Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 27 February, 2018 at 7:00pm

Councillors: Cr Alex del Porto
Cr Laurence Evans (Mayor)
Cr Michael Heffernan
Cr James Long BM JP
Cr Clarke Martin
Cr Sonia Castelli
Cr Rob Grinter
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
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5. Confidential Business
   Nil
<table>
<thead>
<tr>
<th>Date</th>
</tr>
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<tbody>
<tr>
<td>Tuesday 13 March 2018</td>
</tr>
<tr>
<td>Tuesday 27 March 2018</td>
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<tr>
<td>Tuesday 17 April 2018</td>
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<td>Tuesday 1 May 2018</td>
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<td>Tuesday 15 May 2018</td>
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<td>Tuesday 29 May 2018</td>
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<td>Tuesday 12 June 2018</td>
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<td>Tuesday 28 August 2018</td>
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<td>Tuesday 11 September 2018</td>
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<td>Tuesday 16 October 2018</td>
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<td>Tuesday 13 November 2018</td>
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<td>Monday 10 December 2018</td>
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<td>Thursday 20 December 2018</td>
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</table>
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 13 February 2018.
4. Matters of Decision

4.1 62 STANLEY STREET, BLACK ROCK
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/0168/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/2464

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Mr P J &amp; Mrs K E Wearne</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>23 March 2017 (Amended 25 September 2017)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>33 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
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<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
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</table>

Proposal
Through this application a planning permit is sought for the construction of two double storey dwellings on a lot with an area of 647.55 square metres. Key details of the proposal are as follows:

- 2 dwellings;
- 2 storey dwellings with a ridge height measuring 7.485 metres;
- Side setback variations sought at first floor;
- Site coverage 50.26%;
- Permeability 32.75% and;
- 4 car spaces with two allocated to each dwelling within a garage.

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 the site that is the subject of this application.

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:
• Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.

Note: Clause 32.08-4 requires that for the construction of a dwelling or residential building on a lot greater than 650 square metres, a lot must provide a minimum of 35% garden area at ground floor level.

Transitional provisions at clause 32.09-14 state that planning applications received prior to the introduction of VC110 are not required to meet the minimum garden area requirement, the maximum building height or the number of storey requirements.

As the application was received prior to 27 March 2017, there is no requirement for the development to accord with the new controls introduced by the amendment.

For information, the development plans confirm that the development has a garden area of 32.33%, 2.67% less than required by the Clause.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
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</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 three objections were received. The following concerns were raised:

• Neighbourhood character;
• Side setback variations;
• Walls on boundary variation;
• Overlooking;
• Overshadowing;
• Removal of trees from the site;
• Effect of development on trees adjacent to the site;
• The application was amended since submission and;
• Delay since lodgement of the application to it becoming valid.

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

Consultation meeting
A consultation meeting was held on 29 January 2018 attended by the permit applicant and 3 objecting parties. 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 2017/168/1 for the land known and described as 62 Stanley Street, Black Rock for the construction of two dwellings on a lot in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted 25 September 2017 prepared by Finley Roberts Design referenced TP01-TP09, dated December 2016 and revision number A but modified to show:

   a) The driveway of each dwelling paved to the satisfaction of the Responsible Authority;

   b) The crossover and access to Dwelling 1 a minimum of three metres wide and off-set 1 metre from the eastern property boundary;

   c) The crossover and access to Dwelling 2, a minimum of three metres wide and off-set 1 metre from the western property boundary;

   d) Sight-line visibility from each access in accordance with Clause 52.06 of the Bayside Planning Scheme;

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

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

   g) Screening between the secluded private open space of each dwelling in accordance with Standard B23 of Clause 55 of the Bayside Planning Scheme.

   h) The provision of at least 6 cubic metres of storage for each dwelling in accordance with Standard B30 of Clause 55 of the Bayside Planning Scheme.

   i) Water Sensitive Urban Design measures 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 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.

Traffic

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

Drainage

11. 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.

12. 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.
13. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

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

Landscaping

14. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts, Sheet 1 of 1 Rev B, dated August 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) Within the front setback of each dwelling either two (2) small canopy trees of a species that will grow to a minimum 8 metres in height at maturity or one (1) large canopy tree species that will grow to a minimum of 12 metres in height at maturity in accordance with the Bayside Landscape Design Guidelines (2016);

b) Within the private open space of each dwelling either two (2) small canopy trees that will grow to a minimum 6 metres in height at maturity or one (1) large canopy tree species that will grow to a minimum of 10 metres in height at maturity in accordance with the Bayside Landscape Design Guidelines (2016);

c) An additional retaining wall within the private open space of Dwelling 2 to protect within the Tree Protection Zone of Tree nos. 8 and 9;

d) 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;

e) 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;

f) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant with 80% of them being indigenous by species type and count;

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

h) Details of surface finishes of pathways and driveways

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.

Permit Expiry

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

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

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

Permit Notes:
- 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.
- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- 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.
- Before the development starts the applicant must pay $3,110.87 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Councils current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree 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.
- The Eucalyptus nicholli street tree asset can be removed under Clause 6.5 of the Street and Park Tree Management Policy (2016) to allow the development to proceed with the installation of the proposed vehicle crossing in the proposed location.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- Council records indicate there is a 1.83m wide drainage and sewerage easement along the southern property boundary. There is no proposal to encroach into the easement with any buildings and structures of note. Proposals to build over the easement will require Build Over Easement Consent from the Responsible Authority.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:
• Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

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

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 14 Natural Resource Environment

• Clause 15 Built Environment and Heritage

• Clause 16 Housing

• Clause 18 Transport

• Clause 21.02 Bayside Key Issues and Strategic Vision

• Clause 21.03 Settlement and Housing

• Clause 21.04 Environmental and Landscape Values

• Clause 21.06 Built Environment and Heritage

• Clause 21.08 Open Space

• Clause 21.09 Transport and Access

• Clause 22.06 Neighbourhood Character Policy (Precinct H1)

• Clause 22.08 Water Sensitive Urban Design

• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)

• Clause 43.02 Design and Development Overlay (Schedule 3)

• Clause 45.06 Development Contributions Plan Overlay (Schedule 1)

• Clause 52.06 Car Parking

• Clause 55 Two or more dwellings on a lot

• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H1. 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 proposed development incorporates boundary setbacks to reflect the pattern of built form in the area whilst allowing adequate visual separation between dwellings. The area is characterised by a variety of built form, consisting of single and double storey dwellings set within spacious gardens.

The proposed dwellings with their proposed setbacks and spacious garden setting would be consistent with this established character. Their articulated facades, setbacks and otherwise by their external finishes would be complementary to the existing and preferred character of the area.

Landscaping opportunities exist within the site, which subject to conditions, will enhance the landscaped character of the area and soften the built form on site. No front fence is proposed and will allow the front garden of each dwelling to be open to the street.

### 6.2. Compliance with Clause 55 (ResCode)

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

#### Site coverage (Standard B8)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>50.26%</td>
<td>0.26%</td>
</tr>
</tbody>
</table>

A variation of 0.26% is sought of the site area covered by the development. Notwithstanding the variation being sought, the development would, subject to conditions relating to appropriate landscaping, provide sufficient area of private open space and landscaping to create an appropriate level of amenity open space and a landscape setting to the development. The minor variation being sought would not be discernible and would not have any detrimental amenity impacts on neighbouring residential properties or the character and appearance of the area.

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

(Setbacks measured from north to south)

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m-2m (D1)</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>2m (D2)</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>5.8m (D1) 7.11m (D2)</td>
</tr>
</tbody>
</table>

The proposal would vary the side setbacks as detailed in the table above. The objective of Standard B17 is to ensure the height and setback of a building from a boundary respects the existing and preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The following variations are sought relative to Dwelling 1 of the development:
- 0.35 – 0.5m along parts of the west elevation at first floor and;

The following variations are sought relative to Dwelling 2 of the development:
- 0.26m-0.48m along parts of the east elevation at first floor.

The variations sought to the west elevation of Dwelling 1 and east elevation of Dwelling 2, whilst not compliant with Schedule 3 of the Neighbourhood Residential Zone variation
to Standard B17 are responsive to the site retaining a sufficient level of visual separation within the adjoining properties of 60 and 64 Stanley Street to the west and east respectively.

The greater incursions into the required side setbacks are sufficiently distant from the habitable room windows and private open space associated with neighbouring properties so as not to give rise to detrimental amenity impacts as a result of overlooking or overshadowing of them.

Moreover, the positional relationship of the dwellings with the built form on the neighbouring lots to the east and west of the subject site, coupled with the articulation of the first floor of each of the dwellings would minimise the perception of visual bulk of the development when viewed from each of the neighbouring properties.

On the foregoing considerations, the proposed variations are considered appropriate and overall, the development has a high level of compliance with ResCode.

**Access (Standard B14)**

The application drawings indicate the intention to retain the existing vehicular access to the site to serve Dwelling 2 of the development. The width of this access combined with the width of the new access to be formed to serve Dwelling 1 of the development would result in 50.03% of the street frontage being given up to access to the site. This is 10.03% more than the 40% maximum width of the street frontage.

In providing their response on the application, Council’s Traffic Engineer recommends that the access to each dwelling measure 3 metres wide and offset from their respective east and west boundaries. These matters are included in the recommended permit conditions (Conditions 1c and 1d). The resultant effect of these changes is that only 39.37% of the street frontage would be for vehicular access therefore allowing the development to be complaint with the Standard.

**Walls on Boundaries (Standard B18)**

The objective of Standard B18 is to ensure that the location, length and height of a wall on boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The height of a new wall constructed on or within 200mm of a side boundary should not exceed an average height of 3.2 metres with no part higher than 3.6 metres unless abutting a higher existing or simultaneously constructed wall.

Dwelling 1 has a section of its west ground floor garage wall on the mutual boundary with the neighbouring residential property of 60 Stanley Street to the west. The average height of that wall is 3.35m which is 0.15cm greater than maximum average height prescribed by the Standard. However, the majority of the wall is for the most part, 3.2 metres in height and it is only the very narrow sections of its parapets which are 3.605m and thus greater than the maximum wall height prescribed by the Standard. Those parapets are perpendicular to the mutual west boundary with 60 Stanley Street and are in themselves only 200mm wide. Furthermore, they would not have a sensitive interface with that neighbouring residential property, being opposite a service area. In such circumstance, the variation sought to the west wall of the proposed garage on the boundary would not have a detrimental impact on the amenity of 60 Stanley Street. To insist on compliance would compromise bedroom 2 and the toilet of Dwelling 1 and thus the internal amenity of that dwelling to an unacceptable degree.

**Internal Views (Standard B23)**

It has not been indicated on the planning application drawings how inter-visibility between the rear garden of each dwelling is to be limited. The requirement for this can reasonably be controlled by a condition of a permit and is included as part of the recommendation of this report (Condition 1i).
Storage (Standard B30)

In accordance with the Standard, 6 cubic metres of secure storage should be provided to serve each dwelling. This has not been indicated on the application drawings. This matter can reasonably be controlled by a condition of a permit and is included as part of the recommendation of this report (Condition 1j).

6.3. Landscaping

The objectives of the VPO3 are to retain the amenity, aesthetic character and habitat value of native vegetation by preventing the loss of native (particularly indigenous) vegetation and promoting the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.

All trees on site are to be removed to facilitate the development. The Council’s Arborist advises that none of the trees to be removed from the site are protected by the VPO. Nor are they protected by Local Laws.

The Council’s Arborist supports the removal of existing vegetation on the site recommending that the landscape plan be amended to show replacement planting on the site in the order of:

- Two small canopy trees within the front setback of each dwelling to grow to a minimum height of 8m at maturity or alternatively one large canopy tree capable of reaching a minimum of 12m in height at maturity and;

- Two small canopy trees within the private open space of each dwelling capable of reaching a height of 6m at maturity or alternatively on large canopy tree capable of reaching a minimum height of 10m in height at maturity, and all in accordance with the Bayside Landscape Design Guidelines.

Furthermore that a retaining wall be erected within the private open space of Dwelling 2 to protect the Tree Protection Zone of the Narrow-leaved Paperbark (Melaleuca linariifolia) located in the private open space of the neighbouring residential property of 3/59 Iona Street (annotated as Tree #8 on the development plans) and the James Stirling Pittosporum (Pittosporum tenuifolium) in the private open space of the neighbouring residential property of 64 Stanley Street.

These matters can reasonably be controlled by a condition and are included in the recommendation (Condition 14).

6.4. Street tree(s)

The Council’s Open Space Arborist confirms there is a Eucalyptus nicholli street tree asset within the nature strip to the front of the property. This would be lost to the development to facilitate the construction of the proposed new vehicular crossover and access to serve Dwelling 1 of the development.

The Council’s Open Space Arborist raises no objection to the removal of the street tree confirming it can be removed under Clause 6.5 of the Street and Park Tree Management Policy (2016).

6.5. Car parking and traffic

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

Dwelling 1 comprises 4 bedrooms and is afforded two car parking spaces in the form of a double garage. Dwelling 2 comprises four bedrooms and has a single garage and tandem outdoor parking. The proposed on site car parking meets the requirements of Clause 52.06-5.

The application was referred to Council’s Traffic Engineer who expressed no concern.
with the development subject to the inclusion of permit conditions relating to vehicle access, driveway gradients, sightlines and internal parking dimensions. These are included as conditions of the permit (Conditions 1a-e).

It is considered that the proposed development will not unreasonably impact on the car parking network in the street. In addition, car parking congestion was not raised as a concern by Council’s Traffic Engineer.

6.6. Objector issues not already addressed

Overlooking

Existing paling fencing on the mutual east, west and south boundaries of the site is of a sufficient height to limit overlooking of neighbouring residential properties from the habitable ground floor windows of the development.

The habitable first floor windows of the proposed development are either obscurely glazed or have a sill height up to 1.7 metres above finished floor level to comply with the Standard.

Accordingly, the proposed development would not allow for harmful overlooking of the neighbouring residential properties of 60 Stanley Street to the west, 64 Stanley Street to the east, 61a Iona Street to the southeast or any other neighbouring residential property.

Overshadowing

Where opposite habitable room windows the development would be sufficiently setback from mutual boundaries with neighbouring residential properties to allow the development to provide adequate daylight to those existing habitable room windows.

Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September. Accordingly the development would not result in a loss of amenity to neighbouring residential as a result of overshadowing.

Application amended since submission

The application was amended in response to Council’s request for further information of 4 May 2017 under Section 54 of the Planning & Environment Act 1987. In this, the applicant sought to address to the preliminary issues raised by Council in respect to access to the site and on-site parking provision.

Delay in the application becoming valid

The applicant sought three extensions of time under the provisions of Section 54 of the Planning & Environment Act 1987 to provide the relevant information required to make it valid for the purposes of assessment and advertising.

Support Attachments

1. Development Plans ↓
2. Site & Surrounds Imagery ↓
3. Neighbourhood Character Precinct- H1 ↓
4. Clause 55 Assessment ↓
Item 4.1 – Matters of Decision
**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>[Symbol]</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>[Symbol]</td>
</tr>
</tbody>
</table>
Item 4.1 – Matters of Decision

Figure 2 View of subject site from the northeast

Figure 3 View towards 60 Stanley Street to the west of the subject site
Figure 4 View towards 58 Stanley Street farther west of the subject site

Figure 5 View towards 64 Stanley Street to the east of the subject site.
Figure 6 View towards 59 and 61 Stanley Street to the northwest of the subject site

Figure 7 View towards 63 Stanley Street opposite the subject site to the northeast
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H1)

Preferred Future Character

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.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objective</th>
<th>Design Response</th>
<th>Avoid</th>
<th>Comments</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 utilises appropriate traditional coastal and native species. | Lack of landscaping and substantial vegetation. | Responds

Whilst the development will result in the removal of trees and other vegetation from the site, the trees are exotic non-natives. Furthermore, there is sufficient space within the site to accommodate mitigation planting to provide a landscape setting to the development in the order of native species trees in accordance with the Bayside Landscape Design Guide. Matters of replacement planting and species type can be controlled by condition.

| To enhance the bayside vegetation character of the area through the retention | • Retain established large trees and native and traditional coastal vegetation and provide for the planting of new native coastal | Removal of large trees. Planting of environmental weeds. | Responds

No native trees exist on the site. Future appropriate high quality native landscaping will improve the sites environmental value.
<table>
<thead>
<tr>
<th>Objective</th>
<th>Design Response</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>and planting of appropriate coastal species.</td>
<td>trees (locate footings outside root zone).</td>
<td></td>
<td>as well as making a positive contribution to the streetscapes.</td>
</tr>
<tr>
<td>To retain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation.</td>
<td>• Buildings should be sited to allow space for the planting of significant trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Ground floor setbacks provide a high level of compliance. The variations sought to the first floor setbacks do not detract from the rhythm of visual separation between dwellings. Overall, setbacks allow for opportunities for meaningful landscaping within the front and eastern side setback. This will soften the built form and maintain the vegetated characteristic of the area.</td>
</tr>
<tr>
<td></td>
<td>• Minimise impervious surfaces particularly in front garden areas.</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></td>
<td></td>
<td>The parking structures are in the form of one single and one double garage however the layout and location of these combined with habitable rooms and entries activating the front façade ensures their presentation remains secondary to the overall presentation to the street.</td>
</tr>
<tr>
<td>To ensure that new dwellings and extensions do not dominate the streetscape.</td>
<td>• Recess upper level elements from the front façade.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use pitched roof forms.</td>
<td></td>
<td>The upper floor of dwelling 2 of the development has been designed to be recessed behind the ground floor level. The upper floor of dwelling 1 slightly cantilevers above its entrance porch. This combined with the window openings and entrance porch of each dwelling articulate the façade and reduce the visual bulk.</td>
</tr>
</tbody>
</table>

Item 4.1 – Matters of Decision
<table>
<thead>
<tr>
<th>Objective</th>
<th>Design Response</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>To use building materials and finishes that complement the natural setting.</td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Period reproduction styles and detailing.</td>
<td>Responds The proposed materials and finishes will complement the natural setting.</td>
</tr>
<tr>
<td>To maintain the openness of the front garden to the street.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fences.</td>
<td>Responds No front fence is proposed.</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Comments</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
<td></td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support the development.</td>
<td></td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
<td></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>No</td>
<td>The entrance to each dwelling would be located to the front of each dwelling which would be clearly legible from the street.</td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 9m DWelling 1 Proposed ground floor: 9.48m Proposed first floor: 9.09m DWelling 2 Proposed ground floor: 10.06m Proposed first floor: 10.21m</td>
<td></td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B7 Building Height</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
|-------------------|---
| Building height should respect the existing or preferred neighbourhood character | Yes | Required: 9m  
| Proposed: 7.485m |
| B8 Site Coverage |  
|-------------------|---
| Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | No | Maximum: 50%  
| Proposed: 50.26% |
| B9 Permeability |  
|-------------------|---
| Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | Minimum: 20%  
| Proposed: 32.75% |
| B10 Energy Efficiency |  
|-------------------|---
| Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | The proposal provides appropriate solar access to the building. |
| B11 Open Space |  
|-------------------|---
| Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A | N/A |
| B12 Safety |  
|-------------------|---
| Layout to provide safety and security for residents and property. | Yes | No safety issues are considered to likely arise. |
| B13 Landscaping |  
|-------------------|---
| To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site. | Yes | Refer report. |
Bayside City Council
Planning & Amenity Committee Meeting - 27 February 2018
Attachment 4

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

<table>
<thead>
<tr>
<th>No</th>
<th>Appropriate vehicular access is provided.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Maximum</strong>: 40% of street frontage</td>
</tr>
<tr>
<td></td>
<td><strong>Proposed</strong>: 50.03%</td>
</tr>
</tbody>
</table>

Whilst no change is proposed to the existing access that serves the site, the width of this access combined with the width of the proposed access to serve Dwelling 1 is far in excess of the maximum prescribed by the Standard. Recommendations of the Traffic Engineer to reduce the width of each access to 3m will result in only 39.37% of the street frontage being dedicated to vehicular access which is compliant with the Standard. This matter can be controlled by the recommended permit conditions.

**B15 Parking Location**
Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.

| Yes | Proposed car parking for each dwelling is appropriately located and in this instance, takes the form of garage parking private to each dwelling. |

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

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

---

<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><strong>East (side)</strong></td>
<td>0m-2m (D1)</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

**B18 Walls on Boundaries**
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

<table>
<thead>
<tr>
<th>No.</th>
<th>Maximum Height: 3.6m</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Proposed: 3.605m (D1)</td>
</tr>
<tr>
<td></td>
<td>Maximum Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 3.35m (D1)</td>
</tr>
<tr>
<td><strong>East boundary</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Maximum Length: 20.65m (D1)</td>
</tr>
<tr>
<td></td>
<td>Proposed: 12.4m (D1)</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>Allow adequate daylight into existing habitable room windows.</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</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>
</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>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>-----</td>
</tr>
<tr>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B30 Storage</strong></th>
<th>No</th>
<th>Can be controlled as part of the recommended permit conditions.</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>B31 Design Detail</strong></th>
<th>Yes</th>
<th>Refer Attachment 1.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B32 Front Fences</strong></th>
<th>N/A</th>
<th>Required: 1.2m Proposed: N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B33 Common Property</strong></th>
<th>N/A</th>
<th>N/A.</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>Yes</th>
<th>Refer report. There is sufficient space within each dwelling and their associated private open space to provide the required services and facilities.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.2 261 HAMPTON STREET, HAMPTON
NOTICE OF DECISION TO AMEND A PLANNING PERMIT
APPLICATION NO: 2013/428/3 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/25410

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>Mr Andrew Cronin</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants</td>
</tr>
<tr>
<td>Date application received</td>
<td>23 May 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>137 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Commercial 1 Zone (Schedule 1)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay (Schedule 12)</td>
</tr>
<tr>
<td></td>
<td>Heritage Overlay HO748</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal

The application proposes an amendment to Planning Permit 2013/428/1 pursuant to Section 72 of the Planning and Environment Act 1987 which allows a ‘Partial demolition and buildings and works in a Heritage Overlay (HO748), reduction of car parking requirements and waiving of the loading bay requirement associated with a tavern and the serving and consumption of liquor on site’ at 231 Hampton Street, Hampton.

This application seeks to vary conditions 1 and 4 of the permit to allow patron numbers to be increased from 30 to 50 with a consequential reduction in car parking requirements.

Approval is also sought for buildings and works in the form of a deck with an associated awning and screening to the rear of the premises as an extension of the approved licensed area of the premises to include the rear deck. This application is in part sought in retrospect as the rear deck and screen have been constructed.

This application has been submitted to Council in response to investigations undertaken by the Council’s Compliance team into the nature and alleged use of the unauthorised decking area by patrons of the premises.

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 S-0647 was issued on 2 December 1975 for an art gallery and studio on the site.

Planning Permit S1231 was issued in October 2008 for an office on the site.

Planning Permit 2011/706/1 was issued on 4 June 2012 for buildings and works in a
Business Zone 1 associated with shop and office use and associated car parking reduction.

Planning Permit 2013/428/1 was issued on 20 January 2014 and allows the ‘Partial demolition and buildings and works in a Heritage Overlay (HO748), reduction of car parking requirements and waiving of the loading bay requirement associated with a tavern and the serving and consumption of liquor on site’.

Condition 1a of the permit states the following:

Before the commencement of development and the serving of alcohol occurs on site, 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) A notation on the red line ground floor plan that no more than 30 patrons are to be on the premises at any one time.

Condition 4 of the permit states the following:

Not more than 30 patrons ay be present on the premises at any one time without the written consent of the Responsible Authority.

See Attachments 3 and 4 for a copy of the permit and endorsed plans.

2. Planning controls

Original Planning Permit requirements

A planning permit was required pursuant to:

- Clause 34.01-4 – (Commercial 1 Zone) for the proposed buildings and works.
- Clause 43.01-1 – (Heritage Overlay Schedule 748) to construct or carry out works to the building.
- Clause 43.02-2 – (Design and Development Overlay Schedule 12) – to construct or carry out works to the building.
- Clause 52.06-3 – (Car Parking) – to reduce the number of car parking spaces required under Clause 52.06-5 of the Bayside Planning Scheme.
- Clause 52.07 – (Loading and Unloading of Vehicles) - as no space was to be provided on the land for loading and unloading of vehicles.
- Clause 52.27 - (Licensed Premises) - as liquor was to be sold and consumed on the premises.

Planning permit requirements

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

The buildings and works and extension of the liquor licence that are now the subject of this amendment application are, where applicable, triggered under the same provisions as listed above, for the exception of the loading and unloading requirements pursuant to Clause 52.07. Commentary on this is provided below. The amendment being sought also includes a variation to the wording of Conditions 1a and 4 of planning permit 2013/428/1.

Planning Scheme Amendments
Planning Scheme Amendment VC142 was gazetted on 16 January 2018 and included a wide range of reforms across the VPP that generally remove permit triggers, expand permit exemptions for land uses and buildings and works, remove superfluous and outdated provisions, update references and improve and update definitions.

The reforms resulted in, amongst other things, the removal of Clause 52.07 from the Bayside Planning Scheme and the inclusion of the consideration of the adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts within Clause 65.01 – Decision Guidelines of the Bayside Planning Scheme. Whilst a requirement for consideration, the development that is the subject of this application is no longer triggered as a result of a waiver of the loading/unloading requirements.

Planning Scheme Amendment C116 proposes to amend height controls in the Hampton Activity Centre. The Amendment has been ongoing since in 2012. Council has been seeking mandatory height controls to change the current ‘preferred’ height controls which allow developers to make applications for any building height in Hampton for some years. C116, where is relates to the height controls in Hampton, was then placed on hold by Council as the project was changed to combine Amendment C116 with Amendment C130 (which implements the Hampton Willis Street Precinct Urban Design Framework) as well as awaiting the outcome of Amendments C113, C114 and C115 which also seek height control changes in Sandringham and Brighton. At present, Council is seeking to work with the State Government on height controls across the Major Activity Centres in Bayside.

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>Co-ordinator Community Partnerships &amp; Health Planning</td>
<td>No objection. Recommendation to discourage vertical drinking.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection.</td>
</tr>
</tbody>
</table>

Public notification

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

- Noise and disturbance;
- Illegal rear deck and increase in licensed area;
- Parking / Traffic and;
- Upgrade of patron facilities i.e. toilets.

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

Consultation meeting

A consultation meeting was held on Wednesday 10 January 2018 attended by the permit applicant and 4 objecting parties. As a result of this meeting no objections were withdrawn.
As a consequence of this meeting the applicant agreed to limit the hours of operation of the outdoor area to be closed at 11pm and to introduce noise attenuation measures in the form of an acoustic roof/awning, acoustic screening and a self-closing mechanism to the rear door of the premises, all to reduce noise within the outdoor drinking area.

4. Recommendation

That Council resolves to:

Issue a Notice of Decision to Grant an Amended Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2013/428/3 for the land known and described as 261 Hampton Street, Hampton for the partial demolition and buildings and works in a Heritage Overlay (HO748), reduction of car parking requirements and waiving of the loading bay requirement associated with a tavern and the serving and consumption of liquor on site in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the commencement of development and the serving of alcohol occurs onsite, 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) A notation on the red line ground floor plan that no more than 50 patrons are to be on the premises at any one time.
   b) Provision of noise attenuation measures including an acoustic roof/awning to be provided within the outdoor area, acoustic screening and a self-closing mechanism to the rear door of the premises, to reduce noise within the outdoor drinking area to the satisfaction of the Responsible Authority.

2. The licensed area and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

3. Unless with the further consent of the Responsible Authority, alcohol may only be sold and consumed between the following hours:
   - Monday to Saturday 12noon – 12am
   - Sundays, ANZAC day and Good Friday 12noon – 11pm

4. Not more than 50 patrons may be present on the premises at any one time without the written consent of the Responsible Authority.

5. The outdoor drinking area hereby approved shall only be used by patrons and staff between the hours of 12 noon and 9pm Sunday to Thursday and 12 noon to 10pm Friday and Saturday.

6. The outdoor drinking area hereby approved shall not be used unless the existing rear access door to the premises is made self-closing and all noise attenuation measures put in place, in accordance with details of them to be provided for the approval of the Responsible Authority prior to their installation.

7. Unless with the further consent of the Responsible Authority, all alcohol sold must be consumed on the premises with no packaged liquor sales permitted to the satisfaction of the Responsible Authority.
8. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the responsible authority.

9. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s) without the written consent of the responsible authority.

10. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the responsible authority.

11. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the responsible authority.

12. Before the commencement of the serving of alcohol on site, a noise and amenity/patron 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. The plan must include:
   a) Staffing and other measures which are designed to ensure the orderly arrival and departure of patrons, including use of crowd controllers;
   b) Signage to be used to encourage responsible off-site patron behaviour;
   c) The training of staff in the management of patron behaviour;
   d) Staff communication arrangements;
   e) Details of any management measures required to control noise emissions from the premises. (eg. operation of volume limiter if installed); and
   f) The nomination of the person responsible for the implementation of this management plan.

   The plan must be implemented to the satisfaction of the Responsible Authority.

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

13. The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:
   a) Transport of materials, goods or commodities to or from the land;
   b) Appearance of any building, works or materials;
   c) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and
   d) Presence of vermin.

14. Deliveries to and from the site (including waste collection) must only take place as specified in the Environment Protection Authority's Noise Control Guidelines Publication 1254 October 2008.

15. Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.
16. All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the Responsible Authority.

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

The Responsible Authority may extend the periods referred to above if a request is made in writing:
   • Before the permit expires; or
   • Within 6 months afterwards if development has not commenced; or
   • Within 12 months afterwards if the development has lawfully commenced.

Permit Notes
   • Building approval must be obtained prior to the commencement of the above approved works.
   • Premises used for the sale or storage of food in any manner whatsoever are to be registered under the Food Act 1984 and require Council approval via the Environmental Health Officer before occupation.
   • Unless no permit is required under the planning scheme, no sign must be constructed or displayed without a further permit.
   • Unless no permit is required under the planning scheme other signs must not be constructed or displayed without a further permit.
   • Consultation should take place with Council respect of the removal of the vehicular crossing and reinstatement works.
   • The applicant must clearly identify what impact, if any, the proposed vehicle crossing will have on Council assets including pits and trees.
   • 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.
   • Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator, Mon-Fri 9:00am to 1:00pm on 9599 4638.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>27 February 2018</td>
<td>Amendment to the permit under Section 72 of the Planning and Environment Act 1987 to:</td>
</tr>
<tr>
<td></td>
<td>• Amend condition 1(a) to state ‘A notation on the red line ground floor plan that no more than 50 patrons are to be on the premises at any one time.’</td>
</tr>
<tr>
<td></td>
<td>• Amend condition 4 to state ‘Not more than 50 patrons may be present on the premises at any one time without the written consent of the Responsible Authority.’</td>
</tr>
</tbody>
</table>
Include the following conditions:

1b) Require the provision of noise attenuation measures to the satisfaction of the Responsible Authority.

5. The outdoor drinking area hereby approved shall only be used by patrons and staff between the hours of 12 noon and 9pm Sunday to Thursday and 12 noon to 10pm Friday and Saturday.

6. The outdoor drinking area hereby approved shall not be used unless the existing rear access door to the premises is made self-closing and all noise attenuation measures put in place, in accordance with details of them to be provided for the approval of the Responsible Authority prior to their installation.

Renumber the subsequent conditions accordingly.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.

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

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

Relevant strategies of the Council plan include:

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

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

Bayside Planning Scheme

- Clause 9  Plan Melbourne
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 17  Economic Development
- Clause 21.06  Built Environment and Heritage
- Clause 21.07  Economic Development
- Clause 21.09  Transport and Access
• Clause 21.11 Local Areas (Hampton Street Major Activity Centre)
• Clause 22.05 Heritage Policy
• Clause 34.01 Commercial 1 Zone
• Clause 43.01 Heritage Overlay (HO748)
• Clause 43.02 Design and Development Overlay (Schedule 12)
• Clause 52.06 Car Parking
• Clause 52.27 Licensed Premises
• Clause 65 Decision Guidelines

6. Considerations

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

6.1 Increase in patron numbers and extension of licensed area

The premises to which this application relate occupy the ground floor of a two storey building on the west side of Hampton Street, Hampton. The premises are currently in use as a tavern and operate under the name "Bar Celona". The first floor of the building is in use as an office.

Conditions 1a) and 4 of Planning Permit 2013/428/1 seek to limit patron numbers on the premises to 30.

Through this application it is proposed that conditions 1a) and 4 of planning permit 2013/428/1 be varied to allow an increase in patron numbers from 30 to 50. Furthermore that the redline boundary of the licensed premises be extended to include a deck area within the rear courtyard of the premises.

The rear outdoor area would be open to patrons until 11pm each evening, with the acoustic awning unfolded up until 7pm. No music is to be audible on the outdoor area after 9pm. Furthermore, the rear access door from the premises to the deck would be fitted with a self-closing mechanism to ensure that no amplified music, amplified vocals or live music played inside the premises is audible in the deck area.

Pursuant to Clause 52.27 (licenced premises) a planning permit is required to use land to sell or consume liquor if a license is required under the Liquor Control Reform Act 1998 and a different license or category of license is required from that which is in force or the number of patrons allowed under the licence is to be increased.

Clause 52.27 sets out the following Decision Guidelines to consider when determining appropriateness of an application:

The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and Local Planning Policies

The business objective of Clause 17.01 states that use and development should be managed to provide new commercial facilities for the needs of the local population in new residential areas and within, or immediately adjacent to existing commercial centres and to encourage development which meet the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability or commercial facilities.

In considering an increase in patron numbers and an extension of the parameters of the redline boundary of the licensed premises thought must turn to existing planning controls for the site and in the surrounding area.
The application site is located within Precinct 2 of the Hampton Street Major Activity Centre and is thus defined as a forming part of a ‘Peripheral Business and Local Shopping Area.

Objective 1 of the Precinct is “to strengthen the role of the Hampton Street Centre as a multi-use centre offering retail, office, entertainment and community services.

The Strategies of Precinct 2 ‘Peripheral Business and Local Shopping Area’ are:

- Encourage mixed use developments with shop, office and other non-residential uses on the ground floor and residential on upper levels.

Use of the rear deck for the consumption of alcohol would be an extension of the existing tavern use of the premises of Bar Celona which is a well-established authorised licensed premises within this part of Hampton Street and Hampton Street Major Activity Centre.

The sale and consumption of liquor in association with an established tavern does not conflict with State and Local Planning Policy Frameworks and is considered to be appropriate.

The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.

Evidence from Bayside’s Alcohol Harm and Minimisation Policy June 2013 suggests that with regard to venues and location, licensed premises which have few chairs, shelves or other furniture for the use of patrons results in patrons being forced to stand (vertical drinking) and this may foster more excessive drinking and encourage more extreme behaviours.

The tavern that is the subject of this application has seating internal and proposes seating external for patrons. Owing to this, it is considered that there be less likelihood of “vertical drinking” which would foster excessive drinking and encourage more extreme behaviours.

The Council’s Co-ordinator for Community Partnerships and Health Planning also advises there is no evidence to suggest that the sale of liquor on site will result in an increased harm due to alcohol consumption.

In order to minimise the likelihood of “vertical drinking” and the consequential effects on the amenity of the surrounding area, it is recommended that the seating as shown on the development plans submitted in support of this application be provided and be available at all times by patrons during operating hours. This matter is included in the recommended permit conditions.

The impact of the hours of operation on the amenity of the surrounding area.

The tavern currently operates within the hours of 12 noon to 12am Monday to Saturday and 12 noon to 11pm on Sundays, ANZAC day and Good Friday.

Notwithstanding no change is proposed to these operating hours, the applicant proposes to operate the outdoor drinking area between the hours of 12 noon and 11pm, with no music audible after 9pm Monday to Sunday inclusive. With the acoustic awning closed after 7pm.

The hours of operation and the measures for sound attenuation have been offered by the applicant to address objector concerns.

The hours of operation of the external drinking area fall within the scope of the existing planning permit and thus do not conflict with hours of operation specified by Condition 3 of the permit.

The application site has an interface to the west with Precinct 4 of the Hampton Major Activity Centre and thus a residential precinct.
Bar Celona is the only tavern operating within the southern part of Hampton Street. Other licensed premises take the form of cafés and restaurants and thus liquor consumption within them is in conjunction with meals. It is not known that they have external drinking areas to the rear of them and in close proximity to a residential precinct as is proposed in this application.

Whilst the applicant proposes to limit use of the external drinking area to 11pm each evening with no music audible after 9pm and to introduce acoustic attenuation measures, there is still the potential of noise and disturbance to neighbouring residential properties as a result of amplified speech.

Given the sensitive interface the external drinking area would have with those neighbouring residential properties, it would be prudent to limit use of the external drinking area to no later than 9pm Sunday to Thursday inclusive and 10pm on Friday and Saturdays. Furthermore, that the self-closing mechanism offered by the applicant be installed on the access door to the rear deck and that all other noise attenuation measures be put in place within one month of the approval of the permit, in order to limit amplified music and speech being heard from out-with the premises.

These controls can reasonably be controlled by a condition of the permit and are included as part of the recommended permit conditions.

The external drinking area as an extension of the licensed premises will not create undue detriment to the amenity of surrounding land users and would not be associated with increased alcohol related harm.

The impact of the number of patrons on the amenity of the surrounding area.

Council’s Co-ordinator for Community Partnerships and Health Planning recommends that measures be put in place to limit vertical drinking on the premises, including within the external drinking area. This matter, as discussed above, is controlled as part of the recommended permit conditions.

Furthermore, controls have been recommended limiting operation of the external drinking area to protect the amenity of the surrounding area.

The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.

There is no increased risk of harm due to alcohol consumption as there is no change to the venue type or location.

6.3 Car parking and traffic

<table>
<thead>
<tr>
<th>Use</th>
<th>Planning Scheme Parking Rate</th>
<th>Car Parking Requirement</th>
<th>Car Parking Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tavern (existing use)</td>
<td>0.4 spaces per patron permitted</td>
<td>Additional 8 spaces required</td>
<td>0</td>
</tr>
</tbody>
</table>

A traffic survey conducted by Zaptraffic in August 2013 which was assessed as part of the original permit identified that high demand for on-street parking is between the hours of 12noon and 2pm on both Friday and Saturday, with parking occupancy at its highest at 82%-85% at 2pm, leaving approximately 45 car parking spaces available at that time. Parking demand reduced throughout the afternoon with occupancy of spaces at 5pm dropping to 39-61%, with the number of available spaces increasing by a minimum of 20 spaces per hour. Although occupancy increases during the evening commensurate with restaurant trade within the area, demand is steady at 60%, leaving over 100 parking spaces available. By 10pm occupancy has dropped to the point that 170-200 spaces are free.

Notwithstanding the survey indicated there was capacity within the surrounding road network to accommodate the 45 patrons proposed as part of the original application, it
was considered that given the extent of the survey area, the limited opportunities to provide additional parking in the area and the likely increase in demand in the activity centre that it not appropriate to allow a waiver of 15 spaces. It was instead considered that a waiver of 10 spaces be appropriate and that patron numbers be limited to 30.

The original study was conducted when occupancy rates are at their heaviest on Friday and Saturday, both day and evening and it could reasonably be expected that demand would be significantly lower on the other days of the week.

In response to the original survey, a supporting statement has been submitted by C.S. Traffic Surveys.

It advises the following:

- Additional patronage would most likely be in the evening;
- Parking demand in the area significantly decreases in the area in the evening compared to during the day;
- The Manager of the tavern has substantiated that evening patronage is more than double that of day time patronage.
- The additional 20 patrons proposed would generate demand for an additional 8 car parking spaces based on 0.4 spaces per patron and;
- The original survey data identifies that an additional 8 spaces could readily be absorbed in the locality.

The Council’s Traffic Engineer confirms that pursuant to the parking requirements at Clause 52.06 of the Bayside Planning Scheme, an increase of patron numbers within the premises from 30 to 50 requires 8 car parking spaces.

The Council’s Traffic Engineer is satisfied that given the nature of the business operation, the proximity of the premises within the Major Activity Centre and easy access to a number of public transport modes, the additional parking demand associated with the proposed use can be accommodated within the surrounding on-street and off-street parking supply.

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

### 6.3 Buildings and works

The timber deck for which retrospective approval is sought measures 8.34 metres long by 3.93 metres wide and is constructed within the rear courtyard of the premises. A 2.5 metres high timber screen has been erected on a part of its north side.

The proposed awning would be attached to a first floor balcony structure attached to the rear (west) elevation of the building of which the licensed premises form a part.

The structures are and would be well-contained within their rear courtyard setting where they are not readily visible from any public place. The timber deck and screen and the proposed awning would be appropriate to their location and would not compromise the significance of the Heritage precinct of which they are and would form a part. They would not be harmful to the character and appearance of the Heritage Precinct.

Subject to details being provided of the timber screens and planting being proposed by the applicant to limit noise from the outdoor drinking area, the physical form of the noise attenuation measures would not detrimentally impact the significance of the Heritage precinct.

### 6.4 Objection issues not already addressed
Upgrade of patron facilities
Whether existing toilet facilities should be upgraded to accommodate the additional patronage on the premises is considered under legislation other than planning legislation and is not a material consideration in the determination of this application for an amended planning permit.

Support Attachments
1. Development Plans ↓
2. Site & Surrounds Imagery ↓
3. Planning permit 2013/428/1 ↓
4. Endorsed Plans ↓
Figure 1 Aerial overview of the site and surrounds. Objector 5 is not resident in Hampton but has property nearby the subject site.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>[star]</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>[circle]</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site from the southeast

Figure 3 View of subject site from the east
Figure 4 View from the laneway to the rear (west) of the premises.

Figure 5 View towards the deck at the rear of the premises.
## PLANNING PERMIT

### 2013/428/1

<table>
<thead>
<tr>
<th>Responsible Authority:</th>
<th>Bayside City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning Scheme:</td>
<td>Bayside</td>
</tr>
</tbody>
</table>

### Address Of The Land:

No. 281 Hampton Street HAMPTON

### The Permit Allows:

Partial demolition and buildings and works in a Heritage Overlay (HO748), reduction of car parking requirements and waiving of the loading bay requirement associated with a tavern and the serving and consumption of liquor on site in accordance with the endorsed plans and subject to the following conditions.

### The Following Conditions Apply To This Permit:

1. Before the commencement of development and the serving of alcohol occurs onsite, 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) A notation on the red line ground floor plan that no more than 30 patrons are to be on the premises at any one time.

2. The licensed area and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority.

3. Unless with the further consent of the Responsible Authority, alcohol may only be sold and consumed between the following hours:

   - Monday to Saturday: 12noon – 12am
   - Sundays, ANZAC day and Good Friday: 12 noon – 11pm

4. Not more than 30 patrons may be present on the premises at any one time without the written consent of the Responsible Authority.

5. Unless with the further consent of the Responsible Authority, all alcohol sold must be consumed on the premises with no packaged liquor sales permitted to the satisfaction of the Responsible Authority.

6. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the responsible authority.

7. 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.

---

Date issued: 20 January 2014

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

9. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the responsible authority.

10. Before the commencement of the serving of alcohol on site, a noise and amenity/patron 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. The plan must include:
   
   a) Staffing and other measures which are designed to ensure the orderly arrival and departure of patrons, including use of crowd controllers;
   b) Signage to be used to encourage responsible off-site patron behaviour;
   c) The training of staff in the management of patron behaviour;
   d) Staff communication arrangements;
   e) Details of any management measures required to control noise emissions from the premises. (e.g., operation of volume limiter if installed); and
   f) The nomination of the person responsible for the implementation of this management plan.

The plan must be implemented to the satisfaction of the Responsible Authority.

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

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

   a) Transport of materials, goods or commodities to or from the land;
   b) Appearance of any building, works or materials;
   c) Emission of noise, artificial light, vibration, odour, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and
   d) Presence of vermin.

13. Deliveries to and from the site (including waste collection) must only take place as specified in the Environment Protection Authority’s Noise Control Guidelines Publication 1254 October 2008.

14. Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2.

Date issued: 20 January 2014

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.
15. All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the Responsible Authority.

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.

The Responsible Authority may extend the periods referred to above if a request is made in writing:

- Before the permit expires; or
- Within 6 months afterwards if development has not commenced; or
- Within 12 months afterwards if the development has lawfully commenced.

Permit Notes

- Building approval must be obtained prior to the commencement of the above approved works.
- Premises used for the sale or storage of food in any manner whatsoever are to be registered under the Food Act 1984 and require Council approval via the Environmental Health Officer before occupation.
- Unless no permit is required under the planning scheme, no sign must be constructed or displayed without a further permit.
- Unless no permit is required under the planning scheme other signs must not be constructed or displayed without a further permit.
- Consultation should take place with Council respect of the removal of the vehicular crossing and reinstatement works.

The applicant must clearly identify what impact, if any, the proposed vehicle crossing will have on Council assets including pits and trees.

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.

- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator, Mon-Fri 9:00am to 1.00pm on 9599 4638.
Item 4.2 – Matters of Decision
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>Shenfield Property Construction</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>21 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>104 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Commercial Zone (Schedule 1) Neighbourhood Residential Zone Schedule 3 (NRZ3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay Schedule 3 (DDO3) Heritage Overlay (Schedule HO749) Development Contributions Overlay Schedule 1 (DCPO1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>6</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the construction of a four storey mixed use building plus basement parking, demolition and construction in a Heritage Overlay and reduction of visitor parking on a lot with an area of 1011 square metres. Key details of the proposal are as follows:

- Three ground floor units for (2 x office and 1 x shop)
- 15 apartments comprising 2 x 1 bedroom apartments, 9 x 2 bedroom apartments and 4 x 3 bedroom apartments.
- Four storey building at a height of 14.15 metres plus basement parking
- Site coverage 97.9%
- Provision of 33 parking spaces and reduction of 8 parking spaces (visitor / customer parking)

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 34.01-1 (Commercial 1 Zone) Use of land for accommodation
- Clause 34.01-4 (Commercial 1 Zone) Buildings and works
- Clause 43.01-1 (Heritage Overlay) Demolition and buildings and works
- Clause 43.02-2 (Design and Development Overlay Schedule 3) Buildings and works
- Clause 52.06-3 Reduction of car parking

Planning Scheme Amendments

Planning Scheme Amendment C150 outlines the overall policy direction for the commercial areas in the Bayside Municipality. Amendment C150 was adopted by Council at its 16 August 2016 Ordinary Meeting. An independent Planning Panel has been appointed to consider the submissions received, with the Panel hearing scheduled for March 2018. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted.

Planning Scheme Amendment C152 implements the Martin Street Structure Plan 2016 into the Planning Scheme. Council has adopted Amendment C152 and is preparing to submit the amendment to the Minister for Planning for approval. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, Amendment C152 has been considered through the assessment of this application and is considered to be seriously entertained.

Planning Scheme Amendment VC142 was gazetted on 16 January 2018 and includes a wide range of reforms across the Victoria Planning Provisions (VPP) that generally remove permit triggers, expand permit exemptions for land uses and buildings and works, remove superfluous and outdated provisions, update references, improve and update definitions, clarify common points of confusion and improve the usability of the VPP. Clause 52.07 which related to loading and unloading of vehicles has been removed from the planning scheme. This application originally included a reduction of the loading bay requirements under Clause 52.07. As this is now no longer a planning permit trigger, the permit preamble has been amended to remove reference to this. Loading and unloading requirements are now considered under Clause 65 Decision Guidelines.

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>Drainage Assets Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Raises some concerns, which can be addressed by condition.</td>
</tr>
<tr>
<td>Heritage Advisor</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Waste Coordinator</td>
<td>No objection.</td>
</tr>
</tbody>
</table>
Privacy notification

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

- Neighbourhood character;
- Visual bulk;
- Impact on heritage area;
- Overlooking;
- Overshadowing / loss of sunlight and daylight;
- Parking / Traffic;
- Waste collection;
- Noise impacts;
- Loss of vegetation;
- Reduction of loading bay requirements;
- Building damage to adjoining properties;
- Economic impact on local businesses during construction period; and
- Owner of 135A Martin Street, which is in the block of titles has no intention to sell.

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

Consultation meeting

The applicant declined a consultation meeting advising that given the concerns raised by the objectors, it would be unlikely to be beneficial.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/586 for the land known and described as 129-135 Martin Street, Brighton, for the use and development of land for dwellings, construction of a four storey mixed use building plus basement parking, demolition and construction in a Heritage Overlay and reduction of visitor parking 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 advertised plans prepared by Finnis Architects referenced TP00-TP12, received 13 November 2017 and revision number E but modified to show:

   a) The building height reduced to 14 metres;
b) The rounded front façade corners and verandah ends to be replaced with squared ends;
c) Relocation of the four storage units adjacent to tandem parking spaces to the ground floor;
d) A door to access office G01;
e) Details of the car stackers;
f) Details of the traffic light or mirror system on the exit of the basement ramp;
g) Details of the lighting and paving of the setback area adjacent to the carriageway easement;
h) Swept path analysis to show adequate access to the dead end spaces to the satisfaction of the Responsible Authority;
i) Amended plans to clearly show location of the security door;
j) Provision of 300mm kerbs on either side of the basement ramp;
k) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms;
l) An updated landscaping plan in accordance with condition 10;
m) Any update to the basement bin store area to allow for compliance with 20(g).
n) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
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.

7. The loading and unloading of vehicles and the delivery of goods to and from the premise must at all times be conducted entirely within the site and in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.

Water Sensitive Urban Design

8. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be
endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

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

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

c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

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

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

**Landscaping**

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) Planter boxes to be located on the inside of each north and south facing balcony.

b) A survey, including, botanical names of all existing trees 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 vegetation within the planter boxes including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

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.

**Heritage**

13. Before demolition begins, an annotated photographic study of achival quality of the building prepared by a suitably qualified person to the satisfaction of the Responsible Authority must be submitted to the Responsible Authority as a record of the building. The survey must include:

a) each elevation of the building;

b) the interior of the building;
c) architectural design detailing of the building;
d) a statement prepared by an architectural historian describing and explaining both the design and construction of the building and the photographs.

Sustainability

14. Prior to the endorsement of plans pursuant to condition 1, a Sustainability Report to the satisfaction of the Responsible Authority must be submitted and endorsed by the Responsible Authority. The Sustainability Report must generally be in accordance with the Report prepared by Sustainable Development Consultants dated September 2017.

15. The development must be carried out and maintained in accordance with the recommendations and requirements as described in the endorsed sustainability report to the satisfaction of the Responsible Authority.

Construction Management Plan

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

l) Restoration of any Council assets removed and/or damaged during construction.
m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).

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

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


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

r) Details of crane activities, if any.

Drainage

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

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

19. Council records indicate that there is 3.05 metre wide carriageway easement along the north property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structure of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

Waste Management

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

a) Dimensions of storage waste areas.

b) Storage waste areas for the office and shop use to be in the basement area.

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

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

e) Facilities for bin cleaning.

f) Method of waste and recyclables collection.

g) All waste (including shops and office waste) to be collected from the basement with no kerbside collection.

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

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

j) Method of hard waste collection.
k) Method of presentation of bins for waste collection.

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

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

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

o) 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.

Car Stacker Maintenance

21. The mechanical stackers must be kept in good working order to the satisfaction of the Responsible Authority to ensure access to all car spaces is available at all times and to prevent adverse noise emissions.

Basement Construction

22. Following completion of the construction of the basement and prior to commencement of the next level, a report prepared by a licensed surveyor certifying the overall internal dimensions and levels have been achieved shall be submitted to and approved by the Responsible Authority.

Development Contributions

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

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

Permit Expiry

24. 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 allow for a signage to be erected on the building. A separate planning permit will be required for any advertising signage for the office and shop units.
• 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.

• Future occupants of the building and their visitors will not be eligible for Council car parking permits.

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

5. **Council Policy**

**Council Plan 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.

• 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.

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 17 Economic Development

• Clause 21.02 Bayside Key Issues and Strategic Vision

• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 21.07 Economic Development
• Clause 21.11 Local Areas (Martin Street Neighbourhood Activity Centre)
• Clause 22.05 Heritage Policy
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 34.01 Commercial Zone (Schedule 1)
• Clause 43.01 Heritage Overlay
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 45.06 Development Contributions Overlay (Schedule 1)
• Clause 52.06 Car Parking
• Clause 52.34 Bicycle Facilities
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Strategic Justification

The subject site fronts Martin Street and is located within the Martin Street, Gardenvale Neighbourhood Activity Centre. The preferred future role of the Martin Street, Neighbourhood Activity Centre has been developed in the Outline Development Plan for the Martin Street Commercial Activity Centre.

Clause 21.11-7 provides a series of objectives that are relevant in the development of the Martin Street Neighbourhood Activity Centre. These generally seek to maintain the Edwardian design theme, promote attractive, well designed development that complements surrounding residential character, ensure that development takes place in an orderly and proper manner having regard to character and amenity of the area and to encourage urban design improvements which offer variety, interest and convenience to shoppers. The proposal is considered to generally accord with this policy direction.

6.2. Proposed Design and Development Overlay

Planning amendment C152 seeks to rezone land around the Martin Street Neighbourhood Activity Centre from NRZ to GRZ and would apply a new DDO to the activity centre area (refer section 2 of this report).

The subject site is located within Precinct C of DDO18. Pursuant to DDO18, Precinct C has a preferred height of 3 storeys (11 metres) and a minimum upper level front setback of 5 metres.

The proposed development of a 4 storey building with a front setback of 4.75 metres at the third storeys and 7.25 metres at the fourth storey does not comply with the preferences of DDO18 as the height of the development is greater than the 3 storey height allowed. However, these requirements are discretionary, and a planning permit may be granted to vary these requirements. It should be noted that a planning permit was recently granted immediately adjacent at 123-127 Martin Street for a four storey building.
There is a specific section in the overlay, entitled ‘variations to the requirements of this schedule’ that allows these requirements to be varied subject to compliance with a set criteria. Specifically, an application that seeks to vary the height and setback requirements should demonstrate whether the following will be achieved:

- Whether the proposal achieves a high standard of architectural design and an exemplary design response to the site context

The proposed four storey building will sit comfortably with the surrounding context of Martin Street. The design is typical of other three and four storey buildings in the area and it is considered that the design is appropriate for the site context.

- Innovative environmental design

The proposal is for a four storey mixed use building. As stated above, the design is typical of existing and approved developments in the vicinity. Whilst it is not considered highly innovative, it is of a good standard and will incorporate sustainable methods, as required by condition.

- Minimal overshadowing of adjoining streets, public spaces and residential properties

The site is located on the northern side of Martin Street. As such there will be some overshadowing onto the public realm along this street. The upper levels have however been setback which significantly reduces the level of overshadowing to an acceptable level.

- Minimal amenity impacts of adjoining residential properties, including limiting visual bulk, overlooking, overshadowing and loss of daylight and solar access to windows of adjoining properties

The proposal has been assessed against Clause 58 of the Bayside Planning Scheme which considers the impact on residential amenity. The proposal is fully compliant and will not adversely impact adjoining residential properties.

- Respect for places subject to the Heritage Overlay

The subject site is located within the Martin Street Heritage Precinct, which affects properties along the northern side of the street and part of the south side beyond Asling Street. The proposal has been designed to respect the heritage overlay and this is discussed in greater detail in section 6.3 of this report.

- Transition is scaled to lower building forms.

The upper floors of the building are set back from both front and rear. At the rear, this provides a transition to the residential properties to the north. It also provide an appropriate transitional to both adjoining sites that front onto Martin Street.

Based on the information provided the above criteria has largely been met. Therefore, in principal a variation to the height and front setback requirements is acceptable.

The DDO seeks to ensure that new buildings in commercial areas present a fine grained human scale to the streets and provide active frontages with shopfronts at street level. The proposed development complies with this requirement, with the shop unit and one of the office units fronting Martin Street. In addition to this, the DDO seeks to protect and enhance the heritage significance of commercial areas by recessing upper levels. The upper level setbacks have been setback in accordance with the DDO requirements and respond appropriately to the DDO and Heritage Policy objectives. At the rear, the setbacks are compliant with the requirements of Clause 55 as specified in the Schedule to the DDO.

Planning permission was recently granted on the adjoining site to the west, 123-127 Martin Street, for a four storey mixed use building with basement parking. This
development also has the upper levels recessed and provides a fine grained scale with an active frontage to Martin Street. The development proposed under this application will complement the neighbouring development and present as a cohesive development within this Neighbourhood Activity Centre.

6.3. Heritage

The subject site is covered by a Heritage Overlay Schedule, which relates to the Martin Street Heritage Precinct.

The Martin Street Precinct is of historical, architectural and aesthetic significance. The precinct is predominantly characterised by a mix of single and double storey Edwardian shops, among which a number of double storey interwar retail buildings are interspersed. The early to mid-twentieth century base building stock is generally of a high architectural standard with most buildings demonstrating some degree of architectural sophistication. Many of the early buildings are relatively intact to the extent of their first floor facades, although most of the early shopfronts have been replaced with few exceptions. The precinct also includes a small number of non-contributory modern structures. Despite this, the precinct as a whole is unified by its fine grained rhythm, its low scale, a general cohesion of style and materials and its early to mid-twentieth century commercial character.

The buildings on the subject site are identified as contributory. Clause 22.05-5 sets out the definition of contributory buildings as ‘buildings that are deemed to make a contribution, either individually, or as part of a collection, to the significance of the Heritage Precinct.’ However, the stylistic and built form integrity of the site have been severely damaged by the introduction of the buildings into the garden area in front of the original three units in the 1980s. These buildings are not of a high architectural quality and effectively obscure the original form from the majority of all street scape views. The newer buildings are quite dominant within the street scape but do not make a positive contribution to the heritage precinct.

Heritage Policy seeks to retain significant and contributory buildings and sets out a list of criteria to be considered. In this instance, the significance of the contributory building has been considerably diluted by the newer buildings to the front. As such the demolition of all the buildings on the site is appropriate in this instance and the focus should be on obtaining a high quality design for the new building that responds in a positive form to the precinct.

Although the proposed development is considerably larger in scale and bulk, the upper floors are set back so as to create a two storey street front façade that refers to the scale of the precinct to the east. It makes a successful effort to identify with the historic character of the precinct without resorting to replication.

6.4. Compliance with Clause 58 (Apartment Developments)

An assessment against the requirements of Clause 58 is provided at Attachment 3. The proposal is fully compliant with all the requirements.

6.5 Car parking and traffic

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

In terms of the commercial aspect of the proposal, an office use requires 3.5 spaces per 100 square metres of floor space and a shop requires 4 spaces per 100 square metres.
### Parking Details

<table>
<thead>
<tr>
<th>Type</th>
<th>Initial</th>
<th>Revised</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>19 (4 x 3 bed, 9 x 2 bed, 2 x 1 bed)</td>
<td>19</td>
</tr>
<tr>
<td>Visitor</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Office</td>
<td>11</td>
<td>12</td>
</tr>
<tr>
<td>Shop</td>
<td>8</td>
<td>2</td>
</tr>
</tbody>
</table>

The application proposes 19 resident parking spaces which meets the requirements of Clause 52.06. In addition, sufficient provision is made for the office element of the proposal. However, as can be seen from the table above, a reduction is sought for residential visitor parking and the shop parking.

All of the on-site parking spaces, with the exception of the disabled space, are either in stacker or tandem arrangements within the basement. This type of parking arrangement is not considered to be suitable for visitor parking. Furthermore, access to the basement is provided via an existing single width laneway, which is in keeping with the strategic vision for the centre, but which is not ideal for visitor parking due to lack of visibility. On-street parking is available within the area.

The submitted parking survey was carried out at 12.30pm and 7pm on a Wednesday and a Saturday, which are considered to be typical peak times for parking in the area associated with visitors and customers of the proposed development. The parking surveys found there to be sufficient on-street parking within the immediate areas, even at the peak time (7pm, Wednesday) when there was a 75% occupancy. Within approximately 130 metres of the subject site seven parking spaces were available at this time. A minimum of 14 vacant spaces were found in the area throughout the other surveyed times.

Council’s traffic engineer has requested that a minimum of one visitor parking space be provided within the site. Given the type of parking arrangements proposed and the availability of parking in the area as shown on the parking survey, it is not considered reasonable to request this as a condition. Visitors would be highly unlikely to navigate their way to the basement as it is not visible.

The site is located within the Martin Street Neighbourhood Activity Centre, which includes a variety of shops, retail premises and offices. As such there is a strong likelihood that some visitors and customers to the proposed development will visit the site as part of a multi-purpose trip and will therefore not necessarily generate an additional demand for parking. Furthermore, there is excellent public transport links in the immediate vicinity of the site. The reduction of visitor and shop parking is considered in this instance to be acceptable.

Council’s traffic engineer has also requested clarification/additional detail be shown on the plans. These are included as conditions in the recommendation.

### Concerns

Concerns have been raised in relation to an increase in traffic and safety issues. Council’s traffic engineer has raised no concerns in this regard.

#### 6.6 Objector issues not already addressed

**Neighbourhood character**

The site is located within an Activity Centre. There is an imperative under the Bayside Planning Scheme to encourage increased densities in areas in proximity to and well served by transport and services. The proposed development achieves this objective.

**Visual bulk**

The height and scale of the development at four storeys is appropriate, given the focus for intensive development for the site in an activity centre and similar scale development.
having been approved and developed in the activity centre. There are three and four storey developments already in the activity centre.

Waste collection

A waste management plan has been provided by the applicant and will be secured via condition.

Noise impacts

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.

Loss of vegetation

It is proposed to replace the existing trees on the site with new planting, appropriate for the location. There are no planning controls in relation to removal of vegetation in this area. A condition is included however in the recommendation requiring a landscaping plan.

Building damage to adjoining properties

Building work can sometimes affect adjoining properties. An owner who is proposing building work has obligations under the Building Act 1993 to protect adjoining property from potential damage from their work. If building work is close to or adjacent to adjoining property boundaries, then the relevant building surveyor may required 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.

Economic impact on local businesses during construction period

It is inevitable that there will be noise and truck movements during the construction phase of development. These are temporary and unavoidable consequences of development. The impact of the proposal on local businesses is not a consideration under the Planning and Environment Act 1987, or the Bayside Planning Scheme and is not justification to withhold development of the site.

Owner of 135A Martin Street, which is in the block of titles has no intention to sell

Land ownership is not a planning matter and is a civil matter outside of the Planning Scheme.

Support Attachments

1. Development Plans
2. Site and surrounds imagery
3. Clause 58 Assessment
Item 4.3 – Matters of Decision
Item 4.3 – Matters of Decision
Figure 1. Aerial Overview of subject site and objector map. One objector did not provide a postal address only a PO Box.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objectors</td>
</tr>
</tbody>
</table>
Figure 2. Subject site viewed from the south side of Martin Street.

Figure 3. Subject site viewed from the south west.
Figure 4. Four storey development directly opposite subject site.
ATTACHMENT 3

Clause 58: Apartment Development

<table>
<thead>
<tr>
<th>Clause 58.02 Urban context objectives</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard D1 Urban context objectives</strong></td>
<td><strong>Yes</strong></td>
<td>Whilst the proposed development is four storey in an area where the preferred height is three storey and which has been acknowledged by the panel for C152, the adjoining site at 123-127 has had a recent approval for a four storey mixed use development recently approved. In addition, there are three and four storey buildings located directly opposite the site on the southern side of Martin Street. It is considered that that the proposed development will sit comfortably within the existing and future urban context of Martin Street.</td>
</tr>
<tr>
<td><strong>Standard D2 Residential policy</strong></td>
<td><strong>Yes</strong></td>
<td>15 apartments are proposed within this Neighbourhood Activity Centre. The proposal is considered appropriate for the location.</td>
</tr>
<tr>
<td><strong>Standard D3 Dwelling diversity</strong></td>
<td><strong>Yes</strong></td>
<td>A range of apartment sizes is proposed, with a variation in the number of bedrooms.</td>
</tr>
<tr>
<td><strong>Standard D4 Infrastructure</strong></td>
<td><strong>Yes</strong></td>
<td>The site is located in an area with existing infrastructure. This will be the responsibility of the developer.</td>
</tr>
</tbody>
</table>
### Standard D5 Integration with the street
To integrate the layout of development with the street.

<table>
<thead>
<tr>
<th>Item</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The ground floor retail elements front onto the street with high levels of glazing and a clear entrance for both retail and residential.</td>
<td></td>
</tr>
</tbody>
</table>

### Clause 58.03 Site Layout

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard D6 Energy efficiency</strong>&lt;br&gt;To achieve and protect energy efficient dwellings and buildings.&lt;br&gt;To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy.&lt;br&gt;To ensure dwellings achieve adequate thermal efficiency</td>
<td>Yes</td>
<td>Where possible apartments are orientated to be north facing. Where not, sufficient access to east and west facing light is provided.</td>
</tr>
<tr>
<td><strong>Standard D7 Communal open space</strong>&lt;br&gt;To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>Standard D8 Solar access to communal outdoor open space</strong>&lt;br&gt;To allow solar access into communal outdoor open space.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>Standard D9 Safety</strong>&lt;br&gt;To ensure the layout of development provides for the safety and security of residents and property.</td>
<td>Yes</td>
<td>Clear entryways are provided from Martin Street (central courtyard area) with a centralised lift and stairwell within the building.</td>
</tr>
<tr>
<td><strong>Standard D10 Landscaping</strong>&lt;br&gt;To encourage development that respects the landscape character of the area.&lt;br&gt;To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance.&lt;br&gt;To provide appropriate landscaping.</td>
<td>N/A</td>
<td>The site is located within a commercial activity centre, where a higher level of site coverage is considered appropriate. Retail and office uses are provided at ground floor level.</td>
</tr>
</tbody>
</table>
To encourage the retention of mature vegetation on the site. To promote climate responsive landscape design and water management in developments that support thermal comfort and reduces the urban heat island effect.

**Standard D11 Access**
To ensure the number and design of vehicle crossovers respects the urban context.

<table>
<thead>
<tr>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The existing vehicle access from Asling Street will be utilised. No new access is proposed.</td>
</tr>
</tbody>
</table>

**Standard D12 Parking location**
To provide convenient parking for resident and visitor vehicles. To protect residents from vehicular noise within developments.

<table>
<thead>
<tr>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Basement parking is provided with sufficient parking for residents and the office. A reduction is sought in relation to visitor parking and shop parking.</td>
</tr>
</tbody>
</table>

**Standard D13 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.

<table>
<thead>
<tr>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>A Sustainable Design Assessment has been submitted as part of the application. Rainwater will be collected from the roof areas and directed into a tank.</td>
</tr>
</tbody>
</table>

**Clause 58.04 Amenity Impacts**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard D14 Building setback</strong></td>
<td>Yes</td>
<td>The site is located within a Commercial Zone. There is no front setback at ground floor, which is considered appropriate in this location, providing better integration with the commercial centre. The first floor is setbacks from ground floor, as are the upper floors creating a stepped effect which is considered acceptable in a Commercial Zone. The development is built wholly to the side boundaries at ground floor level, typical of a commercial area. Both neighbouring buildings are built to the side boundary. The first and second floors are built partially to the boundaries,</td>
</tr>
</tbody>
</table>
open space of new and existing dwellings. To provide a reasonable outlook from new dwellings. To ensure the building setbacks provide appropriate internal amenity to meet the needs of residents.

with a central area cut out to allow for light to the residential apartments. The second floor is pulled in wholly from the side boundaries. At the rear, the whole building is set back to allow for the right of way and vehicle access to the building. The upper floors are stepped back.

<table>
<thead>
<tr>
<th>Standard D15 Internal views</th>
<th>Yes</th>
<th>Appropriate screening is provided.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To limit views into the private open space and habitable room windows of dwellings within a development.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard D16 Noise impacts</th>
<th>Yes</th>
<th>Mechanical plant is provided on the roof, well away from sensitive interfaces.</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>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Clause 58.05 On-Site Amenity and Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title and Objective</strong></td>
</tr>
<tr>
<td>--------------------------------------------</td>
</tr>
<tr>
<td><strong>Standard D17 Accessibility</strong></td>
</tr>
<tr>
<td>To ensure the design of dwellings meets the needs of people with limited mobility.</td>
</tr>
</tbody>
</table>

| **Standard D18 Building entry and circulation** | Yes | Each dwelling has its own sense of identity. The layout of the building is appropriate and sufficient daylight is provided. |
| 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. |

| **Standard D19 Private open space** | Yes | All dwellings are provided with adequate open space that meets the requirements. |
| To provide adequate private open space for the reasonable recreation and service needs of residents. |

| **Standard D20 Storage** | Yes | Information submitted shows sufficient internal and external storage is being provided. |
| To provide adequate storage facilities for each dwelling. |
### Clause 58.06 Detailed Design

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard D21 Common property</strong></td>
<td>Yes</td>
<td>Clearly delineated within the plans.</td>
</tr>
<tr>
<td>To ensure that communal open space, car parking, access areas and site facilities are practical, attractive and easily maintained. To avoid future management difficulties in areas of common ownership.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard D22 Site services</strong></td>
<td>Yes</td>
<td>Complies</td>
</tr>
<tr>
<td>To ensure that site services can be installed and easily maintained. To ensure that site facilities are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard D23 Waste and recycling</strong></td>
<td>Yes</td>
<td>Council’s Waste Coordinator is satisfied that the submitted Waste Management Plan is appropriate and provides acceptable facilities and collection.</td>
</tr>
<tr>
<td>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.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Clause 58.07 Internal Amenity

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard D24 Functional layout</strong></td>
<td>Yes</td>
<td>All dwellings comply with the minimum standards in relation to room sizes.</td>
</tr>
<tr>
<td>To ensure dwellings provide functional areas that meet the needs of residents.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard D25 Room depth</strong></td>
<td>Yes</td>
<td>Ceiling height = 3.2m, therefore required depth is 8m. Complies.</td>
</tr>
<tr>
<td>To allow adequate daylight into single aspect habitable rooms.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard D26 Windows</td>
<td>Yes</td>
<td>All habitable rooms have windows in external walls.</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>-----</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td>To allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard D27 Natural ventilation</th>
<th>Yes</th>
<th>More than 50 per cent of the dwellings provide adequate cross ventilation.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage natural ventilation of dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To allow occupants to effectively manage natural ventilation of dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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>Steller 202 Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>16 August 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>118</td>
</tr>
<tr>
<td>Zoning</td>
<td>Commercial 1 Zone</td>
</tr>
<tr>
<td></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>Number of objections</td>
<td>22</td>
</tr>
</tbody>
</table>

Proposal
The application seeks approval for the construction of a five storey mixed use development (above one basement level) comprising 59 dwellings, a supermarket, two shops and a restaurant, alteration of access to a Road in a Road Zone, Category 1 and reduction in the associated car parking and loading bay requirements on a lot with an area of 3,709 square metres. Key details of the proposal are as follows:

- 59 dwellings, comprising:
  - 2 townhouses fronting Holyrood Street
  - 40 x 2 bedroom dwellings
  - 17 x 3 bedroom dwellings
- Five storey building adjacent Hampton Street & Holyrood Street
- Three storey building along Holyrood Street
- Two shops, one restaurant and one supermarket along Hampton Street
- Loading bay access via Holyrood Street
- Basement car park access via Holyrood Street, comprising 123 car spaces provided (reduction of 79 car spaces):
  - 78 residential car spaces (compliant)
  - 6 residential visitors car spaces (reduction of five car spaces)
  - 4 shop car spaces (reduction of 11 car spaces)
  - 5 restaurant car spaces (reduction of 37 car spaces)
  - Zero supermarket car spaces (reduction of 56 car spaces)
  - 30 further car spaces are provided within the basement which are provided
for staff of the supermarket and short-term customers for the supermarket, restaurant and shop tenancies.

The application plans are provided at Attachment 1. A perspective of the proposed development is included at Attachment 2.

An aerial image and photographs of the site and surrounds are provided at Attachment 3.

History

The site was subject to a previous town planning application (2016/784). This application sought the construction of an eight storey building comprising 108 dwellings, four ground floor retail premises and a food and drink premises.

The permit applicant lodged an application against Council’s failure to grant a planning permit with VCAT pursuant to Section 79 of the Planning and Environment Act 1987.

Within the VCAT process, the applicant amended the application plans, reducing the height of the development to seven stories, with a subsequent decrease in the number of dwellings proposed to 87.

Council formed a position to not support the application, with Council’s opposition to the proposal based on height, scale, internal amenity, car parking and traffic, and the extent to which the built form failed to reflect the policy and strategic outcomes specified in the Hampton Major Activity Centre framework.

In determining the application, the Tribunal held that:

14. The height and scale of this proposal creates a building that does not assist in achieving the design objectives and built form outcomes specified for the MAC in DDO12. To the contrary, the proposal in many respects creates a direct conflict with those design objectives. The discretion available to approve a building that varies from the requirements of DDO12 should not be exercised in circumstances where the proposal does not contribute to the achievement of the specified design objectives and built form outcomes.

In not supporting the application, primarily on height/scale grounds, the Tribunal decision did not outline what height is suitable for the site. The Tribunal also noted additional aspects of the proposal to which it was not satisfied with, such as internal amenity and the setbacks along Holyrood Street. The Tribunal was also conscious that the loading/unloading aspects of the proposal (post-construction) would need to be appropriately managed.

The Tribunal decision found that several aspects of the proposal were acceptable, such as; the architectural design, overshadowing impacts, transition to adjoining properties and traffic and car parking.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.08 (General Residential Zone) – Construction of two or more dwellings on a lot
- Clause 34.01 (Commercial 1 Zone) – use of the land for accommodation (frontage at ground floor exceeds two metres)
- Clause 43.02 (Design and Development Overlay) – construction of buildings and works
- Clause 44.05 (Special Building Overlay) – construction of buildings and works
- Clause 52.06 (Car Parking) – reduction in the car parking requirements associated
with:
- Residential visitors – (reduction of five car spaces)
- Supermarket – (reduction of 56 car spaces)
- Restaurant – (reduction of 37 car spaces)
- Shop – (reduction of 11 car spaces)

Note:
At the time of lodgement, a planning permit would have been required pursuant to Clause 52.07 (loading and unloading facilities) of the Bayside Planning Scheme. However, Planning Scheme Amendment VC142 (discussed below) removed this as a permit trigger.

Planning Scheme Amendments
Planning Scheme Amendment VC142 was implemented on 16 January 2018 and amongst other changes deletes Clause 52.07 (Loading and Unloading Facilities) from the Victorian Particular Provisions and makes consequential changes. New decision guidelines have been added to Clause 65 and Clause 93.04-2 to ensure that the design and location of loading and unloading facilities are appropriately considered when a permit is required for associated development.

3. Stakeholder consultation

External referrals
The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne Water</td>
<td>No objection</td>
</tr>
<tr>
<td>Transport for Victoria</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>VicRoads</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 22 objections were received. The following concerns were raised:
- Neighbourhood character
- Height/mass/scale
- Overlooking
- Overshadowing
- Parking / Traffic
Item 4.4 – Matters of Decision

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Planning Permit for under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/499 for the land known and described as 427-461 Hampton Street & 82 Holyrood Street, Hampton for the construction of a five storey mixed used development (above two basement levels) comprising 59 dwellings, a supermarket, two shops and a restaurant, alteration of access to a Road in a Road Zone, Category 1 and a reduction in the associated car parking requirements, subject to the following conditions from the standard conditions:

- Loading/unloading
- Property values
- Safety

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

Consultation meeting

A consultation meeting was held on 29 January 2018 which was attended by the permit applicant and objectors.

As a result of this meeting, the permit applicant offered (on a without prejudice basis) the provision of a second basement level (refer Attachment 4). The without prejudice proposal included the following:

- 2 levels of basement car parking comprising 191 car spaces (an increase of 68 car spaces) and broken down as follows:
  - Level 1 comprises predominately residential parking which contains all parking for the eastern building and 11 visitor spaces.
  - Level 2 comprises 19 residential spaces in the western part of the site, accessed by the west lift core.
  - The remainder of the car parking consisting of 102 car spaces over 2 levels comprises the commercial parking.
  - Staff parking be allocated (primarily on Level 1) whilst visitor parking (primarily on Level 2) will be unallocated and accessible to the public.

- Two dedicated lifts will service the commercial component, running from basement Level 2 to ground floor only.

- One separate and secure lift in the eastern building will service the residential component of the building.

The without prejudice proposal offered by the permit applicant was impingent on support for the fifth storey element of the proposal.

It is noted that the without prejudice plans have no formal status with the application, however they do provide an understanding of how two basement car parking levels would work in relation to the proposed development (also noting that the previous refusal on the land included two basement levels).

The without prejudice plans were forwarded onto Council’s Traffic Engineers who advised support of the application, subject to conditions (discussed below).

Therefore, it is considered appropriate that the planning recommendation turn its mind to the without prejudice position. Discussion on the fifth level is provided below.
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 advertised plans prepared by Ewert Leaf date stamped 31 October 2017, but modified to show:

a) The northern boundary setback associated with the built form of dwellings 3.01, 3.02, 4.01 and 4.02 increased by 1.5 metres.

b) The southern boundary setback associated with dwelling 1.09 and 2.10 to be a minimum of 2.0 metres. The terrace areas of these dwellings must not encroach into this setback.

c) The southern boundary setback associated with dwelling 1.20 to be 1.5 metres.

d) The southern boundary setback associated with dwellings 3.08 and 4.06 to be a minimum 6.0 metres.

e) The western boundary setback of the master bedroom associated with dwelling 4.05 increased by 1.2 metre. This area must be converted to balcony/terrace area with appropriate screening.

f) All habitable room windows and terrace areas of dwellings TH02, 1.03, 2.03, 3.02 and 4.02 that adjoin the accessways to be acoustically treated.

g) The terrace areas of dwellings 1.04-1.08 (excluding 1.06) setback a minimum of 2.5 metres from the communal walkway associated with dwellings 1.13-1.20. This area is to be set aside for landscaping (within a raised landscape bed). Appropriate glazing is to be provided along the walkway, with screening adjacent the landscape bed to the secluded private open spaces of dwellings 1.04-1.08.

h) The walls that surround the car park entry/accessway to be artistically treated by way of a variety of finishes and materials and/or urban artwork where visible from the public realm.

i) Provision of a pergola style element over the entry/accessway to the basement car park.

j) The terrace of TH02 setback an additional 0.5 metres from Holyrood Street.

k) The front fence for TH01 and TH02 to have a maximum height of 1.5 metres, with at least 25% permeability.

l) Provision of two levels of basement car parking (with any consequential changes to the satisfaction of the Responsible Authority) in accordance with the without prejudice plans received by Council on 29 January 2018.

m) Provision of 11 residential visitor car spaces clearly delineated on the plans.

n) The gradient of the ramp into the loading bay to be 1:16.

o) The 2.0 metre section of 1:8 gradient at the bottom of the ramp between basement levels 1 and 2 to be increased to 2.5 metres.

p) Bicycle parking facilities designed and provided in accordance with Clause 52.34 (bicycle facilities) of the Bayside Planning Scheme.

q) Provision of a trolley loading bay within the basement level.
r) The supermarket, shop #1 and restaurant to have direct access to the loading bay (not through the lobby area). Doors from the commercial areas to the lobby must be removed. There should a dedicated lift for these commercial spaces to access the basement car park.

s) The internal elevations associated with TH02, the communal dining and the lift shaft to incorporate a variety of finishes and materials.

t) The seating area of the restaurant to be even with the footpath level. If the seating area is raised a 1.0 metre clear balustrade is required.

u) Provision of a pergola element above the townhouse entry point.

v) The entry and hallway to the townhouses to have a minimum width of 2.0 metres all the way to the apartment access door.

w) Provision of skylights (or similar) to the gym area.

x) Deletion of the eastern terrace area of townhouse 1.20.

y) The proposed substation relocated/redesigned to limit its impact on the public realm and the amount of street frontage it occupies.

z) Any modifications to the plans arising from the Water Sensitive Urban Design (WSUD) measures in accordance with Condition 9 of this permit.

aa) Any modifications to the plans arising from the Loading/unloading management plan in accordance with Condition 10 of this permit.

bb) Any modifications to the plans arising from the Car park management plan in accordance with Condition 11 of this permit.

cc) Any modifications to the plans arising from the Waste management plan in accordance with Condition 13 of this permit.

dd) Any modifications to the plans arising from the Construction management plan in accordance with Condition 14 of this permit.

ee) Any modifications to the plans arising from the Tree management plan in accordance with Condition 15 of this permit.

ff) Any modifications to the plans arising from the Landscape plan in accordance with Condition 19 of this permit.

gg) Payment of the Development contributions levy in accordance with Condition 26 of this permit.

hh) Any modifications to the plans arising from the Public works plan in accordance with Condition 27.

ii) Provision of a Green travel plan in accordance with Condition 29.

jj) Any modifications to the plans arising from VicRoads Conditions 30 and 31.

kk) Any modifications to the plans arising from Transport for Victoria Conditions 32 and 33.

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

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

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

6. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. Any advertising signage used for the land, including access to the car park, must be a cohesive design response to the satisfaction of the Responsible Authority.

8. Noise emanating from the subject land must comply with State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels from the plant and equipment area and loading bay must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.

Water Sensitive Urban Design

9. 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.

Car Parking

10. Prior to the endorsement of plans pursuant to Condition 1, a loading/unloading 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. Three copies of the plan must be submitted and must include

   a) The frequency of loading/unloading
   b) The hours and days that loading/unloading is to occur
   c) The type of trucks proposed for loading/unloading
   d) Measures in place to limit the impact on the residential amenity
   e) Measures in place to protect pedestrian safety
   f) Provision of directional signage as necessary

11. 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 and must include:

a) The location of all areas on-and/or off-site to be used for staff and patron parking.

b) Specification of staff numbers adequate to enable efficient operation of car parking areas both on- and off-site.

c) The number and location of all on- and off-site security staff.

d) 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.

e) Measures to discourage patron car parking on Holyrood Street.

f) Measures to preclude staff parking in designated patron car parking areas.

g) Staffing and other measures to ensure the orderly departure and arrival of patrons especially any large groups departing at closing time.

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

i) Clarification on how the customer car park will be managed.

j) Clarification if there will be any car parking signage and where it will be displayed.

12. Provision must be made on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained to the satisfaction of the Responsible Authority.

Waste Management Plan

13. Prior to the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:

a) Dimensions of storage waste areas.

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

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

d) Facilities for bin cleaning.

e) Method of waste and recyclables collection.

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

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

h) Method of hard waste collection.

i) Method of presentation of bins for waste collection.

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

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

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

m) Compliance with relevant policy, legislation and guidelines.
When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

Construction Management Plan

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

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

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

Landscaping

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

The Tree Management Plan (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.

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

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

18. Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4373-2007. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified arborist.

19. 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 submitted with the application and be drawn to scale with dimensions and three copies must be provided.

The Landscape plan must show:

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

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

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

d) Details of surface finishes of pathways and driveways

e) Plant selection and soil requirements for green infrastructure (including soil containment) will reference Growing Green Guide (A Guide To Green Roofs, Walls And Facades) DEPI 2014


20. 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.

21. 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.

22. There is to be no soil excavation within 2 metres of all street tree assets (to be retained) measured from the edge of the trunk.

23. Tree protection fence is to be installed around all street trees in compliance with AS 4970–2009, Protection of trees on development sites.

Drainage

24. 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.

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

Development contributions

26. 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.

**Public Works Plan**

27. Prior to the endorsement of plans pursuant to Condition 1, a Public Works Plan must be prepared and developed in collaboration with Council. It must be submitted and approved to the satisfaction of the Responsible Authority, showing:

   a) Details of upgrades to existing Council footpaths
   b) Details of the reinstatement of existing crossovers
   c) Details of new street tree plantings
   d) Details of new street furniture
   e) Details of new bicycle parking facilities
   f) Details of the relocated/redesigned substation
   g) Details of the relocated/redesigned bus stop
   h) Details of any public lighting

When approved, such plan will form part of the endorsed plans under this permit.

28. Prior to the occupation of the site associated with the development hereby approved, all public works associated with that stage must be completed in accordance with the endorsed Public Works Plan to the satisfaction of the Responsible Authority. The cost of all works associated with the endorsed plan must be borne by the developer/owner of the land.

**Green travel plan**

29. Prior to the endorsement of plans pursuant to Condition 1, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel Plan will be endorsed and will form part of this permit. The Green Travel Plan is to include details of the proposed design initiatives and sustainable management practices to reduce car usage and improve sustainable transport options (including walking, cycling, public transport and carpooling) available to residents and visitors. The Green Travel Plan should include, but not be limited to the following:

   a) Consider end of trip facilities such as showers, change rooms, secure storage and bicycle storage;
   b) Education and awareness initiatives and incentives for residents and visitors to encourage more sustainable modes of travel to/from the site;
   c) Management practices identifying sustainable transport alternatives;
   d) Consider the provision of electric vehicle charging facilities;
   e) Lobby areas of building to include real time information of train, tram and bus services;
   f) Details of bicycle spaces for visitors and residents;
   g) Allocation of parking for food and drink premises and restaurant tenancies to be provided within the on-site car park;
h) Employee and resident packs (e.g. myki cards for new residents/workers); and
i) Any other relevant matters.

When approved to the satisfaction of the Responsible Authority, the plan will be part of the documents endorsed as part of this planning permit. The Green Travel Plan must be implemented to the satisfaction of the Responsible Authority.

VicRoads conditions

30. Prior to the commencement of works amended plans must be submitted to and approved by the Responsible Authority. The plans must be generally in accordance with the substituted plans and amended to show:
   a) The canopy in the road reserve is set back no less than 750mm from the back of the Hampton Street kerb and at a height no less than 3m above the level of the footpath.

31. Prior to the commencement of the use or occupation of the development, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.

End VicRoads conditions

Transport for Victoria conditions

32. Before the commencement of the access works along Holyrood Street, the bus stop and all associated infrastructure, must be relocated or replaced at a cost borne by the permit holder to the satisfaction of Public Transport Victoria and compliant with the Disability Discrimination Act – Disability Standards for Accessible Public Transport 2002.

33. The permit holder must take all reasonable steps to ensure that disruption to bus operation along Holyrood Street is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria eight (8) weeks prior by emailing customerservice@ptv.vic.gov.au

End Transport for Victoria conditions

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.
   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:

- The installation of the vehicle crossing at the proposed location will severely impact the Pyrus ussuriensis street tree asset. As the design does not allow any other option for the location of this vehicle crossing and to allow this development to proceed, the tree may be approved for removal under Clause 6.5 of the Street and Park Tree Management Policy (2016).
Before the vehicle crossing application will be approved, the applicant must pay $3,067.91 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council’s current policy for the removal of street 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.

Information available at Melbourne Water indicates that this property is not subject to flooding from Melbourne Water’s drainage system, based on a flood level that has a probability of occurrence of 1% in any one year.

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

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

5. Council Policy

Council Plan 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.

- 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 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
6. Considerations

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

6.1. Neighbourhood Character

Only the residential zoning of the portion of the site (82 Holyrood Street) falls within Neighbourhood Character Precinct E2. The Commercial 1 Zone portion of the land which fronts Hampton Street is not included within the Neighbourhood Character Policy.

An assessment against Neighbourhood Character Precinct E2 is at Attachment 5.

Generally, it is considered that the residential component along Holyrood Street results in a satisfactory design outcome. Only two townhouses will front Holyrood Street, while the rear dwellings within the residential zoned land will form part of the western apartment block.

To ensure that the proposed development is compatible with the streetscape, conditions of permit are recommended to increase the setback of the terrace areas of the uppermost floor, while also limiting the height of the front fence.

A design/character assessment of the commercial zoning aspect of the application is discussed within the Design and Development Overlay considerations below.

6.2. Design and Development Overlay, Schedule 12

The area of the site that fronts Hampton Street is located within Precinct B (four storey height limit), while the area of the site that is located along Holyrood Street is located within Precinct E (three storey height limit).

The objectives of DDO12 are as follows:

- To ensure that the height of new development is compatible with the preferred future role and character of the Hampton Street Major Activity Centre.
- To develop the centre in a way that conserves and enhances its valued urban character and heritage places.
- To ensure that new development contributes to safe and active streets.
• To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.

• To recognise the redevelopment potential of the Willis Street Precinct.

Generally, it is considered that the proposed development accords with the design objectives of DDO12. The application plans result in a height that is commensurate with existing developments along Hampton Street, while the reduced upper level footprint (associated with the five storey aspect of the proposal) is recessed from lower levels, thereby limiting its visibility from adjoining properties.

A couple of key elements of the DDO12 are discussed in the table below:

<table>
<thead>
<tr>
<th>DDO12 discretionary requirement*</th>
<th>Design Response</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 storey preferred height (13.5 metres)</td>
<td>5 storey building height (17.3)</td>
<td>The suitability of the building height is discussed further in this response.</td>
</tr>
<tr>
<td>At third floor or above, buildings should be set back a minimum of 5 metres from the front street boundary and any street boundary adjacent to a Residential Zone.</td>
<td>At the third floor, the built form is setback a minimum of 5.0 metres to both Holyrood and Hampton Street. &lt;br&gt;<strong>The balconies are built nearly flush with the title boundaries along Holyrood Street and Hampton Street.</strong>&lt;br&gt;At the fourth floor, all setbacks (inclusive of balconies) are a minimum of 5.0 metres.</td>
<td>The built form setbacks are generally considered to be acceptable. However to soften the hard edges of the proposal, increased setbacks to the building envelope are recommended at the uppermost floor. &lt;br&gt;<strong>It is generally accepted that the built form is considered appropriate at a concern location, however greater transition in built is recommended along both frontages to ensure an appropriate urban design outcome.</strong></td>
</tr>
<tr>
<td>Present a fine grained, human scale to streets and public open space.</td>
<td>The two shops and supermarket are accessed via Hampton Street, while the restaurant enjoys shared accessed via Hampton and Holyrood Streets.</td>
<td>Verandah's are proposed across both frontages where access to the commercial properties is proposed.</td>
</tr>
<tr>
<td>Provide active street frontages with shopfronts at street level</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide weather protection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide articulated and well designed facades, fenestration, parapet</td>
<td>A variety of materials and finishes are proposed to ensure that an appropriate streetscape response is proposed, with a strong emphasis on both the vertical and horizontal elements that are common along commercial areas.</td>
<td></td>
</tr>
<tr>
<td>treatments, other detailing and materials to provide interest at street level and reinforce the human scale.</td>
<td>The proposal is designed to address the corner of the site ensuring there is an active frontage to both street frontages.</td>
<td></td>
</tr>
<tr>
<td>Maintain the vertical and horizontal design rhythm of buildings in the business precincts.</td>
<td>The ground floor is located at natural ground level to ensure a smooth and uninterrupted transition is provided into the site.</td>
<td></td>
</tr>
<tr>
<td>Ensure corner sites are designed to address both street frontages with shopfront windows at street level.</td>
<td>The vehicle access points are located along the Holyrood frontage, thereby limiting the impact upon the commercial area.</td>
<td></td>
</tr>
<tr>
<td>Locate the ground floor at natural ground level.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimise the width of driveway entrances and the impact of garage doors on the building frontages and utilise rear access wherever possible.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roof decks and their associated structures should not exceed the preferred building heights.</td>
<td>Not applicable</td>
<td></td>
</tr>
<tr>
<td></td>
<td>No roof decks are proposed as part of this application.</td>
<td></td>
</tr>
</tbody>
</table>

As detailed above, the application proposes a building height that is greater than the preferred height.

Having regard to the previous application on the land (including the commentary from the Tribunal), the existing permits and approved developments in the area, a building of five stories should be contemplated.

The uppermost level is setback from the level below and is generally surrounded by terrace areas, thereby limiting the bulk/mass impacts of the level. The uppermost level has a setback of 5.0 metres to Holyrood Street, across a width of approximately 15 metres. The presentation to Holyrood of the uppermost floor is considered to be limited.

Notwithstanding this, conditions of permit are recommended to further mitigate this bulk/mass of the development, this is to include increased setbacks at the two uppermost floors to the north (Holyrood Street) and the south. This will ensure that the architectural philosophy of the proposal is maintained, with a three storey podium and a two storey tower sitting above.

A number of objections raised concerns about the impact of overshadowing on adjoining properties. It is noted that the proposed development will result in overshadowing of adjoining properties.
However, the impact of the overshadowing has been largely mitigated by the siting of the built form towards Hampton Street and Holyrood Street (resulting in the overshadowing being absorbed within the subject site). Notwithstanding this, it is recommended that conditions of permit be included to limit the impact of overshadowing on adjoining properties, in particular to the south at 425 Hampton Street (whereby endorsed plans have been obtained for a five storey building, with private open space areas located adjacent the common boundary with the subject site).

It is considered that the recommended increased setbacks will appropriately alleviate the bulk/mass of the proposal, significantly improve the visual transition across the site and limit adverse amenity impacts on adjoining properties.

6.3. **Compliance with Clause 58 (Better apartment design standards)**

An assessment against the requirements of Clause 58 is provided at Attachment 6.

Those non-compliant standards are discussed below:

**Communal open space – Standard D7**

<table>
<thead>
<tr>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>147 square metres</td>
<td>73 square metres</td>
</tr>
</tbody>
</table>

The development proposes an outdoor communal space adjacent the communal dining room at first floor. The total outdoor communal open space of 73 square metres fails to meet the 147 square metre requirement.

However, the development proposes 334 square metres of communal areas in total (including a ground floor gym and first floor dining area). The communal dining area leads onto the outdoor area, thereby creating a joint positive relationship. As such, it is considered that the provision of various forms of communal areas is appropriate and satisfies the objective.

**Solar access to communal outdoor open space – Standard D8**

<table>
<thead>
<tr>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 50% or 125 square metres (whichever is the lesser) of the communal outdoor open space to receive two hours of sunlight between 9am and 3pm on 21 June</td>
<td>Approximately 1 hour.</td>
</tr>
</tbody>
</table>

As detailed above, the outdoor communal area is located to the south of the dining room, thereby it receives minimal solar access. However, as the outdoor area is located off the dining area, it is considered that the total communal areas will result in a high level of internal amenity for future residents.

It is noted that various other recommended conditions which reduce the upper level building footprint will improve the solar access to this space. On this basis, the variation is considered acceptable.

**Private open space – Standard D19**

<table>
<thead>
<tr>
<th>Dwelling</th>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.05 – three bedroom dwelling</td>
<td>12 square metres total, minimum dimension of 2.4 metres</td>
<td>7 square metres in total, 2.0 metre dimension</td>
</tr>
<tr>
<td>4.06 – three bedroom dwelling</td>
<td>12 square metres total, minimum dimension of 2.4 metres</td>
<td>10 square metres in total, 2.3 metre dimension</td>
</tr>
</tbody>
</table>
4.07 – three bedroom dwelling

<table>
<thead>
<tr>
<th>Required</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>A window may provide daylight to a bedroom from a smaller secondary area within the bedroom where the window is clear to the sky</td>
<td>The ground floor west facing saddleback windows are slightly overhung by the first floor.</td>
</tr>
</tbody>
</table>

The private open space provisions for three of the 59 dwellings fail to meet the minimum requirements. In balance, this is considered an acceptable outcome, especially having regard to the minor variations sought.

Notwithstanding this, conditions of permit have been recommended above (see discussion in the design and development overlay) to limit the bulk/mass of dwelling 4.05 and convert this area to balcony area. Thereby, improving the internal amenity associated with this dwelling.

Windows – Standard D26

The ground floor west facing dwellings have saddleback windows that are slightly overhung by the first floor. This design outcome therefore fails to meet the standard requirements.

However, most of these windows are back to back, thereby maximising the available aperture and have appropriate widths to ensure adequate daylight penetration.

As such, it is considered that the daylight access to habitable room windows is acceptable and satisfies the objective.

6.4. Internal amenity

As discussed above, the previous application was considered to deliver a poor internal amenity outcome to future residents. This position was affirmed by the Tribunal.

The current scheme results in substantially improved internal amenity outcome for residents (see above commentary on the better apartment design standards). This based on improved daylight access, usability of private open space and provision of communal areas.

Notwithstanding this, a number of conditions of permit are recommended to improve the internal amenity of future residents and occupants of the land. These conditions include acoustic design measures, additional daylight access and landscaping to communal areas.

6.5. Landscaping

It is noted that the site has been cleared and is currently vacant. As such, there is no vegetation on the site.

Notwithstanding this, the application was referred to Council’s Arborist for comment. No objection has been raised by Council’s Arborist in relation to the proposed development, subject to conditions to ensure the healthy retention of trees adjoining the site and an appropriate post-construction landscaping opportunity (this is to include a green wall/roof).

These conditions have been recommended as a condition of permit.

6.6. Street tree(s)

There are two trees along the Hampton Street frontage and three trees along Holyrood Street which adjoin the site.
Council’s open space arborist has reviewed the proposal and not raised objection to the application. Council’s open space arborist has advised that *Pyrus ussuriensis* will be required to be removed to facilitate the proposed development. No objection to the tree’s removal has been raised, subject to payment for the tree removal and replacement planting. This has been identified within Council’s recommendation.

Tree protection requirements will be required for other street trees required for retention. These conditions have been recommended as conditions of permit.

In addition to this, a condition of permit is recommended to outline the public realm improvements that will be required as part of this permit. This would include the upgrading of footpaths, reinstatement of existing crossovers, street tree plantings and street furniture (where appropriate).

### 6.7. **Car parking and traffic**

Vehicle access to the site (including loading/unloading) is via Holyrood Street. The application has been referred to VicRoads and Transport for Victoria (formally PTV) for comment who have not objected to the proposal.

The following is a break down on the statutory car parking requirements:

<table>
<thead>
<tr>
<th>Use</th>
<th>Size/No.</th>
<th>Required</th>
<th>Proposed</th>
<th>variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two bedroom dwelling</td>
<td>40</td>
<td>40</td>
<td>40</td>
<td>0</td>
</tr>
<tr>
<td>Three bedroom dwelling (or more)</td>
<td>19</td>
<td>38</td>
<td>38</td>
<td>0</td>
</tr>
<tr>
<td>Residential visitor</td>
<td>-</td>
<td>11</td>
<td>6</td>
<td>-5</td>
</tr>
<tr>
<td>Supermarket</td>
<td>1135 square metres</td>
<td>56</td>
<td>-</td>
<td>-56</td>
</tr>
<tr>
<td>Restaurant</td>
<td>105 seats</td>
<td>42</td>
<td>5</td>
<td>-37</td>
</tr>
<tr>
<td>Shop</td>
<td>380 square metre</td>
<td>15</td>
<td>4</td>
<td>-11</td>
</tr>
<tr>
<td>Unallocated</td>
<td></td>
<td></td>
<td></td>
<td>+30</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>202</td>
<td>123</td>
<td></td>
<td>-79</td>
</tr>
</tbody>
</table>

The breakdown in car parking provision was not supported by Council’s Traffic Engineers.

However, subsequent to the consultation meeting, the applicant provided without prejudice plans which showed a second basement level, providing a total of 191 car spaces across two basement levels (an increase of 68 car spaces).

The breakdown resulted in an additional 5 residential visitor car spaces and 63 car spaces for the commercial uses. Therefore, the net reduction in car parking sought is 9 car spaces.

This car parking provision was supported by Council’s traffic engineers. Council’s traffic engineers formed this position based on the variety of uses proposed on the land and the likely short-term occupancy rates of the commercial uses, thereby allowing for a flexible car parking arrangement.

To appropriately manage this, a car park management plan has been recommended which will outline how the car parking arrangement will be managed and enforced.
between uses.

Notwithstanding this, conditions of permit are recommended to ensure that vehicles can safely egress from the site, manoeuvre within the site and the allocation of car spaces between uses is appropriately managed.

Council’s traffic engineers found that the proposed vehicle movements in and out of the basement car park will not have an unreasonable impact on the traffic movements in the area and results in a satisfactory outcome.

6.8. **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. Advertised Plans ↓
2. Perspective ↓
3. Site and surrounds ↓
4. Without prejudice plans ↓
5. Neighbourhood Character Precinct E2 ↓
6. Better Apartment Design Standards assessment ↓
Item 4.4 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

Legend

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

Note: Note all objectors provided a residential address for service or appear within the aerial image.
Figure 2 View towards the sites frontage from the north (along Holyrood Street)

Figure 3 View towards the adjoining property along Holyrood Street
Figure 4 View towards the adjoining properties to the south along Hampton Street
Neighbourhood Character Precinct E2

Preferred Future Character Statement

The pitched roof dwellings sit within established gardens that incorporated some coastal species plantings. Large front set backs, in combination with low to medium height front fences, provide the precinct with a spacious quality. In some streetscapes the frequent use of timber or light coloured render materials creates a sense of lightness to the streetscapes. Garages are set back behind the building line so as not to dominate the streetscape. Native and coastal species canopy trees and enhanced street tree planting, add to the casual coastal setting of the dwellings. Consistent street tree planting is adding to the cohesiveness of the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Alterations and extensions should retain the front of these dwellings.</td>
<td></td>
<td>The building is currently vacant. The previous buildings on the subject site were not considered to contribute to the valued character of the area.</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings and enhance the bayside vegetation character of the area through the retention and planting of appropriate coastal species.</td>
<td>• Retain established native and traditional coastal vegetation.</td>
<td>Removal of large, native trees. Lack of landscaping and substantial vegetation. Planting of environmental weeds.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs and coastal species.</td>
<td></td>
<td>The existing site has been cleared, with no vegetation retained.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>However, there was not any high valued vegetation on the subject site prior, while Council’s arborist has also not objected to the proposal.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>A landscape plan has been provided which details post construction landscaping opportunities.</td>
</tr>
<tr>
<td>To maintain the spaciousness of the setbacks and rhythm of visual separation of buildings, and provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Adequate front garden space is provided along the Holyrood frontage, thereby ensuring an appropriate post- construction landscaping opportunity.</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>• Minimise paving in front garden areas including driveways and crossovers.</td>
<td>Front setbacks</td>
<td>The car park access to the subject site is located outside the boundaries of Neighbourhood Character Precinct E2.</td>
</tr>
<tr>
<td></td>
<td>• Underground car parking accessed from the front of</td>
<td></td>
<td>Notwithstanding this, the car parking structures to</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 ensure that new dwellings respect the dominant building forms in the area and do not dominate the streetscape.</td>
<td>• Recess second storey elements from the front façade.</td>
<td>High pitched or mansard roof forms with dormer windows.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td></td>
<td>• Incorporate a pitched roof form with eaves.</td>
<td></td>
<td>The built form along Holyrood Street is considered to incorporate a suitable level of articulate and modulation across the ground and first floor. However, to ensure that the overall bulk/mass to Holyrood Street is reduced, it is recommended that the terrace of townhouse two at the uppermost floor be setback.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>N/A</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, unarticulated front wall surfaces.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The application incorporates a variety of finishes and materials which is compatible with the streetscape.</td>
</tr>
<tr>
<td>To reflect the lightness of the streetscape through use of appropriate building materials and finishes.</td>
<td>• In streetscapes where weatherboard predominates, incorporate timber or other non-masonry wall materials where possible.</td>
<td>Heavy design detailing (eg.large masonry columns and piers).</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The application incorporates a variety of finishes and materials which is compatible with the streetscape.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Front fence style should be open and appropriate to the building era.</td>
<td>High, solid front fencing.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>There is no elevation or annotation that details the height and design of the front fence. This will be recommended as a condition of permit.</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-</td>
<td>Buildings that have no relationship to the foreshore setting.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The application is appropriately designed and articulated to create a</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>-------</td>
<td>------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>reflective glazing and light transparent balustrading.</td>
<td></td>
<td>visually interesting and attractive built form.</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>
<tr>
<td></td>
<td></td>
<td>Poorly articulated building forms.</td>
<td>Highly reflective materials or glazing.</td>
</tr>
</tbody>
</table>

Clause 58: Apartment Development

<table>
<thead>
<tr>
<th>Clause 58.02 Urban context objectives</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard D1 Urban context objectives</strong>&lt;br&gt;<strong>Title and Objective</strong>&lt;br&gt;To ensure that the design responds to the existing urban context or contributes to the preferred future development of the area.&lt;br&gt;To ensure that development responds to the features of the site and the surrounding area.</td>
<td>Yes</td>
<td>Subject to conditions (see discussion within Design and Development Overlay, Schedule 12), the proposal responds to the urban context objectives.</td>
</tr>
<tr>
<td><strong>Standard D2 Residential policy</strong>&lt;br&gt;<strong>Title and Objective</strong>&lt;br&gt;To ensure that residential development is provided in accordance with any policy for housing in the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.&lt;br&gt;To support higher density residential development where development can take advantage of public and community infrastructure and services</td>
<td>Yes</td>
<td>Subject to conditions, the proposed development complies with the applicable policies.</td>
</tr>
<tr>
<td><strong>Standard D3 Dwelling diversity</strong>&lt;br&gt;<strong>Title and Objective</strong>&lt;br&gt;To encourage a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>Yes</td>
<td>A range of housing types, layouts and orientations are proposed within the 59 dwellings sought.</td>
</tr>
<tr>
<td><strong>Standard D4 Infrastructure</strong>&lt;br&gt;<strong>Title and Objective</strong>&lt;br&gt;To ensure development is provided with appropriate utility services and infrastructure. To ensure development does not unreasonably overload the capacity of utility services and infrastructure.</td>
<td>Yes</td>
<td>The proposed development will not unreasonably impact upon the utility services in the area.</td>
</tr>
<tr>
<td>Standard D5 Integration with the street</td>
<td>Yes</td>
<td>Adequate pedestrian links are proposed to both site frontages.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Clause 58.03 Site Layout</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Comments</td>
</tr>
<tr>
<td>Standard D6 Energy efficiency</td>
<td>Yes</td>
<td>A sustainability report accompanied the application which details that the application is appropriately designed to limit fossil fuel energy use.</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>Standard D7 Communal open space</td>
<td>Variation required</td>
<td>The development proposes communal spaces at ground and first floors, totalling 334 square metres, in excess of the 147 square metres required.</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>However, the communal areas comprise of both internal and external areas, thereby failing to meet the intent of the objective in allowing for 'open space'. Notwithstanding this, it is considered that the provision of communal area is appropriate and results in a positive outcome.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard D8 Solar access to communal outdoor open space</td>
<td>Variation required</td>
<td>Due to the location of the outdoor communal area, limited solar access is provided to communal outdoor open space. As discussed above, it is considered that the overall provision of communal areas results in a positive outcome.</td>
</tr>
<tr>
<td>To allow solar access into communal outdoor open space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard D9 Safety</td>
<td>Yes</td>
<td>The layout of the development provides appropriate safety and security of the residents</td>
</tr>
<tr>
<td>Standard D10 Landscaping</td>
<td>Yes</td>
<td>A landscape plan has been provided. See commentary in report about landscaping.</td>
</tr>
<tr>
<td>-------------------------</td>
<td>-----</td>
<td>----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To encourage development that respects the landscape character of the area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To provide appropriate landscaping.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To encourage the retention of mature vegetation on the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To promote climate responsive landscape design and water management in developments that support thermal comfort and reduces the urban heat island effect.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard D11 Access</th>
<th>Yes</th>
<th>The proposal consolidates the existing vehicle crossovers, thereby limiting accessways along the Holyrood frontage.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure the number and design of vehicle crossovers respects the urban context.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard D12 Parking location</th>
<th>Yes</th>
<th>The basement provides secure, efficient and accessible car parking.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide convenient parking for resident and visitor vehicles. To protect residents from vehicular noise within developments.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard D13 Integrated water and stormwater management</th>
<th>Yes</th>
<th>The sustainability report provided details appropriate storm water management. Notwithstanding this, this has been recommended as a condition of permit.</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>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Clause 58.04 Amenity Impacts

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard D14 Building setback</strong></td>
<td>Yes, subject to conditions</td>
<td>See commentary from the Design and Development Overlay.</td>
</tr>
<tr>
<td>To ensure the setback of a building from a boundary appropriately responds to the existing urban context or contributes to the preferred future development of the area. To allow adequate daylight into new dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To limit views into habitable room windows and private open space of new and existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To provide a reasonable outlook from new dwellings. To ensure the building setbacks provide appropriate internal amenity to meet the needs of residents.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard D15 Internal views</strong></td>
<td>Yes</td>
<td>No unreasonable overlooking will occur within the development</td>
</tr>
<tr>
<td>To limit views into the private open space and habitable room windows of dwellings within a development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard D16 Noise impacts</strong></td>
<td>Yes</td>
<td>Services are appropriately located on the roof level to limit the noise impacts within the development and on adjoining properties.</td>
</tr>
<tr>
<td>To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Clause 58.05 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><strong>Standard D17 Accessibility</strong></td>
<td>Yes</td>
<td>The majority of the dwellings meet the needs of people with limited mobility.</td>
</tr>
<tr>
<td>To ensure the design of dwellings meets the needs of people with limited mobility.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard D18 Building entry and circulation</strong></td>
<td>Yes</td>
<td>Dwelling entries are easily identifiable and accessible.</td>
</tr>
<tr>
<td>To provide each dwelling and building with its own sense of</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>Standard D19 Private open space</th>
<th>Variation</th>
<th>All dwellings, excluding 4.07 have private open space provisions in accordance with Standard D19.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Standard D20 Storage</th>
<th>Complies</th>
<th>Each dwelling is provided with accessible and convenient storage.</th>
</tr>
</thead>
</table>

### Clause 58.06 Detailed Design

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard D21 Common property</strong></td>
<td>Yes</td>
<td>Communal areas are clearly identifiable and accessible. These areas would be managed by the subsequent owner’s corporation.</td>
</tr>
<tr>
<td>To ensure that communal open space, car parking, access areas and site facilities are practical, attractive and easily maintained. To avoid future management difficulties in areas of common ownership.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard D22 Site services</strong></td>
<td>Yes</td>
<td>Provision is made within the building for site services and facilities.</td>
</tr>
<tr>
<td>To ensure that site services can be installed and easily maintained. To ensure that site facilities are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard D23 Waste and recycling</strong></td>
<td>Yes</td>
<td>A waste management plan has been provided which details on-site collection. A condition of permit has been recommended to ensure that the waste management plan is endorsed by Council to ensure that it is appropriate.</td>
</tr>
<tr>
<td>To ensure dwellings are designed to encourage waste recycling. To ensure that waste and</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>Clause 58.07 Internal Amenity</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard D24 Functional layout</strong>&lt;br&gt; To ensure dwellings provide functional areas that meet the needs of residents.</td>
<td>Yes</td>
<td>All dwellings comply with the width and requirements of this standard.</td>
</tr>
<tr>
<td><strong>Standard D25 Room depth</strong>&lt;br&gt; To allow adequate daylight into single aspect habitable rooms.</td>
<td>Yes</td>
<td>Adequate daylight access is provided to all single aspect habitable rooms.</td>
</tr>
<tr>
<td><strong>Standard D26 Windows</strong>&lt;br&gt; To allow adequate daylight into new habitable room windows.</td>
<td>Variation required</td>
<td>The ground floor west facing dwellings have saddleback windows that are slightly overhung by the first floor. However, most of these windows are back to back, thereby maximising the available aperture.</td>
</tr>
<tr>
<td><strong>Standard D27 Natural ventilation</strong>&lt;br&gt; To encourage natural ventilation of dwellings. To allow occupants to effectively manage natural ventilation of dwellings.</td>
<td>Yes</td>
<td>25 of 59 dwellings have cross ventilation, equally 42% of the total dwellings proposed. The layout of the development maximises opportunities for natural ventilation.</td>
</tr>
</tbody>
</table>
### 4.5 15 ROODING STREET, BRIGHTON

**NOTICE OF DECISION TO GRANT A PLANNING PERMIT**

**APPLICATION NO. 2017/565/1 WARD: NORTHERN**

City Planning & Community Services - Development Services

File No: PSF/17/5452 – Doc No: DOC/18/22442

---

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>Becker Wright Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>15 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>102 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 10)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>14</td>
</tr>
</tbody>
</table>

**Proposal**

The application seeks to construct five apartments through a three storey building (plus basement) on a lot with an area of 585 square metres. Key details of the proposal are as follows:

- Five dwellings are proposed, two with 3 bedrooms and three with 2 bedrooms;
- Proposed building height would be three storeys, or 9.9m at its maximum point;
- A basement level is included, containing 9 car park spaces (inclusive of one visitor space). No reduction in car parking is sought;
- Site coverage equates to 57%;
- Permeability 23%; and
- External finish would best be described as contemporary, with large areas of glazing, rendered finish and a flat roof.

The application plans are provided at **Attachment 1**.

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

**History**

There is no planning permit history relevant to this application.

2. **Planning controls**

**Planning Permit requirements**

A planning permit is required pursuant to:

- Clause 32.08-6 (General Residential Zone) – Construction of two or more dwellings on a lot.
• Clause 43.02-2 (Design and Development Overlay 10) – Construction of buildings and works.

Planning Scheme Amendments
There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Consent with conditions.</td>
</tr>
<tr>
<td></td>
<td>Row of ornamental trees will unlikely survive and should be removed and replaced.</td>
</tr>
<tr>
<td></td>
<td>Tree management plan required for protection of neighbouring trees.</td>
</tr>
<tr>
<td></td>
<td>Landscape plan generally acceptable, but requires updating to remove and replace ornamental pears.</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>Consent with standard conditions</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>Consent with standard conditions.</td>
</tr>
<tr>
<td></td>
<td>Removal of street tree acceptable subject to compensation costs to allow for replanting.</td>
</tr>
<tr>
<td>Waste Management</td>
<td>Consent with conditions.</td>
</tr>
<tr>
<td></td>
<td>Private Waste Management Plan required.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Consent subject to standard conditions.</td>
</tr>
<tr>
<td></td>
<td>No significant issues.</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 14 objections were received. The following concerns were raised:

• Non complaint with neighbourhood character;
• Insufficient side setbacks;
• Unsympathetic to surrounding heritage dwellings;
• Excessive visual bulk;
• Overlooking and object to use of planter box for screening;
• Narrow street unable to cope with additional traffic;
• Insufficient parking;
• Safety issues associated with narrow street and lack of footpath;
• Waste Management Issues;
• Accessway into basement is one way only and will lead to vehicle conflict;
The number of objections received for this application is consistent across Council’s record management systems.

Consultation meeting

A consultation meeting was held on 22 January 2018 attended by the permit applicant and 11 objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/565/1 for the land known and described 15 Rooding Street in Brighton, for the construction of a three storey apartment 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 advertised plans but modified to show:
   a) The reallocation of car spaces to provide for two visitor spaces.
   b) The removal of the existing trees along the western boundary.
   c) All external walls, inclusive of any solid screening mechanisms or structures (the top 200mm of any semi-transparent screening measure can encroach), must be setback such that full compliance with standard B17 is achieved.
   d) The front setback to increase by 400mm at ground and first floor (maintaining the same floor layout and elevation detail as currently proposed).
   e) Diagrams that show full compliance with Standard B22 of ResCode for all balconies above ground floor. Whilst planter boxes can be utilised, they must not be reliant upon the heights of any proposed plants (i.e. the box structure itself must address the overlooking requirements).
   f) The removal of the pedestrian gates along the frontage that lead to the building entrance.
   g) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   h) Evidence of compliance with standard B41 of clause 55.
   i) Signage in the visitor parking bay that no parking is permitted during the Waste Management pick up period (as identified in the Waste Management Plan at condition 23). This applies only to the one space required for manoeuvrability.
   j) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   k) Evidence of payment of the Development Contribution requirement at condition 25.
All to the satisfaction of the Responsible Authority.

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

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

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

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

6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

8. The 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.

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick, dated October 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways.
   f) The removal of the existing trees along the western boundary, replaced with new screen trees to the satisfaction of the Responsible Authority.

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.

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.

13. 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.

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

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

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

17. A tree protection fence is required for the protection of any remaining street 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.

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

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

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

21. All ancillary works and features associated with car parking as shown on the endorsed plans (i.e. convex mirror) must be installed and fully maintained at all times.

22. 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.

23. 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, including standard B45.

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.

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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


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

r) Details of crane activities, if any.

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

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

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

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

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

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

Permit Notes:

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

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

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

- 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.

- Before the development starts the applicant must pay $3,747.93 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Council's current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree 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.

5. **Council Policy**

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 21.11 Local Areas (Bay Street)
- Clause 22.06 Neighbourhood Character Policy (Precinct B1)
6. Considerations

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

6.1. Strategic Context

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

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

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

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

The Local Areas policy (Clause 21.11-2) contains a subsection relating specifically to the Bay 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 21.11-2.

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

6.2. Design and Development Overlay

The subject site is covered by Schedule 10 to the Design and Development Overlay, that controls built form standards for Bay 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:
With a maximum height of 9.9m 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, however condition 1(c) will be enforced requiring full compliance and hence this aspect of the requirement will be fulfilled when (or if) the development is constructed.
With respect to the 4.0m second floor setback, this is achieved (in fact exceeded), with the exception of the circular staircase that would be setback 2.1m. Given the minor width of this part of the overall structure (approx. 3.0m), its central location and articulation it provides to over the overall appearance of the building, the outcome is acceptable and in line with the intent sought by this requirement (to provide for a less visible and dominant uppermost floor).

6.3. **Neighbourhood character**

As a starting point, it must be acknowledged that the site is located within the Bay Street Major Activity Centre and is covered by the DDO10, 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 B1 is diminished by the site’s inclusion in the Bay Street Activity Centre and the DDO10.

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 DDO10 (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 storey housing stock.

Notwithstanding the above, an assessment has been undertaken against Neighbourhood Character Precinct B1, and an appropriate level of compliance has been
achieved with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposed development contains generous areas of landscaping for a development of this type, allowing for an appropriate 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.

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:

**Development Entrance (Standards B5, B26 and B42)**

The concern with respect to each of these standards relates to the pedestrian gates that sit to the front of the entrance to the building.

These gates are considered to be a poor outcome from a streetscape amenity perspective, as they obscure the entrance that would otherwise be an attractive feature when viewed from the street and provide a clear sense of address and identity. The gates are unnecessary and security would be better controlled at the entrance point itself.

The removal of the gates would increase the presence of the building to the street, provide a better aesthetic outcome and will be required through condition (condition 1(f)).

**Street setback (Standard B6)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
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</thead>
<tbody>
<tr>
<td>6.3m</td>
<td>5.6m (Ground)</td>
<td>0.7m</td>
</tr>
<tr>
<td></td>
<td>5.2m (First)</td>
<td>1.1m</td>
</tr>
</tbody>
</table>

The applicant correctly states that street setbacks are quite varied along Rooding Street, and contain many setbacks less than the proposed 5.2m minimum.

However, each of these reduced setbacks relate to very modest, single storey dwellings, and to rely on these for a reduced setback of a three storey building is not an acceptable approach.

Notwithstanding, the number of setbacks at or around 4.8m to 5.3m (i.e. the predominant setback pattern along the street) warrants a reduction of some form, from the formal requirement of 6.3m. An appropriate compromise would be the further recession of the entire building by 400mm, resulting in a ground floor setback of 6.0m (300mm variation) and first floor setback of 5.6m (700mm variation). This is sought at condition 1(d).

This would ensure that appropriate landscape space is provided for canopy trees to frame the proposed building.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>East (side)</td>
<td>1m</td>
<td>1.8m</td>
<td>1.7 – 1.8m</td>
</tr>
<tr>
<td>West (side)</td>
<td>1m</td>
<td>1.8m</td>
<td>1.8m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>1m</td>
<td>3.3m</td>
<td>1.0m to 1.1m</td>
</tr>
</tbody>
</table>
The proposed building is largely compliant, with the exception of the east and west first floor setbacks (with the main non-compliance associated with the fireplace to each dwelling on this floor).

The building can easily be made complaint, and given the generous size of each dwelling, compliance with standard B17 will be enforced through condition (condition 1(c)).

**Overlooking (Standard B22)**

All habitable room windows with views towards the secluded private open space and habitable room windows of adjoining properties appear to have been designed to incorporate appropriate screening measures.

The only area that requires more consideration relates to the use of screening planter boxes at first and second floor level. Whilst the use of such structures is acceptable, they should not be reliant upon mature planting height to provide for the minimum screening. This will be clarified and if required, amended through condition (refer condition 1(e)).

**Front Fences (Standard B32)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.5m</td>
<td>1.8m</td>
<td>300 mm</td>
</tr>
</tbody>
</table>

A 1.8 metre high front fence is proposed which exceeds the maximum allowable height of 1.5 metres. Given the permeable nature of the fence and noting the need to provide privacy for the ground floor dwellings open space, this outcome is acceptable, particularly when the pedestrian gate is removed to open up this section of building to the street.

Fences of this height (or similar) are not foreign along Rooding Street.

### 6.5. 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.

Notwithstanding, the applicant has sought the retention of a Queen Palm at the rear of the site, and also a row of ornamental pear trees along the western boundary.

The Queen Palm is easily retained, and will be protected throughout construction via a Tree Management Plan (as will all neighbouring trees).

Unfortunately, the row of Ornamental Pears would unlikely survive excavation works associated with the basement, and Council’s Arborist states that a superior outcome (in the longer term) would be to allow for the removal of these trees, and require the replacement of new screen vegetation along this boundary that would better screen / frame the building from this interface over time. This will be required through condition.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable, subject to the removal and replacement of the Ornamental Pears as discussed above.

**Street tree(s)**

A street tree is proposed for removal, which Council’s Open Space Arborist has consented to subject to compensation costs to replace the tree (two trees would be planted in its place).

The remaining street tree would be protected through condition.

### 6.6. Car parking and traffic

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

The development comprises 3 by two bedroom dwellings and 2 by three bedroom dwellings.

A total of 8 parking spaces are therefore required, and 9 spaces have been provided (one space in excess of that formally required).

Currently, this excess space is allocated to a resident, however the applicant has agreed to reallocate this to visitor parking. Therefore, subject to condition 1(a), the development would show full compliance with the resident parking requirements, and would exceed the visitor parking requirement by one space (two visitor spaces would be provided).

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, driveway gradients, sightlines and internal parking dimensions. These requirements were addressed in the plans resubmitted in response to Council’s further information request and hence no additional conditions are required.

Increase in Traffic has been raised by a number of objections, however there is no empirical evidence to suggest that the provision of an additional four dwellings (over and above the existing dwelling) would result in traffic reaching saturation point along Rooding Street or the surrounding street network.

Related to the above, objectors also raised concerns as to the narrow nature of Rooding Street and lack of footpath creating safety issues, stating that increased density along this street is inappropriate for these reasons (amongst others). Ultimately, the suitability of Rooding Street for increased density was investigated through the creation of the Bay Street Structure Plan, and amendment C101 that introduced the findings and recommendations of the Structure Plan into the Planning Scheme (in 2013). Rooding Street was designated for higher density through these processes, and it is not up to this planning officer to now deem Rooding inappropriate for such density due to Street characteristics that were also applicable when the strategic work was being undertaken.

Council’s traffic department did not raise this as an issue within the referral response.

6.7. **Objector issues not already addressed**

**Insufficient side setbacks:**

There are some minor variations sought to the side setback requirements, however full compliance with standard B17 (side and rear setbacks) will be required through condition 1(c).

**Unsympathetic to surrounding heritage dwellings:**

The heritage dwellings along Asling and Cowper Streets are separated from the subject site by No.17 Rooding Street, which wraps around the subject site. Whilst some elements of this building would be visible from those streetscapes, it would not be so visible / dominant as to detract from the values of any heritage building.

**Excessive visual bulk:**

The proposed building would comply with all ResCode requirements that seek to control visual bulk (setbacks, ground level private open space, site coverage etc). Furthermore, the building complies with the built form objectives of the Design and Development Overlay that applies to the site.

Whilst the resulting building would be significantly larger than that of the surrounding single storey dwellings and from this respect this objection is understood, the subject site has long been earmarked for higher density development (through the Bay Street Structure Plan) and hence it was accepted at that time that this built form character would undergo significant change.
Overlooking and object to use of planter box for screening:

There was some ambiguity as to whether the balcony screens relied upon the height of plantings to meet the overlooking requirements of ResCode. If so, this would be inappropriate, and hence condition 1(e) has been included to provide clarity and/or change with respect to this concern.

Waste Management Issues:

A Waste Management Plan would be required through condition. Turning diagrams have been provided indicating that the relevant waste truck is able to sufficiently manoeuvre around the basement.

Accessway into basement is one way only and will lead to vehicle conflict;

Clause 52.06 (Car Parking) requires a passing bay only for car park areas that serve 10 or more spaces. Given that the proposed parking area comprises 9 spaces, a passing bay is not required in this instance.

Support Attachments

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment
4. Clause 55 Assessment
Item 4.5 – Matters of Decision
Figure 1. Aerial Overview of subject site and objector map. Please note some objectors have been received from beyond the map boundaries.

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objectors</td>
</tr>
</tbody>
</table>
Photo 2: View of the subject site.
Figure 3: View of the adjacent property at No.17 Rooding Street.
Figure 4: View of the adjacent property at No.13 Rooding Street.
Figure 5: View from the subject site looking west along Rooding Street.
Figure 6: View from the subject site looking east along Rooding Street.
Figure 7: View of four dwelling development under construction at 11 Asling Street (corner of Asling and Rooding Street).
ATTACHMENT 3
Neighbourhood Character Policy (Precinct B1)

Preferred Future Character

The diverse dwelling styles, with a continued presence of pre WW2 era dwellings, and new buildings that respect, without replicating, these styles, sit within established gardens with large trees. Garages and car ports are set behind the dwelling façade so as not to dominate the streetscape. Generous side setbacks on at least one side allow vegetation to flow around the dwellings and this, along with avenue street trees and open style front fences, contributes to the green, leafy streetscapes within the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions to should retain the front of these dwellings | Demolition of dwellings that contribute to the valued character of the Precinct. | The existing dwelling is not considered to hold such significance that retention would be warranted, particularly given the planning controls applicable to the site that encourage redevelopment. |
| To maintain and enhance the garden settings of the dwellings.              | • Retain large trees wherever possible.  
• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs | Lack of landscaping and substantial vegetation. Removal of large canopy trees. | The proposed garden setting is acceptable for a development of this type, with sufficient open space at ground floor to provide for various planting, including canopy trees and screen vegetation.  
A landscape plan has been prepared, and been reviewed by Council's Arborist who has stated that it meets the Landscape Guidelines. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain the rhythm of spacious visual separation between buildings and 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                                                                | Whilst some increase is setbacks will be require through condition, the development would generally be well sited to allow for a variety of plantings as discussed throughout the body of the report.  
Appropriate setbacks are provided along the frontage to transition the building from those immediately adjacent. |
| To minimise the dominance of car parking facilities, driveways and crossovers. | • Locate garages and car ports behind the line of the dwelling.  
• Provide vehicular access from a rear laneway where possible, while maintaining pedestrian access from the street frontage  
• Provide a maximum of one single-width crossover per typical property frontage, where no alternative is available | Car parking facilities that dominate the facade or view of the dwelling.  
Dominance of crossovers and driveways.                                                   | All parking would be located at basement level and hence would be hidden from the public realm.  
Only one single width crossover is proposed.                                               |
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | • Recess upper storey elements from the front façade.  
• Articulate the form of buildings and elevations, particularly front facades. | Large bulky buildings with flat, poorly articulated wall surfaces.                              | The proposed building is of a larger scale than its surrounds, though this is specifically encouraged for the site and has been discussed in detail throughout the report.  
The second floor is recessed from the front façade in accordance with the DDO10, and appropriate levels of articulation are provided at each remaining elevation of the building through a variety of material, colour and setbacks. |
<p>| To respect the identified heritage qualities of adjoining buildings.        | • Where adjoining an identified heritage building, reflect the dominant building form, height, materials and massing of the | Imitation or reproduction of historic building styles and detailing                              | The heritage dwellings along Asling and Cowper Streets are separated from the subject site by No.17 Roolding Street, which wraps around the subject site. Whilst |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>heritage building/s, of the heritage building/s in the new building design.</td>
<td></td>
<td></td>
<td>some elements of this building would be visible from those streetscapes, it would not be so visible / dominant as to detract from the values of any heritage building.</td>
</tr>
<tr>
<td>To reflect the building materials in locations where there is particular consistency.</td>
<td>• Where consistent materials are used in the streetscape, use similar tonings in the colours of new buildings</td>
<td>Excessive use of render on external walls.</td>
<td>The proposed building would look more contemporary than the traditional housing stock, however would respect the more modern buildings (including single dwelling additions) where non-traditional elements such as render are being utilised. Examples of this can be seen at No.11 Asling Street and 2 Budd Street (both corner sites with frontages to Rooding Street) and No.7 Rooding Street. All things considered, the design detail respects the emerging character of the area, noting that further deviation from traditional character is to be expected given the planning controls applicable to the site (as discussed throughout the body of the report).</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fences appropriate to the building era</td>
<td>High, solid front fencing.</td>
<td>A 1.8 metre high front fence is proposed which exceeds the maximum allowable height of 1.5 metres. Given the permeable nature of the fence and noting the need to provide privacy for the ground floor dwellings open space, this outcome is acceptable, particularly when the pedestrian gate is removed to open up this section of building to the street. Fences of this height (or similar) are not foreign along Rooding Street.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4

### BAYSIDE PLANNING SCHEME – CLAUSE 55

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>features of the site and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a three storey building comprising five (5) dwellings is supported by relevant policies for this site.</td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td></td>
</tr>
<tr>
<td>consistent with housing policies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>in the SPPF, LPPF including the MSS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and local planning policies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support medium densities in areas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>to take advantage of public transport</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and community infrastructure and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling</td>
<td></td>
<td></td>
</tr>
<tr>
<td>sizes and types in developments of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The dwellings will make use of existing infrastructure servicing the site.</td>
</tr>
<tr>
<td>Provides appropriate utility services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and infrastructure without</td>
<td></td>
<td></td>
</tr>
<tr>
<td>overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>No</td>
<td>The entrance is obscured by gates as discussed at standard B26. These gates would be removed through condition.</td>
</tr>
<tr>
<td>Integrate the layout of development</td>
<td></td>
<td></td>
</tr>
<tr>
<td>with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Required: 6.3m</td>
</tr>
<tr>
<td>The setbacks of buildings from a</td>
<td></td>
<td>Proposed: 5.2m</td>
</tr>
<tr>
<td>street respect the existing or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character and make efficient use of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Limitation</th>
</tr>
</thead>
</table>
| **B7 Building Height** | Building height should respect the existing or preferred neighbourhood character | Yes | Maximum allowed: 11m  
Proposed: 9.9m |
| **B8 Site Coverage** | Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Yes | Maximum allowed: 60%  
Proposed: 57.7% |
| **B9 Permeability** | Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | Minimum: 20%  
Proposed: 22.8% |
| **B10 Energy Efficiency** | Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | The proposal provides appropriate solar access to the dwellings. |
| **B11 Open Space** | Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A | |
| **B12 Safety** | Layout to provide safety and security for residents and property. | Yes | The proposal provides clear legibility and access to the dwellings from the Street. The proposal allows for stairs and a lift to each apartment. |
| **B13 Landscaping** | To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site. | Yes | Refer report. |
Bayside City Council
Planning & Amenity Committee Meeting - 27 February 2018
Attachment 4

Item 4.5 – Matters of Decision

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

Yes  Refer report.

### 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  Refer report.

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

No  Refer to report the table below. Areas of noncompliance are underlined.

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>1m</td>
<td>1.8m</td>
<td>1.7 – 1.8m</td>
</tr>
<tr>
<td>West (side)</td>
<td>1m</td>
<td>1.8m</td>
<td>1.8m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>1m</td>
<td>3.3m</td>
<td>1.0m to 1.1m</td>
</tr>
</tbody>
</table>

### B18 Walls on Boundaries
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

Yes  Height 2.8m (max allowable 3.2m)
Length 6.7m (max allowable 15m)

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

Yes  The proposal is setback from property boundaries to ensure daylight to existing windows is maintained and comfortably complies with the setback requirements of the standard.

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

N/A  There are no existing north facing habitable room windows within 3 metres of the boundary of an adjoining lot.
| B21 Overshadowing Open Space | Yes | Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September. |
| B22 Overlooking | Yes | All habitable room windows with views towards the secluded private open space and habitable room windows of adjoining properties appear to have been designed to incorporate appropriate screening measures. The only area that requires more consideration relates to the use of screening planter boxes at first and second floor level. Whilst the use of such structures is acceptable, they should not be reliant upon mature planting height to provide for the minimum screening. This will be clarified and if required, amended through condition. |
| B23 Internal Views | Yes | All habitable room windows have been screened and sited appropriately in accordance with this Standard. |
| B24 Noise Impacts | Yes | The development will not generate any noise above that typically expected from a residential building. |
| B25 Accessibility | Yes | Entries are accessible for people with limited mobility. A lift is provided for access to the upper level dwellings. The development could be retrofitted to accommodate people with limited mobility in the future if required. |
| B26 Dwelling Entry | No | The entrance point is obscured by gates. These gates are considered to be unnecessary and security would be better controlled at the entrance point itself. The removal of the gates would increase the presence of the buildings to the street and hence this will be required through condition. |
| B27 Daylight to New Windows | Yes | All habitable windows have direct access to daylight. |
| B28 Private Open Space | Yes | All balconies are 8sqm or greater with a minimum width of 1.6 metres. The proposed ground floor apartments have an area of 25sqm plus open space with convenient access from a living and a minimum dimension of 3 metres or more. |
### B29 Solar Access to Open Space
Allow solar access into the secluded private open space of new dwellings/buildings.

<table>
<thead>
<tr>
<th>Decision</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Decision</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>External storage is provided in the basement to each apartment to meet the requirements of his standard.</td>
</tr>
</tbody>
</table>

### B31 Design Detail
Encourage design detail that respects the existing or preferred neighbourhood character.

<table>
<thead>
<tr>
<th>Decision</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Refer report.</td>
</tr>
</tbody>
</table>

### B32 Front Fences
Encourage front fence design that respects the existing or preferred neighbourhood character.

<table>
<thead>
<tr>
<th>Decision</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Refer report.</td>
</tr>
</tbody>
</table>

A 1.8 metre high front fence is proposed which exceeds the maximum allowable height of 1.5 metres. Given the permeable nature of the fence and noting the need to provide privacy for the ground floor dwellings open space, this outcome is acceptable, particularly when the pedestrian gate is removed to open up this section of building to the street.

Fences of this height (or similar) are not foreign along Rooding Street.

### 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.

<table>
<thead>
<tr>
<th>Decision</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Common property is easily identifiable and is limited to the basement and pedestrian access to the apartments.</td>
</tr>
</tbody>
</table>

### B34 Site Services
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.

<table>
<thead>
<tr>
<th>Decision</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Plans show storage and bin storage areas.</td>
</tr>
</tbody>
</table>

## Clause 55.07: Apartment Development

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard B35 Energy efficiency objectives</strong></td>
<td>Yes</td>
<td>Each apartment has its living area and an area of private open space that will receive north and west daylight.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To achieve and protect energy efficient dwellings and buildings.</strong></td>
<td>Yes</td>
<td>Each apartment has its living area and an area of private open space that will receive north and west daylight.</td>
</tr>
<tr>
<td><strong>To ensure the orientation and layout of development reduce</strong></td>
<td>Yes</td>
<td>Each apartment has its living area and an area of private open space that will receive north and west daylight.</td>
</tr>
<tr>
<td>Item 4.5 – Matters of Decision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------------------</td>
<td>---</td>
<td></td>
</tr>
<tr>
<td>fossil fuel energy use and make appropriate use of daylight and solar energy. To ensure dwellings achieve adequate thermal efficiency</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **Standard B36 Communal open space**  
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. | N/A  
N/A |
| **Standard B37 Solar access to communal outdoor open space**  
To allow solar access into communal outdoor open space. | N/A  
N/A |
| **Standard B38 Deep soil areas and canopy trees objective**  
To promote climate responsive landscape design and water management in developments to support thermal comfort and reduce the urban heat island effect. | Yes  
The application involves appropriate landscaping including planters to balconies and ground level planting. Deep soil area is not applicable to this site given the area less than 750sqm.  
Refer report for landscape discussion. |
| **Standard B39 Integrated water and stormwater management**  
To encourage the use of alternative water sources such as rainwater, stormwater and recycled water. To facilitate stormwater collection, utilisation and infiltration within the development. To encourage development that reduces the impact of stormwater run-off on the drainage system and filters sediment and waste from stormwater prior to discharge from the site. | Yes  
The application is accompanied by a WSUD report which highlights that the proposal complies with this requirement. |
| **Standard B40 Noise impacts** | Yes  
It is not considered that any noise sources within the proposal will result in unreasonable amenity |
<table>
<thead>
<tr>
<th>Item 4.5 – Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources.</strong></td>
</tr>
</tbody>
</table>

| **Standard B41 Accessibility** | **Yes** | The applicant has accepted a condition to provide compliance with this standard. |
| To ensure the design of dwellings meets the needs of people with limited mobility. |

| **Standard B42 Building entry and circulation** | **No** | As previously discussed, the entrance is obscured by the pedestrian gates and these will be removed by condition. |
| 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. |

| **Standard B43 Private open space above ground floor** | **Yes** | All SPOS areas comply. |
| To provide adequate private open space for the reasonable recreation and service needs of residents. |

| **Standard B44 Storage** | **Yes** | Each dwelling is provided with storage in accordance with this requirement. |
| To provide adequate storage facilities for each dwelling. |

<p>| <strong>Standard B45 Waste and recycling</strong> | <strong>Yes</strong> | A WMP is required as a condition of permit. |
| 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. |</p>
<table>
<thead>
<tr>
<th>Standard B46 Functional layout</th>
<th>Yes</th>
<th>All bedroom and living areas are appropriately dimensioned.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure dwellings provide functional areas that meet the needs of residents.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard B47 Room depth</td>
<td>Yes</td>
<td>Each habitable room has a minimum of one window in an external wall of a building. No bedrooms require a secondary area within the bedroom for natural daylight.</td>
</tr>
<tr>
<td>To allow adequate daylight into single aspect habitable rooms.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard B48 Windows</td>
<td>N/A</td>
<td>No bedrooms require a secondary area within the bedroom for natural daylight, all rooms are appropriately sited to ensure receipt of daylight.</td>
</tr>
<tr>
<td>To allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard B49 Natural ventilation</td>
<td>Yes</td>
<td>Each apartment is appropriately designed to achieve dual aspect / orientation and consequently the each dwelling will receive appropriate ventilation.</td>
</tr>
<tr>
<td>To encourage natural ventilation of dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To allow occupants to effectively manage natural ventilation of dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.6 62 BLACK STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/177/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/24020

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>Bayside Town Planning Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>27 March 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>181 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 11)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>10</td>
</tr>
</tbody>
</table>

Proposal
The application seeks the development of a three storey residential building consisting of 7 apartments, a basement car park and a front fence in excess of 1.5 metres in height on a lot with an area of 815 square metres. Key details of the proposal are as follows:

- 6 x 3 bedroom dwellings and 1 x 2 bedroom dwelling
- Building height – 10.8 metres
- Site coverage 61%
- Permeability 20%
- Basement car parking – 17 spaces
- Variation to Standard B5 (Street integration), Standard B17 (Side and Rear Setbacks), Standard B18 (Walls on Boundary); and, Standard B32 (Front fence).
- Located within the Church Street Major Activity Centre.

The application plans are provided at Attachment 1.

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

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

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:

- Clause 32.08-6 - General Residential Zone, Schedule 2 (GRZ2) - Construction of two or more dwellings on a lot;
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

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

Public notification
The application was advertised pursuant to Sections 52(1) (a) and (d) of the *Planning and Environment Act 1987* and 10 objections were received. The following concerns were raised:

- Neighbourhood character;
- Overdevelopment – height, mass, bulk;
- Not in compliance with the DDO;
- Overlooking;
- Overshadowing;
- Loss of view;
- Heritage;
- Loss of vegetation;
- Noise pollution; and
- Parking / Traffic.

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

Consultation meeting
A consultation meeting was held on 11 September 2017 attended by the permit applicant and eight objectors. As a result of this meeting no objections were withdrawn.

The applicant amended the plans on 18 October 2017, but no objections were withdrawn following circulation of the plans.
4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/177 for the land known and described as 62 Black Street, Brighton, for the development of a three storey residential building consisting of 7 apartments, a basement car park and a front fence in excess of 1.5 metres in height 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 prepared by Bruce Henderson Architects, received on 18 October 2017 but modified to show:
   a) Full compliance with the height requirements of Standard B18 (Walls on boundaries) of the Bayside Planning Scheme along the ground floor of the south-eastern boundary;
   b) Reduction in the overall site coverage to be a maximum of 60% in accordance with Standard B8 (Site Coverage) of the Bayside Planning Scheme;
   c) The provision of external security lighting within the site;
   d) Removal of reference to side and rear boundary fencing from the plans;
   e) Ramp must be design with 1 in 8 gradient;
   f) Basement headroom increased to 2.2m as per AS2890.1;
   g) Manufacture specifications of the turntable;
   h) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

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 occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the dwellings;

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

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

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

7. 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. Before development starts, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:

   a) The type of water sensitive urban design stormwater treatment measures to be used.
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

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

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

**Landscaping**

10. Before development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) Provision of 4 small canopy trees (greater than 8 metres in height and greater than 4 metres canopy spread) throughout the site;
   d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   e) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   f) Details of surface finishes of pathways and driveways.

11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Tree Management and Protection Plan

13. Before 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 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.

Traffic

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

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.

Drainage

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

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

Waste Management Plan
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.
   a) Storm water drains in storage areas should be fitted with a litter trap.
   b) The number and size of bins to be provided.
   c) Facilities for bin cleaning.
   d) Method of waste and recyclables collection.
   e) Types of waste for collection, including colour coding and labelling of bins.
   f) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
   g) Method of hard waste collection.
   h) Method of presentation of bins for waste collection.
   i) Sufficient headroom within the basement to accommodate waste collection vehicles.
   j) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
   k) Strategies for how the generation of waste and recyclables will be minimised.
   l) Compliance with relevant policy, legislation and guidelines.

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

Construction Management Plan

20. Before 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.

Development Contributions

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

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

Permit Expiry

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.

• Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

5. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

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

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 21.10 Infrastructure
• Clause 21.11 Local Areas (Church Street, Brighton)
• Clause 22.06 Neighbourhood Character Policy (Precinct B2)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.08 General Residential Zone (Schedule 2)
• Clause 43.02 Design and Development Overlay (Schedule 11)
• Clause 45.06 Drainage Contributions Plan Overlay
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

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

6.1. Strategic Justification

The Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres. The local areas policy contains a subsection relating specifically to the Church Street Major Activity Centre (Clause 21.11-3) that seeks to encourage residential development close to shops and services to provide a transition from the business precinct to low scale residential areas.

Furthermore Clause 21.11 encourages redevelopment of larger sites and grade level car parks for residential with basement car parking and encourages the provision of adequate off-street parking for all new dwellings.

Additionally, the policy in Clause 21 seeks to provide an opportunity for as many people as is appropriate given the character of the area and the opportunities for change to live and work in Brighton, with access to public transport and within walking and cycling distance of activity centres, and hence to provide a real transport option for people other than the private car. It is considered that the proposal meets the above policy aspirations because the proposed development is located within walking distance to Middle Brighton Station, is located within an activity centre (Church Street Major Activity Centre) and is located within walking distance to the commercial sector.

6.2. Design and Development Overlay Schedule 11 (DDO11)

The design objectives of this schedule are as follows:

- To ensure that the height of new development is compatible with the preferred future role and character of the Church Street Major Activity Centre;
- To develop the centre in a way that conserves and enhances its valued urban character and heritage places;
- To ensure that new development contributes to safe and active streets; and,
- To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.

The site is identified as being located within the Church Street Major Activity Centre and identified as been within Precinct E of the Schedule.

Precinct E has the following build form provisions:
Table to built form precinct provisions

Refer to Built Form Precinct Map at the end of the schedule.

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>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>D</td>
<td>9.0m (2 storeys) fronting Well Street</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>11.0m (3 storeys) fronting any other street</td>
<td></td>
</tr>
<tr>
<td>E</td>
<td></td>
<td>11.0m (3 storeys); or 12.0m (3 storeys) where the slope of the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>natural ground level at any cross section of the site of the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>building wider than 8m is 2.5 degrees or more</td>
</tr>
</tbody>
</table>

For clarity purposes, the following map shows where the proposed development is located in relation to the ‘E Built Form Precinct Map’.
The proposal retains the low rise, neighbourhood character of the Church Street Major Activity Centre by respecting the scale of built form. The amended plans comply with the Design and Development Overlay – Schedule 11 for the following reasons:

- The proposed development consists of a maximum height of 10.8 metres (above NGL) / three storeys development. There are no portions that exceed the 10.8 metres;
- The bulk, location and appearance of the development is considered to be in keeping with the emerging character and appearance of adjacent buildings located within close proximity and is considered to enhance the streetscape;
- The proposed development does not overshadow any public space nor any adjoining streets to an unsatisfactory level;
- The proposed use of a mixture of building materials provides a level of articulation and breaks up the perceived bulk from all abutting allotments;
• The subject is located within walking distance to Middle Brighton Station which encourages the use public transport and furthers The Church Street Centre Framework Plan;

• The proposed development will contribute to creating a vibrant residential activity centre;

• The proposed development is considered to be consistent with the Church Street Centre Framework Plan;

• The proposed development is sufficiently separated from nearby heritage buildings to minimise any detrimental impact on heritage grounds;

• The layout and appearance of areas set aside for car parking is considered sufficient as it will not be dominant to the streetscape due to the location (basement).

• The second floor is setback a minimum of 4 metres behind the front wall of the floor immediately below.

In principle, the proposed development and the diversity of the housing stock is supported. The precinct as a whole offers a variety of dwelling sizes and types therefore the increase in assortment of dwellings for the subject site is an appropriate outcome for the precinct. In general, this form of medium density development is encouraged under the Church Street Centre Framework Plan therefore, the proposed development is considered to be consistent with the objectives of the DDO11.

6.3. Neighbourhood character

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

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. It is noted that the character of Black Street consists of various built form elements, therefore the proposed contemporary design will not seem at odds with the immediate area.

The development will sit comfortably within the context largely due to the articulated facades, roof form responsive to dwelling forms in the neighbourhood, appropriate front setbacks in accordance with the DDO, materials and finishes that are complementary to the existing and the preferred character of the area.

The contemporary design of the development provides a level of visual interest along with various forms of articulation along all boundaries. The various forms of external building materials including brick veneer assists in integrating the development in to the emerging neighbourhood character.

The proposed setbacks from the side boundaries allow for suitable landscaping opportunities to enhance the landscaped character of the area. The proposed setback along with the amount of open space along the frontage, side and rear of the subject site provides an opportunity for the provision of landscaping, subject to conditions, thus maintaining the vegetated streetscape.

On balance, it is considered that the proposal is respectful of both the emerging and preferred neighbourhood character and appropriately responds to the characteristics of, vegetated streetscape, visual separation between buildings, and street presentation.

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:
Site Coverage (Standard B8)

The subject site is located within a General Residential Zone – Schedule 2, therefore the site coverage should be 60%, the proposed site coverage is 61% and therefore a variation of 1% is sought.

Considering the size of the lot (815sqm) there is insufficient justification for a variation of 1% it is for this reason that a condition (Condition 1a) will be placed on any permit issued requiring site coverage to be reduced to 60%. The reduction in the footprint by 1% is considered to minimal and will have no detrimental/amenity impact on the use of the site. The 1% can be provided by reducing the overall built form, this can be accommodated internally, given the size of the proposed development.

Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>North-west (side)</td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td>South-east (side)</td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td>South-west (rear)</td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td><strong>Second floor</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>North-west (side)</td>
<td>5.09m, 5.49m, 5.89m</td>
</tr>
<tr>
<td>South-east (side)</td>
<td>4.54m -5.79m</td>
</tr>
<tr>
<td>South-west (rear)</td>
<td>5.49m</td>
</tr>
</tbody>
</table>

As can be seen from the table above, the proposal has elements of non-compliance with the side setbacks at first and second floor. On the north-western elevation, the main area of non-compliance is at first and second floor level. This area relates to the stairwell and left shaft, which comprise of very small elements of the entire depth of the building. The left shaft is adjacent to a driveway and the adjoining property, 60 Black Street, is built right on the boundary at the point where the stairwell is located. As such the impact on neighbouring amenity is extremely limited. These elements are set closer to the rear of the building as well and will not have any significant impact on the neighbourhood character.

The south-east side is adjacent to the driveway of the adjoining property, which runs almost the length of the boundary. The elements of non-compliance along this boundary and relatively minor and are not considered to have any adverse impact on either neighbouring amenity or the character of the area.

In summary, it is considered that a variation to this standard is acceptable in this instance as the proposal still meets the objective of this clause.

Walls on Boundaries (Standard B18)

There is a wall proposed along the ground floor (south-eastern boundary) that is marginally in excess of the allowed length (22.42m instead of 21.19m). As this boundary
is adjacent to a driveway that runs almost the entire boundary length, this variation to the length is considered acceptable.

In addition, the height of this wall is in excess of that allowed by the standard. The standard allows for the maximum height of the wall to be 3.6 metres, with an average height of 3.2 metres. The proposed development provides a maximum height of 4 metres and an average height of 3.7 metres. A condition (Condition 1c) is therefore included in the recommendation requiring the height of the wall be reduced to comply with the standard.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black Street</td>
<td>1.5m</td>
<td>1.7m</td>
<td>0.2m</td>
</tr>
</tbody>
</table>

A 1.7 metre high fence is proposed to the front boundary of the site on Adamson Street. The fence will have solid sections and partially transparent section and replaces an existing 1.7 metre high fence. The fence is typical in height to other fences in the vicinity and as such is considered appropriate in this instance.

6.5. Landscaping

Council’s Arborist has advised that the existing vegetation on the site have low amenity values. It is noted that no trees are protected by any statutory planning overlay.

The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with a *.

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

With regards to the future planting on the site, the proposed development incorporates landscaping opportunities to achieve an outcome consistent with the existing and preferred character of the area. The Bayside City Council Landscape Guidelines (2015) specify that for medium density applications (three to ten units) 1 small tree for each dwelling should be provided (small canopy tree are greater than 8 metres tall / greater than 4 metres canopy spread).

Council’s Arborist advised that the site should either accommodate 7 small trees or 4 large trees. The development proposes 1 large tree and 2 small tree (located at street frontage). The provision of one small and one large at frontage is considered to assist in screening the development and further contributes to the neighbourhood character of the area.

Nevertheless the proposed development fails to provide any sufficient vegetation throughout the site. It is for this reason that a condition is included in the recommendation requiring the provision of an additional 4 small trees throughout the site. Sufficient soil volume has been provided for the additional 4 small trees to grow to their full potential. The provision of landscaping will reduce and soften the built form when viewed from abutting properties.

The proposed development is considered to comply with The Bayside City Council Landscape Guidelines (2015) subject to conditions. The landscape plan also includes a
variety of shrubs and ground covers within the front and rear setbacks, and along the side boundaries. The landscape plan will achieve an outcome consistent with the preferred landscaped character of the area.

6.6. Car parking and traffic

The purpose of Clause 52.06 (Car Parking) is to:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The development proposes the following:

<table>
<thead>
<tr>
<th>Use</th>
<th>Size</th>
<th>Planning Scheme Parking Rate</th>
<th>Car Parking Requirement</th>
<th>Car Parking Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>6 x 3 bedroom, 1 x 2 bedroom</td>
<td>2 spaces to each 3 bedroom dwelling, 1 space to each 2 bedroom dwelling</td>
<td>13 spaces</td>
<td>16 spaces</td>
</tr>
<tr>
<td>Dwelling (visitor)</td>
<td>7 dwellings</td>
<td>1 space for visitors to every 5 dwellings</td>
<td>1 visitor spaces</td>
<td>1 visitor spaces</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td></td>
<td>14 SPACES 17 SPACES</td>
</tr>
</tbody>
</table>

Pursuant to Clause 52.06 a minimum of 14 spaces are required to be provided for the proposed development with an additional one visitor space. It is noted that the proposed development provides 3 additional spaces in excess of requirements of Clause 52.06.

The proposal complies with Clause 52.06.

Whilst it is acknowledged that the development will generate some additional vehicle movements on the local road network, it is not considered that such additional movements would necessarily be concentrated or conflict substantially with existing traffic. Furthermore some residents may choose to walk, cycle or use public transport which is available within a short walking distance of the site.

6.7. Objector issues not already addressed

Overdevelopment – height, mass, bulk

State and Local Planning Policy envisages an increase in housing density in well serviced areas such as this. Clause 21.11 State Planning Framework of the Bayside Planning Scheme encourages higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport. The increase in population and density at this site is considered an appropriate response to the underutilised state of the site and the proximity of the site to public transport, shops and
other services. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

The height and scale of the development at three storeys is appropriate, given the focus for intensive development for the site in an activity centre and similar scale development having been approved and developed in the activity centre.

**Heritage**

The proposed development is sufficiently separated from nearby heritage buildings to minimise any detrimental impact on heritage grounds.

Though acknowledged that local residents may identify the site with social significance, there is no heritage overlay encumbering the site necessitating the building’s preservation.

**Loss of vegetation**

The Landscaping Objective of Clause 55 (Rescode) requires consideration to be given to the retention of existing trees and protection of any predominant landscape features of the neighbourhood. However, the land is zoned for residential purposes and there are no specific vegetation protection overlays applicable to the site. The trees proposed to be removed are not considered of such importance to warrant significant redesign to enable their retention. A condition on the planning permit will require a landscape plan to be submitted and endorsed as part of the planning permit. This will require the planting of appropriate replacement vegetation.

**Noise pollution**

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 noise levels generated by the development will not be significantly above that of the surrounding area. Residents are no more or less likely to generate excessive noise than the occupiers of the surrounding dwellings and businesses.

**Loss of view**

The Victorian Civil and Administrative Tribunal has consistently found that although impact upon views can be considered amongst the amenity impacts of a proposal, there cannot be considered a right to any particular view. In the absence of particular planning controls which might require the protection of, or sharing of views, loss of views is usually afforded very limited weight. This is especially the case where a view is obtained across adjoining land and the views are not afforded any special consideration in a planning control. In this case the development is not considered to intrude unreasonably upon the skyline to reduce the amenity of neighbours through their outlook or access to daylight.

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

**Support Attachments**

1. Development Plans ↓
2. Site and surrounds imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
### Schedule of existing trees

<table>
<thead>
<tr>
<th>Tree</th>
<th>Botanical Name</th>
<th>Common Name</th>
<th>Height</th>
<th>Width</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Psidium sp</td>
<td>Guava</td>
<td>1.5m</td>
<td>1.5m</td>
<td>Removed</td>
</tr>
<tr>
<td>2</td>
<td>Unknown</td>
<td>Dead tree</td>
<td>2.5m</td>
<td>2m</td>
<td>Removed</td>
</tr>
<tr>
<td>3</td>
<td>Camellia sasanquas</td>
<td>Camellia</td>
<td>1.5m</td>
<td>2m</td>
<td>Removed</td>
</tr>
<tr>
<td>4</td>
<td>Cotoneaster</td>
<td>Cotton Easter</td>
<td>1.5m</td>
<td>2m</td>
<td>Removed</td>
</tr>
<tr>
<td>5</td>
<td>Cotoneaster</td>
<td>Cotton Easter</td>
<td>1.5m</td>
<td>2m</td>
<td>Removed</td>
</tr>
<tr>
<td>6</td>
<td>Ficus carica</td>
<td>Fig</td>
<td>1m</td>
<td>1m</td>
<td>Removed</td>
</tr>
<tr>
<td>7</td>
<td>Ficus carica</td>
<td>Fig</td>
<td>2m</td>
<td>2m</td>
<td>Removed</td>
</tr>
<tr>
<td>8</td>
<td>Camellia reticulata</td>
<td>Camellia</td>
<td>2m</td>
<td>2m</td>
<td>Removed</td>
</tr>
<tr>
<td>9</td>
<td>Betula pendula</td>
<td>Silver Birch</td>
<td>3m</td>
<td>3m</td>
<td>Removed</td>
</tr>
<tr>
<td>10</td>
<td>Camellia reticulata</td>
<td>Camellia</td>
<td>2m</td>
<td>2m</td>
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</tr>
<tr>
<td>11</td>
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<td>2m</td>
<td>2m</td>
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</tr>
<tr>
<td>12</td>
<td>Camellia sasanquas</td>
<td>Camellia</td>
<td>1.5m</td>
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</tr>
<tr>
<td>13</td>
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<td>14</td>
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<tr>
<td>15</td>
<td>Acer rubrum</td>
<td>Maple</td>
<td>2.5m</td>
<td>2.5m</td>
<td>Removed</td>
</tr>
<tr>
<td>16</td>
<td>Citrus x limon</td>
<td>Lemon</td>
<td>2.5m</td>
<td>2.5m</td>
<td>Removed</td>
</tr>
<tr>
<td>17</td>
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<td>Lemon</td>
<td>1.5m</td>
<td>1.5m</td>
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<tr>
<td>18</td>
<td>Callistemon</td>
<td>Bottlebrush</td>
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<td>2m</td>
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<tr>
<td>19</td>
<td>Malus pumila</td>
<td>Apple</td>
<td>1.5m</td>
<td>1m</td>
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</tr>
<tr>
<td>20</td>
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<td>Maple</td>
<td>2.5m</td>
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<tr>
<td>22</td>
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<td>24</td>
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<td>2.5m</td>
<td>2.5m</td>
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<tr>
<td>25</td>
<td>Pittosporum tenuefolium</td>
<td>Pittosporum James Sterling</td>
<td>2m</td>
<td>3m</td>
<td>Removed</td>
</tr>
<tr>
<td>26</td>
<td>Pittosporum tenuefolium</td>
<td>Pittosporum James Sterling</td>
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<td>3m</td>
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</tr>
<tr>
<td>27</td>
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</tr>
<tr>
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<td>3m</td>
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</tr>
<tr>
<td>29</td>
<td>Pittosporum tenuefolium</td>
<td>Pittosporum James Sterling</td>
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<td>3m</td>
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</tr>
<tr>
<td>30</td>
<td>Pyrus</td>
<td>Pear</td>
<td>1m</td>
<td>0.5m</td>
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</tr>
<tr>
<td>31</td>
<td>Pyrus</td>
<td>Pear</td>
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<td>32</td>
<td>Cotoneaster</td>
<td>Cotton Easter</td>
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<td>2m</td>
<td>Removed</td>
</tr>
<tr>
<td>33</td>
<td>Malus pumila</td>
<td>Apple</td>
<td>1.5m</td>
<td>3m</td>
<td>Removed</td>
</tr>
<tr>
<td>34</td>
<td>Betula pendula</td>
<td>Silver Birch</td>
<td>2.5m</td>
<td>2m</td>
<td>Removed</td>
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<tr>
<td>35</td>
<td>Citrus x sinensis</td>
<td>Orange</td>
<td>2m</td>
<td>1.5m</td>
<td>Removed</td>
</tr>
<tr>
<td>36</td>
<td>Acer rubrum</td>
<td>Maple</td>
<td>1.5m</td>
<td>1m</td>
<td>Removed</td>
</tr>
<tr>
<td>37</td>
<td>Betula pendula</td>
<td>Silver Birch</td>
<td>3m</td>
<td>2.5m</td>
<td>Retained</td>
</tr>
</tbody>
</table>
Item 4.6 – Matters of Decision
Figure 1. Aerial Overview of subject site and objector map. In addition one objection was received from an address in Albert Park.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objectors</td>
<td>★</td>
</tr>
</tbody>
</table>
Figure 2: North-western view
Figure 3: south-eastern view
Figure 4: view from street frontage
Attachment 2

Neighbourhood Character Precinct B2

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Respond</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs. • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>Loss of front garden space.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td>To minimise the loss of front garden space and the dominance of car parking facilities.</td>
<td>• Locate garages and carports behind the line of the dwelling. • 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.</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td>To ensure new development respects the dominant buildings</td>
<td>• Articulate the form of buildings and elevations, particularly front façades.</td>
<td>Large buildings with poorly</td>
<td>Responds</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>forms and scale of buildings in the Precinct, through the use of innovative architectural responses.</td>
<td>• Recess upper storey elements from the front façade.</td>
<td>articulated facades.</td>
<td>The proposed development will enhance the existing and emerging character of the area by utilising similar forms of materials, finishes; and, landscaping. The dwellings feature articulated forms and second storey elements will be recessed from the side walls and surfaces. The recessed upper storey elements from the front façade response to the neighbourhood character of the street. It is considered that due to the architectural designs found throughout Black Street, the proposed development is considered to be appropriate as it meets the existing and emerging neighbourhood character of the street.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s, in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or massing. Imitation or reproduction of historic building styles and detailing.</td>
<td>N/A The proposed development is located within close proximity to heritage dwellings, however the proposed development does not adjoin any heritage dwelling</td>
</tr>
<tr>
<td>To use a variety of building materials and finishes that provide visual interest in the streetscape.</td>
<td>• Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design. • Use simple building details.</td>
<td>Exclusive use of one material on external wall facades.</td>
<td>Responds The proposal utilises a variety of materials, including stone cladding, render and timber cladding. The palette of colours is considered appropriate and assists in reducing visual bulk.</td>
</tr>
<tr>
<td>To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads. • Front fence style should be appropriate to the building era.</td>
<td>High, solid fences</td>
<td>Responds The existing 1.7m high fence will be replaced with a new 1.7m high fence.</td>
</tr>
</tbody>
</table>
## ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to the services and facilities required to support the proposed residential development.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Variation required.</td>
<td>Refer to report. The development addresses the street and entries are clearly identifiable from the road.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Standard B6 requires the setback to be the average distance of the setbacks of the front walls of the existing buildings on the abutting allotments facing the front street or 9 metres, whichever is the lesser. The abutting allotments (60 Black Street and 1/64 Black Street) contain setback of 7.2m and 7.6m respectively, therefore the setback should be 7.4 metres. The proposed setback is 7.5 metres.</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>4.6</td>
<td>B7 Building Height</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>B8 Site Coverage</td>
<td>Variation required</td>
</tr>
<tr>
<td></td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>B9 Permeability</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>B10 Energy Efficiency</td>
<td>Yes</td>
</tr>
<tr>
<td></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></td>
</tr>
<tr>
<td>10</td>
<td>B11 Open Space</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>B12 Safety</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>B13 Landscaping</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood.</td>
<td></td>
</tr>
</tbody>
</table>
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**  
Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Appropriate vehicular access is provided; the proposed development utilises the existing (modified) crossover (located off Church Street). <strong>Maximum:</strong> 40% of street frontage <strong>Proposed:</strong> 22.2% of street frontage</td>
<td></td>
</tr>
</tbody>
</table>

**B15 Parking Location**  
Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Refer report.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>North-west (side)</th>
<th>South-east (side)</th>
<th>South-west (rear)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required: 0-0.2m or 1m</td>
<td>Required: 0-0.2m or 1m</td>
<td>Required: 0-0.2m or 1m</td>
</tr>
<tr>
<td>Proposed: 1.2m, 3.8m</td>
<td>Proposed: 0m, 2m, 2.25m, 3.7m</td>
<td>Proposed: 1.5m</td>
</tr>
<tr>
<td>Ground Floor</td>
<td>First Floor</td>
<td></td>
</tr>
<tr>
<td>Required: 1.63m, 2.59m</td>
<td>Required: 1.705-2.71m</td>
<td></td>
</tr>
<tr>
<td>Proposed: 2m</td>
<td>Proposed: 2.25m + balcony encroachment</td>
<td></td>
</tr>
</tbody>
</table>

**Second floor**

<table>
<thead>
<tr>
<th>North-west (side)</th>
<th>South-east (side)</th>
<th>South-west (rear)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required: 5.09m, 5.49m, 5.89m</td>
<td>Required: 4.54-5.79m</td>
<td>Required: 5.49m</td>
</tr>
<tr>
<td>Proposed: 2m, 2.55m, 5.26m</td>
<td>Proposed: 4.4m</td>
<td>Proposed: 10.79m</td>
</tr>
</tbody>
</table>

**B18 Walls on Boundaries**  
Ensure the location, length

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Variation requested.</td>
<td>Refer report.</td>
</tr>
</tbody>
</table>

South-East elevation
and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision Required</th>
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</thead>
<tbody>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>The proposal is set back from property boundaries sufficiently to ensure daylight to existing windows is maintained.</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>There are no north facing windows within 3 metres of the boundary.</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Overshadowing will mainly occur to the properties to the south-east, units 1-4/64 Black Street. However, there is a concrete driveway immediately adjacent to the common boundary that will be impacted upon. The private open space of these dwellings will not lose any sunlight.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>The development meets the requirement of B22 by providing external screens in order to minimise overlooking and achieve compliance.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Windows and balconies are designed to prevent overlooking into secluded private open space and habitable room windows of dwellings within the development by using screening and other measures to comply with the requirements of B23.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Plant room has been incorporated into the design of the building and is located on the roof centrally within the building away from the sensitive boundary interfaces.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>The development has been designed to accommodate people with limited mobility.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>The building has been designed with a sense of address to the street and allowing for shelter and a transitional space around the entry.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>All habitable room windows have direct access to daylight.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>All dwellings provide sufficient private open space.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>4.6</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
</tr>
<tr>
<td>B32</td>
<td>Front Fences</td>
</tr>
<tr>
<td>B33</td>
<td>Common Property</td>
</tr>
<tr>
<td>B34</td>
<td>Site Services</td>
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1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Ratio</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>24 March, 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>186 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone, Schedule 2 (GRZ2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay, Schedule 11 (DDO11)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>12</td>
</tr>
</tbody>
</table>

Purpose

To report an in-principle agreement reached by all parties subsequent to a VCAT Compulsory Conference for the development of a three storey residential building consisting of 8 apartments, a front fence exceeding 1.5 metres in height and basement car park (refer Attachment 3) at 157 Church Street, Brighton.

History

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

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

At the Planning and Amenity Committee Meeting held on 23 January 2018, Council considered an application for the development of a three storey residential building consisting of 8 apartments, a front fence exceeding 1.5 metres in height and basement car park. Council determined to support the application, subject to conditions. The original development plans and recommendation supported by Council are included as Attachment 2.

At the VCAT Compulsory Conference held on 30 January 2018, attended by the permit applicant, Council officers and 2 objector parties, an in-principle agreement was reached between all parties.

The plans tabled at the Compulsory VCAT Conference are provided at Attachment 3 and were used to assist with discussion at the conference and in forming the recommendation outlined in section 4 of this report. These plans have not been formally substituted. It is noted that these plans were submitted in order to appease objector concerns, beyond Council’s recommendation. Furthermore, these amended plans exceed the requirements of the relevant standards of Clause 55 of the Bayside Planning Scheme.
If Council agrees to support the amended recommendation below then a planning permit will be issued by VCAT which contains, unchanged, all of the conditions contained in the recommendation of this report. It is imperative to note that the conditions tabled below cannot be varied or changed unless at the request of VCAT; any changes to these conditions will require Council to attend the two (2) day hearing date set for the 21 - 22 March 2018.

The without prejudice plans make the following changes:

**Overlooking**
- Privacy screens increased to 1.8 metres;

**Side and rear setbacks**
- Increased rear building setback (ground floor) to 4.5m from North Eastern Boundary;
- Increased side setback at ground floor to 1.825 metres (adjacent to that part of apartment G03);
- Increased rear building setback (first floor) to 5 metres from North Eastern Boundary (except for privacy screens which are to be setback not less than 4.6 metres);
- Increased rear building setback (second floor) to 6.7 metres from North Eastern Boundary;
- Increased rear building setback (roof top parapet) to 8.7 metres from North Eastern Boundary;
- Removal of accessible balcony areas along South Eastern boundary abutting apartments 201/202;
- Reduced overall building footprint;

**Design detail**
- Entry ramp revised to retain existing shrubs on adjoining property at No 159 Church Street;
- Individual bike rack added to each unit’s car space;
- Removal of terrace / balcony along the southeast elevation (level 2);
- 1:16 Slope introduced to ensure basement does not interfere with pedestrian ramp;
- Water retention tank relocated;

**Landscaping:**
- Provision of landscaping along the entire length of the north boundary for a distance of 12 metres.

**Amended Proposal**

The application seeks the development of a three storey residential building consisting of 8 apartments, a front fence exceeding 1.5 metres in height and basement car park on a lot with an area of 1,012 square metres. Key details of the proposal are as follows:

- 8 x three bedroom dwellings;
- Site coverage - 61.6%;
- Building height - 10.7 metres;
- Permeability - 38.4%;
2. **Planning controls**

**Planning Permit requirements**

A planning permit is required pursuant to:

- Clause 32.08-4 - General Residential Zone, Schedule 2 (GRZ2) - Construction of two or more dwellings on a lot;
- Clause 32.08-6 - General Residential Zone, Schedule 2 (GRZ2) - Construction of a front fence within 3 metres of a street exceeding a height of 1.5 metres; and,
- Clause 43.02-2 - Design and Development Overlay, Schedule 11 (DDO11) – Construct a building or construct and carry out works exceeding a height of 9 metres.

**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 original 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>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

**Public notification**

The original application was advertised pursuant to Sections 52(1) (a) and (d) of the *Planning and Environment Act 1987* and 12 objections were received. The following concerns were raised:

- Heritage;
- Overdevelopment;
- Noise;
- Side and rear setbacks;
- Inappropriate location of car parking;
- Building mass, scale and bulk;
- Disturbance during construction;
- Location of air conditioning units;
- Inconsistency with neighbourhood character;
- Loss of privacy/overlooking;
• General ResCode non-compliances;
• Inconsistent with the Design and Development Overlay – Schedule 11;
• Tree protection;
• Front fencing;
• Rear fencing height;
• Building height;
• Permeability; and,
• Limited landscaping opportunities.

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

Consultation meeting
A consultation meeting was held on 30 August 2017 attended by the permit applicant and 11 objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation
Determine to Support the application under the provisions of the Bayside Planning Scheme in respect of Planning Application 2017/151/1 for the land known and described as at 157 Church Street, Brighton for the development of a three storey residential building consisting of 8 apartments, a front fence exceeding 1.5 metres in height and basement car park 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 (drawn by Artisan Architects, drawing nos. TP01 – TP10 (inclusive) all marked Revision A and dated March 2017) but modified to show:

   a) The ground floor level setback not less than 4.5 metres from the north boundary;

   b) The ground floor level not less than 1.825 metres from the east boundary adjacent to that part of apartment G03 that extends from northeast corner of the building to the southernmost bedroom (but excluding the walk in robe and bathroom);

   c) No alteration to the natural ground level of the 1.825 metre setback to east boundary for a distance of not less than 12 metres commencing at the northeast corner;

   d) The first floor setback not less than 5 metres from the north boundary except for privacy screens which are to setback not less than 4.6 metres;

   e) The second level setback not less than 6.7 metres from the north boundary;

   f) The roof top parapet setback not less than 8.7 metres from the north boundary;

   g) Privacy screening devices must be to a height of not less than 1.8
metres above finished floor level and otherwise designed to meet the requirements of Standard B22 at Clause 55 of the Bayside Planning Scheme;

h) Provision of landscaping along the entire length of the north boundary and for a distance of 12 metres along east boundary commencing from the northeast corner of the land, comprising:
   i. An evergreen hedge with plants of not less than 4 metres in height at the time of planting and capable of growing to a height of 8 metres;

i) The provision of external security lighting within the site;

j) Details of the pedestrian sight triangle on the north-west side of the accessway must have a minimum 1m offset from the north-west property boundary provide adequate sight triangle or alternative arrangement that provides satisfactory line of sight;

k) Ground and floor levels to be shown in Australian Height Datum;

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

All to the satisfaction of the responsible authority.

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

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

4. All pipes (except 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.

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

6. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building;

**Landscaping**

7. Before commencement of development, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must be generally in accordance with the landscape plan prepared by John Patrick, Drawing no. L-TP01, dated May 2017 and must show:
   a) Any requirements set out in condition 1.
   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 protected vegetation
to be removed from the site.

d) Provision of an additional 4 small canopy trees (greater than 8 metres in height and greater than 4 metres canopy spread) throughout the site.

e) 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.

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

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

h) Details of surface finishes of pathways and driveways.

8. Not less than 3 months before the occupation of development, the landscaping works required by conditions 1(h), as shown on the endorsed plans, must be carried and completed 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.

10. Before the development starts, a construction impact report and tree protection methodology for trees on neighbouring properties must be provided in relation to the two (2) Silver Birches (Betula pendula) are located within the side setback of 159 Church Street (southeast), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. The report should be in accordance with the Australian Standard Protection of Trees on Development Sites and should identify impacts that may be detrimental to the tree and include any design responses required to reduce any identified negative impact.

11. 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.

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

**Water Sensitive Urban Design**

16. Before commencement of development, 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 be generally in accordance with the landscape plan prepared by:

   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.

17. 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.

**Traffic / Drainage**

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

19. 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.

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 Infrastructure Assets Department.

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.

22. Clearly marked allocation of car parking spaces for each dwelling.

23. Clearly line marked / signed visitor parking spaces.

Construction Management Plan

24. Before 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 reasonably proximate to the site).

n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).
o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.


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

r) Details of crane activities, if any.

Development Contributions

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

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

Permit Expiry

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

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

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

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

5. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

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

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
6. Considerations

This assessment is based on the in-principle agreement reached between all parties following the VCAT Compulsory Conference held on 30 January 2018. In light of the without prejudice plans circulated by the applicant, combined with a variety of additional modifications reflected in the recommendation of this report, an in-principle agreement on the development has been achieved which introduces a number of changes. The acceptability of the without prejudice plans are discussed below.

6.1. Amended plans assessment

Standard B22 - Overlooking

The original proposal met all of the requirements of Standard B22 (Overlooking). The amended plans further the development’s compliance with Standard B22 (Overlooking) by increasing the privacy screening devices to 1.8 metres.

Furthermore, the following condition have been added to the in-principle agreement:

a) Privacy screening devices must be to a height of not less than 1.8 metres above finished floor level and otherwise designed to meet the requirements of Standard B22 at Clause 55 of the Bayside Planning Scheme.

All terrace areas and windows will be sufficiently screened to prevent overlooking to the abutting allotments and to protect the privacy needs of future residents.

Standard B17 - Side and Rear Setbacks

The original proposal met all of the requirements of Standard B17 (Side and Rear Setbacks). The amended plans further the developments compliance with Standard B17 (Side and Rear Setbacks). The proposed setbacks are as follows:
The proposed increased setbacks further the development’s compliance with Clause 55 on the Bayside Planning Scheme as the proposed building is considered to exceed the requirements of Standard B17 – Side and Rear Setbacks. The increased setbacks along the north-east boundaries further reduce the developments visual bulk along all boundaries whilst also reducing site coverage.

Furthermore, the following conditions will be contained within any permit issued:

a) The ground floor level setback not less than 4.5 metres from the north boundary;

b) The ground floor level not less than 1.825 metres from the east boundary adjacent to that part of apartment G03 that extends from northeast corner of the building to the southernmost bedroom (but excluding the walk in robe and bathroom);

c) No alteration to the natural ground level of the 1.825 metre setback to east boundary for a distance of not less than 12 metres commencing at the northeast corner;

d) The first floor setback not less than 5 metres from the north boundary except for privacy screens which are to setback not less than 4.6 metres;

e) The second level setback not less than 6.7 metres from the north boundary;

f) The roof top parapet setback not less than 7.7 metres from the north boundary

It is noted that the bulk, location and appearance of the amended development is considered to be in keeping with the character and appearance of adjacent buildings and is considered to enhance the neighbourhood character. The amended setbacks are considered to reduce the built form whilst also providing articulation, improved internal amenity and a reduction in the overall built form.

The proposed changes to the development result in less visual bulk and achieves a high standard of urban design. The changes reduce the overall built form, whilst also achieving a high level of compliance with all of the objectives of Clause 55.

**Design Detail and landscaping**

Issues were raised by the objectors in relation to screening of the development along the

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
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<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North-east (rear)</td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td>South-east (side)</td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td>North-west (side)</td>
<td>0-0.2m or 2m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
</tr>
<tr>
<td>North-east (rear)</td>
</tr>
<tr>
<td>South-east (side)</td>
</tr>
<tr>
<td>North-west (side)</td>
</tr>
</tbody>
</table>
northeast and southeast boundaries. It is for this reason that the following conditions have been added to Council recommendation:

1h) Provision of landscaping along the entire length of the north boundary and for a distance of 12 metres along east boundary commencing from the northeast corner of the land, comprising:

   ii. An evergreen hedge with plants of not less than 4 metres in height at the time of planting and capable of growing to a height of 8 metres;

8. Not less than 3 months before the occupation of development, the landscaping works required by conditions 1(h), as shown on the endorsed plans, must be carried and completed to the satisfaction of the Responsible Authority.

The provision of landscaping along the northeast and southeast boundaries will screen the development from the abutting allotments. The increased setbacks will provide further area for trees to mature. The additional condition requiring the planting of semi mature vegetation will provide immediate visual relief for the abutting allotment (44 Black Street).

The removal of the terrace / balcony along the southeast elevations reduces visual bulk and provides for better articulation without reducing the internal amenity of any future residents.

6.2. Conclusion

As described above, the changes to the plans are significant, and sufficiently address all objector concerns. In addition to responding to the objectors, there are significant improvements over and above these grounds that substantially reduce the impact this proposal will have on neighbouring amenity. These include (but are not limited to) the increase setbacks along all sensitive residential interfaces and the provision of privacy screens, a subsequent reduction in site coverage from 72.5% to 61.6%; and, removal of the balcony / terraces along the southeast elevation.

The design, form, layout, proportion and scale of the proposed buildings is considered to be compatible with the style, form, proportion, and scale of the neighbouring properties.

The overall development is considered to show a high level of compliance with the Bayside Planning Scheme. Furthermore, all parties to the appeal have signed off on the application.

Support Attachments

1. Site and Surrounds Imagery
2. Original Recommendation and Plans
3. Amended Plans - Without Prejudice
Figure 1 Aerial overview of the site and surrounds, two objections were received from properties located outside of this map. These properties are 72 Black St, Brighton and 27 Halifax Street, Brighton.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>

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Figure 2 View towards the site from the southeast
Figure 3 View towards the site from the south (Church Street)

Figure 3 View towards the site from the southwest
Figure 4 View along the existing sites street frontage

Figure 5 View along the existing sites street frontage
4.3 157 CHURCH STREET, BRIGHTON
SUPPORT THE GRANT OF A PLANNING PERMIT
APPLICATION NO: 2017/151/1  WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/2689

It is recorded that Mr David Bayley, and Ms Alice Maloney spoke for three minutes each on this Item.

Moved: Cr del Porto  Seconded: Cr Heffernan

That Council:

Determines to Support the application under the provisions of the Bayside Planning Scheme in respect of Planning Application 2017/151/1 for the land known and described as at 157 Church Street, Brighton for the development of a three storey residential building consisting of 8 apartments, a front fence exceeding 1.5 metres in height and basement car park 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 but modified to show:
   a) The provision of external security lighting within the site;
   b) Details of the pedestrian sight triangle on the north-west side of the accessway must have a minimum 1m offset from the north-west property boundary provide adequate sight triangle;
   c) Ground and floor levels to be shown in Australian Height Datum;
   d) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

   All to the satisfaction of the responsible of the responsible authority.

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

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

4. All pipes (except 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.

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

6. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building;
Landscaping
7. Before commencement of development, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must be generally in accordance with the landscape plan prepared by John Patrick, Drawing no. L-TP01, dated May 2017 and 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 protected vegetation to be removed from the site.
   c) Provision of an additional 4 small canopy trees (greater than 8 metres in height and greater than 4 metres canopy spread) throughout the site;
   d) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   e) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   f) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   g) Details of surface finishes of pathways and driveways.
8. 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.
9. 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.
10. Before the development starts, a construction impact report and tree protection methodology for trees on neighbouring properties must be provided in relation to the two (2) Silver Birches (Betula pendula) are located within the side setback of 159 Church Street (southeast), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. The report should be in accordance with the Australian Standard Protection of Trees on Development Sites and should identify impacts that may be detrimental to the tree and include any design responses required to reduce any identified negative impact.
11. 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.
12. 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. Before the development starts tree protection fencing is to be established around the street trees marked for retention prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire naturestrip under the drip line of the tree. The Tree Protection Zone is to be established and maintained in accordance with AS4970-2009. 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.

**Water Sensitive Urban Design**

16. Before commencement of development, 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 be generally in accordance with the landscape plan prepared by:

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.

17. 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.

**Traffic / Drainage**

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

19. 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.

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 Infrastructure Assets Department.

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.

22. Clearly marked allocation of car parking spaces for each dwelling.

23. Clearly line marked / signed visitor parking spaces.

Construction Management Plan

24. Before 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 reasonably proximate to the site).

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

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


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

r) Details of crane activities, if any.

Development Contributions

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

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

Permit Expiry

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

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

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

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

Permit Notes

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

- Council must be notified of the vehicular crossing and reinstatement works.

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

- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
The Motion was PUT and a **DIVISION** was called:

**DIVISION:** FOR: Crs Alex del Porto, Laurence Evans (Mayor), Michael Heffernan, Clarke Martin, Rob Grinter and Sonia Castelli (6)

**AGAINST:** Cr James Long (1)

**CARRIED**
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
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>Larissa &amp; Oleg Bassovitch</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>6 January 2017 (Amended on 8 February 2018)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>19 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay (SBO)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal
The application seeks the development of two double storey dwellings on a lot with an area of 635.8 square metres. Key details of the proposal are as follows:

- Two x four bedroom dwellings
- Maximum building height – 7.22m
- Site coverage – 49.99%
- Permeability – 38.23%
- Double garage for Dwelling 1.
- Single garage and a tandem car parking space for Dwelling 2.

The application plans are provided at Attachment 1.

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

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

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:

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

It is noted no proposed buildings and works are within the Special Building Overlay and therefore no planning trigger exists under this overlay.
Planning Scheme Amendments

Planning Scheme Amendment C153 has been initiated by Council at Melbourne Water’s request and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. An independent Planning Panel has considered the submissions received to the amendment and the Panel Report will be presented to Council early in 2018. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. Amendment C153 proposes to remove the SBO from the site and as such will no longer apply to an application on this site.

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 three objections were received. The following concerns were raised:

- Neighbourhood character;
- Overlooking;
- Overshadowing;
- Parking / Traffic issues
- Property values
- Wall on boundary
- Vegetation removal
- Incorrect information submitted with the application; and
- Structural integrity concerns.

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

Consultation meeting

A consultation meeting was held on 10 July 2017 attended by the permit applicant and 6 objectors (from 3 objections). As a result of this meeting no objections were withdrawn. The applicant lodged an amendment plan to address the objections on 8 February 2018.
4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 5/2017/5** for the land known and described as **9 Widdop Crescent, Hampton**, for the **construction of two dwellings** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans prepared by Finley Robert Design referenced 16-108, date 8 February 2018 and revision number A but modified to show:
   a) Revised floor and elevation plans to ensure consistent information is provided, eg, first floor finished floor levels.
   b) All habitable room windows at the first floor to comply with Standard B22 – Overlooking of the Bayside Planning Scheme. Diagrams must be provided for all windows or balconies proposed to be unscreened, demonstrating full compliance with Standard B22.
   c) A 4.8m wide garage door to be provided for Dwelling 1, and a 3m wide garage door to be provided for Dwelling 2.
   d) The driveways where they intersect with the footpath are to be 3m wide with 0.8m offset from the western and eastern property boundary respectively.
   e) The existing crossover must be replaced with a new crossover. The new crossovers must be constructed with 0.8m offset from the property boundaries.
   f) Adequate sight lines must be provided where each driveway intersects with the front footpath in accordance with Clause 52.06-8.
   g) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   h) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   i) Water Sensitive Urban Design measures 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 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 commencement of the development, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts, Council dated 19 April 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

e) Details of surface finishes of pathways and driveways.

f) Design changes required at Condition 1.

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. Soil excavation must not occur within 2.5 metres from the edge of *Agonis flexuosa* street tree asset’s stem at ground level.

17. 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

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

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

Development Contributions

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

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

Permit Expiry

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

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

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

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

Permit Notes:

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

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

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

• 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.

• Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.”
Council records indicate that there is a 3.05m wide drainage and sewerage easement along the northern property boundary as indicated on the drawings provided. The plans indicate that two sheds 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.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.10 Infrastructure
- Clause 21.11 Local Areas (specify activity centre)
- Clause 22.06 Neighbourhood Character Policy (Precinct G1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

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

The proposed canopy tree plantings in the front yard will enhance the garden settings of the dwellings. The rhythm of visual separation between buildings has been achieved by providing a 2m separation along the western boundary. The proposed façades are designed to incorporate articulated elements including recessed portions, different style of windows and a variety of finishes. The proposal does not incorporate any front fence, which maintains the openness of the streetscape.

Officers acknowledged that the subject site is located in a low scale neighbourhood, with majority of dwellings being single storey. However, this is not to suggest that the proposed double storey buildings are out of character, or inappropriate. A number of VCAT decisions have confirmed that a double storey built form in an area which is predominately single storey should not be viewed as ‘out of character’. However, the proposal must be sensitively designed to ensure that the character is respected (rather than mimicked).

Officers consider that the proposed double storey building is a modest development in this area, and the proposed 7.6m – 8.3m rear setback at the first floor will maintain the existing backyardscape. This will ensure that the amenity impacts to adjoining properties are reasonable.

6.2. Compliance with Clause 55 (ResCode)

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

Side and rear setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>0m and 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m and 1.8m 2.2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>6m – 8.05m</td>
</tr>
</tbody>
</table>

Kitchen of Dwelling 2 does not fully comply with the required 2m side setback in relation to the western boundary and it seeks a marginal variation of 0.2m. It is due to the subject site not being rectangular in shape. Officers believes the proposed variation is minimal and will not offer any unreasonable amenity impacts to the adjoining property.

In relation to the east elevation, the proposed bedroom next to the staircase of Dwelling 1 does not comply with the required 3.3m side setback. The proposed variation of 100mm is considered marginal which will not offer any unreasonable amenity impacts to the adjoining property at 11 Widdop Crescent.

One bedroom (in the middle next to staircase) and bathroom of Dwelling 2 do not fully comply with the side setback standard in relation to the western boundary. The primary reason is due to the subject site not being rectangular in shape. The proposed encroachments are minimal and will not offer unreasonable amenity impacts to the adjoining property and the objective of the standard has been achieved.

Overlooking (Standard B22)
The proposal habitable room windows are designed to avoid overlooking in accordance with the Standard B22 except the north end bedroom window of both dwellings. They potentially overlook into the backyard of 11 Widdop Crescent. A condition in the permit will be imposed to ensure it complies with the Standard.

Internal Views (Standard B23)
At ground level, fencing to a height of 1.8m will be conditioned to prevent internal overlooking whilst windows at first floor have been adequately located and designed to limit internal overlooking to less than 50%.

Site Services (Standard B34)
Bins, air conditioning, hot water systems and clothes lines have not been indicated on the plans. There is sufficient space around the two dwellings to accommodate all services; however given the proximity to neighbouring properties, a condition of approval is recommended to ensure the locations of all services are appropriately located away from habitable room windows to minimise noise impacts.

6.3. Landscaping
The application plans show the removal of 8 trees from the site including 2 native trees. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with a ‘*’.

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed removal for</td>
<td>Proposed retention for</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Tree 9*</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Council’s Arborist in their referral response advised that no objection to the proposed removal of all trees, subject to appropriate replacement trees. Conditions will be placed on any permit issued requiring replacement planting to occur throughout the development.

Tree Nos. 5 and 11 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. A condition to this effect is included in the recommendation.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable. The landscape plan includes the planting of two (2) Evergreen Magnolia (Magnolia grandiflora ‘Exmouth’) in the front setback will satisfactorily compensate for the loss of amenity incurred by the removal of tree #3.

6.4. Street tree(s)
Tree No. 1 is located within the nature strip and is proposed for retention. Council’s Street Tree Arborist has advised that no soil excavation is to occur within the 2.5 metres of the Agonis flexuosa street tree asset measured from the edge of the trunk.

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

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

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

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

6.6. **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.

**Incorrect information submitted with the application**

It is acknowledged that the proposed finished floor level at the first floor does not match with the provided elevation plans. It will be conditioned to be corrected.

**Structural integrity concerns.**

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

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

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Policy (Precinct G1) ↓
4. ResCode (Clause 55) Assessment ↓
Item 4.8 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>★</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site from the east
Figure 3 View of subject site from the west
Neighbourhood Character Precinct G1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</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 large, established trees and provide for the planting of new trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds  
Comments  
Tree #3 Jacaranda (Jacaranda mimosifolia), in the front setback has a moderate amenity value. Retention of this tree would be in accordance with the Neighbourhood Character Policy guidelines for precinct G1, which has the objective of retaining large, established trees. However, the tree has to be removed based on the current proposal. The proposed planting of two (2) Evergreen Magnolia (Magnolia grandiflora ‘Exmouth’) in the front setback will satisfactorily compensate for the loss of amenity incurred by the removal of tree #3. |
| 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. | | Responds  
Comments  
The proposed dwelling provides 2m separation along the western boundary which maintains the rhythm of visual separation between buildings.  
It is noted the proposed living room of Dwelling 2 built on western boundary. However it has a setback of approximately |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Use pitched roof forms with eaves. | Large, bulky buildings with poorly articulated front and side wall surfaces. | 30m from the Widdop Crescent which is considered acceptable in respect to maintain the rhythm of visual separation between buildings.  
The proposed 2m side setback could accommodate substantial vegetation. Responds/Does not respond  
Comments  
The proposed façade are designed to incorporate different elements including recessed portions, projecting elements of bay windows, balcony as well the combinations of different render finishes to provide appropriate articulation. |
| To maintain the openness of the streetscape.    |                                                                                  | High, solid front fencing.                                           | N/A  
Comments  
No front fence is proposed.                                                                                     |
## ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **B6 Street Setback** | Yes | **Minimum:** 7.09m  
**Proposed:** 7.62m |
<p>| The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | | |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
<td>Required: 9m</td>
<td>Proposed: 7.22m</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
<td>Maximum: 50%</td>
<td>Proposed: 49.99%</td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td>Minimum: 20%</td>
<td>Proposed: 38.23%</td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
<td></td>
<td>The proposal provides appropriate solar access to the dwellings.</td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td></td>
<td>No safety issues are considered to be likely to arise.</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
<td></td>
<td>Refer report.</td>
</tr>
</tbody>
</table>
### B14 Access
Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.

| Yes | Appropriate vehicular access is provided.  
| Maximum: 40% of street frontage  
| Proposed: 34% of street frontage |

### B15 Parking Location
Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.

| Yes | The proposed car parking areas are appropriately located. |

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

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

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

### B18 Walls on Boundaries
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

| Yes | Maximum Height: 3.6m  
| Proposed: 3.155m (west) and 3.2m (east)  
| Maximum Average Height: 3.2m  
| Proposed: 3.155m (west) and 3.2m (east)  
| Maximum Length: 17.6m  
| Proposed: 6m |

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

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

### B20 North Facing Windows
Allow adequate solar access to existing north-facing

<p>| Yes | No north facing windows on adjoining properties are affected. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>No</td>
<td>Refer report. Addressed via conditions.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>No</td>
<td>Refer report.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
</tbody>
</table>
| B28 Private Open Space | Yes | Minimum: 25m² secluded, 40m² overall  
Proposed: 59.63m² and 44.23m² secluded private open space which already exceeds the required 40m² in overall. |
<p>| B29 Solar Access to Open Space | Yes | Appropriate solar access to the private open space areas is provided.                                                                       |</p>
<table>
<thead>
<tr>
<th><strong>B30 Storage</strong></th>
<th>Yes</th>
<th>A storage shed of 6m³ in size is provided in the rear open space of each dwelling.</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>B31 Design Detail</strong></th>
<th>Yes</th>
<th>Refer Attachment 1.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B32 Front Fences</strong></th>
<th>N/A</th>
<th>Required: 1.2m  Proposed: N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B33 Common Property</strong></th>
<th>N/A</th>
<th></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>No</th>
<th>Refer report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Minter Ellison</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>3 April 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>N/A</td>
</tr>
<tr>
<td>Zoning</td>
<td>Commercial 1 Zone</td>
</tr>
<tr>
<td>Overlays</td>
<td>Development Contribution Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>7 objections / 2 parties to the appeal</td>
</tr>
</tbody>
</table>

Proposal

To report an in-principle agreement reached by all parties at a VCAT Compulsory Conference for the buildings and works for a three storey building (for accommodation and an education facility as of right), a reduction in the provision of car parking and the display of advertising signage on a lot size of 495 square metres at 6-8 Spink Street, Brighton.

The application plans are provided at Attachment 1, with further changes to these plans recommended as conditions of permit.

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

History

At the Planning and Amenity Committee Meeting on 17 October 2017 Council considered an application for the development of a three storey building for accommodation and an education facility, a reduction in the provision of car parking and the display of advertising signage. Council determined to refuse the proposal on the following grounds:

1. The proposed architectural detailing fails to complement the existing character of the streetscape through:
   a) Building proportions failing to respect the street rhythm and fine grain development pattern of the area;
   b) The schedule of construction materials, colours and finishes which fails to comfortably integrate into the Spink Street character.

2. The proposed development results in unreasonable amenity impacts to adjoining residential properties, particularly 2-4 Spink Street 1A Rose Street and 1 Rose Street, through presenting a high level of visual bulk and being insufficiently offset from areas of secluded private open space.

3. The proposed development fails to demonstrate that no adverse amenity impacts will result through on-site noise.
4. The proposed development does not comply with the objectives of Clause 52.06 as the development fails to:
   a) To provide a safe and convenient access to the subject site via the rear laneway;
   b) Provide safe and convenient car parking arrangements within the subject site; and
   c) To provide for safe and convenient waste and loading measures to service the site.

5. The proposed development fails to provide an appropriate level of internal amenity for future students contrary to the provisions of the Bayside Planning Scheme.

The plans previously considered by the Planning and Amenity Committee meeting are provided at Attachment 3.

VCAT

The applicant lodged an appeal under Section 77 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s decision to refuse to grant a planning permit.

At the VCAT Compulsory Conference held on 5 February 2018, attended by the permit applicant, Council Officers and one objector party (representing one other objecting party) to the appeal, an in-principle agreement was reached between all parties.

The ‘without prejudice’ amended plans to be considered are provided at Attachment 1. These plans however do not show all the changes noted below as some changes form the requirements of Condition 1(a) and agreed to by the objecting parties to the appeal.

The outcome of the Compulsory Conference was to amend the plans and permit as follows:

**Buildings and works:**
- Revisions to the internal basement level layout;
- Provision of bicycle parking spaces increased from 6 to 14 and located within the basement;
- Relocation of first floor south-facing terrace to the west-facing front façade. The terrace area is also conditioned to increase from 26 square metres to a minimum area of 62 square metres. The space which was previously occupied by the terrace will now be converted to a non-trafficable roof area. The built form will not encroach into this area and a setback of 3.6 metres is maintained from the southern properties.
- Deletion of windows to the second floor south-facing hallway and bedrooms 9 and 14. Fixed screen louvers provided to all remaining south-facing windows at all levels to prevent all overlooking into the kitchen and living areas of the dwellings to the south.
- East facing windows screened up to 1.7m high to prevent overlooking to rear yard of No. 1 Rose Street.
- Acoustic treatments to the south-facing wall for level 2.
- All bedrooms and toilets facilities have been updated to adhere with the Public Health & Wellbeing Regulations.
- All bedrooms, toilets and kitchen facilities have been updated to adhere with the Residential Tenancies (Rooming House Standards) Regulations.
- Relocation of signage to a less prominent location, inclusion of canopy to entry and reconfiguration of front façade design to limit direct views into classroom;
item 4.9 - matters of decision

- Updated colour palettes to incorporate darker colours to the front façade and alter the fibre cement façade treatments to the north, south and east elevations to be replaced by recycled red bricks to complement the materials used for construction within the area; and

- Relocation of all plant equipment no less than 7 metres away from the southern boundary and incorporate acoustic screening.

Operations:

- Students to be aged to be 17 and under; and

- Education centre will no longer accept external students (i.e. a reduction of 20 students from the original proposal = 48 in total). The car parking provided on site is for staff only as future students will not be of driving age.

A detailed list of all changes are included at Attachment 4. It is noted that the applicant has also stated changes to the car parking layout and headroom clearance heights but the plans do not show these amendments. Additionally, the original plans did not feature a loading / unloading area but is noted as a proposed change.

If Council agrees to support the recommendation below then a planning permit will be issued by VCAT which contains, unchanged, all of the conditions in the recommendation section of this report.

Alternatively, should Council determine to not support the issue of an amended permit, then the original application plans (Attachment 3) will proceed to a VCAT merits hearing scheduled on 4 April 2018 for three days.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 34.04-4 (Commercial 1 Zone) – Construction of a building and works in the Commercial 1 Zone.

- Clause 52.05-7 (Advertising Signage) - To erect and display signage within a Category 1 - Commercial Area.

- Clause 52.06-3 (Car Parking) – Reduction in the number of car parking spaces required under Clause 52.06-5.

It is noted the proposed education facility and the accommodation components of the application do not require a permit as these uses are as of right (Section 1 Use) in the Commercial 1 Zone.

Planning Scheme Amendments

Planning Scheme Amendment C152 implements the Martin Street Structure Plan 2016 into the Planning Scheme. Council has adopted Amendment C152 and has submitted the amendment to the Minister for Planning for approval. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted. As such, Amendment C152 has been considered through the assessment of this application and is considered to be a seriously entertained document. The proposed buildings and works are generally in line with the vision, objectives and strategies of the Martin Street Structure Plan for the reasons outlined in the Planning and Amenity Committee Meeting Council Agenda on 17 October 2017 (Item 4.8, Section 6.1).

Planning Scheme Amendment VC142 was implemented on 16 January 2018 and amongst other changes deletes Clause 52.07 (Loading and Unloading Facilities) from
the Victorian Particular Provisions and makes consequential changes. New decision guidelines have been added to Clause 65 and Clause 93.04-2 to ensure that the design and location of loading and unloading facilities are appropriately considered when a permit is required for associated development.

3. Stakeholder consultation

The original application was referred as per the below. The amendments agreed at the Compulsory Conference do not require further comment from external or internal referrals.

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>Public Transport Victoria</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>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Waste Officer</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 were received. The following concerns were raised:

- Car parking and access including use of laneway;
- Bicycle parking;
- Development density;
- Overlooking;
- Overshadowing;
- Noise;
- Equitable development;
- Façade treatments;
- Demolition works;
- Social issues associated with the accommodation proposal; and
- Effect on property values.

Consultation meeting

Details of Council’s consultation process are detailed in the Planning and Amenity Committee Meeting Council Agenda on 17 October 2017 (Item 4.8, Section 3).

VCAT arranged and held a Compulsory Conference on 5 February 2018. The applicant, Council representative and the one objecting party (representing an additional objecting party) were in attendance. The applicant tabled ‘without prejudice’ amended plans, and
an in-principle agreement was reached by all parties in attendance, subject to additional conditions included at Condition 1(a).

4. Recommendation

That Council resolve to:

Determines to Support the application under the provisions of the Bayside Planning Scheme in respect of Planning application 2016/813/1 for the land known and described as 6 – 8 Spink Street, Brighton, for the Development of a three storey building, reduction in car parking requirements and display of advertising signage in accordance with the ‘without prejudice’ amended 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 draft amended plans prepared by KUD Architects 16-009 Town Planning Drawing Set TP00 to TP29 Inclusive Council date stamped 29 August 2017 but modified to show:

(a) Changes consistent with plans prepared by KUD Architects 16-009 Town Planning Drawing Set TP00 to TP31 TP31 (inclusive) dated 8 January 2018 but with further changes as below.

   (i) The first floor terrace increased in size to a minimum area of 62m².
   (ii) Deletion of the vegetation to the second floor roof depicted on section AA and section BB on TP21.
   (iii) Deletion of windows to the second floor south facing hall, and bedrooms 9 and 14.
   (iv) Notation that the south facing wall for level 2 is constructed to a 55dB rating.
   (v) Deletion of bedroom 01 and conversion of this space to form part of the communal play area.
   (vi) Windows to bedrooms 4 and 12 on plan TP12 amended to align with bedroom windows plans TP15 and TP16.
   (vii) Details of the window to the stairwell associated with Level 1 and to be appropriately screened in accordance with Standard B22.
   (viii) The signage to be relocated from level 2 to ground floor level, over the entry door to Spink Street.
   (ix) The ‘darker’ colour palettes depicted in the architectural drawing package titled ‘Aboriginal Art Inspiration’ to be incorporated into the circular façade design.
   (x) The northern side elevation (incorporating walls to level 1 play area and level 2 bedroom 8, bathroom and stairwell) to be articulated with the ‘Aboriginal Art Inspiration’ referenced at Condition 1(a)(v).
   (xi) The Fibre Cement Sheet façade treatment to the north, south and east elevations to be replaced by recycled red bricks to complement the existing materials found within the area.
(xii) The circular façade finishes at ground floor level to be increased in height so it partly conceals the windows to classroom 1.

(xiii) A veranda feature over the entry door, projecting approximately 500mm from the front façade. The veranda must be complementary to the façade design.

(xiv) Location of all plant and equipment, including hot water services and air conditioners etc. Any plant and equipment is to be located at least 7 metres from the south boundary and must be screened and acoustically treated. Any screening must be no higher than 1.5m from the roof level.

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

(xvi) The recommendations of the Noise Impact Assessment prepared by Octave Acoustics, Noise and Vibration (8 February 2017) to be shown.

(xvii) A scaled drawing of the signage clearly dimensions. Details of supporting structure and fixture and lighting must be detailed.

(xviii) A Waste Management Plan in accordance with Condition 31.

(xix) Landscaping plan in accordance with Condition 32.

(xx) Water Sensitive Urban Design measures in accordance with Condition 36.

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 use and 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 access is to be provided to the roof decks other than for service and maintenance.

5 External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

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 without the written consent of the Responsible Authority.

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

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

9 Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.
10 The exterior colour and cladding of the building must be of a non-reflective nature to the satisfaction of the Responsible Authority.

**Hours of Operation**

11 The classes use may only operate between the hours of (8.00 am-5.00pm Monday to Friday inclusive) without the prior written consent of the Responsible Authority.

12 An evening curfew for students of 9:00pm on school nights and 10:00pm on weekends. Alternative hours may be agreed upon given consent is provided by a guardian.

13 The Level 1 terrace area is not be accessed after 9.00pm every night.

**Student and Staff Numbers**

14 Not more than 46 students may be present on the premises at any one time without the prior written consent of the Responsible Authority.

15 A maximum of six (6) staff members will be on the premises at any one time, inclusive of one (1) receptionist / administrator, three (3) carers (shift work) who will also live on site for the duration of the school term and three (3) full time teachers, instructing the ELICOS program.

**Use**

16 The education centre component must only implement the English Language Intensive Courses for Overseas Students (ELICOS) program for students aged 17 and under. The program must not accept any external students.

**Advertising Signs**

17 The location and details of the sign, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.

18 All signs must be located wholly within the boundaries of the land.

19 The sign must not contain any flashing light.

20 The sign lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

21 The design and construction of the sign must not allow movement of the sign or any part of the sign.

22 The sign must not use traffic signal colours.

23 The sign must be constructed and maintained to the satisfaction of the Responsible Authority.

**Noise**

24 Noise emanating from the subject land must not exceed the permissible noise levels when determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N 1, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels (from the plant and equipment area, mechanical car stackers, any bells associated with the classes, waste collection and motors associated with the illuminate sign) must be completed prior to the commencement of the use and occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.

25 The Noise Impact Assessment prepared by octave Acoustics dated 8 February 2017 must be updated to address plans prepared by KUD Architects.
16-009 Town Planning Drawing Set TP00 to TP31 (inclusive) dated 8 January 2018. Any recommendations of the updated acoustic report must be completed prior to the commencement of the use and occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.

26 At the request of the Responsible Authority, the owner/occupier must undertake noise measurements by a suitably qualified acoustic consultant and a report must be submitted to the Responsible Authority for compliance in relation to the N-1 policies and/or EPA Technical Guidelines.

27 No external sound amplification equipment or loudspeakers are to be used for the purpose of announcement, broadcast, playing of music or similar purpose.

28 All external plant and equipment must be acoustically treated or placed in soundproof housing to reduce noise to a level satisfactory to the Responsible Authority.

**Car Parking**

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

30 The mechanical stackers must be kept in good working order to the satisfaction of the Responsible Authority to ensure access to all car spaces is available at all times and to prevent adverse noise emissions.

**Waste Management**

31 Before the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must generally be in accordance with the Waste Management Plan prepared by Leigh Design and dated 1 December 2016 and clearly indicate that waste collection is to be via a private contractor, not Council, and include:

a) Dimensions of storage waste areas.

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

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

d) Facilities for bin cleaning.

e) Method of waste and recyclables collection.

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

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

h) Method of hard waste collection.

i) Method of presentation of bins for waste collection.

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

k) No reversing of waste collection vehicles into or out of the rear lane.

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

m) Compliance with relevant policy, legislation and guidelines.
When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

Landscaping

32 Before 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 draft amended plans prepared by KUD Architects 16-009 Town Planning Drawing Set TP00 to TP29 Inclusive Council date stamped 29 August 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

(a) A planting schedule of all proposed vegetation, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. The planting schedule must be is sympathetic to stated objectives of the building design; including species emblematic of Australian and Chinese cultures.

(b) Details of soil volumes to be used in planter boxes, irrigation and tree/shrub anchorage systems.

(c) Vegetation in the planter boxes, adjacent to the Spink Street frontage, must be of sufficient size to be visible over the façade.

33 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.

34 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.

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

Water Sensitive Urban Design

36 Before 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.

**Drainage**

37 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.

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

**Development Contributions**

39 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.

40 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.

**Construction Management Plan**

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

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

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

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

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

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

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

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

(h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.
(i) Site security.
(j) Public safety measures.
(k) Construction times, noise and vibration controls.
(l) Restoration of any Council assets removed and/or damaged during construction.
(m) Protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site).
(n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).
(o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.
(q) All contractors associated with the construction of the development must be made aware of the requirements of the Construction Management Plan.
(r) Details of crane activities, if any.

**Development and Use Expiry**

42 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.

**Signage Expiry**

43 This permit as it relates to signage expires if the use is discontinued for a period of two years.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategies of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.11 Local Areas (Martin Street Neighbourhood Activity Centre)
- Clause 22.08 Water Sensitive Urban Design
- Clause 34.01 Commercial 1 Zone
- Clause 52.05 Advertising Signs
- Clause 52.06 Car Parking
- Clause 52.34 Bicycle Facilities
- Clause 65 Decision Guidelines

6. **Considerations**

Justification in respect of the Strategic Considerations, Land Uses, Built Form, Amenity Impacts, Vegetation and Landscaping, Advertising Signage are detailed in Item 4.8 of the Planning and Amenity Committee Meeting Agenda for 17 October 2017.

6.1. **‘Without Prejudice’ Amended Plans Assessment**

This report will detail how the amended plans at Attachment 1 respond to the previous Grounds for Refusal and relevant planning policies.

**Ground for Refusal 1**

Council previously contended that the proposed architectural detailing fails to complement the existing character of the streetscape. The applicant submitted that the contemporary perforated façade comprising of circular elements draws upon, "the cultural history and significance of Australia and its indigenous antiquity”

Council acknowledged that whilst this design approach was of high architectural quality, the materials, finishes and colours, fenestration fails to respect the street rhythm or draw upon the materiality of the warehouses.

The amened plans and recommended conditions 1(ix), (x), and (xi) require changes
which respond to these concerns. These changes include:

- The introduction of muted materials and finishes to the front façade to complement the red brick and ‘warehouse character’ of the streetscape. Conditions also require that the circular façade elements are reconfigured so as to more closely align with the horizontal street rhythm and provide for comparable solid to void ratios to the façade as that of other buildings along the street.

- Conditions to introduce further articulation to the side elevations which are afforded oblique views when travelling southbound along Spink Street. Further articulation takes the form of wrapping the decorative front façade around the north western corner of the building and the cement sheet façade treatments being replaced by recycled red bricks, again to make a comfortable fit within the streetscape.

- The development pattern is reflective of that already shown along Spink Street and proposes a built form that is of similar proportions in terms of height, scale and massing and proposes a building footprint and floor areas comparable to the adjoining properties to the south and 2-4 Spink Street and 1A Rose Street. Conditions requiring the relocation of the proposed signage and the introduction of a canopy to the entry assist in providing continuity with the prevailing character of the streetscape.

It is acknowledged that the decorative front façade introduces a new architectural design new element to the streetscape. Whilst being a change, the contemporary design makes a comfortable fit within the prevailing character and is fitting for a site located within a Commercial 1 Zone, in close proximity to the Sandringham rail corridor and other non-residential uses.

**Ground for Refusal 2**

The second ground for refusal focuses on the amenity impacts to adjoining residential properties, particularly 2-4 Spink Street, 1A Rose Street and 1 Rose Street, through presenting a high level of visual bulk and being insufficiently offset from areas of secluded private open space.

The ‘without prejudice’ amended plans have responded to this concern through the deletion of the first floor terrace area to the southern site boundary. This terrace area has been relocated to the western elevation, increase in area from 26 square metres to 62 square metres and now benefits from a westerly aspects.

The amendments also propose to delete the second floor terrace area which previously wrapped around the southern and eastern façades, abutting areas of secluded private open space and habitable room windows of 2-4 Spink Street and 1 and 1A Rose Street. A resultant consequence is that the internal recreation area has increased and necessitates the removal of bedroom 1 at first floor level (Condition 1(v)). This internal change reduces the student capacity by an additional two students to 48 students which further assists in reducing noise sources and car parking demands discussed at Grounds for Refusal 3 and 4 following.

These changes result in the built form and associated screening measures being deleted and as such minimising any perception of visual bulk from adjoining properties and the streetscape. The southern façade remains unchanged but for the deletion of south facing windows (Refer to Condition 1(iii)) and the introduction of recycled red bricks to this façade.

The perception of bulk is also minimised through the inclusion of Condition 1(xiv) that requires all plant and equipment to be at least 7 metres from the southern boundary and to be appropriately screened. This proposed design change will generally restrict any localised views of the services.

The proposed changes introduce amendments to the most sensitive interfaces and represent a positive response to Council’s grounds for refusal. Further to this, the
amendments also respond to Council’s concerns regarding the internal amenity for future students. Both parties to the appeal have consented to the ‘without prejudice’ amended plans and conditions presented in response to neighbourhood character and to address visual bulk concerns.

**Ground for Refusal 3**

The previous application material failed to demonstrate no adverse amenity impacts through noise would result.

The ‘without prejudice’ amended plans remove noise sources away from the most sensitive interfaces to the southern site boundary, including the second floor areas of secluded private open space and north facing habitable room windows. The most notable changes include the deletion of terrace areas discussed at Ground for Refusal 2.

A condition has been included at 1(iv) requiring the second floor level wall to be constructed to a 55dB rating (acceptable noise levels for residential properties) which will ensure this wall is acoustically treated to minimise any noise pollution. The amended plans also require the deletion of windows along this façade which are often considered to weaken noise attenuation measures.

Condition 1(xiv) has also been agreed to by all parties to require the relocation of all plant and equipment to be at least 7 metres away from the southern boundary and also require appropriate acoustic treatments.

Whilst the use does not require primary planning permit consent, conditions have been included that limit the operating hours (Condition 11), impose curfews for students (Condition 12) and limit the hours to when the terrace area can be accessed (Condition 13). Further to this, conditions 24 to 28 of the recommendation impose additional assurances that a reasonable level of amenity can be expected.

The ‘without prejudice’ amended plans and conditions will ensure that external noise sources are limited to reasonable volumes and hours for adjoining residential properties. As they are included as conditions of permit these requirements are enforceable and as such provide assurances for adjoining residents and Council.

Notwithstanding the amendments discussed it is noted that EPA Regulations will also ensure the orderly control of noise should it occur from the site.

**Ground for Refusal 4**

The hours and intensity of operations on site have been limited as a direct response to Council’s concerns relating to car parking and traffic. The ‘without prejudice’ amended plans and conditions 14 and 15 limit staff and student numbers to 6 and 46 respectively at any one time.

The proposed provision of 7 car parking spaces will always be in excess staff car parking demand. Car parking takes the form of 6 spaces within car stackers and 1 additional at grade space in accordance with the requirements of the Disability Discrimination Act (DDA). The applicant has demonstrated that these spaces can be easily accessed via the laneway to the east and has provided a 3.5 metre setback from the laneway to facilitate ease of manoeuvrability.

Council previously considered an on-site waste collection service and determined that waste collection services from a private contractor to collect waste in Rose Street was preferable due to the limited width of the laneway. Given the decrease in the number of students and the introduction of Amendment VC 146 (which deletes a primary planning permit trigger for loading and unloading facilities) it is considered the nominated approach is acceptable subject to conditions. Waste collection would occur via a private waste contractor from Rose Street where the collector’s assistant would transfer the bin to the truck and back to the storage area. Further this would occur during off-peak traffic periods thus adequately providing for safe and convenient waste collection in response
to Council’s concerns. It is noted there is a loading zone to the north of Spink Street and short-term parking bays opposite the site.

For the reasons outlined in this report it is concluded that the proposed changes appropriately respond to Council’s Grounds for Refusal and have been mediated to reach an agreed position with the objecting parties to the appeal. For the reasons set out in the report it is recommended that the proposed amendments are accepted.

**Ground for Refusal 5**

Concerns relating to the internal amenity for future students have been addressed through an increase in the recreational areas at first level as discussed in Ground for Refusal 1. It is further noted the area is also to be utilised by less students thus affording a higher level of space per student (approximately 9.3 square metres per student for recreational areas (excluding bedroom areas)) whilst also deleting the south facing terrace areas.

The proposed internal layout has been reconfigured in order to adhere with the Residential Tenancies (Rooming House Standards) Regulations and Public Health and Wellbeing Regulations upon the advice of the applicant. Whilst these are not considerations under the Bayside Planning Scheme a level of comfort can be taken that statutory requirements outside of the Planning process will need to be satisfied.

**Other clarifications**

The recommendation at condition 1 also corrects some discrepancies between the floorplans, elevations and sectional diagrams.

It is noted Condition 48 includes restrictions to the commencement of use on the site. The permit expiry condition should relate to buildings and works only. Should a permit be issued Council will seek VCAT to correct this condition.

**Support Attachments**

1. ‘Without Prejudice’ Amended Plans
2. Site and Surrounds Imagery
3. Development Plans Previously Considered
4. Statement of Changes
SITE ANALYSIS

THE SITE IS LOCATED ON SPARK STREET, BRIGHTON, DIRECTLY NEXT TO THE NEARBY HILTON WHICH ALLOWS DIRECT ACCESS TO THE CITY BY CAR OR TRAIN. THE SITE IS NEAR THE BRIGHTON BEACH AND THE MARRIOTT HOTEL. THE SITE IS ALSO A POPULAR CYCLING ROUTE FROM EILWOOD BEACH INTO THE CITY.

BRIGHTON IS AN AFFLUENT BEACH SIDE SUBURB OF MELBOURNE, IT IS WELL SERVED WITH A DIVERSITY OF ESTABLISHMENTS, JUST DIRECTLY NORTH OF THE SITE IS MARTIN STREET WHERE THERE IS A MIX OF FOOD OUTLETS AND CONTEMPORARY RETAILERS.

EILTONWICK PARK & TENNIS CLUB

EILTONWICK PARK PROVIDES A RANGE OF OUTDOOR AMENITIES. THE EILTONWICK TENNIS CENTRE WHICH IS LOCATED WITHIN THE PARK IS A POPULAR DESTINATION FOR LOCAL AND INTERNATIONAL TENNIS PLAYERS. THE PARK OFFERS PROGRAMS FOR ALL AGES AND ABILITIES.

AUSTRALIA HAS ONE OF THE MOST BEAUTIFUL COASTAL AND BOTANICAL LIFETDISTRICTS AND VINITY. THE VICTORIA CULTURAL CENTRE AIMS TO PROVIDE PROGRAMS TO GIVE THE STUDENTS AN UNDERSTANDING OF THE DIVERSE NATURAL ENVIRONMENTS IN AUSTRALIA. EILTONWICK BEACH IS A SHORT 10 MINUTE CYCLE FROM THE SITE, MAKING STUDENTS CAN ENJOY IN MANY OUTDOOR WATER SPORT ACTIVITIES WHILE ALSO LEARNING ABOUT THE AUSTRALIAN NATURAL ENVIRONMENT.

THE PROPOSED EDUCATION CENTRE WILL BE IN CLOSE PROXIMITY TO BOTH BRIGHTON GRAMMAR SCHOOL AND PREBAN GRAMMAR SCHOOL, WHICH ARE TWO OF THE PREMIER INSTITUTIONS IN THE AREA. THE SCHOOL WILL ALSO BE SURROUNDED BY MUSEUMS AND VARIOUS OTHER INSTITUTIONS AROUND MELBOURNE.

BY BORROWING THIS RELATIONSHIP IT WILL ENSURE A SMOOTH INTEGRATION FOR INTERNATIONAL STUDENTS AND NEWLY ARRIVED PREGNANT STUDENTS, ENCOURAGING THEM TO HAVE CROSS CULTURAL LEARNING, ENRICHED CULTURAL COMMUNITY AND WIDER INTERNATIONAL NETWORKS.
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
Figure 1. Aerial Overview of subject site and objector map. One additional objection has been received from outside the map boundaries.

<table>
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<td>Subject site</td>
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Figure 2. View looking south along Spink Street from the intersection with Martin Street.

Figure 3. View looking south-west towards public car parking with the rail corridor behind.
Figure 4. View looking south along Spink Street with ‘Sons of Mary’ café in the foreground at 14 Spink Street.

Figure 5. View looking east along the bluestone laneway running east between 10 and 14 Spink Street.
Figure 6. View looking south-east towards the subject site with 10 Spink Street in the foreground, 6 - 8 Spink Street and 2 - 4 Spink Street to the corner.

Figure 7. View looking east toward the subject site.
Figure 8. View looking east and north towards the subject site.
Figure 9. Views looking west along Rose Street with 2-4 Spink Street and 1A Rose Street in the foreground.

Figure 10. View looking north from Rose Street towards 1A Rose Street to the left of the photograph and 1 Rose Street to the right of the photograph.
Figure 11. View looking north along the access laneway with the rear of 6 - 8 Spink Street in the foreground.

Figure 12. View looking south along the laneway from the rear of 10 Spink Street.
Figure 13. View looking west along the bluestone laneway from the rear of 1 Rose Street towards Spink Street.
Item 4.9 – Matters of Decision
### Educational Centre Development

**6-8 Spink Street, Brighton**

**16-009 Town Planning Drawing Set**

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**Attached Plan**

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**Planning Department**

**Received**

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**Terry O'Connor**

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**KUD**

**URBIS**

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**Lucas Design**

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**Traffic Group**

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**KUD**

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**Planning Consultant**

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**Energy Consultant**

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**Waste Management Consultant**

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**SDC**

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**Planning & Amenity Committee Meeting - 27 February 2018**

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**Attachment 3**

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**Bayside City Council**

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### Item 4.9 – Matters of Decision

#### Advertised Plan

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#### Development Summary

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Statement of Changes

6-8 Spink Street, Brighton, 3186

Date: 30.01.2018

The planning application plans for the above mentioned project have been modified in response to Council’s Grounds of Refusal and recommendations received from the project team. The amended plans result in an improved planning outcome.

The revised drawings which have been prepared for circulation have been modified as follows:

**Basement**

1. The Music Room and Games Room have been glazed so, as to prevent having closed off/hidden areas in the basement floor plan.

2. Bike Storage has been re-designed to incorporate 7 Ned Kelly Bike Spaces and 3 Flat top rails which satisfies the requirement of AS2890.3-2015 to provide 20% of spaces as at-grade spaces.

**Ground Floor**

3. 3 x dependent car stacker systems have been adopted. The dimensions are as specified for the Klaus Singlevario 2061-190 system. Each car stacker grid provided is 5.2m long x 2.85m wide with a usable platform width of 2.6m in accordance with Clause 52.06-9 requirements.

4. A headroom clearance of 3.8m has been achieved for this system to accommodate cars of up to 1.8m in height on both the lower and upper levels (accords with Clause 52.06-9).

5. The southern car space provided is a single at-grade car space measuring 2.9m wide x 4.9m long in accordance with Clause 52.06-9 requirements.

6. The Loading Zone has been removed from the Car Park Area.

**First Floor**

7. A 26m² Outdoor Terraced area has been added to the first floor on the North Western Boundary.
8. All bedrooms and toilets facilities have been updated to adhere with the Public Health & Wellbeing Regulations:
   • No bedroom in the proposed development is under 7.5 square metres.
   • All bedrooms under 12 square metres are one bed staff/carer bedrooms, therefore there will only be one person in these rooms.
   • All bedrooms over 12 square metres comply with the above regulations.
   • The proposed development will accommodate 50 people and will have 14 toilet/shower/wash basin facilities; therefore we have exceeded the minimum required.

9. All bedrooms, toilets and Kitchen facilities have been updated to adhere with the Residential Tenancies (Rooming House Standards) Regulations:
   • We have provided two kitchens on the basement and first floor levels.
   • 72 chairs have been provided for the dining areas.
   • 18 Dining tables have been provided for with 4 chairs per table.
   • A communal laundry room has been provided on the basement level, with 3 wash troughs.
   • 4 separate hot and cold-water taps will be provided for washing machines.
   • Storage area within Laundry room to allow for drying clothes.

10. Fixed Louvres have replaced the frosted glazing on the windows surrounding the abutting wall to the south.

Second Floor

11. The Roof Terrace has been removed from the Second Floor.

12. Fixed Louvres have replaced the frosted glazing on the windows on the abutting wall to the south.
13. All bedrooms and toilets facilities have been updated to adhere with the Public Health & Wellbeing Regulations:
   - No bedroom in the proposed development is under 7.5 square metres.
   - All bedrooms under 12 square metres are one bed staff/carer bedrooms, therefore there will only be one person in these rooms.
   - All bedrooms over 12 square metres comply with the above regulations.
   - The proposed development will accommodate 50 people and will have 14 toilet/shower/wash basin facilities; therefore we have exceeded the minimum required.

14. All bedrooms, toilets and Kitchen facilities have been updated to adhere with the Residential Tenancies (Rooming House Standards) Regulations:
   - We have provided two kitchens on the basement and first floor levels.
   - 72 chairs have been provided for the dining areas.
   - 18 Dining tables have been provided for with 4 chairs per table.
   - A communal laundry room has been provided on the basement level, with 3 wash troughs.
   - 4 separate hot and cold-water taps will be provided for washing machines.
   - Storage area within Laundry room to allow for drying clothes.

15. The finished floor levels, light courts and terraces of neighbouring properties have been updated and are accurate.

16. Detailed plans have been provided for each bedroom and bathroom types which are annotated with dimensions, furniture and storage.

17. The window openings have been annotated on the Elevations.
5. Confidential Business

Nil

As Chief Executive Officer, I hereby declare that the contents of this agenda relating to the closed meeting of the ordinary meeting of Council are deemed confidential and accordingly members of Council are reminded that the contents of the agenda are not to be disclosed to any other party.

Adrian Robb
Chief Executive Officer