON THE PLAN: T6.

SPECIES: Pittosporum tenuifolium ‘Silver Sheen’  COMMON NAME: Silver Sheen Pittosporum.

ORIGIN: Commercial cultivar.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 2.5m.

CROWN SPREAD: North-South: 2m.
East-West: 2m.

TRUNK TYPE: N/A

TRUNK DIAMETER 1400mm ABOVE GROUND: N/A.

STRUCTURAL CONDITION: T6 has no central leader/trunk but a bushy structure.

HEALTH & VIGOUR: At the time of inspection, the canopy was wilting and the tree lacked vigour.

COMMENTS: RV low (insignificant tree). To be removed.
TREE NUMBER ON THE PLAN: T7.

SPECIES: *x Cupressocyparis leylandii*  COMMON NAME: Leylandi Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 4m.

CROWN SPREAD: North-South: 3m.
East-West: 3m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 220mm.

STRUCTURAL CONDITION:
There are no significant branches on the West side of the trunk because of the close proximity of T1.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (insignificant tree). To be removed.

---

TREE NUMBER ON THE PLAN: T8.

SPECIES: *x Cupressocyparis leylandii*  COMMON NAME: Leylandi Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 4m.

CROWN SPREAD: North-South: 3m.
East-West: 3m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 200mm.

STRUCTURAL CONDITION:
The canopy is trimmed to a hedge form.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (insignificant tree). To be removed.
TREE NUMBER ON THE PLAN: T9.

**SPECIES:** *x Cupressocyparis leylandii*  
**COMMON NAME:** Leylandi Cypress.

**ORIGIN:** Exotic.

**APPROXIMATE AGE:** Mature.

**APPROXIMATE HEIGHT:** 8m.

**CROWN SPREAD:** 
- North-South: 5m.
- East-West: 6m.

**TRUNK TYPE:** Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND:** 230mm.

**STRUCTURAL CONDITION:**
Low branches have been removed from the North side of the canopy.

**HEALTH & VIGOUR:**
OK.

**COMMENTS:**
RV medium (mid-sized exotic tree in good condition). To be removed.

---

TREE NUMBER ON THE PLAN: T10.

**SPECIES:** *x Cupressocyparis leylandii*  
**COMMON NAME:** Leylandi Cypress.

**ORIGIN:** Exotic.

**APPROXIMATE AGE:** Mature.

**APPROXIMATE HEIGHT:** 8m.

**CROWN SPREAD:** 
- North-South: 3m.
- East-West: 6m.

**TRUNK TYPE:** Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND:** 180mm.

**STRUCTURAL CONDITION:**
OK.

**HEALTH & VIGOUR:**
OK.

**COMMENTS:**
RV medium (mid-sized exotic tree in good condition). To be removed.
TREE NUMBER ON THE PLAN: T11.

**SPECIES**: *x Cupressocyparis leylandii*  
**COMMON NAME**: Leylandi Cypress.

**ORIGIN**: Exotic.

**APPROXIMATE AGE**: Mature.

**APPROXIMATE HEIGHT**: 8m.

**CROWN SPREAD**: North-South: 3m.  
East-West: 6m.

**TRUNK TYPE**: Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND**: 210mm.

**STRUCTURAL CONDITION**: OK.

**HEALTH & VIGOUR**: OK.

**COMMENTS**:  
RV medium (mid-sized exotic tree in good condition). To be removed.

---

TREE NUMBER ON THE PLAN: T12.

**SPECIES**: *x Cupressocyparis leylandii*  
**COMMON NAME**: Leylandi Cypress.

**ORIGIN**: Exotic.

**APPROXIMATE AGE**: Mature.

**APPROXIMATE HEIGHT**: 8m.

**CROWN SPREAD**: North-South: 3m.  
East-West: 6m.

**TRUNK TYPE**: Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND**: 240mm.

**STRUCTURAL CONDITION**: OK.

**HEALTH & VIGOUR**: OK.

**COMMENTS**:  
RV medium (mid-sized exotic tree in good condition). To be removed.
TREE NUMBER ON THE PLAN: T13.

**SPECIES:** *x Cupressocyparis leylandii*  
**COMMON NAME:** Leylandi Cypress.

**ORIGIN:** Exotic.

**APPROXIMATE AGE:** Mature.

**APPROXIMATE HEIGHT:** 8m.

**CROWN SPREAD:** North-South: 3m.  
East-West: 6m.

**TRUNK TYPE:** Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND:** 230mm.

**STRUCTURAL CONDITION:** OK.

**HEALTH & VIGOUR:** OK.

**COMMENTS:** RV medium (mid-sized exotic tree in good condition). To be removed.

---

TREE NUMBER ON THE PLAN: T14.

**SPECIES:** *x Cupressocyparis leylandii*  
**COMMON NAME:** Leylandi Cypress.

**ORIGIN:** Exotic.

**APPROXIMATE AGE:** Mature.

**APPROXIMATE HEIGHT:** 8m.

**CROWN SPREAD:** North-South: 3m.  
East-West: 6m.

**TRUNK TYPE:** Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND:** 170mm.

**STRUCTURAL CONDITION:** OK.

**HEALTH & VIGOUR:** OK.

**COMMENTS:** RV medium (mid-sized exotic tree in good condition). To be removed.
TREE NUMBER ON THE PLAN: T15.
SPECIES: *x Cupressocyparis leylandii*  COMMON NAME: Leylandi Cypress.
ORIGIN: Exotic.
APPROXIMATE AGE: Mature.
APPROXIMATE HEIGHT: 8m.
CROWN SPREAD: North-South: 3m.
               East-West: 6m.
TRUNK TYPE: Single.
TRUNK DIAMETER 1400mm ABOVE GROUND: 210mm.
STRUCTURAL CONDITION:
OK.
HEALTH & VIGOUR:
OK.
COMMENTS:
RV medium (mid-sized exotic tree in good condition). To be removed.

---

TREE NUMBER ON THE PLAN: T16.
SPECIES: *x Cupressocyparis leylandii*  COMMON NAME: Leylandi Cypress.
ORIGIN: Exotic.
APPROXIMATE AGE: Mature.
APPROXIMATE HEIGHT: 8m.
CROWN SPREAD: North-South: 3m.
               East-West: 6m.
TRUNK TYPE: Single.
TRUNK DIAMETER 1400mm ABOVE GROUND: 230mm.
STRUCTURAL CONDITION:
OK.
HEALTH & VIGOUR:
OK.
COMMENTS:
RV medium (mid-sized exotic tree in good condition). To be removed.
TREE NUMBER ON THE PLAN: T17.

SPECIES: *x Cupressocyparis leylandii*  COMMON NAME: Leylandi Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 8m.

CROWN SPREAD: North-South: 3m.
               East-West: 6m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 310mm.

STRUCTURAL CONDITION:
OK.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV medium (mid-sized exotic tree in good condition). To be removed.

---

TREE NUMBER ON THE PLAN: T18.

SPECIES: *x Cupressocyparis leylandii*  COMMON NAME: Leylandi Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 8m.

CROWN SPREAD: North-South: 3m.
               East-West: 6m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 230mm.

STRUCTURAL CONDITION:
T18 leans to the Southwest, away from the canopy of T17.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV medium (mid-sized exotic tree in good condition). To be removed.
TREE NUMBER ON THE PLAN: T19.
SPECIES: Melaleuca bracteata  COMMON NAME: Golden Tea Tree.
ORIGIN: Native.
APPROXIMATE AGE: Mature.
APPROXIMATE HEIGHT: 6m.
CROWN SPREAD: North-South: 7m.
      East-West: 5m.
TRUNK TYPE: Single.
TRUNK DIAMETER 1400mm ABOVE GROUND: 250mm.
STRUCTURAL CONDITION:
OK.
HEALTH & VIGOUR:
The canopy is sparse and lacking vigour.
COMMENTS:
RV low (insignificant tree). To be removed.

______________________________

TREE NUMBER ON THE PLAN: T20.
SPECIES: Cupressus macrocarpa  COMMON NAME: Monterey Cypress.
ORIGIN: Exotic.
APPROXIMATE AGE: Semi-mature.
APPROXIMATE HEIGHT: 4m.
CROWN SPREAD: North-South: 3m.
      East-West: 3m.
TRUNK TYPE: Single.
TRUNK DIAMETER 1400mm ABOVE GROUND: 100mm.
STRUCTURAL CONDITION:
OK.
HEALTH & VIGOUR:
OK.
COMMENTS:
RV low (insignificant tree). To be removed.

______________________________
TREE NUMBER ON THE PLAN: T21.

SPECIES: *Cupressus macrocarpa*  COMMON NAME: Monterey Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 3.5m.

CROWN SPREAD: North-South: 3m.
                  East-West: 3m.

TRUNK TYPE: Bifurcated.

TRUNK DIAMETER 1400mm ABOVE GROUND: 30 & 50mm.

STRUCTURAL CONDITION: Spindly tree.

HEALTH & VIGOUR:
Lacking vigour and unable to compete with the large adjacent tree T57.

COMMENTS:
RV low (insignificant tree). To be removed.


TREE NUMBER ON THE PLAN: T22.

SPECIES: *Cupressus sempervirens*  COMMON NAME: Mediterranean Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 4m.

CROWN SPREAD: North-South: 1m.
                  East-West: 1m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 40mm.

STRUCTURAL CONDITION: Spindly tree.

HEALTH & VIGOUR:
Lacking vigour and unable to compete with the large adjacent tree T57.

COMMENTS:
RV low (insignificant tree). To be removed.
TREE NUMBER ON THE PLAN: T23.

SPECIES: Cupressus sempervirens

COMMON NAME: Mediterranean Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 5m.

CROWN SPREAD: North-South: 3m.

East-West: 2m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 100mm.

STRUCTURAL CONDITION:

There are few significant branches on the East side of the trunk.

HEALTH & VIGOUR:

OK.

COMMENTS:

RV low (insignificant tree). To be removed.

---

TREE NUMBER ON THE PLAN: T24.

SPECIES: Cupressus sempervirens

COMMON NAME: Mediterranean Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 5m.

CROWN SPREAD: North-South: 2m.

East-West: 2m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 80mm.

STRUCTURAL CONDITION:

There are few significant branches on the East side of the trunk.

HEALTH & VIGOUR:

OK.

COMMENTS:

RV low (insignificant tree). To be removed.
TREES ON THE PLAN: T25.

**SPECIES:** Cupressus sempervirens

**COMMON NAME:** Mediterranean Cypress.

**ORIGIN:** Exotic.

**APPROXIMATE AGE:** Semi-mature.

**APPROXIMATE HEIGHT:** 4m.

**CROWN SPREAD:**
- North-South: 2m.
- East-West: 2m.

**TRUNK TYPE:** Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND:** 60mm.

**STRUCTURAL CONDITION:**
There are few significant branches on the East side of the trunk.

**HEALTH & VIGOUR:**
OK.

**COMMENTS:**
RV low (insignificant tree). To be removed.

---


**SPECIES:** Cupressus sempervirens

**COMMON NAME:** Mediterranean Cypress.

**ORIGIN:** Exotic.

**APPROXIMATE AGE:** Semi-mature.

**APPROXIMATE HEIGHT:** 4m.

**CROWN SPREAD:**
- North-South: 1m.
- East-West: 1m.

**TRUNK TYPE:** Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND:** 50mm.

**STRUCTURAL CONDITION:**
There are few significant branches on the East side of the trunk.

**HEALTH & VIGOUR:**
OK.

**COMMENTS:**
RV low (insignificant tree). To be removed.
TREE NUMBER ON THE PLAN: T27.

SPECIES: *Cupressus sempervirens*   COMMON NAME: Mediterranean Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 4m.

CROWN SPREAD: North-South: 2m.
               East-West: 2m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 80mm.

STRUCTURAL CONDITION:
There are few significant branches on the East side of the trunk.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (insignificant tree). To be removed.

---

TREE NUMBER ON THE PLAN: T28.

SPECIES: *Cupressus sempervirens*   COMMON NAME: Mediterranean Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 6.5m.

CROWN SPREAD: North-South: 2m.
               East-West: 2m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 90mm.

STRUCTURAL CONDITION:
There are few significant branches on the East side of the trunk.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (insignificant tree). To be removed.
TREE NUMBER ON THE PLAN: T29.

SPECIES: Cupressus sempervirens

COMMON NAME: Mediterranean Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 4m.

CROWN SPREAD: North-South: 2m.
East-West: 2m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 80mm.

STRUCTURAL CONDITION:
There are few significant branches on the East side of the trunk.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (insignificant tree). To be removed.

---

TREE NUMBER ON THE PLAN: T30.

SPECIES: Photinia serrulata

COMMON NAME: Chinese Hawthorn.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 6m.

CROWN SPREAD: North-South: 6m.
East-West: 6m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 250mm.
TPZ: 3m

DIAMETER OF LOWER TRUNK: 300mm.
SRZ: 1.99m.

STRUCTURAL CONDITION:
OK.

HEALTH & VIGOUR:
Healthy and vigorous.

COMMENTS:
RV high (growing in an adjacent property). To be retained.
TREE NUMBER ON THE PLAN: T31.

SPECIES: *x Cupressoecyparis leylandii*  COMMON NAME: Leylandi Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 5m.

CROWN SPREAD: North-South: 4m. 
               East-West: 4m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 100mm.  TPZ: 2m.

DIAMETER OF LOWER TRUNK: 120mm.  SRZ: 1.5m.

STRUCTURAL CONDITION: OK.

HEALTH & VIGOUR:
Healthy but less vigorous than other trees in the same row.

COMMENTS:
RV low (insignificant tree). To be retained.

---

TREE NUMBER ON THE PLAN: T32.

SPECIES: *x Cupressoecyparis leylandii*  COMMON NAME: Leylandi Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 5m.

CROWN SPREAD: North-South: 3m. 
               East-West: 3m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 100mm.  TPZ: 2m.

DIAMETER OF LOWER TRUNK: 120mm.  SRZ: 1.5m.

STRUCTURAL CONDITION: OK.

HEALTH & VIGOUR:
Healthy but less vigorous than other trees in the same row.

COMMENTS:
RV low (insignificant tree). To be retained.
TREE NUMBER ON THE PLAN: T33.

SPECIES: *x Cupressocyparis leylandii*  
COMMON NAME: Leylandi Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 5.5m.

CROWN SPREAD: North-South: 3m.  
East-West: 3m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 120mm.  
TPZ: 2m.

DIAMETER OF LOWER TRUNK: 150mm.  
SRZ: 1.5m.

STRUCTURAL CONDITION: OK.

HEALTH & VIGOUR: Healthy and vigorous.

COMMENTS: RV low (insignificant tree). To be retained.

---

TREE NUMBER ON THE PLAN: T34.

SPECIES: *x Cupressocyparis leylandii*  
COMMON NAME: Leylandi Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 6m.

CROWN SPREAD: North-South: 4m.  
East-West: 4m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 190mm.

STRUCTURAL CONDITION: OK.

HEALTH & VIGOUR: Healthy and vigorous.

COMMENTS: RV low (insignificant tree). To be removed.

---

19
TREE NUMBER ON THE PLAN: T35.
SPECIES: *x Cupressocyparis leylandii*  
COMMON NAME: Leylandi Cypress.
ORIGIN: Exotic.
APPROXIMATE AGE: Semi-mature.
APPROXIMATE HEIGHT: 5.5m.
CROWN SPREAD: North-South: 3m.  
East-West: 3m.
TRUNK TYPE: Single.
TRUNK DIAMETER 1400mm ABOVE GROUND: 120mm.
STRUCTURAL CONDITION: OK.
HEALTH & VIGOUR: Healthy and vigorous.
COMMENTS: RV low (insignificant tree). To be removed.

---

TREE NUMBER ON THE PLAN: T36.
SPECIES: *x Cupressocyparis leylandii*  
COMMON NAME: Leylandi Cypress.
ORIGIN: Exotic.
APPROXIMATE AGE: Semi-mature.
APPROXIMATE HEIGHT: 5m.
CROWN SPREAD: North-South: 3m.  
East-West: 3m.
TRUNK TYPE: Single.
TRUNK DIAMETER 1400mm ABOVE GROUND: 120mm.
STRUCTURAL CONDITION: OK.
HEALTH & VIGOUR: Healthy and vigorous.
COMMENTS: RV low (insignificant tree). To be removed.
TREE NUMBER ON THE PLAN: T37.

SPECIES: Pittosporum eugenioides ‘Variegatum’  COMMON NAME: Silver Tarata.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 2.5m.

CROWN SPREAD: North-South: 2m.
               East-West: 2m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 40mm.

STRUCTURAL CONDITION:
Snubbed.

HEALTH & VIGOUR:
Shaded by, and unable to compete with the adjacent large tree T57.

COMMENTS:
RV low (insignificant tree). To be removed.

---

TREE NUMBER ON THE PLAN: T38.

SPECIES: Ficus carica  COMMON NAME: Fig.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 7m.

CROWN SPREAD: North-South: 8m.
               East-West: 8m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 300mm. TPZ: 3.6m.

DIAMETER OF LOWER TRUNK: 400mm. SRZ: 2.25m.

STRUCTURAL CONDITION:
Sprawling habit of growth.

HEALTH & VIGOUR:
The species is deciduous. The tree was leafless at the time of inspection. No signs of ill-health were noted.

COMMENTS:
RV high (growing in an adjoining property). To be retained.
TREE NUMBER ON THE PLAN: T39.

SPECIES: Cupressus macrocarpa  COMMON NAME: Monterey Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 13m.

CROWN SPREAD: North-South: 10m.
                                      East-West: 10m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 580mm.

STRUCTURAL CONDITION:
The trunk appears to have been bifurcated above one metre from ground level, but has grafted together again to form a single trunk.

HEALTH & VIGOUR:
Infested with Ivy and another creeper up to the top of the canopy.

COMMENTS:
RV high (large exotic tree with no significant fault). To be removed.

---

TREE NUMBER ON THE PLAN: T40.

SPECIES: Acacia floribunda.  COMMON NAME: Gossamer Wattle

ORIGIN: Native.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 5m.

CROWN SPREAD: North-South: 12m.
                                      East-West: 9 m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: Ranging up to 250mm.

STRUCTURAL CONDITION:
A number of trunks/branches arise from a common base at ground level to form a widespread sprawling canopy. Branches, up to 200mm in diameter, have been lopped.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (very poor remaining structure). To be removed.
TREE NUMBER ON THE PLAN: T41.

**SPECIES:** Waterhousea floribunda  
**COMMON NAME:** Weeping Lilly Pilly.

**ORIGIN:** Native.

**APPROXIMATE AGE:** Mature.

**APPROXIMATE HEIGHT:** 4m.

**CROWN SPREAD:** North-South: 3m.  
East-West: 3m.

**TRUNK TYPE:** Multi-stemmed.

**TRUNK DIAMETER 1400mm ABOVE GROUND:** Ranging up to 40mm.

**STRUCTURAL CONDITION:**  
T41 consists entirely of sprouts from the stump of a tree which has previously been lopped close to ground level.

**HEALTH & VIGOUR:**  
The top of the canopy is defoliated.

**COMMENTS:**  
RV low (unsatisfactory structure). To be removed.

---

TREE NUMBER ON THE PLAN: T42.

**SPECIES:** x Cupressocyparis leylandii  
**COMMON NAME:** Leylandi Cypress.

**ORIGIN:** Exotic.

**APPROXIMATE AGE:** Juvenile.

**APPROXIMATE HEIGHT:** 2.5m.

**CROWN SPREAD:** North-South: 1.5m.  
East-West: 1.5m.

**TRUNK TYPE:** Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND:** 20mm.

**STRUCTURAL CONDITION:**  
OK.

**HEALTH & VIGOUR:**  
Healthy and vigorous.

**COMMENTS:**  
RV low (insignificant tree). To be removed.
TREE NUMBER ON THE PLAN: T43.
SPECIES: *Cupressocyparis leylandii*  COMMON NAME: Leylandi Cypress.
ORIGIN: Exotic.
APPROXIMATE AGE: Juvenile.
APPROXIMATE HEIGHT: 2.5m.
CROWN SPREAD: North-South: 1.5m. 
East-West: 1.5m.
TRUNK TYPE: Single.
TRUNK DIAMETER 1400mm ABOVE GROUND: 20mm.
STRUCTURAL CONDITION: OK.
HEALTH & VIGOUR:
Healthy and vigorous.
COMMENTS:
RV low (insignificant tree). To be removed.

---

TREE NUMBER ON THE PLAN: T44.
SPECIES: *Yucca filamentosa*  COMMON NAME: Yucca.
ORIGIN: Exotic.
APPROXIMATE AGE: Semi-mature.
APPROXIMATE HEIGHT: 3m.
CROWN SPREAD: North-South: 2m. 
East-West: 2m.
TRUNK TYPE: Bifurcated.
TRUNK DIAMETER 1400mm ABOVE GROUND: 2 x 70mm.
STRUCTURAL CONDITION:
Both stems arise individually from ground level.
HEALTH & VIGOUR:
Healthy and vigorous.
COMMENTS:
RV low (insignificant "tree"). To be removed.
TREE NUMBER ON THE PLAN: T45.

SPECIES: *Thuja orientalis* ‘Nana’  COMMON NAME: Dwarf Thuja.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 3m.

CROWN SPREAD: North-South: 2m.  East-West: 2m.

TRUNK TYPE: N/A.

TRUNK DIAMETER 1400mm ABOVE GROUND: N/A

STRUCTURAL CONDITION:
T45 has no central leader/trunk but a bushy structure.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (insignificant bush). To be removed.

---

TREE NUMBER ON THE PLAN: T46.

SPECIES: *Thuja orientalis* ‘Nana’  COMMON NAME: Dwarf Thuja.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 3m.

CROWN SPREAD: North-South: 2m.  East-West: 2m.

TRUNK TYPE: N/A.

TRUNK DIAMETER 1400mm ABOVE GROUND: N/A

STRUCTURAL CONDITION:
T46 has no central leader/trunk but a bushy structure.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (insignificant bush). To be removed.
TREE NUMBER ON THE PLAN: T47.

SPECIES: x Cupressocyparis leylandii  COMMON NAME: Leylandi Cypress.

ORIGIN: Exotic.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 4.5m.

CROWN SPREAD: North-South: 6m.
               East-West: 5m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 320mm.

STRUCTURAL CONDITION:
The trunk has been lopped at 3m above ground level. Branches have been removed on the Northeast side to clear the existing building.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV low (damaged tree). To be removed.

---

TREE NUMBER ON THE PLAN: T48.

SPECIES: Syzygium paniculatum  COMMON NAME: Magenta Cherry.

ORIGIN: Native.

APPROXIMATE AGE: Mature?

APPROXIMATE HEIGHT: 3m.

CROWN SPREAD: North-South: 3m.
               East-West: 3m.

TRUNK TYPE: Multi-stemmed

TRUNK DIAMETER 1400mm ABOVE GROUND: Ranging up to 50mm.  TPZ: 2m.

DIAMETER OF LOWER TRUNK: say 150mm.  SRZ: 1.5m.

STRUCTURAL CONDITION:
T48 is possibly comprised of sprouts from the stump of a tree which has been lopped close to ground level but the base of the tree was not able to be seen.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV high (growing in an adjacent property). To be retained.
TREE NUMBER ON THE PLAN: T49.

SPECIES: Syzygium paniculatum  COMMON NAME: Magenta Cherry.

ORIGIN: Native.

APPROXIMATE AGE: Mature?

APPROXIMATE HEIGHT: 3m.

CROWN SPREAD: North-South: 3m.  East-West: 3m.

TRUNK TYPE: Multi-stemmed

TRUNK DIAMETER 1400mm ABOVE GROUND: Ranging up to 50mm.  TPZ: 2m.

DIAMETER OF LOWER TRUNK: say 150mm.  SRZ: 1.5m.

STRUCTURAL CONDITION:
T49 is possibly comprised of sprouts from the stump of a tree which has been lopped close to ground level but the base of the tree was not able to be seen.

HEALTH & VIGOUR:
OK.

COMMENTS:
RV high (growing in an adjacent property). To be retained.

______________________________

TREE NUMBER ON THE PLAN: T50.

SPECIES: Syzygium paniculatum  COMMON NAME: Magenta Cherry.

ORIGIN: Native.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 14m.

CROWN SPREAD: North-South: 15m.  East-West: 15m.

TRUNK TYPE: Bifurcated.

TRUNK DIAMETER 1400mm ABOVE GROUND: 2 x 500mm.  TPZ: 8.48m.

DIAMETER OF LOWER TRUNK: 800mm.  SRZ: 3m.

STRUCTURAL CONDITION:
Two trunks originate from a common base at ground level. Branches have been lopped to clear the existing tennis court fence.

HEALTH & VIGOUR:
Healthy.

COMMENTS:
RV high (growing in an adjacent property). To be retained.

______________________________
TREE NUMBER ON THE PLAN: T51.

**SPECIES:** Cordyline australis  
**COMMON NAME:** Cabbage Palm.

**ORIGIN:** Exotic.

**APPROXIMATE AGE:** Mature.

**APPROXIMATE HEIGHT:** 4m.

**CROWN SPREAD:** North-South: 2m.  
East-West: 2m.

**TRUNK TYPE:** Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND:** 160mm.

**STRUCTURAL CONDITION:** OK.

**HEALTH & VIGOUR:** OK.

**COMMENTS:**  
RV low (insignificant tree). To be removed.

---

TREE NUMBER ON THE PLAN: T52.

No Tree.

---

TREE NUMBER ON THE PLAN: T53.

**SPECIES:** Pyrus ussuriensis  
**COMMON NAME:** Manchurian Pear.

**ORIGIN:** Exotic.

**APPROXIMATE AGE:** Semi-mature.

**APPROXIMATE HEIGHT:** 7m.

**CROWN SPREAD:** North-South: 4m.  
East-West: 4m.

**TRUNK TYPE:** Single.

**TRUNK DIAMETER 1400mm ABOVE GROUND:** 180mm.  
**TPZ:** 2.16m.

**DIAMETER OF LOWER TRUNK:** 220mm.  
**SRZ:** 1.75m.

**STRUCTURAL CONDITION:** OK.

**HEALTH & VIGOUR:** OK.

**COMMENTS:**  
RV high (growing in an adjoining property). To be retained.
TREE NUMBER ON THE PLAN: T54.

SPECIES: *Pyrus usuriensis*  
COMMON NAME: Manchurian Pear.

ORIGIN: Exotic.

APPROXIMATE AGE: Semi-mature.

APPROXIMATE HEIGHT: 7m.

CROWN SPREAD: North-South: 4m.  
East-West: 4m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 180mm.  
TPZ: 2.16m.

DIAMETER OF LOWER TRUNK: 220mm.  
SRZ: 1.75m.

STRUCTURAL CONDITION:  
OK.

HEALTH & VIGOUR:  
OK.

COMMENTS:  
RV high (growing in an adjoining property). To be retained.  
T54 was not able to be measured because of adjacent obstructions but is assumed to be very similar to T55.

---

TREE NUMBER ON THE PLAN: T55.

SPECIES: *Eucalyptus melliodora*  
COMMON NAME: Yellow Box.

ORIGIN: Native.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 15m.

CROWN SPREAD: North-South: 15m.  
East-West: 15m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 480mm.  
TPZ: 5.76

DIAMETER OF LOWER TRUNK: 520mm.  
SRZ: 2.51m.

STRUCTURAL CONDITION:  
OK.

HEALTH & VIGOUR:  
Healthy and vigorous.

COMMENTS:  
RV high (growing in the highway reserve). To be retained.
TREE NUMBER ON THE PLAN: T56.

SPECIES: Corymbia citriodora  COMMON NAME: Lemon Scented Gum.

ORIGIN: Native.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 17m.

CROWN SPREAD: North-South: 10m.
East-West: 14m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 680mm.  TPZ: 8.16m.

DIAMETER OF LOWER TRUNK: 800mm.  SRZ: 3.01m.

STRUCTURAL CONDITION:
The trunk is bifurcated above three metres from ground level.

HEALTH & VIGOUR:
Healthy and vigorous.

COMMENTS:
RV high (growing in the highway reserve). To be retained.

---

TREE NUMBER ON THE PLAN: T57.

SPECIES: Corymbia citriodora  COMMON NAME: Lemon Scented Gum.

ORIGIN: Native.

APPROXIMATE AGE: Mature.

APPROXIMATE HEIGHT: 17m.

CROWN SPREAD: North-South: 8m.
East-West: 12m.

TRUNK TYPE: Single.

TRUNK DIAMETER 1400mm ABOVE GROUND: 500mm.  TPZ: 6m.

DIAMETER OF LOWER TRUNK: 590mm.  SRZ: 2.65m.

STRUCTURAL CONDITION:
OK.

HEALTH & VIGOUR:
Healthy and vigorous.

COMMENTS:
RV high (growing in the highway reserve). To be retained.
SUMMARY:
Trees to be removed to make way for the proposed development: - T1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 34, 35, 36, 37, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 51.
Trees to be retained: - T4, 30, 31, 32, 33, 38, 48, 49, 50, 53, 54, 55, 56 and 57.
T52 no tree.

To comply with Council Arboriculture Victoria reporting guidelines, trees to be removed are colour coded red on the plan, and trees to be retained are coded green.
DISCUSSION:

Australian Standard AS 4970-2009 Protection of Trees on Development Sites defines two specific zones:

1) TREE PROTECTION ZONE (TPZ):
The TPZ is designed to protect the roots, the trunk, and the canopy of each tree.
The area of the TPZ is a circle with a radius calculated by multiplying the trunk diameter at 1400mm above ground level, by 12.
The TPZs are marked on the accompanying plan, to scale, by circles. The TPZ circle is the larger circle in each case.
The minimum allowance for a TPZ is a circle with a radius of two metres, regardless of trunk diameter.
Except in specific circumstances, for the duration of the development, the TPZ should be enclosed by fencing and activity inside the enclosure should be restricted.

There should be:

- No building materials, rubbish or filling of any kind stored inside the fencing.
- No soil disturbance. This includes no trenching for connection of services.
- No fixings attached to the trees themselves, in particular no bolts, screws, wires or ropes.
- No preparation of paint, cement or plaster products, or washing of tools used with these products.
- No parking of vehicles or refuelling of vehicles or appliances.
- No change in soil surface levels.

See discussion below.

2) STRUCTURAL ROOT ZONE (SRZ):
The SRZ is the area required for tree stability, or the area where the structural (anchor) roots can be expected to be found.
The radius of the SRZ is calculated according to the formula \( R_{SRZ} = (D \times 50)^{0.42} \times 0.64 \), where 
\( D \) is the trunk diameter (in metres) measured immediately above the root buttress. (Australian Standard AS 4970-2009 Protection of Trees on Development Sites). There should be no soil disturbance within the SRZ without prior investigation to ascertain the location of roots.
The SRZ is required to be calculated when there is encroachment into the TPZ. It is then marked on the plan, to scale, by a circle. The SRZ has been calculated for trees which are to be retained but may not be shown on the plan if there is no encroachment into the TPZ.
The minimum allowance for an SRZ is a circle with a radius of 1.5 metres regardless of trunk diameter.
ARBORICULTURAL IMPACT ASSESSMENT.

- Excavation for the footings of Townhouses 5 and 6 would encroach on the TPZ of T55 by 12.4% of the TPZ area.
- Excavation for the footings of Townhouse 9 would encroach on the TPZ of tree T56 by 10.6% of the TPZ area.
- Excavation for the footings of Townhouse 9 would encroach on the TPZ of tree T57 by 1.4% of the TPZ area.

Australian Standard AS 4970-2009 *Protection of Trees on Development Sites* allows for encroachment into the TPZ of 10%, without investigation of the root zone, provided that the size of the TPZ may be extended in another area, contiguous with the original TPZ, to compensate for the encroachment.

The T57 encroachment is within the 10% guideline. The area of the TPZ can be enlarged along the nature strip and in the subject property. There would be no discernible impact on T57.

The T56 encroachment marginally exceeds the 10% guideline however, AS 4970-2009 also allows that, if the encroachment is greater than 10%, the size of the TPZ may be extended in another area, contiguous with the original TPZ, to compensate for the encroachment provided that the tree will remain viable post construction.

In this instance the area of the TPZ can be enlarged along the nature strip and in the subject property. The tree will benefit to a small extent from the removal of the existing in-ground trampoline. The tree is in strong condition and will remain viable post construction.

The T55 encroachment also exceeds the 10% guideline of the Standard. The TPZ area of T55 can be enlarged in both directions along the nature strip. The tree will benefit from the removal of existing concrete paving. To reduce the impact of the development on the tree the building can be supported on beams spanning bored piers of screw-piles within the TPZ. The tree is in strong condition and will remain viable post construction provided that the provisions of the Tree Management Report are adhered to.

Apart from the encroachments listed above, this report assumes that there will be no site cut/fill, no retaining walls and no mechanical trenching for the installation of services within the TPZ of any of the trees which are to be retained.

Arborist.

Date  9 / 2 / 2019

**Item 4.7 – Matters of Decision**

<table>
<thead>
<tr>
<th>TO</th>
<th>Arborist</th>
</tr>
</thead>
<tbody>
<tr>
<td>FROM</td>
<td>Anita Rozankovic-Stevens</td>
</tr>
<tr>
<td>ADDRESS</td>
<td>24 Carr Street BRIGHTON EAST</td>
</tr>
<tr>
<td>APPLICATION NO.</td>
<td>5/2018/715/1</td>
</tr>
<tr>
<td>PROPOSAL</td>
<td>Construction of two or more dwellings on a lot, construct and carry out works associated with the use of the land as dwellings in a Public Use Zone and a reduction of visitor car parking spaces.</td>
</tr>
</tbody>
</table>
Plans - [DOC/19/150256 - (5/2018/715/1 - 24 Carr Street BRIGHTON EAST - Advertised Plans 1 of 2)](https://example.com/doc/19/150256)  
Landscape plan page 7 [DOC/19/150238 - (5/2018/715/1 - 24 Carr Street BRIGHTON EAST - Advertised plans 2 of 2)](https://example.com/doc/19/150238) |
| STATUS            | Under assessment |
| COMMENTS          | An assessment against the following is required:  
• Neighbourhood character precinct – D2  
• Clause 54.03-6 (significant trees), Standard A8  
• Clause 55.03-6 (landscaping), Standard B13 |
| DATE OF REFERRAL  | 11 June 2019 |

**ARBORIST COMMENTS / CONDITIONS:**

Landscape character of the site: Most of the trees are exotic and small canopied.

Landscape character of adjacent area: Similar to subject site.

The requirements of NCP are:

- Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.
- Retain existing large trees, wherever possible.
- 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.

Are there any trees on the subject site or adjoining properties that need protection?  
Yes ☒ No ☐

The following trees are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site:
• 50, 55, 56

**Landscape plan**

Has a landscape plan has been submitted  Yes ☒  No ☐

Is the landscape plan in accordance with NCP  Yes ☒  No ☐

Is the landscape plan in accordance with BLG?  Yes ☒  No ☐

Does the built form and/or surface treatments need to be reduced/modified to improve post construction landscaping opportunities?  Yes ☒  No ☐

Proposed trees in blue polygon to be located minimum 1m from garden sheds and boundary fence.

![Diagram showing proposed locations of trees and garden sheds.]

Furthermore, any fencing or wall construction that occurs with the TPZ of Trees No. 50 & 55 is to be of a root sensitive design.

Floor plan of development to include root sensitive design offered in Impact Assessment report by Arbor Report Victoria (12/9/18).

**Arborist report**

Has an arborist report been submitted?  Yes ☒  No ☐

Does the arborist report cover the following topics?

- Tree inventory  Yes ☒  No ☐
- Impact assessment  Yes ☒  No ☐
BAYSIDE CITY COUNCIL - STATUTORY PLANNING DEPARTMENT - INTERNAL REFERRAL

- Tree protection method  Yes ☒ No ☐
- Is more information required? Yes ☐ No ☒

Is this information required prior to the application being determined? Yes ☒ No ☐

Does the built form and/or surface treatments need to be reduced to protect trees? Yes ☒ No ☐

See my comments above.

Proposed tree removal

The application plans show the removal of 42 trees from the site, including 4 native trees.

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

<table>
<thead>
<tr>
<th>Trees that align with the NCP?</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Propose d for removal</td>
<td>Propose d for retention</td>
<td>Propose d for removal</td>
</tr>
<tr>
<td>Propose d for removal</td>
<td>Propose d for retention</td>
<td>Propose d for removal</td>
</tr>
<tr>
<td>39 &amp; 40</td>
<td>1-3, 6-29, 31-37, 41-47, 51</td>
<td></td>
</tr>
</tbody>
</table>

Tree removal is supported due to No 39 low amenity. No 40 because of poor structures and Nos 1-3, 6-29, 31-37, 41-47 & 51 due to lack of protection from local law and/or low amenity.

SIGNATURE: Ronan Hamil
DATE: 1/8/19
TOWNHOUSE DEVELOPMENT

24 CARR STREET, BRIGHTON EAST:

CULTURAL HERITAGE DUE DILIGENCE ASSESSMENT

A report to the Jarlley Property Group

by

Dr. Tim Stone
Heritage Advisor
P.O. Box 1068
Carlton, Vic. 3053
mob: 0429 496607

September 2019
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>1.1 Aims of this assessment</td>
<td>1</td>
</tr>
<tr>
<td>2. STATUTORY PROTECTION</td>
<td>1</td>
</tr>
<tr>
<td>2.1 Aboriginal Heritage Act 2006</td>
<td>3</td>
</tr>
<tr>
<td>2.2 Heritage Act 2017</td>
<td>3</td>
</tr>
<tr>
<td>3. PREVIOUS ARCHAEOLOGICAL INVESTIGATIONS</td>
<td>4</td>
</tr>
<tr>
<td>3.1 Aboriginal sites in the vicinity of 24 Carr Street</td>
<td>5</td>
</tr>
<tr>
<td>3.2 Historic sites in the vicinity of 24 Carr Street</td>
<td>5</td>
</tr>
<tr>
<td>4. ABORIGINAL HERITAGE REGULATIONS 2018</td>
<td>6</td>
</tr>
<tr>
<td>4.1 Significant ground disturbance</td>
<td>6</td>
</tr>
<tr>
<td>5. HISTORIC HERITAGE OBLIGATIONS</td>
<td>8</td>
</tr>
<tr>
<td>6. RECOMMENDATIONS</td>
<td>8</td>
</tr>
<tr>
<td>REFERENCES</td>
<td>9</td>
</tr>
</tbody>
</table>
1. INTRODUCTION

The Jarley Property Group proposes to construct twelve two-storey townhouses on previously developed land at 24 Carr Street, Brighton East ~12 km SE of the Melbourne CBD and ~3 km from the shore of Port Phillip Bay (Figure 1). The appendix at the back of this report contains detailed plans of the proposed development.

Currently, the property is occupied by a substantial post-World War 2 family home, with tennis court, in-ground swimming pool and outbuildings (e.g. garden shed) in the landscaped rear yard. The front and sides have a long access driveway behind a wall and gate close to the intersection of Carr Street and the Nepean Highway.

Carr Street is a bitumenised suburban street adjoining the eight-lane Nepean Highway. A powerline and footpath have been built on the nature strip beside the driveway of 24 Carr Street and a cycle path between the address and highway. Below-ground services to the house include gas, water and sewer mains, cables and stormwater drainage.

1.1 Aims of this assessment

As part of the planning process for the proposed redevelopment, Heritage Advisor Dr. Tim Stone was asked by the Jarley Property Group to identify any Aboriginal or historic cultural heritage issues that might need to be addressed prior to construction of the townhouses. Of particular concern is that the proposed redevelopment may be subject to the Aboriginal Heritage Act 2006 and its Aboriginal Heritage Regulations 2018. The Heritage Act 2017, which protects historic sites, is also relevant.

The following advice is drawn from the Aboriginal Heritage Act 2006 and its Aboriginal Heritage Regulations 2018. I also searched the Victorian Aboriginal Heritage Register (VAHR), a site database kept by Aboriginal Victoria (AV), for any known Aboriginal sites in the vicinity of the proposed redevelopment area and reviewed relevant cultural heritage reports for the area.

Heritage Victoria’s site records were similarly checked for historic sites as was the local planning scheme of the Bayside City Council.

2. STATUTORY PROTECTION

All Victorian registered and unregistered Aboriginal cultural heritage sites are protected by the State’s Aboriginal Heritage Act 2006 (commenced May 28th, 2007). Similarly, all Victorian historical sites are protected by the State Heritage Act 2017 (commenced
November 1st, 2017). These Acts prohibit the wilful destruction or disturbance of any cultural heritage site, place or object, whether on private or public land.

The Victorian State Government instrumentalities that administer these Acts are AV and Heritage Victoria. All legislation relevant to the discovery of human remains is subordinate to the Coroners Act 1985.

Figure 1. Location and extent of 24 Carr Street, Brighton East.
2.1 Aboriginal Heritage Act 2006

The *Aboriginal Heritage Act 2006* and its *Aboriginal Heritage Regulations 2018* are of particular relevance to the proposed activity. A core component of this Act is the preparation of Cultural Heritage Management Plans (CHMPs), which will be required under certain circumstances for high impact activities that require statutory authorisation under the Victorian Planning Provisions. CHMPs must meet prescribed standards and be approved by AV before they can be used to support permit applications to local government or other agencies.

The Act also establishes the Aboriginal Heritage Council, which invites Aboriginal groups with cultural heritage interests in particular parts of the State to become Registered Aboriginal Parties (RAPs). The RAP(s) may elect to evaluate a CHMP in place of AV. Currently, there is no RAP for the Brighton East area (although the Bunurong Land Council has applied) and AV must evaluate any CHMP.

The regulations can be used to determine if a CHMP is required for planning approval. Section 4 of this report makes such a determination for the proposed redevelopment. The regulations also detail the standards expected of a CHMP, Cultural Heritage Agreements and fees payable under the Act.

Importantly, penalties for offences under the new Act have increased ten-fold in the case of individuals and twenty-fold in the case of corporations.

2.2 Heritage Act 2017

The *Heritage Act 2017* provides for the protection of significant Victorian historic sites, places and objects which are at least 75 years old. It is possible that significant historic sites are located in the vicinity of 24 Carr Street, Brighton East.

Depending on the level of significance of a historic site, Heritage Victoria may have it listed on either the Victorian Heritage Register (for sites of State significance) or the Heritage Inventory (usually sites of archaeological significance).

Section 87(1) states:

> A person must not knowingly or recklessly remove, relocate or demolish, damage or despoil, develop or alter, or excavate, all or any part of a registered place.

Negligence is no excuse either under Section 88(1). However, it is not an indictable offence under Section 87(4) if the works or activities are:
(a) carried out in accordance with a Permit issued under this Part; or

(b) carried out in accordance with section 90; or

(c) carried out in accordance with Section 91; or

(d) for which the Heritage Council or the Executive Director has determined that a permit is not required under this Act.

Additionally, Section 123(1) of the Act states:

A person must not, without a consent under section 124, knowingly or negligently deface or damage or otherwise interfere with, or carry out an act likely to endanger

(a) a site recorded in the Heritage Inventory; or

(b) an archaeological site which is not recorded in the Heritage Inventory.

However, it is not an offence if the person is acting in accordance with a consent from the Executive Director that authorises the activity.

Penalties for offences against these provisions of the Act are stiff. In the case of an individual person the penalty is $90,000 or imprisonment for 12 months or both. The penalty for a body corporate is $180,000.

3. PREVIOUS ARCHAEOLOGICAL INVESTIGATIONS

Previous archaeological studies of sites in the Port Phillip Bay region have demonstrated Aboriginal occupation dating back at least 20,000 years. The oldest archaeological site in the region is at Keilor west of Melbourne where human remains were unearthed in 1940 (Bowler, 1976). The river terrace deposits at this site also contain the bones of extinct giant marsupials or 'megafauna' in association with Aboriginal stone artefacts (Duncan, 2001). However, none of the evidence suggests that Aboriginal people had hunted the megafauna or had butchered them for food.

The majority of Aboriginal sites in southern Victoria have been recorded along the coast. These date from about 6,000 years ago when sea levels stabilised near their present levels following the melting of the glaciers and ice-caps. Excavations of shell midden deposits have shown how shellfish gathering patterns and technology changed over this period (e.g. Coutts et al, 1976). These changes are usually interpreted by archaeologists as responses to changing environmental conditions. Characteristic stone artefacts of the
period were burins, backed blades and geometric microliths. The most commonly used raw materials were quartz, silcrete and quartzite.

Most Aboriginal sites in the hinterland are also probably no older than a few thousand years. One of the most significant is the Mount William Axe Quarry located near Lancefield (McBryde, 1984). This is a site where Aboriginal people have extracted diorite or ‘greenstone’ for the manufacture and trade of stone axe heads. Ground edge axe heads from this quarry have been found throughout Victoria and as far afield as Broken Hill in N.S.W. The Aboriginal people who lived in the Port Phillip Bay region probably manufactured grindstones and axes from basalt procured from surface outcrops around Berwick and Cranbourne (Thomas et al. 1967:55).

Presland (1983) and du Cros (1989) have identified salient features of the archaeological record of the wider Melbourne area. Surface scatters of flaked stone artefacts are the most common site type. These stone assemblages are dominated by flakes and flaked pieces mostly struck from silcrete and chert. Few formalised tool types have been recorded. Scarred trees are also well represented in the Melbourne area. The densest concentrations of sites in Melbourne’s south east are located on sandy rises around the margins of the former Carrum Swamp.

3.1 Aboriginal sites in the vicinity of 24 Carr Street

According to the VAHR, no Aboriginal sites have been located previously at 24 Carr Street, Brighton East. The closest known Aboriginal sites of any significance are shell middens located on the Sandringham Foreshore more than 3 km west of the subject land. Isolated stone artefacts have also been located but these are few and far between, and none closer than 1.6 km to the subject land.

3.2 Historic sites in the vicinity of 24 Carr Street

Heritage Victoria’s Heritage Register and Heritage Inventory do not list any historic sites in the vicinity of 24 Carr Street, Brighton East. Furthermore, the property is not covered by any heritage overlays of the Bayside City Council.
4. ABORIGINAL HERITAGE REGULATIONS 2018

The Aboriginal Heritage Regulations 2018 that accompany the Aboriginal Heritage Act 2006 are particularly relevant and stringent. Under regulation 7, a CHMP is required for a proposed activity, if:

(a) all or part of the activity area for the activity is an area of cultural heritage sensitivity; and

(b) all or part of the activity is a high impact activity.

According to regulation 41, any land identified as “Qd1” and “Qxr” (sand sheet including the Cranbourne sand) in the Surface Geology of Victoria 1:250,000 map book (not subject to significant ground disturbance) is an area of cultural heritage sensitivity. The proposed activity area is located in an area identified as “Qd1” in the Geovic map book.

The second prerequisite (b) is met because under regulation 48:

(1) The construction of three or more dwellings on a lot or allotment is a high impact activity.

(2) The carrying out of works for three or more dwellings on a lot or allotment is a high impact activity.

4.1 Significant ground disturbance

If an area of cultural heritage sensitivity has been subject to significant ground disturbance, the disturbed part is no longer an area of cultural heritage sensitivity. Significant ground disturbance is defined by the Aboriginal Heritage Regulations 2018 as disturbance of:

(a) the topsoil or surface rock layer of the ground; or

(b) a waterway-

by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing other than deep ripping.

Under regulation 41(2), “if part of a sand sheet, including the Cranbourne Sand, has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity”.

Ston – September 2019
Desktop assessment of aerial images of the subject land prove that it has been subject to significant ground disturbance as defined above. Plate 1 below shows the subject land in 1945 before Point Nepean Road was made into an eight-lane dual carriageway. The land between this road and 24 Carr Street has since been levelled for construction of the Nepean Highway, but not before demolition of the houses that once backed onto the property. Carr Street was also truncated by the new highway.

The 1945 image also shows new allotments that had been prepared along the south side of Carr Street, including lines that show the title boundaries. Ground preparation to create these allotments, including the subject land, would have required grading and levelling. Prior to this, the land was probably used for orcharding (see top-left of Plate 1). Deep ripping would have been required to remove the orchards.

Importantly, the subject land was clearly an already developed site by 1945. The large built structure on the site is either a very large mansion or possibly a building for light industrial use. Similarly-sized non-residential buildings are present on the east side of the Point Nepean Road/Carr Street intersection. Post-ground preparation works are also evident in the yards adjoining the original building on the site.

Plate 1. 24 Carr Street, Brighton East in 1945 before construction of Nepean Highway.
Post-1945 construction of the existing residence would have required demolition of the original building and grading of the entire allotment to clear the debris and prepare the ground for new construction. This new construction included a full-size tennis court and excavation for an in-ground, outdoor pool. Deep trenching in places would also have been required for concrete piers and the installation of services. Any vacant space not built on directly has been paved or otherwise landscaped and planted with introduced trees. Consequently, the original topsoil or surface rock layer (‘Cranbourne Sand’) is no longer recognisable on any part of the subject land.

On this basis, I conclude that all of 24 Carr Street, Brighton East has been subject to significant ground disturbance and therefore no part of the subject land is an area of cultural heritage sensitivity, under regulation 41(2) of the Aboriginal Heritage Regulations 2018. Accordingly, a CHMP under Section 46 of the Aboriginal Heritage Act 2006 is not required prior to construction of the townhouses because no part of the subject land is located in an area of cultural heritage sensitivity.

5. HISTORIC HERITAGE OBLIGATIONS

The background review demonstrated that the potential for significant historical archaeological items at 24 Carr Street, Brighton East is also very low, for the same reasons of significant ground disturbance. Accordingly, there is no requirement for detailed historical assessment prior to construction.

6. RECOMMENDATIONS

Based on the results of this assessment, it is recommended that:

- Construction of the proposed two-storey townhouses at 24 Carr Street, Brighton East may proceed without any further Aboriginal or historic cultural heritage investigation. A CHMP is not required prior to development;

- In the highly unlikely event that items of Aboriginal or historic cultural heritage are uncovered during the course of construction, all work within 25 m of the find should cease and the Jarley Property Group, or its contractors, must contact the Heritage Advisor (mob: 0429-496-607), the Heritage Services Branch of AV or Heritage Victoria for advice. It is an offence under the relevant cultural heritage legislation to disturb or destroy relics without written authorization.
REFERENCES


APPENDIX

Plans of the Proposed Development
Item 4.7 – Matters of Decision
4.8 14-16 GRENVILLE STREET, HAMPTON
SUPPORT THE GRANT OF A PERMIT (VCAT SUBSTITUTED PLANS)
APPLICATION NO: 2018/814/1 WARD: CENTRAL

This matter is reported to the Committee as a result of a change of position (from refusal to support) following substituted plans following the VCAT Compulsory Conference.

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>LK Property Group Pty Ltd C/- Ratio Consultants</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>12 December 2018</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 12)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (DCPO1)</td>
</tr>
<tr>
<td>Site area</td>
<td>991m² (approx.)</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>Thirteen (13)</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes, in the event of approval - $12,528 Catchment area 16A</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>No</td>
</tr>
</tbody>
</table>

Purpose
The purpose of this report is to change Council's position from Refusal to support in relation to the amended (substituted) plans following the VCAT Compulsory Conference conducted on 2 September 2019.

History
The application seeks the construction of a three storey building (plus basement) containing 12 dwellings.

The application is the subject of an appeal to the Victorian Civil and Administrative Tribunal (VCAT) pursuant to Section 79 (failure to determine) of the Planning and Environment Act 1987. A Compulsory Conference was held on 2 September 2019 with
all parties to the proceeding, and the application is scheduled for a three day hearing commencing on 23 October 2019.

The site and surrounds are provided at Attachment 1.

Prior to the Compulsory Conference, Council Officers formed a refusal position, the subsequent Delegates Report is provided at Attachment 2 and grounds of refusal included at Attachment 3.

The advertised (decision) plans are provided at Attachment 4.

Following the discussions held at the Compulsory Conference, substituted (amended) plans have been circulated and are provided at Attachment 5.

Substituted (amended) Plans

Key changes of the substituted plans are as follows:

* **Basement**
  * Ramp relocated 8.0m in from boundary.
  * Layout amended to suit new ramp.
  * Aisle extension provided to spaces 18/19.
  * Section CC added.

* **Ground Floor**
  * Ramp relocated 8m in from boundary.
  * Fence in front of Dwellings G01 and G02 reconfigured.
  * Additional fence provided to Dwellings G01/G02 to provide SPOS.
  * Dwelling G02 revised to suit ramp.
  * Front fence amended with all planter boxes removed.
  * Note added re Melbourne Water conditions.
  * Dwellings G03/G04 amended to provide compliance with Standard B20 (North Facing Windows) with an 8.9m setback from the SE corner and an 8.74m setback from the SW corner.
  * Core adjusted to suit basement (throughout levels).
  * Steps from Dwelling G04 deck area re-orientated to avoid overlooking into No. 3 Willis Street.

* **First Floor**
  * Dwellings 103 and 104 amended to achieve Standard B20 (North-facing Windows) compliance.

* **Second Floor**
  * Dwellings amended to suit levels below.
  * Units 202/203 amended with increased setback from southern boundary in order to have no additional shadows on SPOS of No. 3 Willis Street.

All other plans updated to reflect the above changes.

An assessment of the VCAT Amended Plans against the Standards of Clause 55 (ResCode) is provided at Attachment 6 and Neighbourhood Character assessment at Attachment 7.
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 12) - Construct a building or construct and carry out works.
- Clause 44.05-2 (Special Building Overlay) – Construct a building or construct and carry out works.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

The application was (originally) referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne Water</td>
<td>To the originally assessed plans, Melbourne Water raised no objection subject to conditions. At the time of writing, Melbourne Water have not provided any objection however have requested that the Melbourne Water conditions include wording ‘or otherwise to the satisfaction of Melbourne Water’, which has been included at both Condition 1 and Condition 24.</td>
</tr>
</tbody>
</table>

Internal referrals

The substituted (amended) plans were referred to the following Council departments for comment:

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

4. Recommendation

That Council resolve to Support the Grant of a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/814/1 for the land known and described as Nos. 14-16 Grenville Street, Hampton, for the construction of a three storey building (plus basement) containing no more than 12 dwellings in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the VCAT plans prepared by Artisan Architects referenced TP00-TP18 (inclusive),
dated September 2019 and Revision C but modified to show:

a) Full compliance with Standard B29 of the Bayside Planning Scheme. Any alterations to the building footprint cannot further reduce any other setbacks.

b) Deck of Dwelling G04 to be redesigned to comply with Standard B22 of the Bayside Planning Scheme.

c) Details of internal fencing between Dwellings G03 and G04 in accordance with Standard B23 of the Bayside Planning Scheme.

d) Sufficient storage spaces to be provided to each dwelling in accordance with Standard B44 of the Bayside Planning Scheme. Storage areas within the basement visible from common areas to be enclosed within a metal cladding to ensure they are secure and goods within the storage area are not visible.

e) An acoustic report to demonstrate the proposal complies with Standard B40 of the Bayside Planning Scheme.

f) An updated Water Sensitive Urban Design measures in accordance with Condition 8.

g) A Landscaping Plan in accordance with Condition 10.

h) A Tree Management Plan in accordance with Condition 13.

i) Development Contribution in accordance with Condition 21.

j) A Waste Management Plan in accordance with Condition 23.

k) Compliance in accordance with Melbourne Water’s Condition as listed in Condition 24 – 33 (or otherwise to the satisfaction of Melbourne Water).

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick Landscape Architects Pty Ltd, reference TP01 Rev A, dated 4 September 2019 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including botanical names, of all existing trees to be retained 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 including the accurate location of:
      i) Tree 5 located in neighbouring property 18 Grenville Street.
      ii) Two Variegated Pittosporums located within 12 Grenville Street.
   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 in accordance with Bayside Landscape Guideline.
   d) Canopy trees proposed within the easement at the rear of the site to be relocated outside the easement.
   e) A planter box for the Silver Banksia located over the proposed basement adjacent to 18 Grenville Street.
   f) Details of all landscaping, water sensitive urban design elements (as applicable) and surface finishes.
11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

Tree Management and Protection Plan

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

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

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

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

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

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

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

Street tree protection

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

17. Street trees must not be removed, lopped, damaged or pruned by any party other than Bayside City Council authorised tree care contractors. There is to be no soil excavation within 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.

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

19. 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.

20. 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

21. Before the endorsement of plans, the Waste Management Plan prepared by Leigh Design, must be revised and 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.

22. 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

23. Prior to the commencement of development, 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.

Melbourne Water

24. Prior to the endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water’s conditions (or otherwise to the satisfaction of Melbourne Water). Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:

a) The development setback a combined 9 metres from the northern/southern property boundary. Imported fill (including ramping), solid planter boxes, services and any other solid structures must be removed from this setback.
b) Fences and gates within the flood extent shown as 50% open style.
c) An annotation indicating that the decking is open and unenclosed and steps contain no vertical risers.

25. The dwellings must be constructed with finished floor levels set no lower than 9.68 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 9.38 metres to AHD.

26. The driveway to the basement must be constructed with a flood-proof apex and associated bunding set no lower than 9.68 metres to AHD, which is 300mm above the applicable flood level of 9.38 metres to AHD.

27. The basement must be fully tanked/floodproofed and with any openings to the basement (windows, vents etc.) set no lower than 9.68 metres to AHD, which is 300mm above the applicable flood level of 9.38 metres to AHD.

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

29. The development (excluding open style decking) must be setback a combined minimum of 9 metres from the northern/southern boundary of the property. This setback must be maintained at natural surface level and no fill, retaining walls or solid structures would be permitted in this area to allow for the conveyance of overland flood flow.

30. The development (excluding open style decking) must be setback a combined minimum of 1 metre from the eastern boundary of the property. This setback must be maintained at natural surface level and no fill, retaining walls or solid structures would be permitted in this area to allow for the conveyance of overland flood flow.

31. Imported fill must be kept to a minimum on the property and only be used for the sub floor areas of the building and driveway ramp (outside of the setbacks specified above).

32. The decking must be constructed with unenclosed foundations and steps contain no vertical risers, to allow for the passage of overland flood flows.

33. Any new fence must be of an open style of construction (minimum 50% open) or timber paling (along the boundaries) unless with the written consent of Melbourne Water, to allow for the passage of overland flood flows.

Permit Expiry

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

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

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours’ notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

5. Assessment of Amended Plans

This report details how the amended plans at Attachment 4 respond to the previous Grounds for Refusal and relevant planning policies.

1. The application fails to demonstrate that how the conditions as listed in Melbourne Water’s Response (MWA-1111721) could be incorporated without material detriment to the neighbourhood which does not comply with Clause 65.01 of the Bayside Planning Scheme.

The Melbourne Water conditions remain as per the latest referral response and requirements have been incorporated within the VCAT substituted plans, specifically that all fences, deck areas, planterboxes, service cupboards in the front setback are open structures to allow for water runoff (minimum 50% openings).

Melbourne Water provided written advice to the Tribunal that no objection was raised to the VCAT substituted plans and to include the wording ‘or otherwise to the satisfaction of Melbourne Water’ within the Condition 1 requirement.

This ground for refusal has therefore been satisfied in full.

2. The proposed development fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
   a) Side and rear setbacks (Standard B17)

The table below shows the areas of compliance, and non-compliance with respect to the amended plans:
Whilst some non-compliances will remain, the side and rear setbacks are considered to be acceptable. It is noted that the site abuts vehicular concrete driveways to the east and west and as such, the side (east and west) boundaries do not abut any sensitive interfaces.

The eastern and western facades will be well articulated, incorporating a range of materials and elements of light and depth.

The main area of non-compliance associates with the balcony treatment at first floor along the western interface (approximately 900mm), and this is considered to be reasonable given that it would be a partially open structure that contributes in a positive sense to the articulation along this façade (as it projects slightly forward of the main building form).

The second floor variances are limited to approximately 200-250mm, and would unlikely be noticeable from any sensitive interface.
b) Overlooking (Standard B22)

The proposal has employed design techniques to avoid direct views from proposed habitable room windows to adjacent private open space. This will be secured via permit conditions to ensure complete compliance with Standard B22.

This ground has therefore been satisfied in full.

c) Internal Views (Standard B23)

Internal fencing to a height of 1.8 metres has been implemented between G03 and G04 to avoid internal overlooking between these private open spaces.

This ground has therefore been satisfied in full.

d) Solar Access to Open Space (Standard B29)

The southern setbacks have been increased in order to comply with this Standard, to provide adequate solar access into the secluded private open space of Dwellings G03 and G04, both of which also have eastern or western orientation.

This ground has therefore been satisfied in full.

e) Energy Efficiency (Standard B35)

The proposal utilises design techniques to ensure that the dwellings achieve adequate thermal efficiency.

This ground has therefore been satisfied in full.

f) Noise Impacts (Standard B40)

Residents will not be unduly impacted by external and internal noise sources and this Standard is considered compliant.

This ground has therefore been satisfied in full.

g) Storage (Standard B44)

Compliant, ensured via condition to ensure the ground is satisfied in full.

6. Conclusion

As described above, the changes to the plans are numerous, and address the previous grounds for refusal to an acceptable level.

All the concerns raised by Council have been satisfactorily addressed through the
combination amendments, resulting in an overall development which is considered to show an acceptable level of compliance with the Bayside Planning Scheme.

Support Attachments

1. Site and Surrounds ↓
2. Delegates Report ↓
3. Letter of No Support ↓
4. Advertised Plans ↓
5. VCAT Substituted Plans ↓
6. Clause 55 (ResCode) Assessment ↓
7. Neighbourhood Character 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>

Objections are not listed in the above map:
- 5 Talbot Street Hampton
- 1/15 Yuille Street Brighton
- 10 Hasting Street Hampton
- 31 Grenvillie Street Hampton
Figure 2 View towards the site from the west
Figure 3 View towards the site from the east
<table>
<thead>
<tr>
<th><strong>Recommendation</strong></th>
<th>Not support the grant of a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposal</strong></td>
<td>Construction of a three storey building comprising twelve (12) apartments above a basement car park and a front fence</td>
</tr>
<tr>
<td><strong>Application No.</strong></td>
<td>5/2018/814/1</td>
</tr>
<tr>
<td><strong>Address</strong></td>
<td>14 Grenville Street HAMPTON, 16 Grenville Street HAMPTON</td>
</tr>
<tr>
<td><strong>Applicant</strong></td>
<td>Ratio Consultants Pty Ltd</td>
</tr>
<tr>
<td><strong>Title/Covenant/S173 Agreement</strong></td>
<td>The title is not subject to any restrictive covenants</td>
</tr>
<tr>
<td><strong>Date application received</strong></td>
<td>12/12/2018</td>
</tr>
<tr>
<td><strong>Current statutory days</strong></td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Zoning</strong></td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td><strong>Overlays</strong></td>
<td>Design and Development Overlay (Schedule 12)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (DCPO1)</td>
</tr>
<tr>
<td><strong>Site area</strong></td>
<td>991m²</td>
</tr>
<tr>
<td><strong>Number of outstanding objections</strong></td>
<td>13</td>
</tr>
<tr>
<td><strong>Is the site located within an area of cultural heritage sensitivity?</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>Is a development contribution fee applicable?</strong></td>
<td>Yes - $12,528 Catchment area 16A.</td>
</tr>
<tr>
<td><strong>Responsible officer</strong></td>
<td>Ziqi Xi</td>
</tr>
<tr>
<td><strong>Signature</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Planning delegate</strong></td>
<td>Fiona Farrand</td>
</tr>
<tr>
<td><strong>Signature and date</strong></td>
<td>28/08/2019</td>
</tr>
</tbody>
</table>
Purpose
To report a planning permit application which is the subject of an appeal to the Victorian Civil and Administrative Tribunal (VCAT) pursuant to Section 79 (failure to determine) of the Planning and Environment Act 1987.

VCAT has listed the matter for a compulsory conference (mediation) on 2 September 2019, and a three day hearing commencing on 23 November 2019. The purpose of this report is to establish Council’s position on the application for the VCAT appeal.

1. Application details
The application seeks the construction of a three storey building (plus basement) containing 12 dwellings. Key details of the proposal are as follows:

- 12 dwellings are proposed, seven with three bedrooms and five with two bedrooms.
- Three storey building measuring a maximum height of 10.48m above natural ground level.
- Ground floor street setback approximately – 8.4m
- First floor street setback – 7.83m
- Second Floor - 11.83m
- West side setbacks
  - GF: 1.67m – 1.7m
  - FF: 2.57m – 2.6m
  - SF: 4.8m – 5.26m
- East side setbacks
  - GF: 1.54m – 4.8m
  - FF: 2.5m – 2.78m
  - SF: 4.63m – 4.98m – 5.2m
- South rear setbacks
  - GF: 5.47m – 5.58m
  - FF: 4.8m – 4.92m
  - SF: 7.01m – 7.71m.
- Site coverage 56% (583m²).
- Permeability 27% (287m²).
- Garden area 35% (345m²).
- Basement parking providing 19 car parking spaces – two car parking spaces allocated to each three bedrooms apartment and one car parking space allocated to each two bedrooms apartment.
- No visitor car parking required.
- Private waste collection.

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

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

2. Planning controls
Planning Permit requirements
A planning permit is required pursuant to:
• Clause 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 12) – Construct a building or construct and carry out works.
• Clause 44.05-2 (Special Building Overlay) – Construct a building or construct and carry out works.

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

3. Stakeholder consultation

External referrals
The application was referred to the following authorities:

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

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

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

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 13 objections were received.

13 objections remain outstanding at the time of this report.

The following concerns were raised:
- Neighbourhood character
- Amenity impact
- Overshadowing
- Overlooking
- Building height
- Building design and built form
- Overdevelopment
- Insufficient setbacks
- Inadequate service and infrastructure provision
- Flooding
- Storm water drain
- Traffic and parking
- Access and safety
- Non-compliance with DDO12

The number of objections received for this application is consistent across Council’s record management systems.
Consultation meeting
A consultation meeting was held on 15 May 2019 attended by the permit applicant and seven objectors. As a result of this meeting no objections were withdrawn.

4. Council Policy
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.
- With village-style activity centres, combining retail at ground floor with increased opportunities for apartment-style living above.
- 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 9     Plan Melbourne
- Clause 11    Settlement
- Clause 13    Environmental Risks
- Clause 15    Built Environment and Heritage
- Clause 16    Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.05 Environmental Risks
- Clause 21.06 Built Environment and Heritage
- Clause 21.11 Local Areas (Hampton Street Activity Centre)
- Clause 22.06 Neighbourhood Character Policy (Precinct F1)
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 12)
- Clause 44.05 Special Building 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

5. 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.

5.1. Strategic Justification

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 Hampton Street Major Activity Centre 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 21.11-4) contains a subsection relating specifically to the Hampton 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 21.11-4.

The themes contained in Clause 21 are further reinforced through Clause 21.09 (Transport and Access), that encourages high density development close to Activity Centres to then encourage more sustainable transport modes (i.e. public transport). It is further noted the subject site is located within the Principal Public Transport Network (PPNT).

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).

5.2. Design and Development Overlay

The subject site is covered by Schedule 12 to the Design and Development Overlay, that controls built form standards for Hampton Street Major Activity Centre.

A permit is required under this overlay for buildings and works.

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>A1</td>
<td>18.5m (6 storeys)</td>
<td>-</td>
</tr>
<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>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>
</tbody>
</table>
With a maximum height of 10.48m and three storeys, the proposed 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.

With respect to the setback requirements of Clause 55, there are some minor variations sought, given they are marginal and do not cause any unreasonable amenity impacts to adjoining properties, these can be supported. Refer to section 5.4 for further discussion.

With respect to the 4.0m second floor setback, the proposed building has been setback 4m which complies with the standard requirement.

5.3. *Neighbourhood character*

As a starting point, it must be acknowledged that the site is located within the Hampton Street Major Activity Centre and is covered by the DDO12, where high density 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 stark contrast in character between those buildings constructed under the current planning controls (or those being assessed like this current proposal) 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 under consideration, and the relevance of the Neighbourhood Character Precinct F1 is diminished by the site’s inclusion in the Hampton Street Activity Centre and the DDO12.

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’. I.e., the
intensive development sought under the DDO12 (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 F1, and a high level of compliance has been achieved with the preferred future character statement and precinct guidelines as contained in Attachment 2.

The proposed development contains generous areas of landscaping for a development of this type, allowing for an appropriate natural frame of the building. 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.

5.4. Compliance with Clause 55 (ResCode)

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

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>Requirement</td>
<td>Requirement</td>
</tr>
<tr>
<td>East (side)</td>
<td>1.15m – 1.23m</td>
<td>1.53m</td>
</tr>
<tr>
<td>West (side)</td>
<td>1.2m – 1.3m</td>
<td>1.67m – 1.7m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>1.24m – 1.31m</td>
<td>5.58m</td>
</tr>
</tbody>
</table>

East

The proposed ensuite of Master bedroom of Unit 201 does not comply with the side setback standard requirement in relation to the eastern boundary. The proposed variation of 300mm is opposite an existing common driveway at 18 Grenville Street which does not offer unreasonable amenity impact to adjoining properties. The encroachment also provides further articulation to the proposed long continuous east wall which adds on to visual interest and should be supported.

West

The proposed variation at the first floor is marginal and only about 11mm, amenity impact which is offered by this variation is unnoticeable.

The proposed Bedroom of Unit 201 and 202 do not comply with the side setback standard requirement in relation to the western boundary. The proposed variations ranging from 380mm to 410mm are opposite an existing common driveway at 12 Grenville Street. It is therefore not considered to cause unreasonable amenity impact to adjoining properties. The encroachments also provide further articulation to the proposed long continuous wall which adds on to visual interest and should be supported.

Overlooking (Standard B22)

All habitable room windows have been have been sited appropriately in accordance with this Standard except the deck of G04, it will overlook the north facing habitable room window of 3 Willis Street. This can be dealt with permit condition if a permit was granted.

Internal Views (Standard B23)
At ground floor level, internal fencing detail to a height of 1.8m limits views between adjoining areas of secluded private open space of G03 and G04 within the development will be required. This can be dealt with permit condition if a permit was granted.

All other habitable room windows have been sited appropriately in accordance with this Standard.

Solar Access to Open Space (Standard B29)

SPOSs of Units G03 and G04 are south oriented and do not comply with the standard. According to standard, the first floor is required to be setback 8.8m and the second floor is required to be setback 11.2m from the southern boundary respectively. The proposed 4.9m rear setback at the first floor and 7.7m at the second floor are considered to be unreasonable variations to this standard, and result in very poor amenity of the SPOS based on the sunlight they will receive.

Furthermore, these SPOSs are poorly designed in terms of sunlight. Given the potential overlooking issue, the proposed decking areas are required to be screened by 1.7m privacy fences which will further reduce the amenity of these SPOSs.

Energy Efficiency (Standard B35)

An Assessment has been provided with the application but it is considered the proposed development does not exceed the maximum NatHERS annual cooling load as 21 MJ/M2 per annum.

The site orientation maximises the solar access and does not unreasonably reduce energy efficiency and solar access to adjoining properties. Areas of open space facing north have been maximised where possible except for G03 and G04. These two SPOSs are required to be redesigned to achieve better internal amenity as discussed in the Standard B29.

Noise Impacts (Standard B40)

The subject site is located within 50m of an existing railway which is identified as a Noise Influence Area. The application failed to demonstrate the proposal complies with the standard. This can be dealt as a permit condition if a permit was granted.

Storage (Standard B44)

The development has provided sufficient external storage area in accordance with the standard. However, no justifications have been provided on the plans that each unit will achieve the standard requirement in terms of internal storage area. This can be dealt as a permit condition if a permit was granted.

5.5. Landscaping

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that there are no significant trees on site that demand retention apart from Tree 6 which is a Cupressus Sempervirens (Pencil Pines).

Tree 6 is located within the common property of the neighbouring property, 18 Grenville Street. This tree will be impacted by the proposed basement carpark however the encroachment is within 10% allowance which complies with Australian Standard.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable, subject to conditions.

5.6. Street tree(s)

Street Tree is located within the nature strip and is proposed for retention. Council’s Street Tree Arborist has advised that no soil excavation within 2 metres of the street tree asset measured from the edge of the trunk. This would be required by way of condition if a permit was to be granted.

5.7. 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 7 x three bedroom dwellings and 5 x two bedroom dwelling. A total of 19 car parking spaces are therefore required, and 19 car parking spaces have been provided which meets the statutory requirements.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to vehicle access and allocation of parking spaces to each apartment. These will be included as conditions if a permit was granted.

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.

5.8. Special Building Overlay

The subject site is covered by SBO and the application has been referred to Melbourne Water who has no objection but subject to a number of conditions. These conditions may require significant changes to the development, Council therefore is unable to authorise an approval without an opportunity to assess the amended plans. In particular, the condition 1a) and 1b) of Melbourne Water’s referral response require the development to be amended to show:

a) The development setback a combined 9 metres from the northern/southern property boundary. Imported fill (including ramping), solid planter boxes, services and any other solid structures must be removed from this setback.

b) Fences and gates within the flood extent shown as 50% open style.

The consequential changes of these two conditions are unforeseeable and may result in unnecessary debate/arguments in the future between parties. The changes may result in front façade changes by incorporating a new accessway which may offer material detriments to the neighbourhood. Council offered opportunities to the applicant to resolve this issue prior to Council’s decision however the applicant decided to lodge an application to VCAT through Section 79 Failure Appeal.

5.9. 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.

5.10. Development contributions levy

The subject site is located within catchment area 16A (the catchment area is discoverable in Intramaps)

Based on the proposed application and the below recommendation, a payment of $12,528 is required. The payment of the development contributions will be included as a condition if a permit was granted.

5.11. Objector issues not already addressed

Drainage flooding and inundation concerns

The application has been referred to Council’s Drainage Engineer who has required that specific drainage conditions be included on any planning permit that is issued.

As discussed in this report, the current proposal has adequately responded to the constraints of the site imposed by its susceptibility to flooding. Melbourne Water have not objected to the application and conditions of any permit that may issue can ensure that all of Melbourne Water’s and Council’s drainage requirements are met including a requirement for finished floor levels to be 300mm above the flood level.

6. Recommendation

That Council resolve to:
Not Support the Grant of a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 5/2018/814/1 for the land known and described as 14 Grenville Street HAMPTON, 16 Grenville Street HAMPTON, for the Construction of a three storey building comprising twelve (12) apartments above a basement car park and a front fence for the following reasons:

1. The application fails to demonstrate that how the conditions as listed in Melbourne Water’s Response (MWA-1111721) could be incorporated without material detriment to the neighbourhood which does not comply with Clause 65.01 of the Bayside Planning Scheme.

2. The proposed development fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
   a) Side and rear setbacks (Standard B17)
   b) Overlooking (Standard B22)
   c) Internal Views (Standard B23)
   d) Solar Access to Open Space (Standard B29)
   e) Energy Efficiency (Standard B35)
   f) Noise Impacts (Standard B40)
   g) Storage (Standard B44)
Legend

| Subject site | * |
| Objecror(s)  | ● |
| Withdrawn    | ▲ |

Objections are not listed in the above map:
- 5 Talbot Street Hampton
- 1/15 Yuille Street Brighton
- 10 Hasting Street Hampton
- 31 Greville Street Hampton
Figure 2 View towards the site from the west
Figure 3 View towards the site from the east
## Neighbourhood Character Precinct F1

### Preferred Future Character Statement

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

### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings and be appropriate to the building era.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds Comments The application does not propose to remove any heritage building.</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character.</td>
<td>• Retain established trees and vegetation • Replace any trees removed with species that will grow to a similar height • Encourage replanting of indigenous sandbelt vegetation • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation</td>
<td>Lack of landscaping and substantial vegetation. Removal of trees. Planting of environmental weeds.</td>
<td>Responds Comments The proposed provision of landscaping would be adequate including substantial trees and shrubs. The application has demonstrated that sufficient space will be available for the planting of canopy trees around the building, within the side and rear setbacks.</td>
</tr>
<tr>
<td>To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs. • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation</td>
<td>Loss of front garden space.</td>
<td>Responds Comments The proposed building layout including sufficient spaces around the building for planting in order to maintain the rhythm of spacious visual separation between buildings. The development is proposed over two lots, the development provides a separation between two balconies of Unit 101 and 102 which provides a design response to create the appearance of space between buildings.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the</td>
<td>• Locate garages and carports behind the line of the dwelling. • Underground car parking</td>
<td>Car parking structures that dominate the</td>
<td>Responds Comments</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>dominance of car parking structures.</td>
<td>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>façade or view of the dwelling.</td>
<td>It is noted that car parking is proposed to be located at basement level, accessed from Grenville Street which only provides one vehicular crossover per typical site frontage, it is encouraged by current policy.</td>
</tr>
</tbody>
</table>
| To ensure that new buildings and extensions do not dominate the streetscape. | • Recess second storey elements from the front façade. | High pitched or mansard roof forms with dormer windows. | Responds  
Comments  
The subject site is covered by DD012 which provide design guidelines for future developments in the area.  
Whilst the proposal does not provide any setback from the first floor, the proposed second floor has been designed with a 4m front setback which complies with the preferred neighbourhood character. |
| To respect the identified heritage qualities of adjoining buildings. | • Where adjoining an identified heritage building, respect the height, building forms, setting and materials, in the new building design. | Large bulky buildings with flat, poorly articulated front wall surfaces. | Responds  
Comments  
No heritage building adjoins subject site. |
| To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes. | • Incorporate a variety of timber or other non-masonry wall materials where possible. | Heavy materials and design detailing (e.g. Large masonry columns and piers). | Responds  
Comments  
The proposed development adopts a number of materials including render, timber slated screen and other metal claddings. The proposed colour scheme is light and simple with appropriate material textures which respects the existing neighbourhood character. |
| To maintain the openness of the streetscape and views to the dwellings. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid front fencing. | Responds  
Comments  
The proposed 1.5m high front fence respects the existing fences high along the street. The proposed fence is black powder coated metal fins with 28% transparency will respect the existing character along Grenville Street. |
| To create a visually interesting and attractive built form interface with the foreshore reserve. | • Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading. | Buildings that have no relationship to the foreshore setting. Poorly articulated roof | N/A  
Comments  
The proposed development does not have any adjoining interface with any foreshore reserve. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<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>and building forms.</td>
<td>Highly reflective materials or glazing.</td>
<td></td>
</tr>
</tbody>
</table>
## Attachment 3

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

<table>
<thead>
<tr>
<th>Application type</th>
<th>Applicable clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>To construct or extend a dwelling (other than a dwelling in or forming part of an apartment development); or To construct or extend a residential building.</td>
<td>All of Clause 55 except Clause 55.07-1 to 55.07-15 (inclusive).</td>
</tr>
<tr>
<td>To construct or extend an apartment development; or To construct or extend a dwelling in or forming part of an apartment development.</td>
<td>All of Clause 55 except Clause 55.03-5, Clause 55.03-6, Clause 55.04-8, Clause 55.05-1, Clause 55.05-2 and Clause 55.05-6.</td>
</tr>
</tbody>
</table>

---

### CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area. | Complies | Refer to Attachment 2. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Complies | Refer to ‘Strategic Justification’ section of the report for an assessment of the proposal against the relevant policy context. The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | |

---

Item 4.8 – Matters of Decision

Page 493 of 619
**B4 Infrastructure**
Provides appropriate utility services and infrastructure without overloading the capacity.

**Complies**
The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development 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

**Complies**
The development will integrate appropriately with the Grenville Street. The proposed vehicle entrance to basement and pedestrian access is designed to be connected with Grenville Street and its existing pedestrian links which will maintain local accessibility.

The proposed front fence height at 1.5m is an acceptable height which respects to existing fence height along the street.

---

**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. | Complies | Requirement: 7.48m.  
Proposed: 8.4m at ground floor and 7.8m at first floor. |
| **B7 Building Height**
Building height should respect the existing or preferred neighbourhood character. | Complies | Maximum: 11m.  
Design and Development Overlay, Schedule 12 also identifies a height of 3 storeys excluding an attic and basement with an overall height of 12m.  
Proposed: 10.48 metres (3 storeys) |
| **B8 Site Coverage**
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Complies | Maximum: 60%  
Proposed: 59% |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Compliance</th>
<th>Details</th>
</tr>
</thead>
</table>
| B9   | Permeability | Complies   | Minimum: >20%  
Proposed: 27% |
|      | Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | | |
| B10  | Energy Efficiency | N/a | N/a |
|      | 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. | | |
| B11  | Open Space | N/a | N/a |
|      | Integrate layout of development with any public and communal open space provided in or adjacent to the development. | | |
| B12  | Safety      | Complies   | The pedestrian entry point to the lobby is clearly recognisable from the street.  
The central lobby providing access to all apartments is located at eastern end of the development behind a proposed tree, accessed via a pathway running along the proposed vehicle access. This would be somewhat obscured from view from the street but will be overlooked by numerous windows from the apartments above which would provide some surveillance. |
|      | Layout to provide safety and security for residents and property. | | |
| B13  | Landscaping | Complies   | See Section 5.5 of the report for further discussion. |
|      | To provide appropriate landscaping.  
To encourage:  
- Development that respects the landscape character of the neighbourhood.  
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
- The retention of mature vegetation on the site. | | |
| B14  | Access      | Complies   | An appropriate access off Grenville Street to basement parking has been provided. Standard traffic conditions are included as permit conditions.  
See Section 5.7 of the report for further discussion. |
|      | Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. | | |
### B15 Parking Location
Provide resident and visitor vehicles with convenient parking.
Avoid parking and traffic difficulties in the development and the neighbourhood.
Protect residents from vehicular noise within developments.

| Complies | On site car parking is provided in the form of a basement carpark. Standard traffic conditions are included as permit conditions. Refer to Section 5.7 of 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>
<tbody>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>No</td>
<td>Refer to Section 5.4 of the Report.</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>1.15m – 1.23m</td>
<td>1.53m</td>
</tr>
<tr>
<td>West (side)</td>
<td>1.2m – 1.3m</td>
<td>1.67m – 1.7m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>1.24m – 1.31m</td>
<td>5.58m</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>N/A</td>
</tr>
<tr>
<td>West (side)</td>
<td>There are no walls proposed to be constructed on the boundary.</td>
</tr>
<tr>
<td>South (rear)</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td></td>
</tr>
<tr>
<td>West (side)</td>
<td>The development has been sufficiently setback from all habitable room windows of abutting properties in accordance with the standard.</td>
</tr>
<tr>
<td>South (rear)</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td></td>
</tr>
<tr>
<td>West (side)</td>
<td>The development has been sufficiently setback from all north facing habitable room windows of the existing abutting properties in accordance with the standard.</td>
</tr>
<tr>
<td>South (rear)</td>
<td></td>
</tr>
</tbody>
</table>
### B21 Overshadowing Open Space
Ensure buildings do not significantly overshadow existing secluded private open space.

| Complies | Additional overshadowing will occur over the adjoining driveway to the west and east, non-sensitive areas which do not result in any amenity impacts. The overshadowing extends marginally beyond the shadow cast by the existing fence line to the south, however it still within the requirement. |

### B22 Overlooking
Limit views into existing secluded private open space and habitable room windows.

| Does not comply | Refer report. |

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

| Does not comply | Refer report. |

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

| N/A | N/A to apartment application |

### CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B25 Accessibility</td>
<td>N/A</td>
<td>N/A to apartment application</td>
</tr>
<tr>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>N/A</td>
<td>N/A to apartment application</td>
</tr>
<tr>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Complies</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td>Allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
B26 Private Open Space
Provide reasonable recreation and service needs of residents by adequate private open space.

Complies

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

Proposed:
All apartments meet the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents.

Noted the location of SPOSs for Unit G01 and G02 are located in the front yard which does not comply with the standard. Provided sufficient landscaping opportunities are provided within the front yards, this variation is supported.

Refer to report for discussion.

<table>
<thead>
<tr>
<th>Private Open Space</th>
<th>Secluded Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartment G01</td>
<td>88m²</td>
</tr>
<tr>
<td></td>
<td>56m²</td>
</tr>
<tr>
<td>Apartment G02</td>
<td>53m²</td>
</tr>
<tr>
<td></td>
<td>36m²</td>
</tr>
<tr>
<td>Apartment G03</td>
<td>69m²</td>
</tr>
<tr>
<td></td>
<td>54m²</td>
</tr>
<tr>
<td>Apartment G04</td>
<td>69m²</td>
</tr>
<tr>
<td></td>
<td>54m²</td>
</tr>
</tbody>
</table>

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

No

See Section 5.4 of the report for further discussion.

B30 Storage
Provide adequate storage facilities for each dwelling.

N/A

N/A to apartment application

---

**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>Complies</td>
<td>Refer report for discussion.</td>
</tr>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| B32 Front Fences    | Complies                | Requirement: 1.5 metres in height. Proposed: 1.5 metres in height. |
| Encourage front fence design that respects the existing or preferred neighbourhood character. |
**B33 Common Property**  
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.  
Avoid future management difficulties in common ownership areas.

| Complies | All areas of common property have been designed to clearly delineate public, communal and private areas. Common property is functional and capable of efficient management. |

| B34 Site Services | Complies | All appropriate site services have been shown on the plan. They are located along the frontage of the site and in the main lobby, away from neighbouring habitable windows. |

| **CLAUSE 55.07 APARTMENT DEVELOPMENTS** |
|------------------|------------------|------------------|
| **Title and Objective** | **Complies with Standard?** | **Comments** |
| **Standard B35 Energy efficiency objectives** | Does not comply. | Refer report. |
| To achieve and protect energy efficient dwellings and buildings.  
To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy.  
To ensure dwellings achieve adequate thermal efficiency | | |
| **Standard B36 Communal open space** | N/A | This standards relates to developments with 40 or more dwellings. |
| 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. | | |
| **Standard B37 Solar access to communal outdoor open space** | N/A | There is no communal outdoor open space provided within this development. Communal areas within this development at ground floor level to do constitute recreational outdoor open space. |
| To allow solar access into communal outdoor open space. | | |
| **Standard B38 Deep soil areas and canopy trees objective** | Complies | Required: 5% of the site area with a minimum dimension of 3 metres and 1 small tree (6-8 metres) per 30 square metres of deep soil. |
| To promote climate responsive landscape design and water | | |
management in developments to support thermal comfort and reduce the urban heat island effect.

<table>
<thead>
<tr>
<th>Standard B39 Integrated water and stormwater management</th>
</tr>
</thead>
<tbody>
<tr>
<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>
</tr>
<tr>
<td>Complies</td>
</tr>
<tr>
<td>The supporting SMP Report notes the provision of 15,000L rainwater tank is required and this has been located at underground in the basement.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B40 Noise impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources.</td>
</tr>
<tr>
<td>Does not comply</td>
</tr>
<tr>
<td>Refer report.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B41 Accessibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure the design of dwellings meets the needs of people with limited mobility.</td>
</tr>
<tr>
<td>Complies</td>
</tr>
<tr>
<td>Requirement: 50 per cent of dwellings should have:</td>
</tr>
<tr>
<td>- A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.</td>
</tr>
<tr>
<td>- A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.</td>
</tr>
<tr>
<td>- A main bedroom with access to an adaptable bathroom.</td>
</tr>
<tr>
<td>- At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table B7.</td>
</tr>
<tr>
<td>Proposed: 7 of 12 (58%) of the proposed dwellings meet this standard.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B42 Building entry and circulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide each dwelling and building with its own sense of identity.</td>
</tr>
<tr>
<td>To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents.</td>
</tr>
<tr>
<td>To ensure internal communal areas provide adequate access to daylight</td>
</tr>
<tr>
<td>Complies</td>
</tr>
<tr>
<td>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.</td>
</tr>
</tbody>
</table>
and natural ventilation.

<table>
<thead>
<tr>
<th>Standard B43 Private open space above ground floor</th>
<th>Complies</th>
<th>Requirement: An area of 15 square metres, with a minimum dimension of 3 metres at a podium or other similar base and convenient access from a living room, or a balcony with an area of 12m² with a minimum dimension of 2.4 metres. Proposed: the proposed SPOS of each apartment complies with standard in terms of size.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartment 101 (3 beds)</td>
<td>12m² total, minimum dimension of 2.6m</td>
<td></td>
</tr>
<tr>
<td>Apartment 102 (3 beds)</td>
<td>12m² total, minimum dimension of 2.9m</td>
<td></td>
</tr>
<tr>
<td>Apartment 103 (3 beds)</td>
<td>12m² total, minimum dimension of 2.5m</td>
<td></td>
</tr>
<tr>
<td>Apartment 104 (2 beds)</td>
<td>8m² total, minimum dimension of 2.1m</td>
<td></td>
</tr>
<tr>
<td>Apartment 105 (2 beds)</td>
<td>8m² total, minimum dimension of 2.3m</td>
<td></td>
</tr>
<tr>
<td>Apartment 201 (3 beds)</td>
<td>126m² total, minimum dimension of 3m</td>
<td></td>
</tr>
<tr>
<td>Apartment 202 (2 Beds)</td>
<td>37m² total, minimum dimension of 2.4m</td>
<td></td>
</tr>
<tr>
<td>Apartment 203 (3 Beds)</td>
<td>35m² total, minimum dimension of 2.4m</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B44 Storage</th>
<th>Does not comply</th>
<th>Required: 3 bed apartments require 18m² total minimum storage volume and 12m³ minimum storage volume with the dwelling. Provided: the development schedule claims the proposal complies with the standard however there is no detail has been shown on the floor plan to demonstrate the internal storage compliance. The external storage area is required to be assigned to each dwelling.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartment G01 (3 beds)</td>
<td>12m³</td>
<td>12m³</td>
</tr>
<tr>
<td>Apartment G02 (3 beds)</td>
<td>12m³</td>
<td>12m³</td>
</tr>
<tr>
<td>Apartment G03 (2 beds)</td>
<td>9m³</td>
<td>9m³</td>
</tr>
<tr>
<td>Apartment G04 (2 beds)</td>
<td>9m³</td>
<td>9m³</td>
</tr>
<tr>
<td>Apartment 101 (3 beds)</td>
<td>12m³</td>
<td>12m³</td>
</tr>
<tr>
<td>Apartment 102 (3 beds)</td>
<td>12m³</td>
<td>12m³</td>
</tr>
<tr>
<td>Apartment 103 (3 beds)</td>
<td>12m³</td>
<td>12m³</td>
</tr>
<tr>
<td>Apartment 104 (2 beds)</td>
<td>9m³</td>
<td>9m³</td>
</tr>
<tr>
<td>Apartment 105 (2 beds)</td>
<td>9m³</td>
<td>9m³</td>
</tr>
<tr>
<td>Apartment 201 (3 beds)</td>
<td>12m³</td>
<td>12m³</td>
</tr>
<tr>
<td>Apartment 202 (2 Beds)</td>
<td>12m³</td>
<td>12m³</td>
</tr>
<tr>
<td>Apartment 203 (3 Beds)</td>
<td>12m³</td>
<td>12m³</td>
</tr>
<tr>
<td>Standard B45 Waste and recycling</td>
<td>Complies</td>
<td>The proposal provides for appropriate and conveniently located areas for waste collection on site. A waste management Plan has been submitted and will be conditioned for implementation of on-site private waste collection services.</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>----------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Standard B46 Functional layout</td>
<td>Complies</td>
<td>Requirement: Bedrooms should provide for a main bedroom with a minimum dimensions of 3mx 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 3.8m with a minimum area of 12m². Proposed: All apartments comply with the minimum widths and area.</td>
</tr>
<tr>
<td>Standard B47 Room depth</td>
<td>Complies</td>
<td>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.</td>
</tr>
</tbody>
</table>
| 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 be:  
  - A minimum width of 1.2 metres.  
  - A maximum depth of 1.5 times the width, measured from the external surface of the window. Proposed: All rooms have a window in an external wall of the building. |
| 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 natural ventilation. |
28 August 2019

Ratio Consultants Pty Ltd
alicem@ratio.com.au
jamesd@ratio.com.au

Dear Applicant

APPLICATION NUMBER: 5/2018/814/1
ADDRESS: 14 - 16 Grenville Street HAMPTON
PROPOSAL: Construction of a three storey building comprising twelve (12) apartments above a basement car park and a front fence

Council considered the above application and determined to not support the application. The reasons for not supporting the above application are detailed as follows:

1. The application fails to demonstrate that how the conditions as listed in Melbourne Water’s Response (MWIA-1111721) could be incorporated without material detriment to the neighbourhood which does not comply with Clause 65.01 of the Bayside Planning Scheme.

2. The proposed development fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
   a) Side and rear setbacks (Standard B17)
   b) Overlooking (Standard B22)
   c) Internal Views (Standard B23)
   d) Solar Access to Open Space (Standard B29)
   e) Energy Efficiency (Standard B35)
   f) Noise Impacts (Standard B40)
   g) Storage (Standard B44)

Should you have any further queries, please contact Council’s Planning Officer:-

Ziqi Xi
Email: planning@bayside.vic.gov.au
Telephone: 9599 4408

Please quote planning application 5/2018/814/1 in all correspondence / emails.

Yours faithfully
Ziqi Xi

STATUTORY PLANNING DEPARTMENT
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision
Item 4.8 – Matters of Decision

PROPOSED RESIDENTIAL DEVELOPMENT
14-16 GREENVILLE STREET, HAMPTON

DESKING TITLE
SHADOW DIAGRAM - 1 PM

SCALE: @ 1:200
SCALE: @ 1:200

TP 16 C

artisan architects

Note: All plans and drawings are for preliminary purposes only. Changes may occur in progress and plans are subject to change without notice.
Item 4.8 – Matters of Decision
Amended Plans ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Application type</th>
<th>Applicable clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>To construct or extend a dwelling (other than a dwelling in or forming part of an apartment development); or To construct or extend a residential building.</td>
<td>All of Clause 55 except Clause 55.07-1 to 55.07-15 (inclusive).</td>
</tr>
<tr>
<td>To construct or extend an apartment development; or To construct or extend a dwelling in or forming part of an apartment development.</td>
<td>All of Clause 55 except Clause 55.03-5, Clause 55.03-6, Clause 55.04-8, Clause 55.05-1, Clause 55.05-2 and Clause 55.05-6.</td>
</tr>
</tbody>
</table>

**CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. 
Development responds to features of the site and surrounding area. | Complies | Refer to Attachment 6. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. 
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Complies | The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size. |
### B3 Dwelling Diversity
Encourages a range of dwelling sizes and types in developments of ten or more dwellings.

| N/A |

### B4 Infrastructure
Provides appropriate utility services and infrastructure without overloading the capacity.

| Complies |

### B5 Integration with the Street
Integrate the layout of development with the street

| Complies |

The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council’s drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.

The development will integrate appropriately with Grenville Street. The proposed vehicle entrance to basement and pedestrian access is designed to be connected with Grenville Street and its existing pedestrian links which will maintain local accessibility.

The proposed front fence height at 1.5m is an acceptable height which respects to existing fence height along the street.

---

### 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.

| Complies |

Requirement: 7.48m.
Proposed: 8.38m at ground floor and 7.8m at first floor.

#### B7 Building Height

| Complies |

Maximum: 11m.
Design and Development Overlay, Schedule 12 also identifies a height of 3
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Complies</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Complies</td>
<td>Maximum: 60%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Complies</td>
<td>Minimum: &gt;20%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Complies</td>
<td>The proposal will provide for appropriately orientated dwellings to provide for energy efficiency.</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Complies</td>
<td>The pedestrian entry point to the lobby is clearly recognisable from the street.</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Complies</td>
<td>An updated Landscape Plan has been provided which provides for appropriate planting throughout the site, including canopy tree planting.</td>
</tr>
<tr>
<td>B14 Access</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development.</td>
<td>Complies</td>
<td>An appropriate access off Grenville Street to basement parking has been provided. Council’s Traffic Engineer has reviewed the amended plans and standard traffic conditions are included as permit conditions.</td>
</tr>
</tbody>
</table>
### Bayside City Council Planning & Amenity Committee Meeting - 8 October 2019

#### Attachment 6

<table>
<thead>
<tr>
<th>Item 4.8 – Matters of Decision</th>
</tr>
</thead>
</table>

**Ensure the number and design of vehicle crossovers respects neighbourhood character.** See Section 5.5 of the report for further discussion.

**B15 Parking Location**
- Provide resident and visitor vehicles with convenient parking.
- Avoid parking and traffic difficulties in the development and the neighbourhood.
- Protect residents from vehicular noise within developments.

Complies

On site car parking is provided in the form of a basement carpark. Standard traffic conditions are included as permit conditions. Refer to Section 5.5 of 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>
<tbody>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>No</td>
<td>Refer to Section 5.5 of the Report.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Height and Setback Requirement (m)</th>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side) 1.15m - 1.28m</td>
<td>1.7m</td>
<td>1.89m - 2.42m</td>
<td>2.6m - 2.7m</td>
</tr>
<tr>
<td>West (side) 1.2m - 1.3m</td>
<td>1.7m</td>
<td>2.69m - 2.44m</td>
<td>1.7m - 2.6m</td>
</tr>
<tr>
<td>South (rear) 1.24m - 1.31m</td>
<td>4.93m</td>
<td>2.61m - 2.87m</td>
<td>4.92m - 4.8m</td>
</tr>
</tbody>
</table>

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

N/A

There are no walls proposed to be constructed on the boundary.
<table>
<thead>
<tr>
<th>Item</th>
<th>Title and Objective</th>
<th>Complies</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.8</td>
<td>B19 Daylight to Existing Windows</td>
<td>Complies</td>
<td>The development has been sufficiently setback from all habitable room windows of abutting properties in accordance with the standard.</td>
</tr>
<tr>
<td></td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.8</td>
<td>B20 North Facing Windows</td>
<td>Complies</td>
<td>The development has been sufficiently setback from all north facing habitable room windows of the existing abutting properties in accordance with the standard.</td>
</tr>
<tr>
<td></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.8</td>
<td>B21 Overshadowing Open Space</td>
<td>Complies</td>
<td>Additional overshadowing will occur over the adjoining driveway to the west and east, non-sensitive areas which do not result in any amenity impacts. The overshadowing extends marginally beyond the shadow cast by the existing fence line to the south, however it still within the requirement.</td>
</tr>
<tr>
<td></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.8</td>
<td>B22 Overlooking</td>
<td>Complies</td>
<td>As part of the amended plans, the G04 deck area has been re-orientated to avoid overlooking into No. 3 Willis Street.</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.8</td>
<td>B23 Internal Views</td>
<td>Does not comply</td>
<td>At ground floor level, internal fencing detail to a height of 1.8m limits views between adjoining areas of secluded private open space of G03 and G04 within the development will be required. This will be included as a recommended permit condition. All other habitable room windows have been sited appropriately in accordance with this Standard.</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.8</td>
<td>B24 Noise Impacts</td>
<td>N/A</td>
<td>N/A to apartment application</td>
</tr>
<tr>
<td></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td></td>
<td></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>
<tbody>
<tr>
<td>B25 Accessibility</td>
<td>N/A</td>
<td>N/A to apartment application</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>N/A</td>
<td>N/A to apartment application</td>
</tr>
<tr>
<td>------------------------</td>
<td>-----</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B27 Daylight to New Windows</strong></th>
<th>Complies</th>
<th>All habitable windows will open out onto a space clear to the sky.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B28 Private Open Space</strong></th>
<th>Complies</th>
<th>Minimum: 25m² secluded, 40m² overall with a minimum dimension of 3 m; Proposed: All apartments meet the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents. Refer to report for discussion.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Private Open Space</th>
<th>Secluded Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartment G01</td>
<td>88m²</td>
</tr>
<tr>
<td>Apartment G02</td>
<td>36m²</td>
</tr>
<tr>
<td>Apartment G03</td>
<td>86m²</td>
</tr>
<tr>
<td>Apartment G04</td>
<td>83m²</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B29 Solar Access to Open Space</strong></th>
<th>Complies</th>
<th>The southern setbacks have been amended as part of the VCAT amended plans to compliance with Standard B29, to provide adequate solar access into the secluded private open space of Dwellings G03 and G04, both of which also have eastern or western orientation.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B30 Storage</strong></th>
<th>N/A</th>
<th>N/A to apartment application</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide adequate storage facilities for each dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>CLAUSE 55.06 DESIGN DETAIL</strong></th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title and Objective</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Complies</td>
<td>Requirement: 1.5 metres in height. Proposed: 1.5 metres in height.</td>
</tr>
<tr>
<td>---------------------</td>
<td>----------</td>
<td>---------------------------------------------------------------</td>
</tr>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B33 Common Property</strong></th>
<th>Complies</th>
<th>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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>Complies</th>
<th>All appropriate site services have been shown on the plan. They are located along the frontage of the site and in the main lobby, away from neighbouring habitable windows.</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>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

**CLAUSE 55.07 APARTMENT DEVELOPMENTS**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard B35 Energy efficiency objectives</strong></td>
<td>Complies</td>
<td>The proposed dwellings achieve adequate thermal efficiency.</td>
</tr>
<tr>
<td>To achieve and protect energy efficient dwellings and buildings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure dwellings achieve adequate thermal efficiency.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard B36 Communal open space</strong></td>
<td>N/A</td>
<td>This standard relates to developments with 40 or more dwellings.</td>
</tr>
<tr>
<td>To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Developments with 40 or more dwellings should provide a minimum area of communal open space of 2.5 sq metres per dwelling or 250 sq metres, whichever is lesser.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard B37 Solar access to communal outdoor open space</td>
<td>N/A</td>
<td>There is no communal outdoor open space provided within this development. Communal areas within this development at ground floor level to do constitute recreational outdoor open space.</td>
</tr>
<tr>
<td>--------------------------------------------------------</td>
<td>-----</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Standard B38 Deep soil areas and canopy trees objective</td>
<td>Complies</td>
<td><strong>Required:</strong> 5% of the site area with a minimum dimension of 3 metres and 1 small tree (6-8 metres) per 30 square metres of deep soil. I.e. 47m² and one (1) small tree. <strong>Proposed:</strong> 60.7m² with two (2) large trees and 8 medium canopy trees, which complies with the standard.</td>
</tr>
<tr>
<td>Standard B39 Integrated water and stormwater management</td>
<td>Complies</td>
<td>The supporting SMP Report notes the provision of 15,000L rainwater tank is required and this has been located at underground in the basement.</td>
</tr>
<tr>
<td>Standard B40 Noise impacts</td>
<td>Complies</td>
<td>Residents will not be unduly impacted by external and internal noise sources.</td>
</tr>
</tbody>
</table>
| Standard B41 Accessibility | Complies | **Requirement:** 50 per cent of dwellings should have:  
- A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.  
- A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.  
- A main bedroom with access to an adaptable bathroom.  
- At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table B7. **Proposed:** At least 50% of the proposed |
### Standard B42 Building entry and circulation
To provide each dwelling and building with its own sense of identity.
To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents.
To ensure internal communal areas provide adequate access to daylight and natural ventilation.

| 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
To provide adequate private open space for the reasonable recreation and service needs of residents.

| Complies | Requirement: An area of 15 square metres, with a minimum dimension of 3 metres at a podium or other similar base and convenient access from a living room, or a balcony with an area of 12m² with a minimum dimension of 2.4 metres. 
Proposed: the proposed SPOS of each apartment complies with standard in terms of size. |

<table>
<thead>
<tr>
<th>Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartment 101 (3 beds)</td>
</tr>
<tr>
<td>Apartment 102 (3 beds)</td>
</tr>
<tr>
<td>Apartment 103 (3 beds)</td>
</tr>
<tr>
<td>Apartment 104 (2 beds)</td>
</tr>
<tr>
<td>Apartment 105 (2 beds)</td>
</tr>
<tr>
<td>Apartment 201 (3 beds)</td>
</tr>
<tr>
<td>Apartment 202 (2 Beds)</td>
</tr>
<tr>
<td>Apartment 203 (3 Beds)</td>
</tr>
</tbody>
</table>

### Standard B44 Storage
To provide adequate storage facilities for each dwelling.

| Does not comply | Required: 3 bed apartments require 18m³ total minimum storage volume and 12m³ minimum storage volume with the dwelling. 
Provided: Compliance for both internal and external storage will be required via condition to demonstrate compliance. |

<p>| Apartment G01 (3 beds) | 12m³ | 12m³ | 6m³ | 6m³ |
| Apartment G02 (3 beds) | 12m³ | 12m³ | 6m³ | 6m³ |
| Apartment G03 (2 beds) | 9m³ | 9m³ | 5m³ | 5m³ |
| Apartment G04 (2 beds) | 9m³ | 9m³ | 5m³ | 5m³ |</p>
<table>
<thead>
<tr>
<th>Item 4.8 – Matters of Decision</th>
<th>Bayside City Council</th>
<th>Planning &amp; Amenity Committee Meeting - 8 October 2019</th>
<th>Attachment 6</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Apartment 101 (3 beds)</th>
<th>12m²</th>
<th>12m²</th>
<th>6m³</th>
<th>6m³</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartment 102 (3 beds)</td>
<td>12m²</td>
<td>12m²</td>
<td>6m³</td>
<td>6m³</td>
</tr>
<tr>
<td>Apartment 103 (3 beds)</td>
<td>12m²</td>
<td>12m²</td>
<td>6m³</td>
<td>6m³</td>
</tr>
<tr>
<td>Apartment 104 (2 beds)</td>
<td>9m²</td>
<td>9m²</td>
<td>5m³</td>
<td>5m³</td>
</tr>
<tr>
<td>Apartment 105 (2 beds)</td>
<td>9m²</td>
<td>9m²</td>
<td>5m³</td>
<td>5m³</td>
</tr>
<tr>
<td>Apartment 201 (3 beds)</td>
<td>12m²</td>
<td>12m²</td>
<td>6m³</td>
<td>6m³</td>
</tr>
<tr>
<td>Apartment 202 (2 Beds)</td>
<td>12m²</td>
<td>12m²</td>
<td>6m³</td>
<td>6m³</td>
</tr>
<tr>
<td>Apartment 203 (3 Beds)</td>
<td>12m²</td>
<td>12m²</td>
<td>6m³</td>
<td>6m³</td>
</tr>
</tbody>
</table>

**Standard B45 Waste and recycling**

| To ensure dwellings are designed to encourage waste recycling. |
| To ensure that waste and recycling facilities are accessible, adequate and attractive. |
| To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm. |
| **Complies** | **The proposal provides for appropriate and conveniently located areas for waste collection on site. A Waste Management Plan will be conditioned for implementation of on-site private waste collection services.** |

**Standard B46 Functional layout**

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

**Standard B47 Room depth**

| To allow adequate daylight into single aspect habitable rooms. |
| **Complies** | **Requirement:** Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.
**Proposed:** Many rooms have double aspects but all single aspect rooms comply with this standard. |

**Standard B48 Windows**

| To allow adequate daylight into new habitable room 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 be:
- A minimum width of 1.2 metres.
- A maximum depth of 1.5 times the width, measured from the external |
<table>
<thead>
<tr>
<th>Standard B49 Natural ventilation</th>
<th>Complies</th>
<th>Requirement: At least 40 per cent of dwellings should provide effective cross ventilation that has:</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage natural ventilation of dwellings.</td>
<td></td>
<td>• A maximum breeze path through the dwelling of 18 metres.</td>
</tr>
<tr>
<td>To allow occupants to effectively manage natural ventilation of dwellings.</td>
<td></td>
<td>• A minimum breeze path through the dwelling of 5 metres.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Ventilation openings with approximately the same area.</td>
</tr>
<tr>
<td>Proposed: All dwellings are provided with natural ventilation.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Neighbourhood Character Precinct F1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
Comments  
The application does not propose to remove any heritage building. |
| To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character. | • Retain established trees and vegetation.  
• Replace any trees removed with species that will grow to a similar height.  
• Encourage replanting of indigenous sandbelt vegetation.  
• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation. | Lack of landscaping and substantial vegetation.  
Removal of trees.  
Planting of environmental weeds. | Responds  
Comments  
The proposed provision of landscaping would be adequate including substantial trees and shrubs. The application has demonstrated that sufficient space will be available for the planting of canopy trees around the building, within the side and rear setbacks. |
| To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Loss of front garden space. | Responds  
Comments  
The proposed building layout including sufficient spaces around the building for planting in order to maintain the rhythm of spacious visual separation between buildings. The development is proposed over two lots, the development provides a separation between two balconies of Unit 101 and 102 which provides a design response to create the appearance of space between buildings. |
| To minimise the loss of front garden spaces and the | • Locate garages and carports behind the line of the dwelling.  
• Underground car parking | Car parking structures that dominate the | Responds  
Comments |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>dominance of car parking structures.</td>
<td>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>façade or view of the dwelling.</td>
<td>It is noted that car parking is proposed to be located at basement level, accessed from Grenville Street which only provides one vehicular crossover per typical site frontage, it is encouraged by current policy.</td>
</tr>
</tbody>
</table>
| To ensure that new buildings and extensions do not dominate the streetscape. | • Recess second storey elements from the front façade. | High pitched or mansard roof forms with dormer windows. | Responds
Comments
The subject site is covered by DDO12 which provide design guidelines for future developments in the area. Whilst the proposal does not provide any setback from the first floor, the proposed second floor has been designed with a 4m front setback which complies with 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, in the new building design. | Large bulky buildings with flat, poorly articulated front wall surfaces. | Responds
Comments
No heritage building adjoins subject site. |
| To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes. | • Incorporate a variety of timber or other non-masonry wall materials where possible. | Heavy materials and design detailing (e.g. Large masonry columns and piers). | Responds
Comments
The proposed development adopts a number of materials including renders, timber slatted screen and other metal claddings. The proposed colour scheme is light and simple with appropriate material variety which respects the existing neighbourhood character. |
| To maintain the openness of the streetscape and views to the dwellings. | • Provide open style front fences, other than along heavily trafficked roads. • Front fence style should be appropriate to the building era. | High, solid front fencing. | Responds
Comments
The proposed 1.5m high front fence respects the existing fences high along the street. The proposed fence is black power coated metal fins with 28% transparency will respect the existing character along Grenville Street. |
| To create a visually interesting and attractive built form interface with the foreshore reserve. | • Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading. | Buildings that have no relationship to the foreshore setting. Poorly articulated roof | N/A
Comments
The proposed development does not have any adjoining interface with any foreshore reserve. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| • Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.  
• Provide articulated roof forms to create an interesting skyline when viewed from the beach. | and building forms. Highly reflective materials or glazing. |
4.9 STATUTORY PLANNING - VCAT REPORT

City Planning & Amenity - Development Services
File No: PSF/19/962 – Doc No: DOC/19/259724

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

1. Executive summary

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

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

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

The Statutory Planning Team are also focussed on the responsible management of planning applications to minimise the need for the involvement of VCAT. A list of all applications lodged and determined in September 2019 are provided in Attachment 1 and Attachment 2 respectively for information purposes.

VCAT Appeals

Council manages a considerable number of matters which are referred to VCAT. These matters include merit appeals and compulsory conferences for decisions made by the Council and its delegates.

It should be noted that the number of appeals lodged with VCAT against a failure of the Council or delegate to make a decision is minimal, demonstrating that decisions are being made within a reasonable timeframe.

Attachment 3 includes details of upcoming VCAT hearings, including compulsory conferences.

VCAT outcomes

As a result of Council representation at VCAT, there are various outcomes/determinations. As such, this report provides details of the determinations received for the previous month and also shows the progress of VCAT outcomes for the financial year.

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

Council has a target for 2019/20 that 60% of all Planning and Amenity Committee and delegated officer decisions should not be set aside by VCAT. This is comparable with other inner urban Councils in Melbourne such as Port Phillip and Stonnington.

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

For the 2019/20 financial year, Council has received 26 decisions, of which:

- 8 have been settled by consent orders; and
- 2 have been withdrawn.

The total number of LGPRF measured decisions for the year to date is therefore 16. This table below reflects the new 2019/20 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 2019</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>August 2019</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>September 2019</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>October 2019</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>November 2019</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>December 2019</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>January 2020</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>February 2020</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>March 2020</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>April 2020</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>May 2020</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>June 2020</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL DECISIONS</strong></td>
<td><strong>8</strong></td>
<td><strong>8</strong></td>
</tr>
</tbody>
</table>

**LGPRF Result**

|               | 50% | 50% |

Attachment 4 provides a summary of each case identifying the key issues for Council policy and strategy.

VCAT Outcomes relating to Planning and Amenity Committee meeting decisions
In September 2019, VCAT determined one application that was a result of a Planning and Amenity Committee decision. A summary of this decision is detailed below.

**30 Ardoyne Street, Black Rock**

This was an Application for Review pursuant to Section 82 of the Planning and Environment Act 1987 by an objector, in reference to the Notice of Decision to Amend a Planning Permit at 30 Ardoyne Street in Black Rock that was issued by Council at Planning and Committee Meeting on the 26 February 2019.

Of specific concern of the applicant for review (i.e. the objector) was proposed condition 1(m), which allowed the removal of an existing Cypress Tree on the application property. The objector in this instance was seeking for this tree to be retained.

In the report tabled at the committee meeting, officers had recommended that the tree be retained ( amongst other changes), however after hearing the submissions and deliberating on the matter, Councillors decided to include condition 1(m) that effectively allowed the applicant to remove the tree and replace it with a new tree in the same location.
In its Order dated 30 September 2019, the Tribunal determined to vary Council’s decision, determining that the tree must remain and hence ordered that the planning permit issue subject to the deletion of condition 1(m). In reaching this conclusion, the member inspected the site and noted the trees contribution to streetscape character. Council’s internal arborists view was also taken into account, noting that they deemed the tree to be healthy, of good structure and a useful life expectancy in excess of 20 years. Whilst the idea of a replacement tree was noted, it was identified that this would take many years to reach maturity, and given the health and viability of the existing tree, retention was thought to be a superior outcome.

A complete copy of the VCAT order is provided at Attachment 5.

7-9 Halifax Street, Brighton

The decision for refusal overturned officers’ recommendation for support (at the Planning and Amenity Committee meeting held on 12 March 2019). The Grounds of Refusal predominantly related to the built form and inconsistency with the neighbourhood character.

An Application for Review against the Refusal decision made by Council was subsequently lodged with VCAT by the Permit Applicant pursuant to Section 77 of the Planning and Environment Act, 1987.

The proceedings were set down for a Compulsory Conference on 10 July 2019 and a Merits hearing, listed for 3 days, commencing on 28 August 2019.

No agreement was reached between parties at the Compulsory Conference.

Therefore the application proceeded to a full merits hearing commencing on 28 August 2019 for two (2) days, in which Council was represented by a Legal representative (Barrister). Prior to the hearing, formally substituted plans were circulated to Council and all parties on 22 July 2019. The substituted plans did not make adequate changes to respond to the Grounds of Refusal determined by Council, and as such, no grounds of refusal were deleted.

Following the two (2) day hearing, the Tribunal directed for a permit to issue by an Order dated 6 September 2019, noting an acceptable built form and the importance of ‘developing housing opportunities in major activity centres’, amongst others.

A complete copy of the VCAT order is provided at Attachment 6.

25B Bolton Street, Beaumaris

All parties reached agreement and requested the VCAT issue a permit based on a consent order. There was no hearing and no attendance at VCAT.

A planning permit was issued on the basis of the decision of the Planning and Amenity Committee with the conditions unchanged.

A complete copy of the VCAT order is provided at Attachment 7.

2. Recommendation

That Council resolve to:

- Receive and note the report; and
- Note the outcome of VCAT decisions on the planning applications handed down during September 2019.

Support Attachments

1. Applications Lodged in September 2019
2. Applications Determined in September 2019
3. VCAT Upcoming Appeals
4. VCAT Determined Appeals - September 2019
5. VCAT Order - 30 Ardoyne Street, Black Rock (5.2015.391.3)
6. VCAT Order - 7-9 Halifax Street, Brighton (5.2018.852.1)
7. VCAT Order - 25B Bolton Street, Beaumaris (5.2018.426.1)
<table>
<thead>
<tr>
<th>Application</th>
<th>Property Address</th>
<th>Development Details</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.2019.487</td>
<td>153 Linacre RD, HAMPTON</td>
<td>2 New Dwellings</td>
<td>02/09/19</td>
</tr>
<tr>
<td>5.2012.298</td>
<td>14 Telford ST, HIGHETT</td>
<td>2 New Dwellings</td>
<td>03/09/19</td>
</tr>
<tr>
<td>5.2019.491</td>
<td>28 Munro AVE, CHELTEMHAM</td>
<td>Remover/Destroy or Lop Native Vegetation</td>
<td>03/09/19</td>
</tr>
<tr>
<td>5.2012.494</td>
<td>2 Small ST, HAMPTON</td>
<td>Liquor Licence - New &amp; Alts</td>
<td>05/09/19</td>
</tr>
<tr>
<td>5.2015.274</td>
<td>10 Beach RD, HAMPTON</td>
<td>2 New Dwellings</td>
<td>00/09/19</td>
</tr>
<tr>
<td>5.2012.498</td>
<td>852 Nepean HWY, HAMPTON EAST</td>
<td>Education Centre - New Use Only</td>
<td>06/09/19</td>
</tr>
<tr>
<td>5.2019.491</td>
<td>47 South RD, BRIGHTON</td>
<td>Education Centre - New Use Only</td>
<td>06/09/19</td>
</tr>
<tr>
<td>5.2010.764</td>
<td>12 Erskine AVE, CHELTEMHAM</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>06/09/19</td>
</tr>
<tr>
<td>5.2019.500</td>
<td>13 Ludstone ST, HAMPTON</td>
<td>1 Dwelling - Alts &amp; Addrs - Heritage</td>
<td>09/09/19</td>
</tr>
<tr>
<td>5.2019.785</td>
<td>1 8 Mayes AVE, BRIGHTON</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>09/09/19</td>
</tr>
<tr>
<td>5.2015.782</td>
<td>23 Marshall AVE, HIGHETT</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>13/09/19</td>
</tr>
<tr>
<td>5.2010.786</td>
<td>260 South RD, BRIGHTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>13/09/19</td>
</tr>
<tr>
<td>5.2010.505</td>
<td>16 Kelly AVE, HAMPTON EAST</td>
<td>2 New Dwellings</td>
<td>15/09/19</td>
</tr>
<tr>
<td>5.2015.415</td>
<td>18 Railway CRES, HAMPTON</td>
<td>26 or More Dwellings</td>
<td>10/09/19</td>
</tr>
<tr>
<td>5.2017.682</td>
<td>14 May ST, HAMPTON</td>
<td>1 Dwelling - Alts &amp; Addrs on Lot &lt; 500m2</td>
<td>10/09/19</td>
</tr>
<tr>
<td>5.2015.812</td>
<td>1/2 Windermere CRES, BRIGHTON</td>
<td>1 Dwelling - Alts &amp; Addrs on Lot &lt; 500m2</td>
<td>10/09/19</td>
</tr>
<tr>
<td>5.2010.510</td>
<td>70 Esplanade , BRIGHTON</td>
<td>6 - 10 New Dwellings</td>
<td>10/09/19</td>
</tr>
<tr>
<td>5.2010.511</td>
<td>18 Highett RD, HAMPTON</td>
<td>1 Dwelling - Alts &amp; Addrs - DDO</td>
<td>10/09/19</td>
</tr>
<tr>
<td>5.2010.762</td>
<td>2/2 Regworth CRT, HIGHETT</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>10/09/19</td>
</tr>
<tr>
<td>5.2015.763</td>
<td>7 Summit AVE, HAMPTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>10/09/19</td>
</tr>
<tr>
<td>5.2012.270</td>
<td>23 Littlewood ST, HAMPTON</td>
<td>Additional Dwelling on a Lot</td>
<td>20/09/19</td>
</tr>
<tr>
<td>5.2018.698</td>
<td>60 Esplanade , BRIGHTON</td>
<td>1 Dwelling - Alts &amp; Addrs - DDO</td>
<td>20/09/19</td>
</tr>
<tr>
<td>5.2015.516</td>
<td>7 - 11 Advantage RD, HIGHETT</td>
<td>Industry-Alts/Addcs to Building Only</td>
<td>24/09/19</td>
</tr>
<tr>
<td>5.2019.518</td>
<td>5A James CRES, HAMPTON</td>
<td>1 Dwelling - Alts &amp; Addrs - DDO</td>
<td>24/09/19</td>
</tr>
<tr>
<td>5.2010.520</td>
<td>403A Highett RD, HIGHETT</td>
<td>Restaurant - New Use Only</td>
<td>24/09/19</td>
</tr>
<tr>
<td>5.2010.786</td>
<td>1 Dart ST, HIGHETT</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>25/09/19</td>
</tr>
<tr>
<td>5.2010.767</td>
<td>10 Gordon ST, HAMPTON</td>
<td>Vary/Remove Easements &amp; Other Restrictions</td>
<td>25/09/19</td>
</tr>
<tr>
<td>5.2015.818</td>
<td>378 Bay RD, CHELTEMHAM</td>
<td>26 or More Dwellings</td>
<td>26/09/19</td>
</tr>
</tbody>
</table>

**Northern**

<table>
<thead>
<tr>
<th>Application</th>
<th>Property Address</th>
<th>Development Details</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.2019.490</td>
<td>51 Outer CRES, BRIGHTON</td>
<td>Education Centre-Alts/Addcs to Blk Only</td>
<td>02/09/19</td>
</tr>
<tr>
<td>5.2015.402</td>
<td>24 Grosever ST, BRIGHTON</td>
<td>1 Dwelling - Alts &amp; Addrs - Heritage</td>
<td>03/09/19</td>
</tr>
<tr>
<td>5.2018.489</td>
<td>14 Lycander ST, BRIGHTON EAST</td>
<td>2 New Dwellings</td>
<td>04/09/19</td>
</tr>
<tr>
<td>5.2015.782</td>
<td>805 Hampton ST, BRIGHTON</td>
<td>1 Dwelling - Alts &amp; Addrs - DDO</td>
<td>05/09/19</td>
</tr>
<tr>
<td>5.2010.753</td>
<td>10 Eric ST, BRIGHTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>06/09/19</td>
</tr>
<tr>
<td>5.2010.757</td>
<td>15 Glyndon AVE, BRIGHTON</td>
<td>Consolidation of Land</td>
<td>09/09/19</td>
</tr>
<tr>
<td>5.2010.501</td>
<td>35 Camperdown ST, BRIGHTON EAST</td>
<td>2 New Dwellings</td>
<td>10/09/19</td>
</tr>
<tr>
<td>5.2010.502</td>
<td>1/279 Bay ST, BRIGHTON</td>
<td>Advertising Signs</td>
<td>10/09/19</td>
</tr>
<tr>
<td>5.2010.756</td>
<td>42 Carpenter ST, BRIGHTON</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>11/09/19</td>
</tr>
<tr>
<td>5.2010.436</td>
<td>75 Outer CRES, BRIGHTON</td>
<td>2 New Dwellings</td>
<td>13/09/19</td>
</tr>
<tr>
<td>5.2015.784</td>
<td>1/48 Esplanade , BRIGHTON</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>13/09/19</td>
</tr>
<tr>
<td>5.2010.274</td>
<td>10 Lindsay ST, BRIGHTON</td>
<td>Multi-Dwelling - Alts &amp; Addcs - DDO</td>
<td>17/09/19</td>
</tr>
<tr>
<td>5.2010.506</td>
<td>18 Male ST, BRIGHTON</td>
<td>1 Dwelling - New - SBO Swimming Pool on a lot &gt; 500m2</td>
<td>17/09/19</td>
</tr>
<tr>
<td>5.2002.764</td>
<td>4 Cowper ST, BRIGHTON</td>
<td>1 Dwelling - New - Heritage</td>
<td>18/09/19</td>
</tr>
<tr>
<td>5.2005.831</td>
<td>3/10 Brown ST, BRIGHTON EAST</td>
<td>3 New Dwellings</td>
<td>18/09/19</td>
</tr>
<tr>
<td>5.2017.568</td>
<td>126 Marlin ST, BRIGHTON</td>
<td>Dwelling(s) Other - New Building &amp; Use and Carparking</td>
<td>18/09/19</td>
</tr>
<tr>
<td>5.2017.739</td>
<td>14 Mackie GVE, BRIGHTON EAST</td>
<td>1 Dwelling - Alts &amp; Addrs - Heritage</td>
<td>18/09/19</td>
</tr>
<tr>
<td>5.2012.743</td>
<td>4 Thompson ST, BRIGHTON</td>
<td>1 Dwelling - Alts &amp; Addrs on Lot &lt; 500m2</td>
<td>18/09/19</td>
</tr>
<tr>
<td>5.2002.737</td>
<td>1/220 - 220 Esplanade , BRIGHTON</td>
<td>6 - 10 New Dwellings</td>
<td>20/09/19</td>
</tr>
<tr>
<td>5.2017.632</td>
<td>19 Grant ST, BRIGHTON EAST</td>
<td>2 New Dwellings</td>
<td>23/09/19</td>
</tr>
<tr>
<td>5.2019.514</td>
<td>464 St Kilda ST, BRIGHTON</td>
<td>Met Spts&amp;Rec Fac-Alts&amp;Addcs to Blk Only</td>
<td>23/09/19</td>
</tr>
<tr>
<td>5.2019.515</td>
<td>37 St Andrews ST, BRIGHTON</td>
<td>Education Centre-Alts/Addcs to Blk Only</td>
<td>24/09/19</td>
</tr>
<tr>
<td>5.2015.785</td>
<td>3/33 Walling AVE, BRIGHTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>24/09/19</td>
</tr>
<tr>
<td>5.2010.786</td>
<td>3 Wallen ST, BRIGHTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>24/09/19</td>
</tr>
<tr>
<td>5.2018.536</td>
<td>19 Barkly ST, BRIGHTON</td>
<td>2 New Dwellings</td>
<td>25/09/19</td>
</tr>
<tr>
<td>5.2010.785</td>
<td>53 Landcock ST, BRIGHTON EAST</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>25/09/19</td>
</tr>
<tr>
<td>5.2018.786</td>
<td>100 Head ST, BRIGHTON</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>25/09/19</td>
</tr>
<tr>
<td>5.2015.822</td>
<td>75 William ST, BRIGHTON</td>
<td>4 New Dwellings</td>
<td>26/09/19</td>
</tr>
</tbody>
</table>
### Attachment 1

#### Bayside City Council
Planning & Amenity Committee Meeting - 8 October 2019

<table>
<thead>
<tr>
<th>Application</th>
<th>Property Address</th>
<th>Development Details</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.2019.488.1</td>
<td>30 First ST, BLACK ROCK</td>
<td>2 New Dwellings</td>
<td>02/09/19</td>
</tr>
<tr>
<td>5.2019.489.1</td>
<td>89 Stanley ST, BLACK ROCK</td>
<td>2 New Dwellings</td>
<td>02/09/19</td>
</tr>
<tr>
<td>5.2019.493.1</td>
<td>385 Beach RD, BEAUMARIS</td>
<td>VPO3 - Removal x 1</td>
<td>04/09/19</td>
</tr>
<tr>
<td>5.2019.383.2</td>
<td>165 Charman RD, CHELTENHAM</td>
<td>4 New Dwellings</td>
<td>05/09/19</td>
</tr>
<tr>
<td>5.2019.497.1</td>
<td>29 Coreen AVE, BEAUMARIS</td>
<td>VPO3 - Removal x 1</td>
<td>06/09/19</td>
</tr>
<tr>
<td>5.2019.7849.1</td>
<td>407 Beach RD, BEAUMARIS</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>06/09/19</td>
</tr>
<tr>
<td>5.2019.16.2</td>
<td>2 Ruxton RISE, BEAUMARIS</td>
<td>2 New Dwellings</td>
<td>11/09/19</td>
</tr>
<tr>
<td>5.2019.56.2</td>
<td>8 Beach RD, BEAUMARIS</td>
<td>2 New Dwellings</td>
<td>11/09/19</td>
</tr>
<tr>
<td>5.2019.7803.1</td>
<td>56A Oak ST, BEAUMARIS</td>
<td>Subdivision of Land (1 to 9 Lots)</td>
<td>11/09/19</td>
</tr>
<tr>
<td>5.2019.503.1</td>
<td>10 Coral AVE, BEAUMARIS</td>
<td>2 New Dwellings</td>
<td>12/09/19</td>
</tr>
<tr>
<td>5.2019.504.1</td>
<td>206 Beach RD, BLACK ROCK</td>
<td>1 Dwelling - Alts &amp; Addts - DDO</td>
<td>13/09/19</td>
</tr>
<tr>
<td>5.2019.506.1</td>
<td>7 Hunter AVE, BLACK ROCK</td>
<td>VPO3 - Removal x 2</td>
<td>16/09/19</td>
</tr>
<tr>
<td>5.2019.507.1</td>
<td>146 Bluff RD, BLACK ROCK</td>
<td>VPO3 - Removal x 1</td>
<td>17/09/19</td>
</tr>
<tr>
<td>5.2019.508.1</td>
<td>11 Bruceo ST, BEAUMARIS</td>
<td>2 New Dwellings</td>
<td>17/09/19</td>
</tr>
<tr>
<td>5.2015.843.3</td>
<td>8 College GVE, BLACK ROCK</td>
<td>2 New Dwellings</td>
<td>18/09/19</td>
</tr>
<tr>
<td>5.2015.406.5</td>
<td>3 Llewellyn ST, BEAUMARIS</td>
<td>2 New Dwellings</td>
<td>19/09/19</td>
</tr>
<tr>
<td>5.2019.512.1</td>
<td>2/1 Rene ST, BEAUMARIS</td>
<td>VPO3 - Removal x 1</td>
<td>19/09/19</td>
</tr>
<tr>
<td>5.2019.513.1</td>
<td>188 Tramway PDE, BEAUMARIS</td>
<td>1 Dwelling - New - SBO</td>
<td>20/09/19</td>
</tr>
<tr>
<td>5.2019.517.1</td>
<td>34 Ardoyno ST, BLACK ROCK</td>
<td>2 New Dwellings</td>
<td>24/09/19</td>
</tr>
<tr>
<td>5.2019.521.1</td>
<td>28 Pacific BVD, BEAUMARIS</td>
<td>VPO3 - Removal x 1</td>
<td>24/09/19</td>
</tr>
<tr>
<td>5.2016.313.2</td>
<td>8 Garath AVE, BEAUMARIS</td>
<td>2 New Dwellings</td>
<td>26/09/19</td>
</tr>
<tr>
<td>5.2019.126.2</td>
<td>48 Haldane ST, BEAUMARIS</td>
<td>2 New Dwellings</td>
<td>26/09/19</td>
</tr>
<tr>
<td>5.2019.523.1</td>
<td>5 Point AVE, BEAUMARIS</td>
<td>VPO3 - Removal x 2</td>
<td>30/09/19</td>
</tr>
</tbody>
</table>

#### TBA

<table>
<thead>
<tr>
<th>Application</th>
<th>Property Address</th>
<th>Development Details</th>
<th>Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.2019.496.1</td>
<td>21 Billson ST, BRIGHTON EAST</td>
<td>1 Dwelling - Alts &amp; Addts - SBO</td>
<td>05/09/19</td>
</tr>
<tr>
<td>5.2019.518.1</td>
<td>34 Ardoyno ST, BLACK ROCK</td>
<td>duplicate - refund requested to finance, delete fee when this is done</td>
<td>24/09/19</td>
</tr>
<tr>
<td>5.2019.524.1</td>
<td>12A Potter ST, BLACK ROCK</td>
<td>New Garden Shed 2400x4500</td>
<td>30/09/19</td>
</tr>
</tbody>
</table>

### Item 4.9 – Matters of Decision
<table>
<thead>
<tr>
<th>Application</th>
<th>Property Address</th>
<th>Determination</th>
<th>Determined</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.2019.782.1</td>
<td>43 Cripp ST, HAMPTON 3188</td>
<td>Permit Granted - Delegate</td>
<td>02/09/2019</td>
</tr>
<tr>
<td></td>
<td>Subdivision of land (19 or more lots)</td>
<td>Permit Granted - Delegate</td>
<td>02/09/2019</td>
</tr>
<tr>
<td>5.2019.783.1</td>
<td>15 Major ST, HIGHTETT 3190</td>
<td>Permit Granted - Delegate</td>
<td>02/09/2019</td>
</tr>
<tr>
<td></td>
<td>Subdivision of land (19 or more lots)</td>
<td>Notice of Decision Granted - Delegate</td>
<td>03/09/2019</td>
</tr>
<tr>
<td>5.2015.578.2</td>
<td>4 Arthur AVE, BRIGHTON 3188</td>
<td>Permit Granted - Delegate</td>
<td>03/09/2019</td>
</tr>
<tr>
<td></td>
<td>2 New Dwellings</td>
<td>No Permit Required</td>
<td>05/09/2019</td>
</tr>
<tr>
<td>5.2019.293.1</td>
<td>62 Daff AVE, HAMPTON EAST 3188</td>
<td>Application Withdrawn</td>
<td>06/09/2019</td>
</tr>
<tr>
<td></td>
<td>2 New Dwellings</td>
<td>Application Withdrawn</td>
<td>10/09/2019</td>
</tr>
<tr>
<td>5.2019.325.1</td>
<td>53 South RD, BRIGHTON 3188</td>
<td>Application Withdrawn</td>
<td>10/09/2019</td>
</tr>
<tr>
<td></td>
<td>Construction of new vehicle crossover and associated works</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.481.1</td>
<td>28 Munro AVE, CHELTENHAM 3192</td>
<td>Permit Granted - Delegate</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Remove/Destroy or Lop Native Vegetation</td>
<td>Permit Granted - Delegate</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2018.750.1</td>
<td>55 Willis ST, HAMPTON 3188</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>2 New Dwellings</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.65.1</td>
<td>2 Banks AVE, HAMPTON 3188</td>
<td>Permit Granted - Delegate</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>2 New Dwellings</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.79.1</td>
<td>7487 Hampton ST, BRIGHTON 3186</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Advertising Signs</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.83.1</td>
<td>3597 Hampton ST, HAMPTON 3188</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Advertising Signs</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.85.1</td>
<td>4407 Hampton ST, HAMPTON 3188</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Advertising Signs</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.86.1</td>
<td>4857 Hampton ST, HAMPTON 3188</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Advertising Signs</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.87.1</td>
<td>5667 Hampton ST, HAMPTON 3188</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Advertising Signs</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.88.1</td>
<td>6667 Nepean HWY, HAMPTON EAST 3188</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Advertising Signs</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.102.1</td>
<td>4061 Bluff RD, HAMPTON 3188</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Advertising Signs</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.104.1</td>
<td>302 Bluff RD, SANDRINGHAM 3191</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Advertising Signs</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.111.1</td>
<td>2577 Bay RD, CHETENHAM 3192</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Advertising Signs</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.112.1</td>
<td>3076 Bay RD, CHETENHAM 3192</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td></td>
<td>Advertising Signs</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2013.311.3</td>
<td>534 Bluff RD, SANDRINGHAM 3191</td>
<td>Permit Granted - Delegate</td>
<td>13/09/2019</td>
</tr>
<tr>
<td></td>
<td>Medical Centre - Lots/Adts to Bid Only</td>
<td>Permit Granted - Delegate</td>
<td>17/09/2019</td>
</tr>
<tr>
<td>5.2019.422.1</td>
<td>58 Lysander ST, BRIGHTON EAST 3187</td>
<td>Permit Granted - Delegate</td>
<td>18/09/2019</td>
</tr>
<tr>
<td></td>
<td>1 Dwelling, Lots/Adts to Bid</td>
<td>Permit Granted - Delegate</td>
<td>18/09/2019</td>
</tr>
<tr>
<td>5.2019.227.1</td>
<td>22 Lansell AVE, HIGHTET 3190</td>
<td>Permit Granted - Delegate</td>
<td>18/09/2019</td>
</tr>
<tr>
<td></td>
<td>Construction of two dwellings on a lot in a Special Building Overlay</td>
<td>Permit Granted - Delegate</td>
<td>18/09/2019</td>
</tr>
<tr>
<td>5.2012.259.2</td>
<td>14 Telford ST, HIGHTET 3190</td>
<td>Permit Granted - Delegate</td>
<td>18/09/2019</td>
</tr>
<tr>
<td></td>
<td>2 New Dwellings</td>
<td>Permit Granted - Delegate</td>
<td>20/09/2019</td>
</tr>
<tr>
<td>5.2017.862.2</td>
<td>14 May ST, HAMPTON 3186</td>
<td>Permit Granted - Delegate</td>
<td>23/09/2019</td>
</tr>
<tr>
<td></td>
<td>1 Dwelling - Lots/Adts on Lot &lt; 500m2</td>
<td>Permit Granted - Delegate</td>
<td>24/09/2019</td>
</tr>
<tr>
<td>5.2019.785.0</td>
<td>8 Maysbury AVE, BRIGHTON 3186</td>
<td>Permit Granted - Delegate</td>
<td>25/09/2019</td>
</tr>
<tr>
<td></td>
<td>Subdivision of land (1 to 9 Lots)</td>
<td>Permit Granted - Delegate</td>
<td>25/09/2019</td>
</tr>
<tr>
<td>5.2014.921.2</td>
<td>436 Bay ST, BRIGHTON 3186</td>
<td>Permit Granted - Delegate</td>
<td>25/09/2019</td>
</tr>
<tr>
<td></td>
<td>Notice of Decision Granted - Delegate</td>
<td>Permit Granted - Delegate</td>
<td>25/09/2019</td>
</tr>
<tr>
<td>5.2018.838.2</td>
<td>1 Melrose ST, SANDRINGHAM 3191</td>
<td>Amended Permit Granted - Delegate</td>
<td>25/09/2019</td>
</tr>
<tr>
<td></td>
<td>Office - Lots/Adts to Building &amp; Use</td>
<td>Amended Permit Granted - Delegate</td>
<td>25/09/2019</td>
</tr>
<tr>
<td>5.2019.419.1</td>
<td>2A Arthur ST, SANDRINGHAM 3191</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>25/09/2019</td>
</tr>
<tr>
<td></td>
<td>1 Dwelling - Lots/Adts - DDO</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>25/09/2019</td>
</tr>
<tr>
<td></td>
<td>Subdivision of land (1 to 9 Lots)</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>25/09/2019</td>
</tr>
<tr>
<td>5.2014.315.4</td>
<td>33 Glencairn AVE, BRIGHTON EAST 3187</td>
<td>Application Lapsed</td>
<td>26/09/2019</td>
</tr>
<tr>
<td></td>
<td>2 New Dwellings</td>
<td>Application Lapsed</td>
<td>26/09/2019</td>
</tr>
<tr>
<td>5.2019.391.1</td>
<td>12 Moon ST, SANDRINGHAM 3191</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>26/09/2019</td>
</tr>
<tr>
<td></td>
<td>1 Dwelling - Lots/Adts</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>26/09/2019</td>
</tr>
<tr>
<td>Application</td>
<td>Property Address</td>
<td>Determination</td>
<td>Determined</td>
</tr>
<tr>
<td>-------------</td>
<td>------------------</td>
<td>---------------</td>
<td>------------</td>
</tr>
<tr>
<td>5.2017.43.2</td>
<td>6 Milroy ST, BRIGHTON EAST 3187</td>
<td>Amended Permit Granted - Delegate</td>
<td>04/09/2019</td>
</tr>
<tr>
<td>5.2019.322.1</td>
<td>430 New ST, BRIGHTON 3186</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>04/09/2019</td>
</tr>
<tr>
<td>5.2019.422.1</td>
<td>78 Martin ST, BRIGHTON 3186</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>04/09/2019</td>
</tr>
<tr>
<td>5.2016.722.4</td>
<td>233 New ST, BRIGHTON 3186</td>
<td>Amended Permit Granted - Delegate</td>
<td>05/09/2019</td>
</tr>
<tr>
<td>5.2019.354.1</td>
<td>360 New ST, BRIGHTON 3186</td>
<td>Notice of Decision Granted - Delegate</td>
<td>06/09/2019</td>
</tr>
<tr>
<td>5.2019.360.1</td>
<td>257 Ailing ST, BRIGHTON 3186</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>09/09/2019</td>
</tr>
<tr>
<td>5.2019.415.1</td>
<td>70 Halifax ST, BRIGHTON 3186</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>09/09/2019</td>
</tr>
<tr>
<td>5.2019.472.1</td>
<td>253 Esplanade, BRIGHTON 3186</td>
<td>No Permit Required</td>
<td>10/09/2019</td>
</tr>
<tr>
<td>5.2017.452.4</td>
<td>42 Murphy ST, BRIGHTON 3186</td>
<td>Amended Permit Granted - Delegate</td>
<td>11/09/2019</td>
</tr>
<tr>
<td>5.2019.781.1</td>
<td>37 ST Bay ST, BRIGHTON 3186</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.113.1</td>
<td>6881 Hawthorn RD, BRIGHTON EAST 3187</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.122.1</td>
<td>102T Martin ST, BRIGHTON 3186</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2018.029.2</td>
<td>3 Grant ST, BRIGHTON EAST 3187</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.405.1</td>
<td>3 Henry ST, BRIGHTON EAST 3187</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.455.1</td>
<td>14 Baldy ST, BRIGHTON 3186</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>19/09/2019</td>
</tr>
<tr>
<td>5.2005.831.3</td>
<td>31 10 Brown ST, BRIGHTON EAST 3187</td>
<td>Application Withdrawn</td>
<td>20/09/2019</td>
</tr>
<tr>
<td>5.2017.36.2</td>
<td>2 Huntingfield RD, BRIGHTON 3186</td>
<td>Application Withdrawn</td>
<td>20/09/2019</td>
</tr>
<tr>
<td>5.2019.463.1</td>
<td>8 Menzies AVE, BRIGHTON 3185</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>24/09/2019</td>
</tr>
<tr>
<td>5.2019.508.1</td>
<td>66 Male ST, BRIGHTON 3186</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>24/09/2019</td>
</tr>
<tr>
<td>5.2019.7566.1</td>
<td>42 Carpenter ST, BRIGHTON 3186</td>
<td>Permit Granted - Delegate</td>
<td>24/09/2019</td>
</tr>
<tr>
<td>5.2013.300.5</td>
<td>424 - 426 New ST, BRIGHTON 3186</td>
<td>Amended Permit Granted - Delegate</td>
<td>26/09/2019</td>
</tr>
<tr>
<td>5.2019.291.1</td>
<td>12 Southey ST, BRIGHTON 3186</td>
<td>Permit Granted - Delegate</td>
<td>26/09/2019</td>
</tr>
<tr>
<td>5.2019.362.1</td>
<td>37 Grant ST, BRIGHTON EAST 3187</td>
<td>Permit Granted - Delegate</td>
<td>26/09/2019</td>
</tr>
<tr>
<td>5.2019.432.1</td>
<td>73 North RD, BRIGHTON 3186</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>26/09/2019</td>
</tr>
<tr>
<td>5.2019.7855.1</td>
<td>3 Carrington GVE, BRIGHTON EAST 3187</td>
<td>Permit Granted - Delegate</td>
<td>26/09/2019</td>
</tr>
</tbody>
</table>

**Southern**

<table>
<thead>
<tr>
<th>Application</th>
<th>Property Address</th>
<th>Determination</th>
<th>Determined</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.2016.713.3</td>
<td>132 Bluff RD, BLACK ROCK 3103</td>
<td>Amended Permit Granted - Delegate</td>
<td>02/09/2019</td>
</tr>
<tr>
<td>5.2018.867.1</td>
<td>318 Balcombe RD, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>02/09/2019</td>
</tr>
<tr>
<td>5.2019.722.1</td>
<td>12 Merrist ST, SANDRINGHAM 3191</td>
<td>Permit Granted - Delegate</td>
<td>02/09/2019</td>
</tr>
<tr>
<td>5.2019.365.1</td>
<td>76 Oak ST, BEAUMARIS 3193</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>03/09/2019</td>
</tr>
<tr>
<td>Application</td>
<td>Property Address</td>
<td>Determination</td>
<td>Determined</td>
</tr>
<tr>
<td>-------------</td>
<td>------------------</td>
<td>---------------</td>
<td>------------</td>
</tr>
<tr>
<td>5.2019.478.1</td>
<td>3 Deaville ST, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>03/09/2019</td>
</tr>
<tr>
<td>5.2019.480.1</td>
<td>56 Karrakatta ST, BLACK ROCK 3193</td>
<td>No Permit Required</td>
<td>03/09/2019</td>
</tr>
<tr>
<td>5.2015.744.2</td>
<td>40 Scott ST, BEAUMARIS 3193</td>
<td>Amended Permit Granted - Delegate</td>
<td>05/09/2019</td>
</tr>
<tr>
<td>5.2019.364.1</td>
<td>24 Wallington AVE, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>06/09/2019</td>
</tr>
<tr>
<td>5.2019.452.1</td>
<td>2/30 Bayview GRES, BLACK ROCK 3193</td>
<td>No Permit Required</td>
<td>09/09/2019</td>
</tr>
<tr>
<td>5.2019.486.1</td>
<td>45 Cromer RD, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>09/09/2019</td>
</tr>
<tr>
<td>5.2019.150.1</td>
<td>12 Fernhill RD, SANDRINGHAM 3191</td>
<td>Permit Refused - Council</td>
<td>10/09/2019</td>
</tr>
<tr>
<td>5.2019.222.1</td>
<td>8 Seawise CRES, BLACK ROCK 3193</td>
<td>Notice of Decision Granted - Delegate</td>
<td>10/09/2019</td>
</tr>
<tr>
<td>5.2019.447.1</td>
<td>65 Haydens RD, BEAUMARIS 3193</td>
<td>Permit Refused - Delegate</td>
<td>11/09/2019</td>
</tr>
<tr>
<td>5.2011.357.6</td>
<td>212 - 216 Bay RD, SANDRINGHAM 3191</td>
<td>Amended Permit Granted - Delegate</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2017.782.2</td>
<td>176 Cromer RD, BEAUMARIS 3193</td>
<td>Amended Permit Granted - Delegate</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.103.1</td>
<td>190T Bluff RD, SANDRINGHAM 3191</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.105.1</td>
<td>471 Beach RD, BEAUMARIS 3193</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.108.1</td>
<td>331T Balcombe RD, BEAUMARIS 3193</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.108.1</td>
<td>3461 Balcombe RD, BEAUMARIS 3193</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.456.1</td>
<td>91 Pellett ST, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2019.475.1</td>
<td>7/44 Karrakatta ST, BLACK ROCK 3193</td>
<td>Application Withdrawn</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>5.2004.263.3</td>
<td>1B Banksea AVE, BEAUMARIS 3193</td>
<td>Amended Permit Refused - Delegate</td>
<td>13/09/2019</td>
</tr>
<tr>
<td>5.2019.441.1</td>
<td>72A Garth AVE, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>13/09/2019</td>
</tr>
<tr>
<td>5.2019.485.1</td>
<td>101 Haldane ST, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>13/09/2019</td>
</tr>
<tr>
<td>5.2018.848.1</td>
<td>3 Keys ST, BEAUMARIS 3193</td>
<td>Notice of Decision Granted - Delegate</td>
<td>18/09/2019</td>
</tr>
<tr>
<td>5.2019.493.1</td>
<td>385 Beach RD, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>18/09/2019</td>
</tr>
<tr>
<td>5.2019.497.1</td>
<td>29 Coven AVE, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>18/09/2019</td>
</tr>
<tr>
<td>5.2019.287.1</td>
<td>130/226 Bay RD, SANDRINGHAM 3191</td>
<td>Notice of Decision Granted - Delegate</td>
<td>20/09/2019</td>
</tr>
<tr>
<td>5.2019.304.1</td>
<td>25 Arianmore AVE, BLACK ROCK 3193</td>
<td>Permit Granted - Delegate</td>
<td>20/09/2019</td>
</tr>
<tr>
<td>5.2019.315.1</td>
<td>101/226 Bay RD, SANDRINGHAM 3191</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>20/09/2019</td>
</tr>
<tr>
<td>5.2019.780.0</td>
<td>56 Oak ST, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>20/09/2019</td>
</tr>
<tr>
<td>5.2019.56.2</td>
<td>6 Beach RD, BEAUMARIS 3193</td>
<td>Amended Permit Granted - Delegate</td>
<td>24/09/2019</td>
</tr>
<tr>
<td>5.2019.322.1</td>
<td>2/14 Burgess ST, BEAUMARIS 3193</td>
<td>Permit &amp; Plans Granted - Delegate</td>
<td>25/09/2019</td>
</tr>
<tr>
<td>5.2019.507.1</td>
<td>148 Bluff RD, BLACK ROCK 3193</td>
<td>Permit Refused - Delegate</td>
<td>20/09/2019</td>
</tr>
<tr>
<td>5.2019.521.1</td>
<td>26 Pacific AVE, BEAUMARIS 3193</td>
<td>Permit Granted - Delegate</td>
<td>26/09/2019</td>
</tr>
<tr>
<td>Application</td>
<td>Property Address</td>
<td>Proposal</td>
<td>Determination</td>
</tr>
<tr>
<td>-------------</td>
<td>------------------</td>
<td>----------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>TBA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.2019.400.1</td>
<td>21 Billson ST, BRIGHTON EAST 3187</td>
<td>1 Dwelling - Alts &amp; Adds - SBO</td>
<td>Permit &amp; Plans Granted - Delegate</td>
</tr>
<tr>
<td>5.2019.427.1</td>
<td>19 Loiler ST, BRIGHTON 3186</td>
<td>Supply and install a front and side picket fence</td>
<td>Permit &amp; Plans Granted - Delegate</td>
</tr>
<tr>
<td>5.2019.518.1</td>
<td>34 Ardoyne ST, BLACK ROCK 3193</td>
<td>duplicate - refund requested to finance, delete fee when this is done</td>
<td>Application Withdrawn</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td></td>
<td><strong>101</strong></td>
<td></td>
</tr>
</tbody>
</table>
## Upcoming VCAT Appeals - Councillor Bulletin

**Data report produced: 2/10/2019**

<table>
<thead>
<tr>
<th>App No.</th>
<th>Property Address Proprietary</th>
<th>Eyebay Determination</th>
<th>Appeal No.</th>
<th>Appeal Type</th>
<th>Compendium Conference</th>
<th>Hearing</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Central</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2018.256.1</td>
<td>776 - 788 Black Rd, SANDRINGHAM 3191</td>
<td>Permit Refused - Delegate</td>
<td>P2025/2019</td>
<td>Refusal to Grant a Permit</td>
<td>15/05/2019</td>
<td>22/05/2019</td>
</tr>
<tr>
<td>2018.256.1</td>
<td>14 Greenstreet St, HAMPSTEAD 3146</td>
<td>Not Support - Refused - Delegate</td>
<td>P1355/2019</td>
<td>Failure to Grant a Permit</td>
<td>20/05/2019</td>
<td>23/05/2019</td>
</tr>
<tr>
<td>2018.256.1</td>
<td>302 1101 Railway Rd, CHESTERTHAM 3192</td>
<td>Notice of Decision Granted - Council</td>
<td>P1238/2019</td>
<td>Conditions</td>
<td>05/06/2019</td>
<td>30/06/2019</td>
</tr>
<tr>
<td>2017.758.1</td>
<td>7-10 Ely Rd, HAMPSTEAD EAST 3188</td>
<td>Notice of Decision Granted - Council</td>
<td>P303/2019</td>
<td>Amend at a Permit</td>
<td>07/11/2019</td>
<td></td>
</tr>
<tr>
<td>2017.217.1</td>
<td>37A - 39A Hamptons Rd, HAMPSTEAD EAST 3188</td>
<td>Notice of Decision Granted - Council</td>
<td>P1640/2019</td>
<td>Failure to Grant a Permit</td>
<td>12/05/2019</td>
<td>31/05/2019</td>
</tr>
<tr>
<td>2018.064.1</td>
<td>25 Highett St, HAMPSTEAD 3188</td>
<td>Permit Refused - Delegate</td>
<td>P1992/2019</td>
<td>Failure to Grant a Permit</td>
<td>25/11/2019</td>
<td></td>
</tr>
<tr>
<td>2018.094.2</td>
<td>13 O'Keefe St, HIGHT ST 3100</td>
<td>Permit Refused - Delegate</td>
<td>P1316/2019</td>
<td>Failure to Grant a Permit</td>
<td>10/12/2019</td>
<td></td>
</tr>
<tr>
<td>2018.080.1</td>
<td>3-10 Lucas St, BRIGHTON EAST 3187</td>
<td>Notice of Decision Granted - Council</td>
<td>P1426/2019</td>
<td>Conditions</td>
<td>25/05/2019</td>
<td>10/12/2019</td>
</tr>
<tr>
<td>2018.019.1</td>
<td>309 Hamilton St, HAMPSTEAD 3188</td>
<td>Notice of Decision Granted - Council</td>
<td>P1211/2019</td>
<td>Conditions</td>
<td>07/12/2019</td>
<td></td>
</tr>
<tr>
<td>2018.094.1</td>
<td>9 Barnett St, HIGHT ST 3100</td>
<td>Notice of Decision Granted - Council</td>
<td>P1824/2019</td>
<td>Conditions</td>
<td>10/12/2019</td>
<td></td>
</tr>
<tr>
<td>2019.134.1</td>
<td>25 Caumerly Ave, HAMPSTEAD EAST 3188</td>
<td>Notice of Decision Granted - Council</td>
<td>P1255/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>30/06/2019</td>
<td></td>
</tr>
<tr>
<td>2018.064.1</td>
<td>3 Vincent Cres, BRIGHTON EAST 3187</td>
<td>Notice of Decision Granted - Council</td>
<td>P1720/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>10/12/2019</td>
<td>10/12/2019</td>
</tr>
<tr>
<td><strong>Northern</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2018.205.1</td>
<td>12 James St, BRIGHTON 3186</td>
<td>Permit Granted - Delegate</td>
<td>P1022/2019</td>
<td>Grant a Permit</td>
<td>10/12/2019</td>
<td></td>
</tr>
<tr>
<td>2018.203.1</td>
<td>133 Explanada, BRIGHTON 3186</td>
<td>Notice of Decision Granted - Council</td>
<td>P385/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>05/06/2019</td>
<td>25/06/2019</td>
</tr>
<tr>
<td>2018.203.1</td>
<td>50 Old Coach Rd, BRIGHTON 3186</td>
<td>Permit Refused - Council</td>
<td>P1048/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>28/09/2019</td>
<td>21/10/2019</td>
</tr>
<tr>
<td>2019.021.1</td>
<td>26, Sudder St, BRIGHTON 3186</td>
<td>Notice of Decision Granted - Council</td>
<td>P1911/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>18/06/2019</td>
<td>13/11/2019</td>
</tr>
<tr>
<td>2018.203.1</td>
<td>30C, Charlotte St, BRIGHTON 3186</td>
<td>Notice of Decision Granted - Council</td>
<td>P1931/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>29/10/2019</td>
<td></td>
</tr>
<tr>
<td>2018.203.1</td>
<td>30 Dulong St, BRIGHTON 3186</td>
<td>Notice of Decision Granted - Council</td>
<td>P1952/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>30/11/2019</td>
<td></td>
</tr>
<tr>
<td>2018.203.1</td>
<td>26c, Marion St, BRIGHTON 3186</td>
<td>Notice of Decision Granted - Council</td>
<td>P1341/2019</td>
<td>Conditions</td>
<td>17/12/2019</td>
<td></td>
</tr>
<tr>
<td>2019.25.1</td>
<td>110 Marion St, BRIGHTON 3186</td>
<td>Notice of Decision Granted - Council</td>
<td>P1493/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>19/11/2019</td>
<td>22/12/2019</td>
</tr>
<tr>
<td>2019.130.1</td>
<td>36 Goulburn St, BRIGHTON 3186</td>
<td>Notice of Decision Granted - Council</td>
<td>P1906/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>10/12/2019</td>
<td>22/12/2019</td>
</tr>
<tr>
<td><strong>Southern</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2018.203.1</td>
<td>45A Balaclava Rd, BEAUMARIS 3153</td>
<td>Notice of Decision Granted - Council</td>
<td>P742/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>23/11/2019</td>
<td></td>
</tr>
<tr>
<td>2018.071.1</td>
<td>1110 Riverview Rd, BEAUMARIS 3150</td>
<td>Notice of Decision Granted - Council</td>
<td>P754/2019</td>
<td>Conditions</td>
<td>04/02/2020</td>
<td></td>
</tr>
<tr>
<td>2018.080.1</td>
<td>1-5 Riverview Rd, BEAUMARIS 3150</td>
<td>Notice of Decision Granted - Council</td>
<td>P1613/2019</td>
<td>Conditions</td>
<td>04/02/2020</td>
<td></td>
</tr>
<tr>
<td>2018.203.1</td>
<td>15 Bay Rd, SANDRINGHAM 3191</td>
<td>Notice of Decision Granted - Council</td>
<td>P1620/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>12/02/2020</td>
<td></td>
</tr>
<tr>
<td>2018.153.1</td>
<td>18 - 20 Beck Road, CHELSEAHAM 3192</td>
<td>Notice of Decision Granted - Council</td>
<td>P1728/2019</td>
<td>Notice of Decision to Grant a Permit</td>
<td>11/03/2020</td>
<td></td>
</tr>
</tbody>
</table>

**App No.** 31

---

**Item 4.9 – Matters of Decision**

---

**Notes:**

- **Central**
- **Northern**
- **Southern**

---

**Bayside City Council**

**Planning & Amenity Committee Meeting - 8 October 2019**

**Attachment 3**
### VCAT Determined Appeals from 1/09/2019 to 30/09/2019

<table>
<thead>
<tr>
<th>Subject land</th>
<th>75 Abbott ST, SANDRINGHAM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2018.213.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P1475/2018</td>
</tr>
<tr>
<td>Applicant</td>
<td>LJ Corporation</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>G Sahni, D &amp; K Elias, S Cooper, L &amp; M Davies, A Middleditch, M Osborne</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>Bill Sibonis</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>18/07/2019</td>
</tr>
<tr>
<td>Date of order</td>
<td>13/09/2019</td>
</tr>
<tr>
<td>Proposal</td>
<td>Construction of eight double storey dwellings, with basement parking and a front fence in excess of 1.2 metres in height</td>
</tr>
<tr>
<td>Officer recommendation/Delegate determination</td>
<td>Refusal</td>
</tr>
<tr>
<td>Council determination</td>
<td>N/A</td>
</tr>
</tbody>
</table>

#### Appeal type
- Refusal to Grant a Permit

#### Plans substituted (prior to hearing)
- Yes

#### VCAT determination
- No Permit to Issue

#### LGPRF outcome
- AFFIRMED

#### Comments:

The Tribunal, in an order dated 13 September 2019, refused an application for a planning permit, affirming Council officers’ decision to issue a notice of decision to refuse to grant a planning permit for the construction of eight double storey dwellings with basement car parking and a front fence exceeding 1.2 metres in height.

The permit applicant formerly substituted amended plans prior to the Tribunal hearing. The changes to the built form shown in the amended plans include a reduction from eight double storey dwelling to seven double storey dwellings. Council officers determined to oppose the VCAT amended plans, which sought the construction of seven double storey dwellings with basement car parking and a front fence exceeding 1.2 metres in height.

In refusing the application, the Tribunal commented that ‘the separation between the northern and central module in particular is insufficient to provide any meaningful sense of space in this part of the site’. Further, the Tribunal noted that ‘the development will appear as a continuous attached form’, which is ‘not consistent with the outcome sought by policy’.

The Tribunal recommended that ‘a smaller building footprint is required in the central portion of the site, allowing the ability to plant canopy vegetation in this location and achieve the sense of space referred to in the objective and design response’ and that ‘attention should also be given to recessing the upper floors to assist in reducing the visual impact the development by providing less built form and increased articulation and modulation’.

---

Item 4.9 – Matters of Decision

Page 567 of 619
In relation to visual bulk, the Tribunal noted ‘there will not be visual relief in the side elevations, as they will present as a continuous attached form’. Moreover, ‘from the west, the cantilevered upper level adds to the visual impact, notwithstanding that the setback would comply with standard B17’. Ultimately, the Tribunal found that the ‘effect on the amenity of the adjoining properties is not acceptable’.
Subject land: 30 Ardoyne ST, BLACK ROCK
Application no.: 2015.391.3
VCAT reference no.: P486/2019
Applicant: D K Martin
Referral Authority: N/A
Respondents: Ms L A Stark
VCAT Member: Tracy Watson
Date of hearing: 16/08/2019
Date of order: 30/09/2019
Proposal: Construction of two double storey dwellings and a front fence higher than 1.2 metres
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: Amended Varied Permit to Issue
LQPRF outcome: AFFIRMED

Comments:

This was an Application for Review pursuant to Section 82 of the Planning and Environment Act 1987 by an objector, in reference to the Notice of Decision to Amend a Planning Permit at 30 Ardoyne Street in Black Rock that was issued by Council at Planning and Committee Meeting on the 26th February 2019.

Of specific concern of the applicant for review (i.e. the objector) was proposed condition 1(m), which allowed the removal of an existing Cypress Tree on the application property. The objector in this instance was seeking for this tree to be retained.

In the report tabled at the committee meeting, officers had recommended that the tree be retained (amongst other changes), however after hearing the submissions and deliberating on the matter, Councillors decided to include condition 1(m) that effectively allowed the applicant to remove the tree and replace it with a new tree in the same location.

In its Order dated 30 September 2019, the Tribunal determined vary Council’s decision, determining that the tree must remain and hence ordered that the planning permit issue subject to the deletion of condition 1(m). In reaching this conclusion, the member inspected the site and noted the trees contribution to streetscape character. Council’s internal arborists view was also taken into account, noting that they deemed the tree to be healthy, of good structure and a useful life expectancy in excess of 20 years. Whilst the idea of a replacement tree was noted, it was identified that this would take many years to reach maturity, and given the health and viability of the existing tree, retention was thought to be a superior outcome.
Subject land 7-9 Halifax ST, BRIGHTON
Application no. 2018.852.1
VCAT reference no. P540/2019
Applicant Pro Estate Holdings P/L
Referral Authority Melbourne Water
Respondents 74 Well St Pty Ltd, J Walker, N G Ardeljan & Others
VCAT Member A Glynn & L Nervega
Date of hearing 29/08/2019
Date of order 6/09/2019
Proposal Special Building Overlay, and a front fence exceeding a height of 1.5 Metres, Construction of a three storey residential development over Basement car parking in a Design and Development Overlay (Schedule 11)

Officer recommendation/ Delegate determination Support

Council determination REFUSAL

Appeal type Refusal to Grant a Permit
Plans substituted (prior to hearing) Yes
VCAT determination Permit to Issue
LGPRF outcome SET ASIDE

Comments:

The decision for refusal was an overturn by the Committee of Officers recommendation for support (at the Committee meeting held on 12 March 2019). The Grounds of Refusal predominantly related to the built form and inconsistency with the neighbourhood character.

An Application for Review against the Refusal decision made by Council was subsequently lodged with VCAT by the Permit Applicant pursuant to Section 77 of the Planning and Environment Act, 1987.

The proceedings were set down for a Compulsory Conference on 10 July 2019 and a Merits hearing, listed for 3 days, commencing on 28 August 2019.

No agreement was reached between parties at the Compulsory Conference.

Therefore the application proceeded to a full merits hearing commencing on 28 August 2019 for two (2) days, in which Council was represented by a Legal representative (Barrister). Prior to the hearing, formally substituted plans were circulated to Council and all parties on 22 July 2019. The substituted plans did not make adequate changes to respond to the Grounds of Refusal determined by Council, and as such, no grounds of refusal were deleted.

Following the two (2) day hearing, the Tribunal directed for a permit to issue by an Order dated 6 September 2019, noting an acceptable built form and the importance of 'developing housing opportunities in major activity centres', amongst others.
Subject land 16 Station ST, SANDRINGHAM
Application no. 2019.28.1
VCAT reference no. P1052/2019
Applicant Vitorio Simeone
Referral Authority N/A
Respondents Clarke Planning Pty Ltd

VCAT Member S.R Cimino
Date of hearing 30/08/2019
Date of order 9/09/2019
Proposal Construction of not more than 13 dwellings, including a front fence, in the General Residential Zone, Schedule 2, a Design and Development Overlay, Schedule 8 and Special Building Overlay

Officer recommendation/ Delegate determination Notice of decision
Council determination N/A

Appeal type Notice of Decision to Grant a Permit
Plans substituted No (prior to hearing)

VCAT determination Varied Permit to Issue
LGPRF outcome Not Applicable

Comments:
The application for review was an objector appeal pursuant to Section 82 of the Planning and Environment Act to Council's notice of decision to grant a permit for the Construction of not more than 13 dwellings, including a front fence, in a Design and Development Overlay, Schedule 8 and Special Building Overlay at 31 Abbott Street and 16 Station Street, Sandringham.

At the compulsory conference, all parties reached an in principle agreement that the roof terraces would be deleted. A consent order was signed by all parties including the addition of condition 1(b) requiring roof terraces to be deleted from the plans. The applicant for review confirmed agreement to this position and in their final order the Tribunal determined to issue an amended permit with the abovementioned condition.
Subject land 6 Thomson ST, BRIGHTON
Application no. 2018.743.1
VCAT reference no. P396/2019
Applicant Etty’s Pty Ltd
Referral Authority N/A
Respondents Elements of Home

VCAT Member Michael Deidun
Date of hearing 3/09/2019
Date of order 3/09/2019
Proposal To construct or extend a dwelling and to construct or extend a front fence

Officer recommendation/ Delegate determination Notice of decision
Council determination N/A

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 Tribunal, in an order received by Council on 3 September 2019, determined to support the decision of the Responsible Authority but vary the permit, and directed that a planning permit be granted for the construction or extension of a dwelling and a front fence. In doing so, the tribunal added the extra condition 1b) which included the provision of a colour and material schedule, to include red brick for the proposed boundary walls.

The reasons for the member’s decision were given orally at the conclusion of the hearing and were as follows:

1. View of the aerial photography shows that wall on boundary already forms a part of the character of the area. It appears on many properties near the review site, and the boundary wall proposed is hardly visible from the public realm. Therefore has a minimal impact on the grounds of Neighbourhood character.

2. The development will not result in unreasonable levels of visual bulk, because:
   - It has a modest scale, lower than the host building
   - It is not cited to be adjacent to any private open space
   - The adjoining service yard is already enclosed and high walled
   - The boundary fence will be retained to provide a level of variation to the visible aspect of this wall.

3. No unreasonable amenity impact on the adjoining properties, specifically the objector:
   - Relying on the analysis of Council, Standards A11, A12, A13, and A14 – there is no proposed overlooking and the setback is sufficient.
Subject land | 1/119 Wickham RD, HAMPTON EAST
---|---
Application no. | 2019/67.1
VCAT reference no. | P1116/2019
Applicant | J Moses
Referral Authority | N/A
Respondents | David Charles Straw

VCAT Member | Judith Perlstein
Date of hearing | 5/09/2019
Date of order | 5/09/2019
Proposal | Extension of an existing dwelling on a lot less than 500 square metres

<table>
<thead>
<tr>
<th>Officer recommendation/ Delegate determination</th>
<th>Refusal</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Council determination</th>
<th>N/A</th>
</tr>
</thead>
</table>

Appeal type | Refusal to Grant a Permit
Plans substituted (prior to hearing) | No

<table>
<thead>
<tr>
<th>VCAT determination</th>
<th>Permit to Issue</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>LGPRF outcome</th>
<th>SET ASIDE</th>
</tr>
</thead>
</table>

Comments:

The Permit Applicant lodged an Application for Review pursuant to Section 77 of the Planning and Environment Act 1987 against Council’s Refusal to grant Planning Permit No. 2019/67/1.

Council issued a refusal on the grounds that the proposal fails to respond to the existing and preferred neighbourhood character for the precinct and the proposed side and rear setbacks fail to respect the requirements of the schedule, and fail to minimise the dominance of the first floor structure.

The Tribunal, in its Order dated 5 September 2019, determined to grant a Planning Permit for the Extension of an existing dwelling on a lot less than 500 square metres in accordance with the endorsed plans.

The Tribunal decided to approve the permit, which relates to the addition of a first storey above an existing dwelling.

In terms of the interface with the Wickham Road streetscape, the Tribunal was satisfied that the proposal adequately responded to the existing and preferred future neighbourhood character, and that the first floor addition would not be dominating. The Tribunal was satisfied that the detailing would produce an acceptable outcome, however added a condition ensuring that the materials were to the satisfaction of the Responsible Authority to ensure that the result would be to a high standard.
<table>
<thead>
<tr>
<th>Subject land</th>
<th>25B Bolton ST, BEAUMARIS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2018.426.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P483/2019</td>
</tr>
<tr>
<td>Applicant</td>
<td>G D Gillian</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>Human Habitats</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>Michael Deidun</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>Date of order</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>Proposal</td>
<td>Construction of a double storey dwelling on a lot less than 500m2</td>
</tr>
<tr>
<td>Officer recommendation/</td>
<td></td>
</tr>
<tr>
<td>Delegate determination</td>
<td>Notice of decision</td>
</tr>
<tr>
<td>Council determination</td>
<td>NOTICE OF DECISION</td>
</tr>
<tr>
<td>Appeal type</td>
<td>Notice of Decision to Grant a Permit</td>
</tr>
<tr>
<td>Plans substituted</td>
<td>No</td>
</tr>
<tr>
<td>(prior to hearing)</td>
<td></td>
</tr>
<tr>
<td>VCAT determination</td>
<td>Permit to Issue</td>
</tr>
<tr>
<td>LGPRF outcome</td>
<td>Not Applicable</td>
</tr>
</tbody>
</table>

**Comments:**

Discussions were held by all parties prior to the hearing. All parties reached agreement and requested the VCAT issue a permit based on a consent order. There was no hearing and no attendance at VCAT.

A planning permit was issued on the basis of the decision of the Planning and Amenity Committee with the conditions remaining unchanged.
Subject land: 20 Hamlet ST, CHELTENHAM
Application no.: 2018.775.1
VCAT reference no.: P1173/2019
Applicant: Chandos Bay Pty Ltd
Referral Authority: Vic Roads - Metropolitan South East Region
Respondents: N/A

VCAT Member: Nicholas Hadjigeorgiou
Date of hearing: 13/09/2019
Date of order: 19/09/2019
Proposal: Construction of a five storey building, the display of business identification signage
and a reduction in the car parking requirement associated with a supermarket and office

Officer recommendation/ Delegate determination: Notice of decision

<table>
<thead>
<tr>
<th>Council determination</th>
<th>N/A</th>
</tr>
</thead>
</table>

Appeal type: Conditions
Plans substituted (prior to hearing): Yes
VCAT determination: Permit is Amended
LGPRF outcome: Not Applicable

Comments:

Council officers determined to issue a notice of decision to grant a planning permit for the construction of a five storey building, the display of business identification signage and a reduction in the car parking requirement associated with a supermarket and office. The planning permit was subsequently issued on the issued on 8 May 2019 as no objector appeals were lodged.

The applicant subsequently lodged a conditions appeal against numerous conditions Council imposed on the planning permit. Ultimately, an agreement was reached between the parties and the Tribunal, in an order dated 19 September 2019, directed that the planning permit be varied in accordance with the consent order reached between the parties.

The parties agreed to vary conditions relating to traffic management, business identification signage and permit expiry.
<table>
<thead>
<tr>
<th>Subject land</th>
<th>854 Nepean HWY, HAMPTON EAST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2018.455.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P849/2019</td>
</tr>
<tr>
<td>Applicant</td>
<td>CW Media Pty Ltd</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>VicRoads</td>
</tr>
<tr>
<td>Respondents</td>
<td>N/A</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>Susan Whitney</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>17/09/2019</td>
</tr>
<tr>
<td>Date of order</td>
<td>17/09/2019</td>
</tr>
<tr>
<td>Proposal</td>
<td>Construct and display an electronic major promotion sign</td>
</tr>
<tr>
<td>Officer recommendation/Delegate determination</td>
<td>Refusal</td>
</tr>
<tr>
<td>Council determination</td>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Appeal type</th>
<th>Refusal to Grant a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plans substituted (prior to hearing)</td>
<td>No</td>
</tr>
<tr>
<td>VCAT determination</td>
<td>Appeal Withdrawn</td>
</tr>
<tr>
<td>LGPRF outcome</td>
<td>AFFIRMED</td>
</tr>
</tbody>
</table>

Comments:

The applicant applied to the Victorian Civil and Administrative Tribunal (VCAT) to withdraw the application. VCAT confirmed that leave was given to withdraw the appeal. There was no hearing and no attendance was required.

The original appeal was contesting Planning officer’s decision to refuse a new digital sign replacing an existing large promotion sign.
<table>
<thead>
<tr>
<th>Subject land</th>
<th>78 Well ST, BRIGHTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2018.817.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P744/2019</td>
</tr>
<tr>
<td>Applicant</td>
<td>74 Well St Pty Ltd</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>Terence Seymour &amp; Others, Neal Gheorghe Ardeljan, Jennifer Walker</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>Margaret Baird</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>17/09/2019</td>
</tr>
<tr>
<td>Date of order</td>
<td>26/09/2019</td>
</tr>
<tr>
<td>Proposal</td>
<td>Construction of a three storey building (plus two level basement car park) including a front fence in excess of 1.5 metres in height and associated works</td>
</tr>
<tr>
<td>Officer recommendation/ Delegated determination</td>
<td>Not support</td>
</tr>
<tr>
<td>Council determination</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Appeal type**
- Failure to Grant a Permit

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

**VCAT determination**
- Permit to Issue

**LGPRF outcome**
- SET ASIDE

**Comments:**

This was an Application for Review pursuant to Section 79 of the Planning and Environment Act 1987 following Council’s failure to grant a permit within the prescribed time. The application proposed the construction of a three storey apartment building (plus two basement levels) with 15 dwellings and 34 car spaces.

On 23 July 2019, Council’s delegate determined to not support the planning application on grounds relating to neighbourhood character, the proposal’s failure to maintain the visual separation between buildings, the dominance of the proposed form and the proposal’s failure to comply with the relevant Clause 55 of the Bayside Planning Scheme.

On 20 August 2019, the applicant’s representative circulated amended plans which they sought to substitute at the hearing on 18 September 2019. The plans included a variety of design changes, including increased articulation, the façade broken with a central recess, internal alterations and increased side and rear setbacks. Following an assessment of the amended plans, it was considered that the plans demonstrated some level of improvement which addressed the grounds of refusal in relation to neighbourhood character and visual bulk. However it was considered by Council’s delegate that the fundamental issues, including traffic impacts, on and off site amenity issues, remained outstanding. As such, the decision to not support the application was maintained by Council.

In its Order dated 26 September 2019, the Tribunal determined to set aside the decision of the Responsible Authority and direct a permit to be issued. In determining its position, the Tribunal considered four main key issues related to its strategic context, off site amenity impacts, and traffic impacts.
The Tribunal considered that the height of the new development would be compatible with the preferred future role and character of the Church Street Major Activity Centre and that the subject land is in an area where housing growth is directed and therefore expected (Paragraph 27). With regards to its architectural response, it was advised that the new development will respect the forms and scale of buildings in this part of the Precinct through the use of an innovative design outcome. The Tribunal confirmed that the proposal provided visual interest through its architecture, materials and finishes (Paragraph 38).

The Tribunal was satisfied that the relationship between the proposal and the adjacent properties was acceptable having regards to off site amenity impacts.

The Tribunal confirmed that the proposal provided a surplus of on site car parking as required by the Planning Scheme and the proposed car lift, despite concerns raised by Council and residents in regards to traffic overflow, was considered acceptable. It was advised that there is sufficient space for a vehicle to wait on site while the car lift is in use and operational concerns could be addressed by permit conditions.
Subject land | 1/22 Exley RD, HAMPTON EAST  
Application no. | 2017.724.2  
VCAT reference no. | P870/2019  
Applicant | Menachen Mendel Haller  
Referral Authority | N/A  
Respondents | N/A  
VCAT Member | Christopher Harty  
Date of hearing | 19/09/2019  
Date of order | 23/09/2019  
Proposal | Construction of two double storey attached dwellings and a two lot subdivision  
Officer recommendation/ Delegate determination | Refusal  
Council determination | N/A  

| Appeal type | Refusal Amended Permit  
Plans substituted (prior to hearing) | No  
VCAT determination | Amended Permit to be Issued  
LGPRF outcome | SET ASIDE  

Comments:

The application for review was an applicant appeal pursuant to Section 79 of the Planning and Environment Act to Council's refusal to amend the permit or the construction of two double storey attached dwellings and a two lot subdivision at 1/22 Exley Road, Hampton East.

The Tribunal provided an oral decision at the merits hearing and reiterated this decision in its final order.

The Tribunal determined to issue an amended permit with a number of conditions including a condition requiring the first floor at Unit 1B to be set back 2.5 metres from the front façade of the floor below, a condition to increase the width of the carport to Unit 1B to 3.5 metres and requiring auto turn swept path drawings showing safe and efficient access to the carport and parking space at the adjacent property at lot 2, 22 Exley Road. Landscaping conditions were also amended to include reference to the updated landscape plan and to remove the condition relating to the street tree and add this as a permit note.
ORDER

1 The decision of the Responsible Authority is varied.

2 Planning Permit No. 5/2015/391/2 is amended and an amended permit (5/2015/391/3) is directed to be issued for the land at 30 Ardoyne Street, Black Rock. The permit is amended as follows:

3 What the permit allows is amended to read as follows:

   Construction of two double storey dwellings and a front fence higher than 1.2 metres.

4 Conditions in the permit are amended as follows:

   (a) A new condition 1(m) is included as follows:

   The first floor for 30A Ardoyne Street is amended back to the existing conditions (i.e. no first floor extensions approved).
(b) A new condition 1(n) is included as follows:
   The front fence shown in isolation from other aspects of the development.

(c) A new condition 1(o) is included as follows:
   The front fence to be a minimum 25% transparency throughout the length of the fence.

(d) A new condition 1(p) is included as follows:
   Spa to be accurately shown on the site plan, in the context of the entire site and development.

Tracy Watson
Member
APPEARANCES

For Applicant: David Martin, in person
For Responsible Authority: Peter O’Leary, town planner
For Respondent: Lisa Stark, in person

INFORMATION

Description of Proposal: It is proposed to amend the existing planning permit to allow for tree removal.

Nature of Proceeding: Application under Section 82 of the Planning and Environment Act 1987.

Zone and Overlays:
Clause 32.09 – Neighbourhood Residential Zone, Schedule 3.
Clause 42.02 – Vegetation Protection Overlay, Schedule 3. A permit is not required to remove Tree 2 as it is an exotic species.
Clause 43.02 – Design and Development Overlay, Schedule 3.
Clause 45.06 – Development Contributions Plan Overlay, Schedule 1.

Permit Requirements: This is an application to amend an existing permit pursuant to section 72 of the Planning and Environment Act 1987.

Relevant Scheme policies and provisions: Includes Clauses 11, 15, 16, 21.04, 22.06, 32.09, 55, 65 and 71.02.

Land Description: The subject site is located on the southern side of Ardoyne Street, and is developed with two, attached double storey dwellings. The site has a frontage of 9.1 metres and a depth of 42 metres, with a site area of 385m².

Tribunal Inspection: An unaccompanied site inspection was undertaken on 23 September 2019.

VCAT Reference No. P466/2019
REASONS

What is this proceeding about?

1 The current planning permit (5/2015/391/2) allows the construction of two double-storey dwellings on the land at 30 Ardoyne Street, subject to a number of conditions. The two dwellings are now constructed and occupied, with the dwelling on the western half of the subject site known as 30A Ardoyne Street and the dwelling on the eastern half of the subject side known as 30B Ardoyne Street. Ms Stark, who is the owner and occupier of 30A Ardoyne Street, applied to the Bayside City Council to make a number of changes to the approved development and landscape plans.

2 In February 2019, the Council issued a Notice of Decision to Amend a Permit to allow the installation of a front fence, installation of a spa in the rear garden of 30A Ardoyne Street and removal of Tree 2 (Cypress Tree) within the front setback of 30A Ardoyne Street and its replacement with a suitable indigenous canopy tree. It is a decision that Mr Martin, who is the owner and occupier of 30B Ardoyne Street, has requested be reviewed by the Tribunal. Mr Martin’s application for review only relates to the proposed removal of the Cypress tree. In other words, the proposed front fence and spa are not being contested.

3 This means that the issue in dispute is confined to whether it is acceptable to allow the tree removal. I note that the Council planning officer recommended to the Council that Tree 2 be retained.

4 The Tribunal must decide whether an amended permit should be granted. Having considered all submissions presented with regard to the applicable policies and provisions of the Bayside Planning Scheme, I have decided to vary the decision of the Responsible Authority. My reasons follow.

Is the proposed tree removal acceptable?

5 Ms Stark advised that she wishes to remove the tree because it is causing adverse health impacts, specifically relating to allergies and asthma, and she tendered documents in support of this. The Council’s position was that the tree can be removed as it will be replaced by an indigenous canopy species.

6 Condition no. 10 of the existing permit requires that:

   If the trees numbered Trees 2 and 4 (as identified on the Landscape Plan prepared by Wallbrink Landscape Architecture on 16/9/2015) die or become diseased or damaged they are to be replaced by suitable indigenous canopy trees capable of reaching a minimum height of 14m (for Tree 2) and 10m (for Tree 4) to the satisfaction of the Responsible Authority.

1 I have considered all written and oral submissions made by the parties (including all tendered documents) and the filed statements of grounds, although I do not recite all of the contents in these reasons.

1 VCAT Reference No: P466/2019
7 Tree 2 is the tree that Ms Stark wishes to remove, while Tree 4 which is also a Cypress tree is located in the front setback of 30B Ardoyne Street. The Landscape Plan endorsed to form part of the existing permit shows the retention of both of these trees. The existing permit also required that the driveway layout of 30A Ardoyne Street be designed to allow for the retention and ongoing viability of Tree 2.

8 The Council’s submission acknowledged that Tree 2 is healthy and that it contributes to the neighbourhood character of the area. Council’s arborist undertook a detailed assessment of Tree 2 (as demonstrated in the internal referral response tendered by Mr O’Leary). The arborist’s referral described Tree 2 as being a mature tree with a height of 13 metres and a canopy spread of 6 metres with the following attributes: good health and structure; a future life expectancy of over 20 years; and a high retention value. On this basis, the Council’s arborist did not support the removal of Tree 2.

9 I need to take into account the applicable planning scheme policies and provisions, and whilst I sympathise with Ms Stark’s troubles and wish her well, unfortunately her health issues are not relevant to my decision.

10 My site inspection confirmed that both Trees 2 and 4 are visually prominent in the streetscape due to their height and form and their positioning on the subject site. Ardoyne Street in general features numerous mature trees planted in front gardens along the length of the street, with a diverse mix of species present. I consider this to be an important element of the existing neighbourhood character of Ardoyne Street. In other words, it is not just indigenous and native trees which contribute to the streetscape, as exotic trees are also prevalent. The existing mature trees planted in the private realm make a significant contribution to the overall landscape character of the street, in addition to the contribution made by the street tree planting.

11 The planning scheme requires that the existing neighbourhood character of an area, including its landscape character, be respected. For instance, one of the purposes of the Neighbourhood Residential Zone is, “To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.” This is reflected in Clauses 55.02-1 and 55.03-8 of the planning scheme which require that both neighbourhood character more broadly and landscape character specifically both be respected.

12 The above zone purpose and planning scheme clauses are supported by the local policy at Clause 22.06 of the planning scheme. This policy includes an objective, “To retain and enhance the identified elements that contribute to the character of the area.” I have already described the important contribution that mature trees planted in front gardens make to the Ardoyne Street streetscape.
13 The Clause 22.06 policy identifies the subject site as being located in Character Area H1 and describes the preferred future character of this area as follows:

The diverse dwelling styles are set within well-vegetated streetscapes dominated by large native and exotic canopy trees within the public and private domains. Tree and other vegetation species reflect the coastal location of the area. The dwellings are set within spacious gardens to accommodate the trees. Streetscapes appear as a mixture of single and double storey dwellings, however individual buildings respect adjoining dwellings and do not dominate the streetscape. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

14 Importantly, the existing on-the-ground character of Ardoyne Street is consistent with the above statement. Furthermore, the above statement identifies the contribution that large exotic canopy trees planted in the private domain make to the neighbourhood character of the area. The existing Tree 2 is an example of such a valued large exotic canopy tree.

15 The accompanying Precinct H1 Guidelines, forming part of Clause 22.06-4 of the planning scheme, also seek the retention of established large trees.

16 The Council’s planning assessment of the acceptability of the two dwellings resulted in a conclusion that the two existing, mature Cypress trees on the subject site needed to be retained. There has been no material change in the applicable contents of the planning scheme nor the physical context of the site and surrounds since the permit was first issued. Moreover, as I have already discussed Tree 2 remains in good health, and it has not been damaged.

17 The ongoing retention of Tree 2 is required to ensure that the existing development continues to respect the neighbourhood and landscape character of Ardoyne Street. The proposed replacement tree would take many years to reach a height and canopy spread which would match the existing visual prominence of Tree 2. I therefore do not support the removal of Tree 2 on this basis.
Conclusion

18 For the reasons outlined above I have concluded that the decision of the Responsible Authority will be varied.

19 The Notice of Decision to Amend a Permit issued by the Council on 26 February 2019 included a proposed new Condition 1 requirement as follows:

Deletion of Tree 2 (Cypress Tree) within the front setback of 30A Ardoyne Street and replacement with a suitable indigenous replacement canopy tree.

20 The variation to the Council decision is that the above condition will not be included in the amended Permit.

Tracy Watson
Member
VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
PLANNING AND ENVIRONMENT DIVISION

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
PLANNING AND ENVIRONMENT DIVISION

VCAT REFERENCE NO. P540/2019
PERMIT APPLICATION NO. 2018/852/1

PLANNING AND ENVIRONMENT LIST

CATCHWORDS

Section 77 Planning and Environment Act 1987, Neighbourhood character, visual bulk, change area, tree protection, special building overlay.

APPLICANT
Pro Estate Holdings Pty Ltd

RESPONSIBLE AUTHORITY
Bayside City Council

RESPONDENTS
74 Well St Pty Ltd, Jennifer Walker, Neal Gheorghe Ardeljan & Others

REFERRAL AUTHORITY
Melbourne Water

SUBJECT LAND
7-9 Halifax Street
BRIGHTON VIC 3186

WHERE HELD
Melbourne

BEFORE
Alison Glynn, Presiding Member
Lorina Nervegna, Member

HEARING TYPE
Hearing

DATE OF HEARING
28 and 29 August 2019

DATE OF ORDER
6 September 2019

CITATION
Pro Estate Holdings Pty Ltd v Bayside CC
[2019] VCAT 1366

ORDER

Amend permit application

1 Pursuant to clause 64 of Schedule 1 of the Victorian Civil and Administrative Tribunal Act 1998, the permit application is amended by substituting for the permit application plans, the following plans filed with the Tribunal:
• Prepared by: SJB Architects
• Drawing numbers: Job No. 21285: SD01_00 and SD01_01 Rev 3, SD02_00 Rev 10, SD02_01 Rev 9, SD02_03 Rev 9, SD02_04 Rev 9, SD02_05 Rev 10, SD05_00 Rev 10, SD05_01 Rev 10, SD05_02 Rev 10, SD05_03 Rev 10, SD06_00 Rev 6, SD06_01 Rev 6, SD_02 Rev 6, SD06_03 Rev 6, SD07_00 Rev 2, SD17_00 Rev 2, SD30_00 Rev 1 and SD30_01 Rev 2.

• Dated: 18 July 2019

Permit granted

2 In application P540/2019 the decision of the responsible authority is set aside.

3 In planning permit application 2018/852/1 a permit is granted and directed to be issued for the land at 7 – 9 Halifax Street Brighton in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:

- Construction of a three storey residential development over basement car parking in a Design and Development Overlay (Schedule 11) and Special Building Overlay, and a front fence exceeding a height of 1.5 metres.
APPEARANCES

For Applicant - Pro Estate Holdings Pty Ltd  Mr Nick Tweedie, SC with Mr Robert Forrester, Barrister, on direct brief. They called the following witnesses:
- Ms Sophie Jordon, town planner.
- Ms Kylie May, consulting arborist.
- Mr Jack Merlo, landscape architect.

For Responsible Authority - Bayside City Council  Mr Jason Kane, barrister

For Referral Authority – Melbourne Water  Mr Kamal Hasenoff

For 74 Well Street Pty Ltd  Mr Jarryd Gray, solicitor of Minter Ellison (only for the commencement of the hearing)

For Ms Jennifer Walker  Mr David Vorachheimer, solicitor of HWL Ebsworth, for Ms Jennifer Walker. Arborist evidence of Mr Robert Galbraith was also circulated, but Mr Galbraith did not attend the hearing.

For Mr Neal Ardelian and others  Mr Neal Ardelian, in person.

INFORMATION

Description of proposal  Construction of 16 dwellings as apartments across two three storey buildings. The two buildings sit above a combined basement. The basement is fully submerged below ground.

Nature of proceeding  Application under section 77 of the Planning and Environment Act 1987 – to review the refusal to grant a permit.

Planning scheme  Bayside Planning Scheme

Zone and overlays  General Residential Zone – Schedule 2 (GRZ2)
Design and Development Overlay – Schedule 11 (DDO11)
Special Building Overlay (SBO)
Development Contributions Plan Overlay – Schedule (DCPO1)
Permit requirements

Construction of two or more dwellings in GRZ2.
Buildings and works in the DDO11.
Buildings and works in an SBO.

Relevant scheme policies and provisions

Clauses 11, 15.01, 16, 18, 21.02, 21.03, 21.06, 21.11, 22.06, 22.08, 32.08, 43.02, 44.05, 55 and 65.

Land description

The review site comprises two lots on the northwest\(^1\) side of Halifax Street in Brighton, between Huntingfield Road and Well Street. The site has a frontage of 36.0 metres, a depth of 66.0 metres and an overall site area of 2294 square metres. The land is occupied by two detached dwellings. To the north is the rear of properties fronting Well Street. Each property supports a single dwelling: Nos. 74, 76 and 78 are double-storey, No. 80 is single-storey. To the west (rear) is a medium density housing development comprising four, single-storey dwellings. To the south is a vacant lot at No. 5 Halifax Street and the rear of two properties with frontage to Huntingfield Road. No. 31 is occupied by a single-storey dwelling; No. 33 is occupied by a double-storey dwelling. On the opposite side of Halifax Street are further dwellings, both single-storey and two-storey. The land to the south and east is within the Neighbourhood Residential Zone – Schedule 3, Minimal Residential Growth Area (NRZ3).

Tribunal inspection

We undertook an accompanied inspection on day 1 of the hearing. This included a view from the rear yards of 31 and 33 Huntingfield Road and 80 Well Street.

---

\(^1\) The land is not on a north-south or east-west alignment. For ease of reference, and consistency with the labelling of the elevations, in these reasons the frontage will be treated as the eastern boundary, with the reference to all the other boundaries being consequential to this.
REASONS

WHAT IS THIS PROCEEDING ABOUT?

1 In July 2018 the tribunal affirmed a decision of Bayside City Council to refuse to grant a planning permit for a three storey apartment complex at 7 – 9 Halifax Street, Brighton. This previous proposal comprised two rendered buildings connected by a three storey walkway. The tribunal refused this proposal principally because it considered the proposal was “too robust in its appearance and will have a dominance which will detract from the amenity of the adjoining properties”.  

2 Pro Estate Holdings Pty Ltd, (the permit applicant*) has now applied for a planning permit for two separate three storey buildings, each to accommodate eight dwellings, with a basement car park underneath. The council has refused to grant a planning permit for this new proposal, a decision it made against its officers’ recommendation.

3 The council maintains both buildings should only be two storey, not three, so as to provide a better streetscape presentation and interface to adjoining properties to the south that are in a Neighbourhood Residential Zone (NRZ2). The council contends that the Design and Development Overlay (DDO11) provisions applying to the land, in conjunction with neighbourhood character policy* require a transitional response on the site. This leads to their position that all of the building should only be two storey.

4 A number of neighbours are parties to the review process, as is Melbourne Water, with the site affected by a Special Building Overlay (SBO).

5 Melbourne Water provided written comments and summarised this in an opening address to us explaining that it did not object to the proposal, subject to an hydraulic report being updated to integrate findings of two previous reports. There is no dispute between the council and the applicant on the conditions proposed by Melbourne Water.

6 Two objectors also attended part of the hearing but did not make submission against the proposal. 74 Well Street Pty Ltd provided comment that upon the tribunal substituting the plans dated 18 July 2019 as the application plans, it no longer opposed the development. It then withdrew from the hearing.

7 The owner of 80 Well Street also did not make formal submission opposing the development. They only sought to confirm appropriate permit

---

* The submissions and evidence of the parties, any supporting exhibits given at the hearing, and the statements of grounds filed, have all been considered in the determination of the proceeding. In accordance with the practice of the Tribunal, not all of this material will be cited or referred to in these reasons.

---

3 Paragraph 53 - Pro Estate Holdings Pty Ltd v Bayside CC [2018] VCAT 1017.
4 Both of the 2018 proposal and the current proposal.
5 As set out in the land description, south-west is referred to as ‘south’ for ease of reference.
6 At clause 22.08.
conditions were in place to address overlooking and to protect a Lemon Scented Gum tree on its property. On Day 2 of the hearing, the applicant and Mr Vorheltner, representing the owners of 80 Well Street, confirmed they had reached agreement on these matters.

8 Mr Ardaljan lives at 33 Huntingfield Road and represents a number of residents in Halifax Street and Huntingfield Road. They oppose the development on similar grounds to the council, stating that the development should only be two storey. Mr Ardaljan also opposes the direct impact on his dwelling through overlooking, overshadowing and visual bulk.

WHAT ARE THE KEY ISSUES?

9 From submissions made and evidence tabled we find there are two key questions we need to determine:
   a  Is the presentation of the proposal from the street acceptable?
   b  Does the building result in unreasonable amenity outcomes to neighbours?

10 We consider these questions in context of the provisions of the Bayside Planning Scheme and also having regard to findings of the tribunal in the 2018 decision. The tribunal has on many occasions set out tests to address a matter that has been the subject of a previous proceeding.

Decision making context

11 As set out in Sprut ‘relevant factors to consider when reviewing an application that is similar to a proposal that has been the subject of previous Tribunal findings are:
   •  significant changes in the application itself;
   •  changes in the circumstances of the land and its surrounds;
   •  changes in planning policy; and/or
   •  changes in the interpretation of the facts or law relevant to the Tribunal’s consideration’.

12 In the case before us all parties put to us, and we agree, that there has not been any material change to policy affecting the site or facts of law relevant to the interpretation of facts surrounding this site. There are also no significant changes in the circumstances of the land and its surrounds.

13 We consider this proceeding is one where the question is whether there are significant changes in the application itself to correct failings of the previous proposal identified by the tribunal in the previous proceeding. As commenting in Sprut such a ‘correcting’ repeat appeal8 ‘is, where the Tribunal has refused an earlier application but indicated a modified form of

---

7 We particularly refer to Sprut Pty Ltd v Stonnington CC [2012] VCAT 1675.
8 See Reed v Nillumbik SC (No 8) [2011] VCAT 925 per Senior Member Byard.
development or changes that might be acceptable, and the repeat appeal comprises a genuine attempt to address those issues.9

14 In the 2018 decision the tribunal found the following:10

a The review site is within a major activity centre and, as such, is a preferred location for higher density residential development.

b Development needs to be responsive to its context and respectful of neighbourhood character.

c The proposal to replace two, single detached houses with an apartment development is consistent with the policies directed at achieving increased densities and more diverse dwelling forms.

d A different outcome is envisaged on this land compared to that for the adjoining properties to the south and east, and to the neighbourhoods beyond. It is a site which has been included in an area strategically earmarked for change, and built form up to a height of three storeys is to be reasonably expected.

e At the southern and eastern boundaries, a transitional building height is expected to be achieved.

15 The only context change that has occurred since the 2018 decision is that a three storey apartment building is now proposed at 74 – 78 Wall Street and land directly adjoining the site to the south, at 5 Halifax Street, is the subject of a two dwelling proposal. Neither of these changes or any submission or evidence put to us leads us to deviate from these 2018 findings of the tribunal. The site remains in a major activity centre, where three storeys are to be reasonably expected, and transition of this form at the south and east boundaries is required.

16 In 2018 the tribunal went on to find that the design, as presented in 2018 was unacceptable for a number of reasons that we quote directly and paraphrase as follows:

• ‘The building is a large form, with the somewhat ‘bulky’ presentation accentuated by the sheer three-storey walls, and the minimal articulation and modulation of the wall planes. It has a dominating ‘box-like’ appearance which will stand in quite marked contrast to the conventional residential forms of the neighbouring dwellings to the south’,11

• ‘The provisions of DDO11 encourage recessed uppermost levels and attic-style development in residential precincts. In view of the interface to the NRZ3, this is a circumstance where a recessive upper level should be provided. This should be particularly evident in the building’s presentation to the south and also to the east, within the

9 Paragraph 16 – Spruit.
10 Paraphrased from paragraphs 29, 30 and 45 of Pro Estate Holdings Pty Ltd v Bayside CC [2018] VCAT 1017.
11 Paragraph 49 Pro Estate Holdings Pty Ltd v Bayside CC [2018].
Halifax Street streetscape. However, a recessive appearance on all sides may be necessary in order to achieve an acceptable design.\textsuperscript{12}

- ‘Attention also needs to be given to fragmenting the wall planes to introduce articulation and visual interest, as a means of reducing the bulk and moderating the building’s presentation in recognition of its sensitive interface’.\textsuperscript{13}

- The application of blank walls and uniform light brickwork were not considered acceptable with the tribunal concluding “the selected inclusion of more traditional colours and materials to reflect those which prevail in the streetscape and neighbourhood would assist in integrating the development into its context”.\textsuperscript{14}

- ‘While modifications to the structure to provide a more recessive appearance to the top floor level, as discussed above, will assist in addressing this impact, consideration also needs to be given to the articulation and modulation of the wall planes, a variation in materials and to landscaping’.\textsuperscript{15}

17 We are satisfied that the proposal has addressed these issues for reasons we set out below.

**IS THE STREET PRESENTATION ACCEPTABLE?**

18 The council and objectors maintain that Halifax Street requires a more moderate presentation than proposed, through use of a two storey building. They also say the proposed front fence is too high.

**Three storey presentation to the street**

19 We were provided a copy of the plans considered by the tribunal in 2018. From these it is evident that considerable change has been made to the proposal now before us. The proposal before us includes a 5 metre setback between the second and third level from the street and use of red brick finish in the lower two levels with grey brick finish of the upper level as a contrast, recessive colour for this upper level. This more than meets the numeric 4 metre setback requirement of DDO11.

20 Halifax Street forms the edge of the activity centre, but along this street are a number of large dwellings and other robust building forms. The building will be somewhat wider at lower two levels due to its consolidated wider frontage, but we are satisfied that the landscaping in the front setback and generous side setbacks means that the building will not be overly prominent or disrespectful to the character of the area.

21 Based on the plans before us, we see no reason for the front building to be two storeys as submitted by the council. Nor do we find anything in policy

\textsuperscript{12} Paragraph 50 Pro Estate Holdings Pty Ltd v Bayside CC [2018].

\textsuperscript{13} Paragraph 50 Pro Estate Holdings Pty Ltd v Bayside CC [2018].

\textsuperscript{14} Paragraph 51 Pro Estate Holdings Pty Ltd v Bayside CC [2018].

\textsuperscript{15} Paragraph 53 Pro Estate Holdings Pty Ltd v Bayside CC [2018].
or the DDO11 provisions applying to the land that would direct such a response. The findings of the tribunal in 2018 were that greater transition is needed ‘at the boundaries’ not across the whole site.

22 The DDO11 provisions refer to transition at the boundary. We also agree with Mr Ardalan that this transition needs to occur within the review site, and it does. The proposal includes a setback of three storey form so as to recess the form, to the east Halifax Street boundary. This includes the five metre setback as well as further recession at the mid-level through cut out balconies. With the brick materials and increased first floor recession we are satisfied the proposal provides a suitable transition and respectful presentation to Halifax Street.

Front fence

23 The council opposes the use of a part 1.9 metre high palisade fence to the southern part of the street frontage. It submits that the height of the fence is contrary to the preferred height of 1.5 metres in this area.

24 Firstly, we note that the existing two lots comprising the site both have high (at least 1.8 metres) solid masonry fences to the street. There are also a number of similar solid fences in Halifax Street. This is also acknowledged in the officer report put to the council on this proposal in March 2019. This report acknowledged that ‘front fences within the immediate area vary in their style and construction yet are generally higher than 1.5 m in height, particularly along Halifax Street’.

25 The proposed fence is permeable, but high with screen vegetation behind to enclose a proposed secluded open space to one dwelling on the south side, that sits to the side and partly in front of the building. The fence also encloses and screens fire and gas services. The higher portion of fence is only for part of the site. It rises to 1.9 metres partly due to the slope of the land. Due to the drainage requirements it is permeable, therefore allowing views to proposed landscaping behind. In context of other high fences in the street and the permeability of the proposed fence, we find its height and form acceptable.

26 In making these findings we note that no discussion was made of the fence in the 2018 decision that also included a partly high front fence. It did not appear to form part of the tribunal’s concerns about the proposal.

ARE THERE ANY UNREASONABLE AMENITY OUTCOMES TO NEIGHBOURS?

Visual bulk

27 The key concern of the council and neighbours is the visual impact of the proposed buildings to rear yards of properties to the south in Huntingfield Road.

28 The proposal before us includes two, two storey walled buildings, with recessed third levels. The two storey walls are set back a minimum of 5.7m.
metres near the rear of the site. At this point the ‘wall’ is a frame element over a corner balcony. Due to the alignment of the south boundary, this setback gradually increases so that at the eastern end of the rear building the setback is 6.44 metres from the south boundary and the front building has setbacks that range from 6.42 – 7.4 metres.

29 DDO11 directs that side setback standards of ResCode should be met. This proposed side setback far exceeds the relevant ResCode setback standards. We also note that, while not being required, or even preferred, the ground level setback exceeds the varied setback requirements of the adjoining NRZ3 provisions and at first floor, most of the front building also exceeds the adjoining NRZ3 requirement. The rear building encroaches slightly into a setback that would otherwise even meet the conservative setback required in the adjoining NRZ3 area.

30 The upper, third level now includes setbacks of at least 4 metres from its level below. This upper level is also a relatively small footprint, so the width of building viewed from adjoining properties is not pronounced.

31 The side building presentation includes red and grey brick, the same as for the front presentation. It also has ‘eroded’ mid-level corners that form balconies. Overall the presentation is much more recessive than in the proposal before the tribunal in 2018. The proposal before us we find does include transition, at its south boundary that we find adequately addresses a need for recession and consideration of neighbouring backyards as sought by neighbourhood character policy and DDO11.

32 Mr Ardelian submits the proposed three storey buildings will be visible from his property, particularly from upper level bedroom windows of his dwelling. The proposed buildings will be visible from adjoining properties to the south, but as has often been commented by the tribunal, mere visibility is not the test of the planning scheme. The test is whether the visibility creates visual bulk that is excessive, unreasonably enclosing an adjoining space or dwelling.

33 We agree with the analysis of Ms Jordan that due to the upper level recession and overall setbacks, generally only the two lower levels will be seen from adjoining rear yards and will not create unreasonable bulk. The gap between the two proposed buildings will also be appreciable. We do not consider that the extent of building form visible is unreasonable in the neighbourhood context.

34 We accept the council’s proposition that just because the ResCode standard is met, it does not necessarily follow that the objective to the standard is met as is discussed in Global Alpha Group Pty Ltd v Baronsdale CC [2013] VCAT 1929 (18 November 2013).
and not one that we consider results in unreasonable loss of amenity to neighbours.

35 We are satisfied the proposal before us is acceptable and addresses the concerns found by the tribunal in 2018.

Overlooking

36 Mr Ardeljan submits the proposal will overlook into his rear yard. Ms Jordan’s evidence is that the overlooking analysis in the application plans requires some review as she too is concerned that the relevant test of clause 55 may not be met for all balconies.

37 This is a matter that was agreed between the council and the applicant and can be addressed through a permit condition we have included.

38 We also note the applicant has agreed to impose additional screening to dwellings facing toward 80 Well Street. This was not opposed by the council and while we consider the screening to apartment 2.2 is possibly unnecessary, its impact on the broader design is of little consequence so we will retain the agreed condition between the parties.

Traffic and carparking

39 Mr Ardeljan maintains that the proposal will result in unreasonable traffic and parking impacts in the area.

40 In 2018 the tribunal found the 38 parking spaces provided to that proposal exceeded a required 30 spaces and met the requirements of clause 52.06 of the planning scheme. It found ‘there is no basis on which to conclude that the car parking provision is deficient or that additional car parking is necessary’.

41 The proposal before us includes 37 car parking spaces and 18 bicycle spaces in the basement. The 16 dwellings generate a statutory requirement of 20 spaces, so the parking provisions of clause 52.06 are once again is met, and indeed exceeded. Again, there is no basis for us to conclude that the parking provision is deficient.

42 In 2018 the tribunal also commented that

[58] … the Council’s traffic engineers reviewed both the original and the amended proposal and raised no objections to the traffic implications. Indeed, the Council’s submission noted that Council is satisfied the road network can accommodate the additional traffic generated by the proposal.

43 The car parking provision is commensurate with that provided in 2018 and we note that the officer report to the current proposal identifies that a traffic report for the current proposal was reviewed by the council traffic engineer who is satisfied that the site can accommodate the traffic numbers generated

17 Paragraph 58 Pro Estate Holdings Pty Ltd v Bayside CC [2018] VCAT 1017.
by the development in a safe manner without leading to unreasonable congestion across the area.

44 Given the findings of the tribunal in 2018 and the council traffic engineer comments we find no basis to conclude that the additional traffic likely to be generated from this proposal will be unreasonable.

Tree protection
45 Evidence from Ms May confirmed that adequate measures are in place to protect a Lemon Scented Gum on the site and on the adjoining site at 80 Well Street without compromising the quality of the design or its surrounding landscape.

46 Conditions agreed to between the owner of 80 Well Street and the applicant form part of the conditions in Appendix A. We are satisfied that with these conditions adequate measures are in place to protect trees on the site, adjoining sites and adjoining street trees.

Drainage
47 The site is impacted by two drainage easements, one of which is managed by Melbourne Water as a main drain along the south property boundary. Melbourne Water attended the commencement of the hearing to explain the required permit conditions for a hydraulic study and for this to update previous reports for the site that it has accepted. There was no dispute by the council or the applicant to these conditions and we have imposed the updated conditions of Melbourne Water.

CONCLUSION

48 In concluding, we find it worth commenting that broader planning policy is to create a sustainable city by developing housing opportunities in major activity centres. It is also to encourage a form and density of settlements that supports sustainable transport to reduce greenhouse gas emissions. Providing greater housing choice in locations such as this site that is in the activity centre bounds, and in walking distance to facilities such as the Middle Brighton Railway Station and the facilities in and around the Church Street Activity Centre directly implement these broader objectives and policies of planning for Melbourne and Victoria.

49 These are matters that should not be lost in balancing the discussion of neighbourhood character and amenity and are matters the tribunal has long held. To quote a tribunal decision that is now more than 10 years old, "there needs to be a greater emphasis on the importance of metropolitan policies in relation to urban consolidation, housing diversity, and affordability. [We] do not say that neighbourhood character is of less importance, rather [we] say that in each decision consolidation diversity and

---

18 Clauses 11.01.18 and 16.01.2R.
19 The site is 640 metres to the station. This is less than a 10 minute walk.
affordability need to be at the forefront of our thinking, and not merely a background hum.\footnote{Paragraph 14 - NJJKT Pty Ltd v Whitehorse CC [2008] VCAT 1410.}

50 We find it somewhat concerning that these broader issues continue to be reduced to a background hum. Matters of managing population growth, housing affordability and sustainable urban form are perhaps even more pressing than they were 10 years ago. This proposal has more than met the specific local requirements of the Bayside Planning Scheme, set out in DDO11, to address design and character. Yet the council refusal and submissions made to us relied on a premise that meeting these requirements through a three storey form is inadequate and that only two storey should occur. Even only addressing neighbourhood character the three storey proposal more than meets the relevant character and design provisions of the Bayside Planning Scheme.

51 For the reasons given above, the decision of the responsible authority is set aside. A permit is granted subject to conditions.

**Permit conditions**

52 We have adopted the permit conditions as addressed above and at the conclusion of the hearing. We agree with the applicant that the description of what is permitted should be amended. The council direction that it is restricted to up to only 16 dwellings does not reflect the permission sought which is buildings and works to construct a three storey building that accommodates more than one dwelling. We have therefore amended the permit granted to be for a residential development.
APPENDIX A – PERMIT CONDITIONS

<table>
<thead>
<tr>
<th>PERMIT APPLICATION NO:</th>
<th>2018/852/1</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAND:</td>
<td>7 – 9 Halifax Street, Brighton</td>
</tr>
</tbody>
</table>

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- Construction of a three storey residential development over basement car parking in a Design and Development Overlay (Schedule 11) and Special Building Overlay, and a front fence exceeding a height of 1.5 metres.

CONDITIONS:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the VCAT Substituted Plans (dated 17 July 2019) circulated on 22 July 2019 but modified to show:

   (a) Any changes to the plans required by Conditions 7-23 (Melbourne Water);

   (b) Allocation of car parking spaces nominated on the basement plan;

   (c) Provide screening to the northern edge of the terrace area of apartment 1.5 to a minimum height of 1.5 metres.

   (d) Provide screening to the northern edge of the terrace area to apartment 2.2 to a minimum height of 1.5 metres.

   (e) In addition to screening set out in condition 1c) and 1d), screening of level 1 and 2 balconies, or overlooking studies to demonstrate these balconies comply with Standard B22 of Clause 55.04-5 of the Bayside Planning Scheme.

   (f) Any consequential changes to facilitate the requirements of the Tree Protection and Management Plan required by the Tree Protection and Management Plans required by condition 29, which changes are to be to the satisfaction of the Responsible Authority;

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

   (h) Water Sensitive Urban Design measures in accordance with Condition 24 of this permit;
(i) A Landscaping Plan in accordance with Condition 26 of this permit;

(j) Tree Protection and Management Plan in accordance with Condition 29-32. Any consequential changes to facilitate the requirements of the Tree Protection and Management Plan are to the satisfaction of the Responsible Authority;

(k) A Car Parking Management Plan in accordance with Condition 36; and,

(l) Provision of a Drainage Contribution Levy in accordance with Condition 44.

All to the satisfaction of the Responsible Authority.

2 The layout of the site and the size, 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.

Melbourne Water

7 Prior to the endorsement of plans, amended plans (and further information relating to a hydraulic assessment) must be submitted to Council and Melbourne Water addressing Melbourne Water’s conditions. Plans must be submitted with surface and floor levels to Australia Height Datum (AHD) and must be modified to show:

(a) All relevant information and recommendations found within the two hydraulic reports dated 26/05/2017 and 30/06/2017 authored by Engenyo relating to the subject site must be consolidated into a single hydraulic report within the context of the development hereby approved.

(b) The consolidated hydraulic report required in part a) of this condition must reflect the natural surface levels within the southern building
setback graded to allow overland flows to pass through the subject site. Accordingly, the development plans must be updated to incorporate revised grading levels within the southern building setback.

(c) The exact alignment of the Melbourne Water drain on all ground floor, section and elevation plans, in accordance with survey data submitted on 5 February 2019; and,

(d) Building footings and any ground support systems shown on all ground floor, section and elevation plans to satisfy the angle of repose relative to the drain.

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

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

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

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

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

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

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

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

16 Any new internal/boundary fences and/or gates must be of an open style of construction (minimum 50% open) to allow for the passage of overland flows.
17 The decks must be constructed with unenclosed foundations to allow for the passage of overland flows.

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

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

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

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

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

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

Water Sensitive Urban Design

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

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

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

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

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.
25 The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

**Landscaping**

26 Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Jack Merlo, reference TP01-08, dated 8 August 2019 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

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

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

(e) Details of surface finishes of pathways and driveways.

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

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

**Tree Management and Protection Plan**

29 Before the development starts, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to, and be endorsed by, the Responsible Authority.

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

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

ii Details of TPZs for any street trees that may be affected by works on the site, and measures which will be undertaken to ensure compliance with conditions 34, 35 and 36 with respect to those street trees.

iii Comment on methods to be utilised and instruction on how to deploy them,

iv Comment on when the protection measures are to be deployed;

v Comment on when the protection measures can be modified;

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

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

viii Stages of development at which inspections will occur.

(b) In addition to the matters identified in 29(a) above, the Tree Management Plan must also specifically address the Spotted Gum identified as Tree 8 in the Arboricultural Impact Assessment by Ms Kylie May of John Patrick Landscape Architects dated August 2019 (Tree 8), and must include details of any steps which must be taken during the construction of the development to protect Tree 8, which must include:

i details of any steps that must be taken during any part of the construction of the approved development (including the construction of the basement ramp, or the construction of any wall, fence or other structure within the TPZ of Tree 8) to avoid adverse impact on the health of that tree;

ii details of any steps that must be taken during the carrying out of any landscaping works (including planting) within the TPZ of Tree 8 to avoid adverse impact on the health of that tree, including (if necessary) any restrictions on the size or species of plants, or the size and location of holes which may be dug to accommodate plantings; and

iii a requirement that no excavation, addition of fill or severe soil compaction is to occur within the 3.7m wide strip adjacent to the northern boundary within the TPZ of tree 8, unless a non-root destructive root investigation under the supervision of the project arborist indicates that it will not be detrimental to the long-term healthy retention of the tree.

(c) Any proposed alteration to the plan must be assessed by the project arborist and can only occur following the approval of the project arborist. Such approval must be noted and provided to the Responsible Authority within 28 working days of a written request.
(d) Any damaged tree must be inspected by the project arborist without any delay and remedial actions undertaken. Such actions must be documented.

(e) The Tree Protection Plan must be drawn to scale and show the location of all tree protection measures to be utilised.

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

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

(h) Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified arborist to Australian Standard — Pruning of Amenity Trees AS4373-2007. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified arborist.

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

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

32 Tree Protection Fence is required 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 AS 4970—2009, Protection of trees on development sites.

(c) Fencing should encompass the 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.

(f) Root pruning within the TPZ
(g) 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.

(h) All roots that will be affected must be correctly pruned.

(i) Installation of utility services within the TPZ

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

33 Before the development starts, detailed stormwater treatment plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority.

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

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

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

Car Parking Management Plan

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

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

(b) Car parking allocations; and,

(c) Servicing of the drainage and maintenance of car parking areas.
Waste Management Plan

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

(a) Dimensions of storage waste areas;
(b) Storm water drains in storage areas should be fitted with a litter trap;
(c) The number and size of bins to be provided;
(d) Facilities for bin cleaning;
(e) Method of waste and recyclables collection;
(f) Types of waste for collection, including colour coding and labelling of bins;
(g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines);
(h) Method of hard waste collection;
(i) Method of presentation of bins for waste collection;
(j) Sufficient headroom within the basement to accommodate waste collection vehicles;
(k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction;
(l) Strategies for how the generation of waste and recyclables will be minimised; and,

(m) Compliance with relevant policy, legislation and guidelines.

39 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

40 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) Procedures to ensure that that neighbouring properties are notified in advance of any proposed disruption to utility services which would result in the loss of supply of that service to a neighbouring property;
(c) 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;

(d) The location for the parking of all construction vehicles and construction worker vehicles during construction;

(e) 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;

(f) Proposed traffic management signage indicating any inconvenience generated by construction;

(g) Fully detailed plan indicating where construction hoardings would be located;

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

(i) 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;

(j) Site security;

(k) Public safety measures;

(l) Construction times to be limited to between 0700 to 1800 Monday to Friday, and 0900 to 1600 Saturday, unless with the consent of the Responsible Authority;

(m) No construction of any kind is to take place on Sundays and/or public holidays, unless with the consent of the Responsible Authority;

(n) Noise and vibration controls;

(o) Restoration of any Council assets removed and/or damaged during construction;

(p) Protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site);

(q) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site);

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

(s) Traffic management measures to comply with provisions of AS 1742.3-2009 Manual of uniform traffic control devices – Part 3: Traffic control devices for works on roads;
(t) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan; and,

(u) Details of crane activities, if any.

Drainage

41 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.

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

43 The design and construction must ensure the continuation of Council rights of drainage. Minimum easement width must be the greater of, 2m from the boundary or 0.5m from the asset. (Council records indicate that there is a 3.05m and 1.83m wide drainage and sewerage easement along the west and north property boundary as indicated on the drawings provided. The plans indicate that some constructed items and minor earthworks shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities).

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

Drainage Contributions Levy

45 Prior to endorsement of the plan’s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment. The levy payment shall be submitted to Council with the Bayside Drainage Development Levy Charge Sheet and it must include the Building Price Index applicable at the time of payment.

Permit Expiry

46 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.

- End of conditions -
ORDER

1. In application P483/2019 the decision of the responsible authority is affirmed.

2. In planning permit application 5/2018/426/1 a permit is granted and directed to be issued for the land at 25B Bolton Street, Beaumaris in accordance with the endorsed plans and the conditions set out in Appendix A. The permit allows:
   - The construction of a double storey dwelling on a lot less than 500m²

3. That there will be no order as to costs.

4. The hearing scheduled at 10:00am on 17 September 2019 is vacated. No attendance is required.

Michael Deidun
Member
REASONS

5 Pursuant to section 93(1) of the *Victorian Civil and Administrative Tribunal Act 1998*, this order is made at the request of the parties and with their consent.

6 The Tribunal regards the consent of the responsible authority to be a confirmation to the Tribunal that:
   a the responsible authority is of the opinion that the permit or amended permit is appropriate having regard to the matters it is required to consider under section 60 of the Act, including the balanced application of the strategies and policies of the relevant planning scheme and is otherwise in conformity with the provisions of the planning scheme and the *Planning and Environment Act 1987*;
   b the proposed orders will not result in any change to the proposed use or development which would materially affect any person other than the parties to the proceeding.

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


Michael Deidun
Member
APPENDIX A – PERMIT CONDITIONS

<table>
<thead>
<tr>
<th>PERMIT APPLICATION NO</th>
<th>5/2018/426/1</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAND</td>
<td>25B Bolton Street, Beaumaris</td>
</tr>
</tbody>
</table>

WHAT THE PERMIT ALLOWS

In accordance with the endorsed plans:

- The construction of a double storey dwelling on a lot less than 500m².

CONDITIONS

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by J R Design Australia referenced Revision C and dated 14 January 2019 but modified to show:

   (a) Clarification of methods for all habitable room windows at the first floor to be treated in accordance with Standard A15 of Clause 55 of the Bayside Planning Scheme;

   (b) The garage door to be a minimum of 5 metres wide;

   (c) A Landscaping Plan in accordance with Condition 8 of this permit;

   (d) A Tree Management Plan and Protection Plan in accordance with Condition 11 of this permit; and

   (e) Payment of the Development Contributions Levy in accordance with Condition 16 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 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

8 Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by J R Design Australia, revision C, dated 14 January 2019 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

(a) Proposed dwelling footprint updated in accordance with the changes required within Condition 1 of this permit;

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

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

(d) Details of surface finishes of pathways and driveways.

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

10 The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
Tree Management and Protection Plan

11 Before the development starts, including any related demolition or removal of vegetation, a Tree Management report and Tree Protection Plan, prepared by a suitably qualified arborist, to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. The Tree Management report must include:

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

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

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

12 All actions and measures identified in the Tree Management Report and Tree Protection Plan must be implemented to the satisfaction of the Responsible Authority.

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

Drainage

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

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

Development Contribution

16 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.

**Crossover**

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

**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.

– End of conditions –
5. Confidential Business

There was no confidential business submitted to the meeting.