Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 1 May, 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
3. Adoption and Confirmation of the minutes of previous meeting
4. Matters of Decision
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   4.7 163 South Road, Brighton East (St Leonard's College) Support the Grant of a Permit Application No: 2017/147 Ward: Central.....215
   4.8 VCAT Report.................................................................247
5. Confidential Business
   Nil
Next Meetings 2018

Tuesday 15 May 2018
Tuesday 29 May 2018
Tuesday 12 June 2018
Tuesday 17 July 2018
Tuesday 14 August 2018
Tuesday 28 August 2018
Tuesday 11 September 2018
Tuesday 16 October 2018
Tuesday 13 November 2018
Monday 10 December 2018
Thursday 20 December 2018

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 17 April 2018.
4. Matters of Decision

4.1 7 POINT AVENUE, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/7489/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/87095

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>Nobelius Land Surveyors 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>22 December 2018</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>119 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 1)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Significant Landscape Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>9</td>
</tr>
</tbody>
</table>

Proposal

The application seeks to subdivide the lot into two (2) lots. Key details of the proposal are as follows:

- Proposed Lot 1 – vacant lot with total land area of 515sqm.
- Proposed Lot 2 – vacant lot with total land area of 665sqm.
- The existing house would be demolished to allow for the two lot subdivision.

The plan of subdivision is provided at Attachment 1.

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-3 (Neighbourhood Residential Zone) – Subdivision
- Clause 43.02-3 (Design and Development Overlay) – Subdivision

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 department 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 condition – Easement E-1 to be for the whole</td>
</tr>
<tr>
<td></td>
<td>length of the North boundary of the lot and to be two metres wide for</td>
</tr>
<tr>
<td></td>
<td>drainage purpose, and in favour of Bayside City Council.</td>
</tr>
</tbody>
</table>

Public notification

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

- Neighbourhood character;
- Removal of vegetation;
- Traffic; and
- Overlooking.

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

Consultation meeting

The applicant declined a consultation meeting.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/7489 for the land known and described as 7 Point Avenue, Beaumaris, for a Two (2) lot subdivision in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the plan of subdivision is certified under the Subdivision Act 1988, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application prepared by Nobelius Land Surveyors referenced version 1, but modified to show:
   a) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with condition 5.

   All to the satisfaction of the Responsible Authority.

2. The subdivision on the endorsed plans must not be altered without the written
consent of the Responsible Authority.

**Demolition of existing buildings**

3. Before a Statement of Compliance for the plan of subdivision is issued under the Subdivision Act 1988, all existing buildings, including the dwelling and any outbuildings, must be demolished and the site scraped and cleaned to the satisfaction of the Responsible Authority. Any existing trees on the site must be retained and protected during demolition in accordance with Conditions 5 to 10 of this permit.

**Subdivision works**

4. Before the Statement of Compliance is issued under the Subdivision Act 1988, the works referred to in Condition 3 of this permit must be completed to Council’s satisfaction.

**Tree Protection Plan**

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

The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, be 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 throughout the subdivision process, including all demolition work. Stages of works at which inspections are required to ensure tree protection measures are adhered to must be specified.

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

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.

b) The location of tree protection measures to be utilised.

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

7. Prior to any site works commencing, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

8. A tree protection fence is required to protect the canopy and root zone of any trees on neighbouring properties that may potentially be impacted by works for the dwelling demolition. Conditions for tree protection fencing during development are as follows:

a) Fencing must be secured and maintained prior to demolition and until all site works are complete.

b) Fencing must be installed to comply with AS 4970–2009 Protection of trees on development sites.

c) Fencing should encompass the Tree Protection Zone (TPZ) for trees
adjacent to the demolition works.

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

9. Root pruning within the TPZ

a) Prior to demolition works within the TPZ, a trench must be excavated along the line of the works adjacent to the tree using root-sensitive, non-destructive techniques.

b) All roots that will be affected must be correctly pruned.

10. There is to be no removal of any vegetation from the nature strip without prior written approval from Council.

General

11. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services to each lot shown on the endorsed plan in accordance with the authorities’ requirements and relevant legislation at the time.

12. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.

13. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

14. The owner of the land must enter into an agreement with:

a) A telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider’s requirements and relevant legislation at the time; and

b) A suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

15. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

a) A telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider’s requirements and relevant legislation at the time; and

b) A suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
Public Open Space Contribution

16. Before the statement of compliance is issued under the Subdivision Act 1988, the applicant or owner must pay a Public Open Space Contribution to the Responsible Authority a sum equivalent to five (5) per cent of the site value of all the land in the subdivision.

Development Contributions Levy

17. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy of $2000 in accordance 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

18. This permit will expire if:

a) The plan of subdivision is not certified with compliance within two (2) years of the date of this permit.

b) The registration of the subdivision is not completed within five (5) years of the date of this permit.

Permit Notes:

Compliance

- The land may be inspected by Council to ensure compliance with this planning permit and any plans and documents endorsed to this permit. Investigations and possible prosecutions may apply if you fail to accord with all requirements of this Planning Permit and any relevant Building Regulation, Local Law or other legislation. This includes the need for the retention and maintenance of any building, hard and soft landscaping assets and all building services.

Telecommunications infrastructure in new developments

- Developers are responsible for providing telecommunications infrastructure in their developments. To provide this infrastructure, you must contract a carrier to install and operate a telecommunications network. As the Infrastructure Provider of Last Resort (IPOLR) for your area, you should be able to have the NBN™ broadband access network connected to your development - but you need to apply.

- Telstra is the Infrastructure Provider of Last Resort (IPOLR) supporting voice services for developments with less than 100 lots in areas where the NBN has not established its network.

- Developers are asked to apply six months before the required service date to ensure a connection is ready when residents move in.

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.
- We protect and enhance Bayside’s tree canopy and vegetation on public and private land.

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 14 Natural Resource Environment
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.08 Open Space
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy (Precinct H4)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 42.03 Significant Landscape Overlay (Schedule 1)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 56 Residential Subdivision
- 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 H4 which does not include an objectives or guidelines in relation to subdivision. However the proposed land size (515sqm and 665sqm) and dimensions are generally consistent with other properties in the broader neighbourhood. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines.

While it is recognised that Point Avenue forms an area of significant neighbourhood character as stated under Precinct H4, it should be noted that the current proposal does not include the removal of any vegetation from the site at this time. The application is a two lot subdivision only that will require the removal of the existing dwelling prior to issue of Statement of Compliance, given it would traverse two separate lots subsequent to the
subdivision being certified. As a result, the existing trees on the site as well as those in the nature strip and on adjoining properties, will need to be retained and protected in order to avoid detrimental impact from construction activities.

6.2. Building Envelopes

The addition of building envelopes are not considered necessary, due to the generous size and dimension of each lot, in addition to the planning controls applicable to the site, in particular the Significant Landscape Overlay.

Point Avenue is covered by the Significant Landscape Overlay Schedule 1 (SLO1), which enforces a number of controls upon any future development, including:

- A maximum 40% site cover;
- Maximum hard surface and impervious area of 15%;
- Maximum 8m building height;
- Subdued and non-reflective building colours;
- Buildings not to diminish the dominance of vegetation cover;
- Buildings setback a minimum 4m from any vegetation that requires a permit to remove, destroy or lop.

The SLO1 is, therefore, considered to provide a ‘safety net’ for any future development to be undertaken on the subject site. Subject to compliance with the stated criteria, development would be in keeping with the immediate surrounds, which are unique to the Point Avenue precinct.

Should any future dwelling not meet any one of the above-mentioned criteria, then a planning permit would be required and Council would then assess the appropriateness of the proposal against the relevant planning provisions.

6.3. Compliance with Clause 56 (Subdivision)

An assessment against the requirements of Clause 56 is provided at Attachment 2. There are no non-compliant standards.

6.4. Public open space Contribution

Clause 52.01-1 (Exemption from public open space requirement specified in the scheme) states that a two lot subdivision is exempt from a public open space requirement specified in this scheme, unless Council considers it likely that each lot will be further subdivided.

In this case the land could potentially be further subdivided given that an application could be lodged for multiple dwellings. The schedule to Clause 52.01-1 specifies a 5% contribution. Accordingly, a Public Open Space contribution of 5% is required in respect of this subdivision. A condition is included in the permit to this effect.

6.5. Vegetation and Landscaping

The application does not propose to remove any trees protected by the Vegetation Protection Overlay Schedule 3 (VPO3), the Significant Landscape Overlay Schedule 1 (SLO1) or the Local Law.

The application includes a Pre-purchase Arborist report that identifies the vegetation on the site and provides assistance for future designers to plan any new buildings on the site.

The issue of tree removal has been raised in all objections. While it is not part of this current application, it has been noted and conditions will be included in the permit for a Tree Management Plan and Tree Protection Plan to ensure that existing vegetation is retained and protected during demolition work for the dwelling.
The Arborist report is provided at Attachment 3.

The VPO3 and the SLO1 provide very stringent tree controls for any future development proposal.

6.6. **Car parking and traffic**

Crossovers for each proposed lot have been shown on a ‘Crossover location plan’ and their location matches the existing pedestrian and vehicle access to the property. As a result, there are no changes to the location of crossovers for the new lots as the pedestrian access will be slightly widened to cater for a vehicle, with possible removal of shrub(s) required. A condition will be included in the permit that there is to be no removal of any vegetation from the nature strip without written consent from Council.

Concerns have been raised in relation to increased traffic congestion however it is considered that the proposed development will not unreasonably impact on the car traffic network in the street.

The crossover plan is provided at Attachment 4.

The site photos are provided at Attachment 5.

The plan showing location of objectors is provided at Attachment 6.

6.7. **Development Contributions Levy**

The subject site is located within catchment area 23.

Based on the proposed application and the below recommendation, a payment of $2,000 is required. The payment of the development contributions is recommended as a condition of permit (Condition 17).

6.8. **Other matters raised by Objectors**

Overlooking

The issue of overlooking will be considered as part of any future development of the site and not part of this current proposal to subdivide the land into two lots.

**Support Attachments**

1. Plan of Subdivision
2. Clause 56 assessment
3. Arborist report
4. Crossover plan
5. Site photos
6. Objector plan
PLAN OF SUBDIVISION

LOCATION OF LAND

PARISH: Moorabbin
TOWNSHIP: ---
SECTION: ---
CROWN ALLLOTMENT: ---
CROWN PORTION: 32 (Pi)
TITLE REFERENCE: Vol. 10159 Fol. 280

LAST PLAN REFERENCE: Lot 1 PS 315267
POSTAL ADDRESS: 7 Point Avenue, Beaumaris 3193

(MGA CO-ORDINATES:
E: 327909 N: 5793510
ZONE: 55 GOA 94)

VESTING OF ROADS AND/OR RESERVES

IDENTIFIER COUNCIL/BOUNDPERSON
Nil Nil

NOTATIONS

This is a Speer Plan

DEPTH LIMITATION: DOES NOT APPLY

SURVEY:
This plan is based on survey.

STAGING:
This is not a staged subdivision.
Planning Permit No.
This survey has been corrected to permanent marks Ne(s).
In Proclaimed Survey Area No. ---

EASEMENT INFORMATION

LEGEND: A - Appurtenant Easement E - Encumbering Easement R - Encumbering Easement (Road)

Easements and rights implied by Section 12(7) of the Subdivision Act 1988 apply to all of the land in this plan.

<table>
<thead>
<tr>
<th>Easement Reference</th>
<th>Purpose</th>
<th>Width (Metres)</th>
<th>Origin</th>
<th>Land Benefitted/Favour Of</th>
</tr>
</thead>
<tbody>
<tr>
<td>E-1</td>
<td>Drainage, Sewerage &amp; Water Supply</td>
<td>1.83</td>
<td>G/E B912037</td>
<td>Melbourne and Metropolitan Board of Works</td>
</tr>
</tbody>
</table>

SURVEYORS FILE REF: 16485
ORIGINAL SHEET SIZE: A3
SHEET 1 OF 2

LICENSED SURVEYOR: B. S. NOBELUS
VERSION 1
## Assessment Table 1 – Residential Subdivision (Clause 56)
Refer to Clause 56 of the Planning Scheme for objectives, decision guidelines and a full description of standards.

<table>
<thead>
<tr>
<th>STANDARD, OBJECTIVE(S) AND RELEVANT DECISION GUIDELINES</th>
<th>ASSESSMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>C6 Neighbourhood Character</td>
<td>✓ Complies The proposal encourages opportunities for diversity in residential type by providing greater variation in lot sizes in a location where there are existing services.</td>
</tr>
<tr>
<td>To design subdivisions that respond to neighbourhood character</td>
<td>✓ Complies Both Lots will be vacant as the existing dwelling will be removed prior to issue of Statement of Compliance for the plan of subdivision. Lot 1 will have a total land area of 515sqm and Lot 2 will have a total land area of 665sqm. Each Lot is capable of containing a 10m by 15m envelope.</td>
</tr>
<tr>
<td>C8 Lot area and building envelopes</td>
<td>✓ Complies Both Lots are appropriately orientated with each having a north-south orientation.</td>
</tr>
<tr>
<td>To provide lots with areas and dimensions that enable the appropriate siting and construction of a dwelling, solar access, private open space, vehicle access and parking, water management, easements and the retention of significant vegetation and site features.</td>
<td>✓ Complies Both Lots will be vacant as the existing dwelling will be removed prior to issue of Statement of Compliance for the plan of subdivision. Lot 1 will have a total land area of 515sqm and Lot 2 will have a total land area of 665sqm. Each Lot is capable of containing a 10m by 15m envelope.</td>
</tr>
<tr>
<td>C9 Solar orientation of lots</td>
<td>✓ Complies Both Lots are appropriately orientated with each having a north-south orientation.</td>
</tr>
<tr>
<td>To provide good solar orientation of lots and solar access for future dwellings.</td>
<td>✓ Complies Both Lots are appropriately orientated with each having a north-south orientation.</td>
</tr>
<tr>
<td>C11 Common area</td>
<td>N/A        No common areas are proposed as part of this subdivision.</td>
</tr>
<tr>
<td>To identify common areas and the purpose for which the area is commonly held.</td>
<td>✓ Complies Both Lots have direct street frontage to Point Avenue. The existing dirt driveway will be utilised for Lot 2 while the existing pedestrian access will be widened to create a new vehicle access for Lot 1.</td>
</tr>
<tr>
<td>To ensure the provision of common area is appropriate and that necessary management arrangements are in place.</td>
<td>✓ Complies Water supply will be provided to the requirements of South East Water (SEW).</td>
</tr>
<tr>
<td>To maintain direct public access throughout the neighbourhood street network.</td>
<td>✓ Complies The use of reused or recycled water is not proposed as part of this application.</td>
</tr>
<tr>
<td>C21 Lot access</td>
<td>✓ Complies Both Lots have direct street frontage to Point Avenue. The existing dirt driveway will be utilised for Lot 2 while the existing pedestrian access will be widened to create a new vehicle access for Lot 1.</td>
</tr>
<tr>
<td>To provide for safe vehicle access between roads and lots.</td>
<td>✓ Complies Water supply will be provided to the requirements of South East Water (SEW).</td>
</tr>
<tr>
<td>C22 Drinking water supply</td>
<td>✓ Complies Water supply will be provided to the requirements of South East Water (SEW).</td>
</tr>
<tr>
<td>To reduce the use of drinking water</td>
<td>✓ Complies Water supply will be provided to the requirements of South East Water (SEW).</td>
</tr>
<tr>
<td>To provide an adequate, cost-effective supply of drinking water.</td>
<td>✓ Complies The use of reused or recycled water is not proposed as part of this application.</td>
</tr>
<tr>
<td>C23 Reused and recycled water</td>
<td>✓ Complies The use of reused or recycled water is not proposed as part of this application.</td>
</tr>
<tr>
<td>Item 4.1 – Matters of Decision Page 16 of 257</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>C24 Waste water management</strong></td>
<td></td>
</tr>
<tr>
<td>To provide a waste water system that is adequate for the maintenance of public health and the management of effluent in an environmentally friendly manner.</td>
<td></td>
</tr>
<tr>
<td>✓ Complies</td>
<td></td>
</tr>
<tr>
<td>Sewerage supply will be provided to the requirements of South East Water (SEW).</td>
<td></td>
</tr>
<tr>
<td><strong>C25 Urban run-off management</strong></td>
<td></td>
</tr>
<tr>
<td>To minimise damage to properties and inconvenience to residents from urban run-off.</td>
<td></td>
</tr>
<tr>
<td>To ensure that the street operates adequately during major storm events and provides for public safety.</td>
<td></td>
</tr>
<tr>
<td>✓ Complies</td>
<td></td>
</tr>
<tr>
<td>An urban stormwater management system will be designed and managed in accordance with the requirements and to the satisfaction of the relevant authority.</td>
<td></td>
</tr>
<tr>
<td><strong>C26 Site management</strong></td>
<td></td>
</tr>
<tr>
<td>To protect drainage infrastructure and receiving waters from sedimentation and contamination.</td>
<td></td>
</tr>
<tr>
<td>To protect the site and surrounding area from environmental degradation or nuisance prior to and during construction of subdivision works.</td>
<td></td>
</tr>
<tr>
<td>To encourage the re-use of materials from the site and recycled materials in the construction of subdivisions where practicable.</td>
<td></td>
</tr>
<tr>
<td>✓ Complies</td>
<td></td>
</tr>
<tr>
<td>Such information will be provided to Council if considered required prior to the commencement of construction works.</td>
<td></td>
</tr>
<tr>
<td><strong>C27 Shared trenching</strong></td>
<td></td>
</tr>
<tr>
<td>To maximise the opportunities for shared trenching.</td>
<td></td>
</tr>
<tr>
<td>To minimise constraints on landscaping within street reserves.</td>
<td></td>
</tr>
<tr>
<td>✓ Complies</td>
<td></td>
</tr>
<tr>
<td>Public utilities reticulated services exist for the property.</td>
<td></td>
</tr>
<tr>
<td><strong>C28 Electricity, telecommunications and gas</strong></td>
<td></td>
</tr>
<tr>
<td>To provide public utilities to each lot in a timely, efficient and cost effective manner.</td>
<td></td>
</tr>
<tr>
<td>To reduce greenhouse gas emissions by supporting generation and use of electricity from renewable sources.</td>
<td></td>
</tr>
<tr>
<td>✓ Complies</td>
<td></td>
</tr>
<tr>
<td>Both lots will be connected to the relevant services.</td>
<td></td>
</tr>
</tbody>
</table>
PRE PURCHASE ARBORIST REPORT

For: Bruce Shaw  
Date: 22\(^{nd}\) June 2017

Site address: 5-7 Point Avenue, Beaumaris, Vic, 3193

Re: The identity and tree protection zones of trees growing on and adjacent the site.

The site is in the City of Bayside and the following vegetation protection overlays apply to the site in conjunction with Bayside’s Local Law No. 2, Clause 36 that protects all trees with a trunk circumference of 155 centimetres of more – a DBH of 49 centimetres throughout Bayside.

The overlays that apply are Significant Landscape Overlay Schedule 1 - SLO1 and Vegetation Protection Overlay Schedule 3 - VPO3.

SLO1: CORAL AVENUE AND POINT AVENUE, BEAUMARIS - BAYSIDE PLANNING SCHEME

1.0 Statement of nature and key elements of landscape
The high level of vegetation cover and bushland character of these two streets have influenced building style and form, as well as position on site and front boundary treatment. The distinct landscape characteristics of this area make it significant and unique within the local area. The landscape character contributes to the context and setting of the remnant indigenous bushland of heritage significance in the coastal reserve area in Beach Road, accessed via Coral Avenue and Point Avenue.

Buildings are generally of a contemporary style and are concealed amongst native vegetation, with little impact on the streetscape. Roadways remain unsealed, and verges are lined with bushy native vegetation. Streetscape vegetation has the appearance of flowing across the public and private domains due to the lack of front fences or presence of permeable front fences. Front and side setbacks are large, allowing bushy native vegetation and canopy trees to surround dwellings.

2.0 Landscape character objective to be achieved
• To retain the dominance of vegetation cover in keeping with the bush character environment.
• To maintain and enhance the setting, context and heritage significance of the adjoining remnant indigenous bushland.
• To ensure that buildings and works retain an inconspicuous profile and do not dominate the landscape.
• To ensure building and impervious surface site coverage is minimised.
• To ensure that a reasonable proportion of a lot is free of buildings to provide for the planting of canopy trees and substantial vegetation.
• To encourage the planting of indigenous species.
• To encourage the use of materials and finishes that blend with the landscape.
Arboricultural pre purchase report

To encourage the use of vegetation as an alternative to front fencing, or where fencing is preferred, low to medium height open style front fences.

3.0 Permit requirement
A permit is required to remove, destroy or lop a tree. This does not apply to:

- Vegetation that is less than 2 metres high or has a single trunk circumference of less than 0.5 metres (DBH 16cm) at a height of 1 metre above ground level.
- The pruning of vegetation to remove that part of any branch, which overhangs an existing dwelling or is within 2 metres of an existing dwelling.
- A tree, which is dead or dying to the satisfaction of the responsible authority.

VPO3: BEAUMARIS AND BLACK ROCK NATIVE VEGETATION AREAS - BAYSIDE PLANNING SCHEME

1.0 Statement of nature and significance of vegetation to be protected 19/01/2006 VC37
The Vegetation Character Assessment (March 2000) report identifies significant vegetation characteristics that form a major element of a distinctive urban character in the municipality, particularly in Beaumaris and Black Rock. Remnant indigenous vegetation, complemented by plantings of Australian native species, contributes to the visual amenity and interest of the area, particularly where this vegetation is contiguous between private lands and adjoining public lands.

Indigenous species such as:
- Acacia mearnsii (Black Wattle)
- Acacia paradoxa (Hedge Wattle)
- Acacia sophorae (Coast Wattle)
- Allocasuarina verticillata (Drooping Casuarina)
- Banksia integrifolia (Coast Banksia)
- Banksia marginata (Silver Banksia)
- Eucalyptus camaldulensis (River Red Gum)
- Eucalyptus ovata (Swamp Gum)
- Eucalyptus pyriformis (Coast Manna Gum)
- Eucalyptus radiata (Narrow-leafed Peppermint)
- Leptospermum laevigatum (Coast Tea-tree)
- Leptospermum myrsinoides (Heath Tea-tree)

Represent remnants of vegetation communities that were once widespread and are now largely lost. These species form a valuable link to and reminder of the historic vegetation of the area.

Australian native species, such as Lophostemon confertus (Brush Box), have been planted extensively as street trees. The use of Australian natives and canopy trees is a feature of many private gardens.

The Australian native, and particularly indigenous, vegetation provides fauna habitat and corridors, especially for native bird life.

The continued viability of the significant vegetation character and its habitat value is under threat from clearance associated with urban development and from loss of aging vegetation.

2.0 Vegetation protection objectives to be achieved 19/01/2006 VC37
To prevent the loss of native and particularly indigenous vegetation incurred by development.

- To retain the amenity, aesthetic character and habitat value of Australian native vegetation and indigenous vegetation in particular within the Beaumaris and Black Rock area.
Arboricultural pre purchase report

- To promote the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.

3.0 Permit requirement 19/01/2006 VC37

A permit is required to remove, destroy or lop any vegetation native to Australia. This does not apply to:
- The removal, destruction or lopping of vegetation which is less than 2 metres high or has a single trunk circumference of less than 0.5 metre (DBH 16cm) at a height of 1 metre above ground level.
- The pruning of vegetation to remove that part of any branch, which overhangs an existing dwelling or is within 2 metres of an existing dwelling.

4.0 Decision guidelines 19/01/2006 VC37

Before deciding on an application, the responsible authority must consider:
- The impact the proposed vegetation removal would have on:
  - The character of the area.
  - The presence of indigenous species in the locality.
  - The appearance of development.
  - The habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.
  - Any proposal to regenerate or plant indigenous vegetation on the site.

Vegetation:

The vegetation on and adjacent the site is 95% native with 50% of that being indigenous and approximately 5% exotic. A permit will be required to remove nearly all the vegetation except the weed species being the Cotoneasters – note that Sweet Pittosporums are not considered a weed in this area and therefore are not exempt from a permit. There may be a couple of the larger trees within 2 metres of the existing dwellings that may also be able to be removed without a permit namely the Lemon Scented Gum, the Silky Oak, a couple of the Coast Banksias and the Illawarra Flame Tree.

Apart from the Lemon Scented Gum, the Spotted Gum and the Brush Box, which are in fair to poor health everything else is in good health. Most trees have good to fair structure and form. Very few trees will be able to be removed owing to safety and health reasons.

Bear in mind the council will be very unlikely to issue a permit to remove any of the native vegetation along the fence lines as this forms vegetation corridors for local fauna to use. It should be possible to remove the few trees nos. 10 to 14 growing between the two houses, as these are reasonably small and insignificant in the landscape.

The site will need to be surveyed to accurately locate trees.

When planning new buildings a 20-25% encroachment into TPZs would be allowable provided non-invasive construction methods are used such as pier and beam.

See next page for list of trees along with their tree protection zones (TPZ) and structural root zones (SRZ).

The location of the trees is shown on the aerial photo at the rear.
Table of trees and their TPZs and SRZs

<table>
<thead>
<tr>
<th>Tree #</th>
<th>Botanical name</th>
<th>Common name</th>
<th>Origin</th>
<th>DBH cm</th>
<th>TPZ m</th>
<th>SRZ m</th>
<th>Permit required</th>
<th>Notes</th>
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Abbreviations: DBH = Trunk diameter at breast height.
TPZ = Tree Protection Zone in metres as a radius from the trunk
SRZ = Structural Root Zone in metres as a radius from the trunk
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Photos

Figure 1: Some of the trees in front of No. 7

Figure 2: More of the trees in front of No. 7

Author: Lloyd Hetnick – Consulting Arborist
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Figure 3: The Lemon Scented Gum

Figure 4: Trees in the back yard of No.7
Figure 5: Trees in front of the house in No. 5

Figure 6: Trees on the north boundary of No. 5
Figure 7: Another view of trees on north boundary of No. 5

Figure 8: Trees in northwest corner of No. 5

Author: Lloyd Hetrick – Consulting Arborist
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Figure 9: The Spotted Gum and a Coast Banksia

Figure 10: Trees on east side of the driveway to No.5
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June 2017

Figure 11: more trees on east side of drive to No.5

Figure 12: Trees on west side of driveway to No.5

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Arboricultural pre purchase report
June 2017

Note this is not a full arborist report; it is only a preliminary report to assist with a decision to purchase and/or to help the designers plan any new buildings or development of the site.

Please contact me if any further information is required at this stage.

Lloyd Hetrick - Diploma of Horticulture (Arboriculture) Melbourne
Phone: 0418 336 156
Email: lhetrick@optusnet.com.au
Dwelling on subject site

Point Avenue looking westwards from front of subject site
Point Avenue looking eastwards from front of subject site

Existing pedestrian access to be widened for new driveway for Lot 1
Existing driveway to be for lot 2
Existing driveway to be for Lot 2

Vegetation in Point Avenue front of existing driveway
4.2 23 OSWALD THOMAS AVENUE, HAMPTON EAST
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/242/1  WARD: CENTRAL
City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/87635

1. Application details

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<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
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<tr>
<td>Applicant</td>
<td>Shangri-La Construction Pty Ltd</td>
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<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
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<td>Date application received</td>
<td>10 July 2017</td>
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<td>Current statutory days</td>
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<td>Zoning</td>
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<td>Overlays</td>
<td>Design and Development Overlay (Schedule 2)</td>
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<td>Development Contributions Plan Overlay (Schedule 1)</td>
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<td>Number of objections</td>
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Proposal

The application seeks approval for the construction of four double storey dwellings with basement parking on a lot with an area of 637 square metres. Key details of the proposal are as follows:

- 4 dwellings
- 2 storey dwellings ranging from 6.174m to 7.482 metres in height
- Site coverage 49.62%
- Permeability 28.83%
- Garden area 42%
- 8 car parking spaces (2 per dwelling)

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.

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>
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<th>Internal Referral</th>
<th>Response</th>
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<td>Arborist</td>
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<td>Drainage Assets Engineer</td>
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<td>Open Space Arborist</td>
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<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 6 objections were received. The following concerns were raised:

   - Neighbourhood character
   - Private Open Space of each dwelling
   - Quality of finishes
   - Density
   - Amenity
   - Privacy
   - Overshadowing
   - Proposed 4m crossover
   - Visitor parking
   - Road Safety
   - The lot on the eastern boundary is not vacant as shown on the development plans
   - Mechanical plant
   - Noise
   - Structural concerns of neighbouring dwellings
   - Property values

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

   **Consultation meeting**

   A consultation meeting was held on 6 December 2017 attended by the permit applicant and 5 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 2017/242/1 for the land known and described as **23 Oswald Thomas Avenue, Hampton East**, for the **construction of four 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 received 31 August 2017 prepared by Shangri-La Construction referenced TP-2.01, TP-2.02, TP-2.03, TP-2.04, TP-2.05, TP-4.01, TP-4.02, TP-5.1, TP-5.2 dated 6 July 2017 and revision C but modified to show:
   a) The dwelling of 25 Oswald Thomas Street within the context of the site.
   b) Screen fencing between the secluded open space of each dwelling.
   c) A vehicular crossing 3.6 metres wide, offset 1m from the eastern property boundary along with a 1 metre wide separator between the new and neighbouring crossing.
   d) A 1:8 grade for a distance of 2.5 metres at the bottom of the vehicular access ramp.
   e) Sight-line visibility from the access in accordance with Clause 52.06 of the Bayside Planning Scheme.
   f) 5.2 metre wide garage doors to each garage.
   g) Pedestrian access doors within each garage that open either outwards from the garage or are sliding.
   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.
   i) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   j) A Landscaping Plan in accordance with Condition 11 of this permit.
   k) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit.
   l) Provision of the development contributions fee in accordance with Condition 20.

   All to the satisfaction of the Responsible Authority.

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

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

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

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

6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B2 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.

**Landscaping**

11. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Harperconsults Horticultural Consultant, entitled A1 Landscape Plan, dated 20 August 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
a) A small canopy tree within the secluded private open space of either Dwelling 2 or 3 in accordance with the Bayside Landscape Design Guidelines June 2016.

b) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

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

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

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

f) Details of surface finishes of pathways and driveways.

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

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

Street tree protection

14. Soil excavation must not occur at ground level within 2 metres from the edge of the stem of the street tree asset within the road reserve that fronts the development site.

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

a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.

b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.

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

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

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

16. Prior to soil excavation for a Council approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected by must correctly pruned.

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

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

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

Development Contributions Levy

20. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy of $6000 in accordance 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

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

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

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

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

Permit Notes:

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

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

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

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

- Council records indicate that there is a 1.83 metre wide drainage and sewerage easement along the north property boundary. The plans indicate no proposal to encroach into the easement with any buildings or structures of note. Proposals to be built over easement will require Build Over Easement Consent from the Responsible Authority/Authorities.

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.08 Open Space
- Clause 22.06 Neighbourhood Character Policy (Precinct G1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 1)
- Clause 43.02 Design and Development Overlay (Schedule 2)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct G1. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.
The proposed development displays architectural features that provide transition and an articulated built form that is respectful of the topography of the land on which it would sit. External finishes would be complementary to and consistent with the external finishes of other dwellings which form the streetscape of Oswald Thomas Avenue.

Boundary setbacks would be reflective of 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 dwelling which occupy a significant proportion of their lot. The proposed development would be consistent with this built form to plot ratio.

The proposed dwellings by 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. A low 1.2 metre 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:

#### Street setback (Standard B6)

<table>
<thead>
<tr>
<th>Oswald Thomas Avenue</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7.8m</td>
<td>7.105m – 8.713m (DW1)</td>
<td>0.695m – 0.913m</td>
</tr>
</tbody>
</table>

A street setback from Oswald Thomas Avenue of between 7.105 and 8.713 metres is proposed, when a setback of 7.8 metres is required to achieve this standard. The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

Each of the dwellings of 13 to 25 Oswald Thomas Avenue on the north side of Oswald Thomas Avenue do not present perpendicular to the street there is instead a stepped transition between each of their street setbacks from west to east. The proposed street setback of the development and in particular Dwelling 1 would be responsive to this stepped street setback and accordingly would be respectful of the street setback characteristic of this part of Oswald Thomas Avenue.

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

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m - 2m</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>West (side)</td>
<td>0m - 2m</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m - 3m</td>
</tr>
<tr>
<td></td>
<td></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:

- 0.736m - 0.096m along parts of its west elevation at first floor.

The following variations are sought relative to Dwelling 2 of the development:

- 0.6m – 0.3m along parts of its east elevation at first floor.

The following variations are sought relative to Dwelling 3 of the development:

- 0.66m -0.46m along parts of its east elevation at first floor.
- 0.05m along a part of its west elevation at first floor.

The following variations are sought to Dwelling 4 of the development:

- 0.78m along a part of its east elevation.

The variations sought to the west elevation of Dwelling 1 and east elevation of Dwelling 2, whilst not compliant with Schedule 1 of the General Residential Zone variation to Standard B17 are responsive to the site retaining a sufficient level of visual separation within the adjoining properties of 21 Oswald Thomas Street and 25 Oswald Thomas 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.

**Internal Views (Standard B23)**

It has not been indicated on the planning application drawings how inter-visibility between the secluded private open space 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 1b).

**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 development 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 (Condition 1h).

### 6.3. Landscaping

A number of immature trees and shrubs exist within the front setback of the existing dwelling. These would be removed to facilitate the proposed development.

The Council’s Arborist does not object to their removal nor to the landscape plan submitted in support of the application provided the landscape plan be amended to show an additional canopy tree within the east side setback of the development. This matter can reasonably be controlled by a condition of the permit and is included in the
recommendation of this report (Condition 10).

6.4. **Street tree(s)**

The Council’s Open Space Arborist confirms that there is one street tree within the road reserve to the front of the property and the development would not impact upon it subject to measures being put in place to ensure no soil excavation within 2 metres from the trunk of the street tree asset and the protection of it during construction. These matters can be reasonably be controlled as a condition of the permit and are included in the recommendation of this report (Conditions 14-17).

6.5. **Car parking and traffic**

Pursuant to the car parking requirements at Clause 52.06, a dwelling requires car parking to be provided at a rate of 1 car space per one or two bedroom dwellings and 2 car spaces per three or more bedroom dwellings. Each dwelling comprises at least three bedrooms and is afforded two car parking spaces in the form of an integral double garages. 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 matters can be controlled by conditions of the permit and are included in the recommendation of this report (Conditions 1d, e and f).

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.

**Visitor Parking**

Clause 52.06-5 requires that one visitor parking space be required for every 5 dwellings of a development. The development that is the subject of this application falls below this threshold and thus there is no requirement to provide visitor parking on-site.

**Access (Standard B14)**

The application drawings indicate the intention to alter the existing vehicular access to the site to serve the development. The proposed width of this access would be 4 metres which equates to 25.47% of the street frontage. This is 14.53% less than the 40% maximum width of access in the street frontage permitted under the Standard.

6.6. **Development Contributions Levy**

The subject site is located within catchment area 8B.

Based on the proposed application and the below recommendation, a payment of $6,000 is required. The payment of the development contributions is recommended as a condition of permit (Condition 20).

6.7. **Objector issues not already addressed**

**Density**

The planning scheme does not restrict the number of units that can be located within a given area. Therefore each planning permit application must be assessed against the relevant provisions of the Bayside Planning Scheme. The existence of a high number of dwellings in the area would not be sufficient grounds for Council to justify refusal of the application before the Victorian Civil and Administrative Tribunal.

**Overshadowing (Standard B21)**

The shadow diagrams submitted in support of the application demonstrate that Dwellings
3 and 4 of the development would overshadow the SPOS of 21 Oswald Thomas Street to the west between 9am and 11am on 22 September. However this would be to a decreasing extent. The shadow diagrams also indicate that between 1pm and 3pm the Dwellings 3 and 4 of the development would overshadow a part of the SPOS of 25 Oswald Thomas Street to the east. However the overshadowing would be marginally greater than can exist at present from the mutual boundary fence and this would only be at 3pm. In each instance at least 70 per cent or 40 square metres of SPOS would receive a minimum five hours of sunlight between the hours of 9am and 3pm on 22 September. In such circumstance there would be no material detriment to those neighbouring residential properties as a result of overshadowing. There would be no overshadowing of any other neighbouring residential property.

**Overlooking (Standard B22)**

Existing paling fencing on the mutual east, west and north 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 would be obscurely glazed or up to a height of 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 21 Oswald Thomas Street to the west, 25 Oswald Thomas Street to the east or 45 Charming Street to the north. Nor would the development give rise to harmful overlooking of any other neighbouring residential property.

**Private Open Space (Standard B28)**

The standard requires that an area of 40 square metres of private open space be provided for each dwelling with a minimum dimension of 3 metres. Furthermore that at least 25 square metres of that private open space being secluded.

Each dwelling is provided with private and secluded open space that exceeds the requirements of this standard and are therefore provided with adequate private open space for the reasonable recreation and service need of residents.

<table>
<thead>
<tr>
<th></th>
<th>Private Open Space</th>
<th>Secluded Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling 1</td>
<td>67m2</td>
<td>27.35m2</td>
</tr>
<tr>
<td>Dwelling 2</td>
<td>N/A</td>
<td>40.12m2</td>
</tr>
<tr>
<td>Dwelling 3</td>
<td>N/A</td>
<td>40.03m2</td>
</tr>
<tr>
<td>Dwelling 4</td>
<td>N/A</td>
<td>43.92m2</td>
</tr>
<tr>
<td>Common Area</td>
<td>67.45m2</td>
<td>N/A</td>
</tr>
</tbody>
</table>

It is noted that Clause 32.08-4 of the Bayside Planning Scheme requires a minimum 35% garden area of the site area at ground floor level. This equates to 222.95 m². A total of 269.43m² has been provided to satisfy this standard.

**Noise & Structural Concerns**

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.

Any noise and truck movements during the construction phase of a development are a temporary and unavoidable consequence of development and not justification to withhold development of a site.

Construction techniques and effects - stability of existing foundations and damage to nearby dwellings are not a consideration under the Planning & Environment Act or Bayside Planning Scheme.
Property values
The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the Planning and Environment Act 1987, or the Bayside Planning Scheme.

Support Attachments
1. Development Plans
2. Site & Surrounds Imagery
3. Neighbourhood Character Precinct - G1
4. ResCode Clause 55 Assessment
Item 4.2 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site from the south

Figure 3 View of subject site and 25 Oswald Thomas Avenue from the southeast
Figure 4 View of 25 Oswald Thomas Avenue to the east of the subject site.

Figure 5 View toward 22 Oswald Thomas Avenue to the south of the subject site.
Figure 6 View towards 1/20 Oswald Thomas Street to the south of the subject site
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  
A landscape plan, which includes substantial plantings and the addition of canopy trees, has been submitted with the application. Subject to a condition requiring one additional canopy tree, this has been assessed by Council’s Arborist as being generally in accordance with precinct guidelines. |
| 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  
The dwellings have been designed and sited so as to present as a single dwelling. In addition to this, space between dwellings is provided at first floor between DW2 and DW3, with the setback at this level providing a suitable transition to the adjoining single storey dwelling to the east and the two storey dwelling to the east. |
| 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 | Large, bulky buildings with poorly articulated front and side wall surfaces. | Responds  
The proposal utilises a number of finishes and materials, whilst additionally incorporating recessed elements at the ground and first floors, which are considered appropriate to the |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide appropriate articulation.</td>
<td>• Use pitched roof forms with eaves.</td>
<td></td>
<td>prevailing streetscape. In addition to this the use of a pitched roof to DW1 assists to integrate the dwellings into the immediate surrounds by presenting as one dwelling.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>High, solid front fencing.</td>
<td>Responds</td>
<td>A 1.2 metre high front fence is proposed.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### RESCODE CLAUSE 55 ASSESSMENT

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

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

### CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 4.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support the construction of four dwellings on a lot of this size.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the</td>
</tr>
</tbody>
</table>
### B5 Integration with the Street
Integrate the layout of development with the street

Yes

The development will present as a single double storey dwelling to the street, and therefore will successfully integrate appropriately with Oswald Thomas Avenue.

The façade treatment is articulated, resulting in appropriate separation between ground and first floors to provide an appropriate transition to the setbacks of the adjoining properties. The side setbacks to the northern boundary, whilst non-compliant with the varied numerical standards of Standard B17 at (first floor only) are reflective of its immediate adjoining properties to the north and south.

The stepped overall building height of between 6.174m and 7.482m is well under the allowed max. 9m, ensuring any perception of dominance is minimised.

See Neighbourhood Character at Attachment 3 for further discussion.

### CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Requirement: 7.8m.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 7.105m – 8.713m (DW1)</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 9m.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: DW1 - 7.482m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>DW2 - 6.621m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>DW3 – 6.691m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>DW4 – 6.174m</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 49.62%</td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Yes</td>
<td>Minimum: &gt;20%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 28.83%</td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Yes</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>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>Yes</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Yes</td>
<td>Layout to provide safety and security for residents and property.</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>Yes</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>
</tr>
<tr>
<td><strong>B14 Access</strong></td>
<td>Yes</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
</tr>
<tr>
<td><strong>B15 Parking Location</strong></td>
<td>Yes</td>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
</tr>
</tbody>
</table>

**CLAUSE 55.04 AMENITY IMPACTS**

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ground floor</td>
<td>First Floor</td>
<td>Ground floor</td>
<td>First Floor</td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td><strong>Proposed</strong></td>
<td><strong>Requirement</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>0m - 2m</td>
<td>3.2m (DW1)</td>
<td>3.74m (DW1),</td>
<td>3.80m (DW1),</td>
</tr>
<tr>
<td></td>
<td>3.0m (DW2 &amp; DW3)</td>
<td>4.40m (DW2),</td>
<td>3.80m-4.1m(DW2),</td>
</tr>
<tr>
<td></td>
<td>3.19m (DW4)</td>
<td>4.46m (DW3),</td>
<td>3.80m-4.0m (DW3),</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4.58m (DW4)</td>
<td>3.80m (DW4)</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td><strong>Proposed</strong></td>
<td><strong>Requirement</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>0m - 2m</td>
<td>2m (DW1,2 &amp; 3),</td>
<td>3.896m (DW1),</td>
<td>3.16m–3.80m (DW1),</td>
</tr>
<tr>
<td></td>
<td>0m (DW4)</td>
<td>3.8m (DW2),</td>
<td>3.90m (DW2),</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.85m (DW3),</td>
<td>3.80m (DW3),</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.54m (DW4)</td>
<td>3.92m-3.80m (DW4)</td>
</tr>
<tr>
<td><strong>North (rear)</strong></td>
<td><strong>Proposed</strong></td>
<td><strong>Requirement</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>0m - 3m</td>
<td>3.102m (DW4)</td>
<td>3.72m (DW4)</td>
<td>4.869m (DW4)</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:** 3.183m
- **Maximum Average Height:** 3.2m
- **Proposed:** 2.99m
- **Maximum Length:** 17.46m
- **Proposed:** 5.85m

**Note:** DW4’s living area is the only wall constructed to the boundary.

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

- **Yes**
- The development has been sufficiently setback from the habitable room windows of abutting properties.

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

- **N/A**
- There are no north facing windows within 3m of the shared boundaries.
| B21 Overshadowing Open Space | Yes | The shadow diagrams submitted in support of the application demonstrate that DW3 & 4 of the development would overshadow the SPOS of 21 Oswald Thomas Street to the west between 9am and 11am. However this would be to a decreasing extent. The shadow diagrams also indicate that between 1pm and 3pm the DW3 & 4 of the development would overshadow a part of the SPOS of 25 Oswald Thomas Street to the east. However the overshadowing would be marginally greater than can exist at present from the mutual boundary fence and this would only be at 3pm. In each instance at least 70 per cent or 40 square metres of SPOS would receive a minimum five hours of sunlight between the hours of 9am and 3pm on 22 September. There would be no overshadowing of any other neighbouring residential property. |
| B22 Overlooking | Yes | Existing paling fencing on the mutual east, west and north 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 would be obscurely glazed or up to a height of 1.7 metres above finished floor level to comply with the Standard. Refer to report. |
| B23 Internal Views | No | All first floor habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. At ground floor level it has not been indicated how inter-visibility between the SPOS of each dwelling is to be limited. It can be made recommended condition of permit that fencing be provided on the internal boundaries of that SPOS to limit such inter-visibility. |
| B24 Noise Impacts | Yes | It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses. |
### CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B25 Accessibility**  
Consider people with limited mobility in the design of developments. | Yes | Entries are accessible for people with limited mobility. The development could be further retrofitted to accommodate people with limited mobility in the future if required. |
| **B26 Dwelling Entry**  
Provide a sense of identity to each dwelling/residential building. | Yes | The development fronts Oswald Thomas Street and includes clearly identifiable entryways with dedicated pedestrian pathways. The entry provides shelter, a sense of personal address and a transitional space around the building entry. |
| **B27 Daylight to New Windows**  
Allow adequate daylight into new habitable room windows. | Yes | All habitable windows will open out onto a space clear to the sky. |
| **B28 Private Open Space**  
Provide reasonable recreation and service needs of residents by adequate private open space. | Yes | **Minimum:** 25 m² secluded, 40 m² overall with a minimum dimension of 3 m.  
**Proposed:** All dwellings exceed the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service need of residents.  
It is noted that Clause 32.08-4 of the Bayside Planning Scheme requires a minimum 35% garden area of the site area at ground floor level. This equates to 222.95 m². A total of 269.43 m² has been provided to satisfy this standard. |

<table>
<thead>
<tr>
<th></th>
<th>Private Open Space</th>
<th>Secluded Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling 1</td>
<td>67 m²</td>
<td>27.35 m²</td>
</tr>
<tr>
<td>Dwelling 2</td>
<td>N/A</td>
<td>40.12 m²</td>
</tr>
<tr>
<td>Dwelling 3</td>
<td>N/A</td>
<td>40.03 m²</td>
</tr>
<tr>
<td>Dwelling 4</td>
<td>N/A</td>
<td>43.92 m²</td>
</tr>
<tr>
<td>Common Area</td>
<td>67.45 m²</td>
<td>N/A</td>
</tr>
</tbody>
</table>

| **B29 Solar Access to Open Space**  
Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | All dwellings have access to north facing private open space in accordance with the standard. |
| **B30 Storage**  
Provide adequate storage facilities for each dwelling. | Yes | 6 m³ of storage has been provided in the garages of each dwelling. |
### CLAUSE 55.06 DESIGN DETAIL

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B31 Design Detail**  
Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer to Attachment 1. |
| **B32 Front Fences**  
Encourage front fence design that respects the existing or preferred neighbourhood character. | Yes | The applicant proposes a 1.2 metre high front fence. |
| **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. | Yes | All areas of common property are functional and capable of efficient management. |
| **B34 Site Services**  
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.  
Avoid future management difficulties in common ownership areas. | Yes | All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entry with waste provisions being provided within the garages. A condition has been included requiring the location of solar hot water systems and air conditioning units to be located away from adjoining habitable room windows. |
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>Mancini Design</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>9 November 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>99 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 1)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
</tr>
</tbody>
</table>

Proposal

The application seeks construction of two double-storey dwellings and a front fence exceeding 1.2 metres in height on a lot with an area of 752.2 square metres. Key details of the proposal are as follows:

- Number of dwellings: 2
- Building height in metres and storeys: 7.11 metres (2 storeys)
- Site coverage 45%
- Permeability 39%
- Car spaces total number and reduction sought: 4 (no reduction sought)

The application plans are provided at Attachment 1.

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

History

Planning Permit 5/2016/561/1 was granted by the Planning and Amenity Committee on 18th May 2017 for the removal of 7 trees within the Vegetation Protection Overlay.

Condition 1(a) of the permit requires:

The provision of an additional two indigenous canopy trees (with a minimum dimension of 8m by 6m at maturity) in the area generally adjacent the rear (North) boundary.

Plans were endorsed by Council on 16th August 2017. Condition 3 of the permit requires the following:
Unless with the further consent of the Responsible Authority, plans must be endorsed and planting in accordance with the endorsed plan must be undertaken within 18 months of the date of this permit.

All associated tree removals have been actioned, however no replacement plantings have been undertaken as yet. The time period to undertake the replacement planting has not elapsed.

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
- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of a front fence exceeding 1.2 metres in height

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

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

Public notification

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

- Neighbourhood character;
- Overlooking;
- Bulk;
- Parking / Traffic;
- Landscaping;
- Tree protection;
- Noise;
- Asbestos;
- Infrastructure capacity;
- Inaccuracies in plans;
- Street addressing.
Consultation meeting

A consultation meeting was held on 7 March 2018 attended by the permit applicant and three objectors. As a result of this meeting, one objection was withdrawn.

One further objection was received from the Beaumaris Conservation Society after the date of the consultation meeting. Therefore, at the time of report writing, four objections are outstanding.

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

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 5/2017/731/1 for the land known and described as 1 Gray Court, Beaumaris for the Construction of two double-storey dwellings and a front fence exceeding 1.2 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 (advertised) prepared by Mancini Design referenced TP 0598.1- TP 0598.6 Revision B, dated 4 January 2018 but modified to show:

a) Dwellings 1 and 2 separated by 2 metres at ground floor level and 3.57 metres at first floor level. All changes are to be absorbed within the footprint of the dwellings.

b) Deletion of the pool in rear private open space of dwelling 2 and replaced with landscaping.

c) The southern portion of the front fence adjacent to the private open space at Unit 1 along Haydens Road to have minimum transparency of 25%.

d) Removal of references to boundary fencing from plans.

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

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

i) Provision of the Development Contributions Levy in accordance with Condition 20 of this permit.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

Water Sensitive Urban Design

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

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

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

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape and planting plan drawn by Nan Herzberg Horticultural Consultant, reference B, dated May 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) Development changes.
b) The driveway and pedestrian pathway of dwelling 2 to be constructed with permeable paving.

c) Reduction in the extent of hard paving within the tree planting zone of the Drooping She-Oak trees to the north-eastern corner of the site in accordance with the Bayside City Council Landscape Guidelines (2016).

d) The proposed concrete driveway to facilitate Unit 1 redesigned with a permeable material and installed above grade to protect tree roots.

e) Details for rainwater tank footing within the SRZ of the Broad-leaved Paperbark located in the private open space of No. 3 Gray Court to ensure no roots will be impacted.

f) Extent of paving within the tree planting zone of the two (2) Drooping She-oaks reduced.

g) 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.

h) 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.

i) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count.

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

k) Details of surface finishes of pathways and driveways.

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

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

Tree Management and Protection Plan

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

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

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

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.
b) The location of tree protection measures to be utilised.

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

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

16. Any pruning that is required to be done to the canopy of Tree 1, the Red Flowering Gum (*Corymbia ficifolia*) 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 Tree 1, the Red Flowering Gum (*Corymbia ficifolia*) to be retained is to be done by hand by a qualified Arborist.

**Street tree protection**

17. Soil excavation must not occur within 3 metres from the edge of the street tree asset’s stem at ground level.

**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 plans required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan.

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

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

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.

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

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 12  Environmental and Landscape Values
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 18  Transport
- Clause 19  Infrastructure
- Clause 21.03  Settlement and Housing
- Clause 21.04  Environmental and Landscape Values
- Clause 21.06  Built Environment and Heritage
- Clause 21.09  Transport and Access
- Clause 21.10  Infrastructure
- Clause 22.06  Neighbourhood Character Policy (Precinct H4)
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02  Vegetation Protection Overlay (Schedule 3)
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 H4. Subject to conditions, the proposal is considered to demonstrate an appropriate level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

Space will be retained around the new dwellings to allow for sufficient landscaping opportunities and subject to condition, indigenous planting will maintain the bayside vegetation character of the area.

The garages set behind the building lines at each dwelling limit the potential visual dominance of car parking structures to the streetscape. Notwithstanding this, a condition is recommended requiring Units 1 and 2 to be separated by 2 metres at ground floor level and 3.75 metres at first floor level.

This will ensure that an appearance of space between dwellings is evident from the surrounds in accordance with the preferred neighbourhood character statement which seeks to maintain the rhythm of spacious visual separation between buildings.

On account of the varied character of the area, the contemporary design and variety of materials proposed would result in an interesting design that compliments the bayside setting. The front fence will maintain the openness of the streetscape and overall, the development demonstrates a suitable level of compliance with the preferred future character statement for the precinct.

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>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>0m or 1m</td>
<td>0m – 2m</td>
<td>3.39m – 3.89m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 1m</td>
<td>5.3m – 9.7m</td>
<td>3.72m – 4.36m</td>
</tr>
</tbody>
</table>

At ground floor level, the setbacks of the dwellings comply with the standard. At first floor level, there are minor encroachments into the prescribed setbacks to the west and northern boundaries of the site.

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

In relation to the northern site boundary, the stairway at Unit 2 does not comply with the setback as set out in the standard. This stairway encroaches approximately 1.69 metres
into the prescribed setback.

The stairway comprises a small projecting element adjacent the driveway at No. 9 Haydens Road. The stairwell is sited approximately 13.5 metres from the nearest habitable room window at this dwelling, while the private open space of 9 Haydens Road is located at the rear of the property and has no direct interface with the stairwell.

Having regard to the modest height of the stairwell (5.9 metres), its limited width (1.5 metres) and its non-sensitive interface, it is considered that the encroachment will not have an undue impact on the amenity of neighbours.

In relation to the western site boundary, the first floor living area at Unit 1 encroaches approximately 100mm into the prescribed setback. This wall is located approximately 3.8 metres from the boundary with the nearest neighbouring property, No. 3 Gray Court and would not unduly impact on neighbouring amenity. The wall has an interface with the side service area of 3 Gray Court, with the secluded private open space areas of this dwelling located to the rear of the property.

Having regard to the minor variation sought and the non-sensitive interface, the is considered acceptable.

Walls on Boundaries (Standard B18)

The western garage wall at Unit 1 is located on the western boundary of the site, adjacent to No. 3 Gray Court. This wall meets the requirements for the length, average height and overall height on the boundary in accordance the standard.

The northern entry wall at Unit 2 is located on the northern boundary of the site, adjacent to No 9. Haydens Road. The wall meets the standard with regard to length and maximum overall height. However, the average wall height is approximately 3.4 metres. A 200mm variation is sought.

Given that this wall is short in length, set back approximately 9 metres from the front of the site, and is located immediately adjacent to the driveway at No. 9 Haydens Road, this would not have an undue impact on neighbouring amenity, nor would it appear overly dominant when viewed from the street.

The minor 0.2m variation is supported as this would respect the preferred neighbourhood character and limit the impact on amenity of existing dwellings.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gray Court</td>
<td>1.2m</td>
<td>2m</td>
<td>800 mm</td>
</tr>
<tr>
<td>Haydens Road</td>
<td>1.8m</td>
<td>2m</td>
<td>200 mm</td>
</tr>
</tbody>
</table>

A 2 metre high front fence comprising of open pickets is proposed to the front boundary of the site along Gray Court. Pursuant to Standard B32 a front fence to a maximum of 1.2 metres in height is preferred along Gray Court.

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

Whilst it is noted that a variation of 0.8 metres is sought, given that the existing fence at the site exceeds 1.2 metres in height, and the proposed replacement front fence comprises open pickets, this will improve views into and out of the site and respects the preferred neighbourhood character for the precinct, therefore the variation is supported.

Along Haydens Road, the proposed fence varies in style. Open pickets of approximately 2 metres in height are proposed along the northern-most section of the boundary, adjacent to Unit 2, allowing views into and out of this property. An area of solid, brick fencing of 2 metres in height is proposed adjacent to the small courtyard at Unit 1. This
is considered to be acceptable in this instance as the solid brickwork stretches for just a small portion of this site boundary. The southern-most portion of fencing adjacent to the street setback of Unit 1 is proposed to be solid and 2 metres in height. Whilst is noted that the application plans state this will provide privacy for the occupiers, the secluded private open space located to the rear of 1 provides sufficient private open space for this dwelling.

A condition is therefore recommended requiring this southern-most section of fencing along Haydens Road to be constructed in open pickets to allow views into and out of the site from this street to accord with the preferred neighbourhood character.

**Site Services (Standard B34)**

Insufficient space has been provided between Units 1 and 2 for access to storage, clotheslines and bins. A condition of permit requires the dwellings to be separated by 2 metres at ground floor level, which will ensure that there is sufficient space around the dwellings to accommodate all services.

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

Council’s Arborist has carried out a site visit and confirmed that various trees protected by the VPO3 have been removed in accordance with previous planning permit 2016/561.

No additional trees are proposed for removal as part of the current application for development.

From an arboriculture perspective, Council’s Arborist has reviewed the application and advised that the retention of Tree No. 1, a Red Flowering Gum (*Corymbia ficifolia*) located within the front setback of the site is supported. However, works proposed within the TPZ of the tree, including a concrete driveway will likely result in major encroachment (greater than 20%).

A report is required to demonstrate how the Red Flowering Gum will remain viable post development. The driveway should be redesigned from a permeable surface and constructed above existing grade to ensure roots are not impacted. To ensure that Tree 1 remains viable post-construction, a Tree Management Plan and Tree Protection Plan will be required to be provided to the satisfaction of Council and is recommended to be secured by conditions of the permit.

An Ornamental Pear (*Pyrus calleryana*) is located within the front setback of the neighbouring property, No. 3 Gray Court and is likely to be impacted by the proposed concrete driveway with a minor encroachment. Given that the TPZ can extend into the garden bed adjacent to the tree, this will offset the encroachment. Two Broad-leaved Paperbark (*Melaleuca quinquenervia*) trees located within the private open space of No. 3 Gray Court are in poor health, possibly due to possum grazing, and have suffered root damage. They may be further impacted by landscaping works including rainwater tank within their TPZ.

During the consultation meeting it was noted that there is an additional tree, located within the street setback at No. 9 Haydens Road, close to the northern boundary of the application site, not shown on the submitted plans. Consideration must be given to the impact of the development upon trees on neighbouring properties. The Tree Protection Plan and Tree Management Plan will be required to demonstrate that neighbouring trees remain viable both during and post construction.
In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that the replacement canopy tree plantings as previously shown on the endorsed plans approved under Permit 2016/561 have been included in the concept landscape plan.

The species selection and location of the proposed canopy trees is supported and the level of planting accords with the preferred planting for dual occupancy developments as set out in the Bayside Landscape Guidelines (2016).

The remaining vegetation does not provide at least 80% native vegetation required within the VPO3, the final landscape plan will show the species selection revised so as to consist of at least 80% native vegetation.

6.4. Street tree

There is one street tree located within the nature strip on Haydens Road which is proposed for retention.

The proposed replacement crossover will be located more than 5 metres from the stem of the street tree. Conditions of permit will protect the tree during construction.

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 also has two car parking spaces in the form of a double garage. The proposed on site car parking meets the requirements of Clause 52.06-5.

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

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.

6.6. Objector issues not already addressed

Asbestos

The removal of asbestos is outside of the scope of the Planning and Environment Act 1987 or the Bayside Planning Scheme. There is other legislation which administers the removal and handling of asbestos. The Occupational Health and Safety (Asbestos) Regulations 2003 which apply in Victoria also have regulations regarding the handling and removal of asbestos. Other legislation including the Public Health and Wellbeing Act 2008 provides protection for neighbours during such works.

Infrastructure capacity

A concern in objections was the impact of development on infrastructure. The site owner will be required to address infrastructure servicing demands of the additional dwellings as stipulated by the various service agencies at the time of either subdivision or connection of the development including any service authority requirements to contribute to the cost of upgrading trunk infrastructure.

Street Addressing

A concern in objections has been raised in relation to the street numbering of the new units. Street Addressing is not a planning consideration and would be decided at subdivision stage by the Council’s rates department.
Support Attachments

1. Development Plans
2. Site and Surrounds
3. Neighbourhood Character Precinct H4
4. Clause 55 Assessment
Note: An objection was also received from the Beaumaris Conservation Society.
Figure 2 View towards the site from the northeast

Figure 3 View towards the site from the south
Neighbourhood Character Precinct H4

Preferred Future Character Statement

The single and double storey dwellings sit within the topography and informal landscaped surrounds, including remnant and indigenous coastal trees. The variety of dwelling styles reflect the coastal setting through their design, details and finishes. An informal feel to the streetscapes is achieved by spaces around buildings, the lack of or unobtrusive style of front fencing and informal street treatments. Along Beach Road, development responds to its highly visible location on the edge of the coast by providing visually interesting forms and facades. Informal street treatments remain in those streets with no kerbing and remnant street tree planting is retained.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To enhance the bayside vegetation character of the area through the planting of indigenous coastal species. | • Prepare a landscape plan to accompany all applications for new dwellings that utilises indigenous coastal species.  
• Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). | Lack of a landscape plan.  
Removal of large established trees.  
Use of exotic species and planting of environmental weeds | Responds  
The application has been accompanied by a landscape plan and demonstrates that appropriate, indigenous, canopy tree planting will be provided within the site. Furthermore, the existing large red flowing gum within the street setback will be retained and protected during construction. |
| To maintain the rhythm of spacious visual separation between buildings.    | • Dwellings should be sited to create the appearance of space between buildings and to accommodate substantial vegetation. |                                                                  | Responds  
Setbacks from the street and side boundaries of the site ensure that an appearance of space is maintained between the new dwellings and adjoining properties. A condition is recommended requiring the dwellings to be separated by 2 metres at ground floor level and 3.5 metres at first floor level to ensure that visual separation within the site is evident. |
| To minimise the dominance of car parking structures and the loss of front garden space. | • Locate garages and carports behind the line of the dwelling.  
• Minimise paving in front garden areas including driveways and crossovers.  
• Underground car parking accessed from the front of  | Car parking facilities that dominate the façade or view of the dwelling.  
Creation of new  | Responds  
At Unit 1, the garage is located behind the porch and at Unit 2 the garage is located behind the front building line of the dwelling ensuring that the garages do not dominate the  |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>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>crossovers and driveways or wide crossovers. Front setbacks dominated by impervious surfaces.</td>
<td>appearance of the dwellings. A significant area of landscaping will remain within the street setback of Unit 1, adjacent to Gray Court. Landscaping is also proposed within the street setback to Unit 2 adjacent to Haydens Road.</td>
</tr>
</tbody>
</table>
| To encourage innovative architecture that reflects the bayside setting.    | • New buildings should be individually designed to respond to the characteristics of the bay side location and the site.  
• Incorporate building elements and details that contribute to a lightness of structure including balconies, verandahs, glazing and light transparent balustrading. | Large, bulky buildings with poorly articulated front and side wall surfaces. Heavy design detailing (e.g. Masonry columns and piers). Highly reflective materials or glazing. | Responds  
The new dwellings are contemporary in design and have been articulated, with recessed and projecting elements at first floor level which add detail. Balconies will appear lightweight as a result of glazed balustrades. The modern design responds appropriately to the varied character of the surrounds and the bayside setting of the site. |
| To use lighter looking building materials and finishes that complement the bayside setting. | • Use a mix of contemporary and traditional coastal materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | Responds  
The proposed dwellings are to be constructed in a variety of materials. Walls will be constructed in render, cladding including elements of cedar cladding, and brick. Large |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the openness of the streetscape and views to coastal garden settings</td>
<td>• Provide open style front fencing, other than in exceptional circumstances.</td>
<td>High or solid front fencing.</td>
<td>Responds</td>
</tr>
</tbody>
</table>
| To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting Beach Road and visible from the reserve | • Where the properties front to both Beach Road and another street, ensure the dwellings present visually interesting elevations on all faces visible from the public domain.  
• Use landscaping materials and coastal plants within the front setback that contribute to the coastal character and amenity of the street.  
• Provide articulated roof forms to create an interesting skyline when viewed from the beach.  
• Provide low or open style front fencing along Beach Road frontages. | Flat, poorly articulated roof forms and facades visible from the public domain.  
High, solid front fencing on Beach Road. | Responds                     |

|                          |                                                                                           | areas of glazing on elevations facing the street as well as decking and blue stone within the landscaping complement the bayside setting. |                             |
### ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

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

### CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1 Neighbourhood Character</td>
<td>Complies</td>
<td>Refer to Attachment 3.</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>Complies</td>
<td></td>
</tr>
<tr>
<td>B2 Residential Policy</td>
<td>Complies</td>
<td>The subject site is appropriately located with regard to services and facilities to support the construction of 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>Complies</td>
<td></td>
</tr>
<tr>
<td>B3 Dwelling Diversity</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>Complies</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have</td>
</tr>
</tbody>
</table>
reviewed the application and raise no issues with infrastructure capacity in the area.

It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.

**B5 Integration with the Street**

Integrate the layout of development with the street

<table>
<thead>
<tr>
<th>Complies, subject to condition</th>
</tr>
</thead>
</table>

The development will integrate appropriately with the street. Unit 1 fronts onto Gray Court and Unit 2 fronts onto Haydens Road. The street setback to Gray Court respects the existing pattern of development along this street.

The Units feature a staggered setback along Haydens Road at ground floor level, providing an appropriate transition.

Subject to condition, the northern side setback and internal separation between the two units will ensure than an appearance of space around dwellings is evident from Haydens Road.

See Neighbourhood Character at Attachment 3 for further discussion.

---

**CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>

**B6 Street Setback**

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

<table>
<thead>
<tr>
<th>Complies</th>
<th>Minimum:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Gray Court: 9m.</td>
</tr>
<tr>
<td></td>
<td>Haydens Road: 2m (dwelling 1) and 3m (dwelling 2)</td>
</tr>
</tbody>
</table>

**Proposed:**

|          | Gray Court: 9m |
|          | Haydens Road: 2m (dwelling 1) and 3m (dwelling 2) |

**B7 Building Height**

Building height should respect the existing or preferred neighbourhood character.

<table>
<thead>
<tr>
<th>Complies</th>
<th>Maximum:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>9m.</td>
</tr>
</tbody>
</table>

Design and Development Overlay, Schedule 1 also identifies a height of 2 storeys excluding an attic and basement.

**Proposed:** 7.11 metres (2 storeys)
| **B8 Site Coverage** | Complies | **Maximum:** 50%  
**Proposed:** 45% |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B9 Permeability** | Complies | **Minimum:** >20%  
**Proposed:** 39% |
<table>
<thead>
<tr>
<th></th>
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<th></th>
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</thead>
<tbody>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B10 Energy Efficiency</strong></th>
<th>Complies</th>
<th>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources.</th>
</tr>
</thead>
</table>
| 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. |

<table>
<thead>
<tr>
<th><strong>B11 Open Space</strong></th>
<th>N/A</th>
<th>There is no communal open space in or adjacent to the development.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B12 Safety</strong></th>
<th>Complies</th>
<th>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B13 Landscaping** | Complies | The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions. The existing large Red Flowering Gum will be retained and subject to condition will be protected during demolition and construction. A condition of permit will require an amended landscape plan to be submitted to the satisfaction of the Responsible Authority.  
See Section 6.6 of the report for further discussion. |
|---------------------|----------|---------------------------------------------------------------------------------------------------------------|
| To provide appropriate landscaping.  
To encourage:  
- Development that respects the landscape character of the neighbourhood.  
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
- The retention of mature vegetation on the site. |

| **B14 Access** | Complies | The existing access from Gray Court is proposed to be utilised for vehicle access to Unit 1. An enlarged crossover is proposed to be provided in the approximately location of the existing crossover at the site accessed from Haydens Road to provide vehicle access to Unit 2. Standard traffic conditions are included as permit conditions.  
See Section 6.5 of the report for further discussion. |
|----------------|----------|---------------------------------------------------------------------------------------------------------------|
| Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. |
### B15 Parking Location
Provide resident and visitor vehicles with convenient parking.
Avoid parking and traffic difficulties in the development and the neighbourhood.
Protect residents from vehicular noise within developments.

| Complies | On site car parking is provided in the form of a double garage and driveway at Unit 1 accessed via the existing crossover from Gray Court and a double garage at Unit 2 accessed from Haydens Road. Standard traffic conditions are included as permit conditions. Refer to Section 6.2 of the report for further discussion. |

### CLAUSE 55.04 AMENITY IMPACTS

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>No</td>
<td>Refer to Section 6.2 of the Report.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td></td>
<td>0m or 1m</td>
</tr>
<tr>
<td><strong>B18 Walls on Boundaries</strong></td>
<td>No</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>----</td>
</tr>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
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<td></td>
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<tr>
<td><strong>Western Boundary</strong></td>
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<td></td>
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</tbody>
</table>

| **B19 Daylight to Existing Windows** | Complies | **The development has been sufficiently setback from all habitable room windows to abutting properties at No. 3 Gray Court and No. 9 Haydens Road. The built form is offset more than 7 metres from the nearest neighbouring habitable room windows which exceeds the setback requirement of this standard.** |
| **Allow adequate daylight into existing habitable room windows.** | | |

| **B20 North Facing Windows** | N/A | **There are no north facing windows within 3m of the shared boundary.** |
| **Allow adequate solar access to existing north-facing habitable room windows.** | | |

| **B21 Overshadowing Open Space** | Complies | **Additional overshadowing will occur over the adjoining private open space to No. 3 Gray Court, to the west. However, this property will still receive more than five hours of sunlight to 75% of the secluded private open space between 9am and 3pm on 22nd September in accordance with the standard.** |
| **Ensure buildings do not significantly overshadow existing secluded private open space.** | | |
### B22 Overlooking
Limit views into existing secluded private open space and habitable room windows.

| Complies | At ground floor level, habitable windows have been appropriately located to ensure that views into habitable room windows of neighbouring properties are screened. At first floor level, all habitable room windows have been screened to 1.7 metres above finished floor level where they are within 9 metres of neighbouring habitable windows or secluded private open space in accordance with this Standard. |

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

| Complies | All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. At ground floor level internal fencing to a height of 2.4m limits views between adjoining areas of secluded private open space within the development. |

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

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

### CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Complies</td>
<td>Entries are accessible for people with limited mobility. The development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Complies</td>
<td>The development fronts Gray Court and Haydens Road and includes a clearly identifiable entries to Units 1 and 2 with dedicated pedestrian pathways. The entries benefit from porches which provide shelter, a sense of personal address and a transitional space around the building entries.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Complies</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
</tbody>
</table>
### B28 Private Open Space
Provide reasonable recreation and service needs of residents by adequate private open space.

<table>
<thead>
<tr>
<th>Complies</th>
<th>Minimum:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>25m² secluded, 40m² overall with a minimum dimension of 3 m;</td>
</tr>
<tr>
<td></td>
<td><strong>Proposed:</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Unit 1:</strong> 60m² secluded</td>
</tr>
<tr>
<td></td>
<td><strong>Unit 2:</strong> 70m² secluded</td>
</tr>
</tbody>
</table>

It is noted that Clause 32.09-4 of the Bayside Planning Scheme requires a minimum gardens area at ground floor level of 35% of the site area. This equates to 263.2m². A total of 285m² has been provided, equating to 37% garden area.

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

| Complies | Appropriate solar access to the private open space areas is provided. |

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

| Complies | Designated externally accessible storage areas are provided to Units 1 and 2 and have minimum area of 6 cubic metres. |

### CLAUSE 55.06 DESIGN DETAIL

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Complies</td>
<td>Refer to Attachment 3 for further discussion.</td>
</tr>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| **B32 Front Fences** | No | **Maximum:** 1.2 metres |
| Encourage front fence design that respects the existing or preferred neighbourhood character. |
| **Proposed:** |
| Gray Court: 2 metres |
| Haydens Road: 2 metres |

| **B33 Common Property** | N/A | No areas of common property are proposed. |
| Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. |
| Avoid future management difficulties in common ownership areas. |
B34 Site Services

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

Avoid future management difficulties in common ownership areas.

| Complies, Subject to condition. | All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entries. Subject to condition, requiring the 1 metre space between Units 1 and 2 to be increased to 2 metres, sufficient space will be retained around the dwellings for the provision of waste bins, meters and clotheslines. A condition has been included requiring the location of solar hot water systems and air conditioning units to be located away from adjoining habitable room windows. |
4.4 13 BRIGHTON STREET, SANDRINGHAM  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2017/589/1  WARD: SOUTHERN

City Planning & Community Services - Statutory Planning  
File No: PSF/15/8755 – Doc No: DOC/18/87280

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>Bayland Property Group</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>7 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>236</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the construction of two double storey dwellings on a lot with an area of 483 square metres. Key details of the proposal are as follows:

- Two, four bedroom, double storey dwellings. Dwelling 1 faces Brighton Street and Dwelling 2 addresses Minnie Street
- The two story buildings have a maximum height of 8.4m
- Site coverage is 49.92%
- Permeability is 43.14%
- Two car spaces are provided per dwelling, via a single garage and tandem car space.

The application plans are provided at Attachment 1.

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

History

Previous planning permits are as follows:

- 2003/702 – Construction of a swimming pool on a lot less than 500sqm
- 2001/6756 – Alterations and additions to a dwelling on a lot less than 500sqm

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

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

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

3. **Stakeholder consultation**

**External referrals**

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

**Internal referrals**

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

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

**Public notification**

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

The following concerns were raised:

- Neighbourhood character;
- Noise of air conditioning
- Landscaping
- Boundary Fence

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

**Consultation meeting**

The applicant declined a consultation meeting.

However the applicant did meet with one of the objectors, to try to come to an agreement in regard to making changes to the application in response to the objectors concerns.

Council received a letter from this objector informing Council that they would withdraw on condition that certain amendments were made to the application. The objector was informed that Council could only accept a withdrawal if it was unconditional.

A formal request to withdraw has not been received from the objector, as a result of this the objection still stands.

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 2017/536** for the land known and described as **13 Brighton Street, Sandringham, for the of 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 (advertised) prepared by Bayland Property Group, dated 7 September 2017 but modified to show:

a) The gradient of each driveway not to exceed 1 in 16 complying with AS2890.1 for carparking.

b) Dwelling 1’s new crossover on Brighton Street must have a minimum 9m offset from the eastern boundary (Minnie Street).

c) Adequate sightlines must be provided where each driveway intersects with the footpath om accordance with AS2890.1

d) A minimum 2mx2m corner splay to be provide at the south west corner of the property. The spay must be infilled with concrete matching the existing footpaths,

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 revised schedule of construction materials, external finishes and colours to include wooden panelling on part of the ground floor of Dwelling 1 and simpler balustrade and screening materials on both dwellings to better reflect neighbourhood character.

g) Water Sensitive Urban Design measures in accordance with Condition 9.

h) A Landscaping Plan in accordance with Condition 11.

i) A Tree Management Plan in accordance with Condition 14.

j) Payment of the development contributions levy are payable in accordance with Condition 24.

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 each dwelling commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works with that particular dwelling and within common property 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 each dwelling commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed to that particular dwelling 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. Before the occupation of the development start, new or altered vehicle crossing(s) serving 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 a footpath/nature strip/kerb and channel 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.

10. 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**

11. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Merrick Hide, reference LA-001 Revision A, dated 29 August 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) Canopy tree planting in accordance with Bayside City Council Landscape Guidelines (2016).
   
   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

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

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

Tree Management and Protection Plan

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

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

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

a) The Tree Protection Zone and Structural Root Zone for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site.

b) The location of tree protection measures to be utilised.

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

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

17. Any pruning that is required to be done to the canopy of any tree to be retained (Trees 6, 11, 12 and 13) is to be done by a qualified Arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained (Trees 6, 11, 12 and 13) is to be done by hand by a qualified Arborist.

Street tree protection

18. Soil excavation must not occur within 3.889m of the Oak Tree, 3m from the Eucalyptus Tree and 2.174m from the Hakea Tree from the edge of the street trees asset’s stem at ground level.

19. 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.

20. Prior to soil excavation for a Council approved crossover within the TPZ, a
trench must be excavated along the line of the crossover adjacent to the tree
using root sensitive non-destructive techniques. All roots that will be affected
by must correctly pruned.

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

Drainage

22. 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.

23. 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

24. 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

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

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

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

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

Permit Notes:

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

- A permit must be obtained from Council for all vehicular crossings. These
must be constructed under Council's supervision for which 24 hours notice is
required.
• Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
• A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:
• Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
• Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

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 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.10 Infrastructure
• Clause 22.06 Neighbourhood Character Policy (Precinct E3)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 45.06 Developments Contribution Plan Overlay
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct E3. It is positioned on the corner of Brighton Street and Minnie Street in Sandringham, opposite A J Steele Reserve, more commonly known as “The Acorn Patch”. The surrounding dwellings along the northern side of Brighton Street are a mixture of single and double storey
weatherboard dwellings.

The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal is to remove a double storey weatherboard Californian bungalow. The new built form of the proposal is contemporary in style, uses flat and skillion roof forms and is well articulated both vertically and horizontally. Both dwellings read from their respective street frontages as single dwellings, with separation at upper level. Dwelling 1 addresses Brighton Street with front setbacks varying from 3.8m to 4.9m, which accord with the predominant setbacks in the street. Dwelling 2 addresses Minnie Street and is setback from 3m – 5.4m, which is a suitable response to a dwelling on a corner facing the side street. These front setbacks allow for garden settings along both streetscapes.

The proposed materials and finishes are lightweight, incorporate vertical timber panelling (a contemporary response to the traditional weatherboard in the area) and light colour render. Condition 1g of the permit will require further timber walls on the ground floor bedroom of Dwelling 1, on the wall facing Minnie Street, to help ground the dwelling and more suitably respond to the predominant neighbourhood character. This would also compliment the sympathetic material used in another contemporary infill on the eastern end of “The Acorn Patch” (2a, 2b and 2c Moorabbin Street), and similar proposals within the immediate area.

The proposed screening of windows and the balustrades for the balconies is perforated metal in a diamond pattern detail, which appears discordant with the clean lines of the proposal and the more traditional neighbourhood character. A simpler more sympathetic design response to this the use of screening and balustrade will be required under Condition 1g of the permit.

The proposal is retaining mature trees on the site as well as introducing further canopy trees, shrubs and ground cover, in addition all live street trees will remain, maintaining a valued characteristic of the neighbourhood.

6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 3. Those non-compliant standards are discussed below:

Side and rear setbacks (Standard B17)

<table>
<thead>
<tr>
<th></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 2.0m</td>
<td>0m, 2m,</td>
</tr>
<tr>
<td></td>
<td>Measuring from north to south</td>
<td>2.43m, 3m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2.0m</td>
<td>2m, 2.03m,</td>
</tr>
<tr>
<td></td>
<td>Measuring from north to south</td>
<td>3.1m, 4.7m, 8.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m, 3.2m</td>
<td>0m, 3.2m</td>
</tr>
</tbody>
</table>

The non-compliant eastern side setbacks at first floor level to Bedroom 4 and the retreat of Dwelling 2 are not considered to be detrimental as this setback abuts Minnie Street. The larger area of non-compliance (1.48m) is to do with the height of the skillion roof, which creates and appropriate architectural response to the streetscape. In addition there are non-compliant eastern side setbacks, at first floor level for Dwelling 1, at the retreat and balcony, a variation of 1.36m and 3.02m respectively. The larger are of non-
compliance is due to the high point of the skillion roof being along this boundary. These areas of non-compliance are also not deemed to cause any detriment as they abut a corner and will not impact of the amenity of existing dwellings. There is more than a 15m setback from the boundary of 13 Brighton Street and 15 Brighton Street, which is the dwelling on the opposite corner of Minnie Street

6.3. **Landscaping**

The application plans show the removal of 10 trees from the site. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous 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 for removal</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

The applicant is retaining a Silver Birch (*Betula Pendula*) in the front setback of the subject site as well as two Silver Birch and a Bull Bay Magnolia (*Magnolia Grandiflora*), which are located in the private open space of the subject site.

The proposal requires a minor encroachment of 2.4% into the tree protection zone (TPZ) of the silver birch in the front setback. This is considered tolerable as TPZ encroachment of under 10% are normally acceptable under AS4970 *Protection of Trees on Development Site 2009*.

Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted so these trees remain viable both during and post construction. Condition 14 of the permit requires this.

The remainder of the vegetation is made up of a Weeping Cherry (*prunus serrulata*), another Silver Birch (*Betula Pendula*), Kohuhu (*pittosporum tenuifolium*), Cumquat (*fortunella japonica*), Ornamental Pear (*pyrus calleryana*) and a Lawson Cypress (*chamaecyparis lawsoniana*). Vegetation proposed for removal on the subject site has low amenity, Council’s Arborist has no objections to its removal if replaced with new canopy tree planting in accordance with Bayside City Council Landscape Guidelines (2016) as set out in Condition 11 d.

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 retention of four mature trees and the planting of canopy trees (trees with mature heights of 8m or greater) in the front and rear setbacks.

6.4. **Street trees**

Tree No. 1, a Hakea (*Kakea francisisiana*) is located within the nature strip of Brighton Street and is proposed for retention. Tree 2, a Yellow Gum (*Eucalyptus leucoxylon*), Tree 3, an English Oak (*quercus robur*) and Tree 4, another Yellow Gum (*Eucalyptus leucoxylon*) are located within the nature strip of Minnie Street. Council’s Street Tree Arborist has advised that Tree 4 is dead and will be removed by Council. The other two trees on Minnie Street and the one of Brighton Street will not be affected by the proposal as long as there is no excavation within the setbacks proposed, these have all been set out in the conditions.

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 single garage and tandem outdoor parking. 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 corner splay. These are included as part of Condition 1 of the permit.

6.7. Development Contributions Levy

The subject site is located within catchment area 12.

Based on the proposed application and the below recommendation, a payment of $2,000 is required. The payment of the development contributions is recommended as a condition of permit (Condition 24).

6.8. Objector issues not already addressed

Boundary Fence

The issue of fencing between neighbours is a civil matter and it is not a planning consideration.

Support Attachments

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment
4. Clause 55 Assessment
Item 4.4 – 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>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from Brighton Street.

Figure 3 View towards the site from Minnie Street
Neighbourhood Character Precinct E3

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Does not respond  
The application proposes to demolish a weatherboard California bungalow on a street with dwellings predominantly of this era. |
| To maintain and enhance the garden settings of the dwellings.             | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds  
The landscape plan provides substantial vegetation, retention of four trees and helps maintain the garden setting of the dwellings. |
| To provide space for front gardens.                                      | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space. | Responds  
The application provides space for front gardens for both dwellings. |
| To maintain the rhythm of spacious visual separation between buildings.   | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds  
The buildings are well articulated creating the appearance of space between buildings and to accommodate substantial vegetation. |
| To minimise the loss of front garden spaces and the                      | • Locate garages and carports behind the line of the dwelling.                   | Car parking structures that dominate the façade or | Responds  
Single garages and driveways are proposed which do not dominate the |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>dominance of car parking structures.</td>
<td>• Minimise paving in front garden areas including driveways and crossovers.</td>
<td>view of the dwelling. Front setbacks dominated by impervious surfaces.</td>
<td>facades of the dwellings and allow for pervious surfaces within the front setback.</td>
</tr>
<tr>
<td>To ensure new development respects the dominant building scale and forms within the streetscape.</td>
<td>• Recess upper storey elements from the front façade. • Incorporate pitched roof forms with eaves.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Upper storey walls are generally recessed from the front façade with balconies slightly forward of the façade. Rather than a pitched roof, flat and skillion roofs are proposed helping to break up the perceived bulk and scale of the development on the streetscape.</td>
</tr>
<tr>
<td>To use lighter looking building materials and finishes that complement weatherboard where it predominates in the streetscape.</td>
<td>• Incorporate timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing where weatherboard predominates (e.g. Large masonry columns and piers)</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Vertical timber wall materials have been proposed, a condition of permit will require an increase of this use of material along the ground level of dwelling 1.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</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 front fencing</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No front fencing is proposed.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4

### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Complies</td>
<td>Refer to 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>Complies</td>
<td>The subject site is appropriately located with regard to services and facilities to support the construction of two dwellings on a lot of this size.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Complies</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**B5 Integration with the Street**
Integrate the layout of development with the street

Complies

The development will integrate appropriately with the street. Dwelling 1 address Brighton Street and Dwelling 2 Minnie Street. This provides clear pedestrian and vehicular access from both frontages.

The façade is well articulated breaking up the frontage and creating an appropriate address to both streets.

The overall building height is 8.47 metres, however this is the top of an angled structure, the overall height is read from the streetscape as much lower.

See Neighbourhood Character at Attachment 3 for further discussion.

---

**CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Complies</td>
<td>Requirement:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 1 - 2.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2 – 3m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 1 - 2.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2 – 3.08m</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Complies</td>
<td>Maximum: 9m.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Design and Development Overlay, Schedule 1 also identifies a height of 2 storeys excluding an attic and basement.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 8.47 metres</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Complies</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 49.7%</td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Complies</td>
<td>Minimum: &gt;20%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 43%</td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Complies</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Comments</td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>N/A</td>
<td>There is no communal open space in or adjacent to the development.</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Complies</td>
<td>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>Complies</td>
<td>The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions. A condition of permit will require an amended landscape plan to be submitted to the satisfaction of the Responsible Authority. See Section 6.5 of the report for further discussion.</td>
</tr>
<tr>
<td>B14 Access</td>
<td>Complies</td>
<td>An appropriate access off Brighton Street and Minnie Street to ay grade parking has been provided. Standard traffic conditions are included as permit conditions. See Section 6.4 of the report for further discussion.</td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>Complies</td>
<td>On site car parking is provided in the form of a single garages and tandem parking. Standard traffic conditions are included as permit conditions. Refer to Section 6.4 of the report for further discussion.</td>
</tr>
</tbody>
</table>
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ground floor</strong></td>
<td></td>
<td><strong>First Floor</strong></td>
<td></td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2.0m</td>
<td>0m, 2m, 2.43m, 3m</td>
<td>3.56m, 3.44m, 3.56m, 3.68m, 6.18m</td>
</tr>
<tr>
<td>Measuring from</td>
<td>2.0m</td>
<td>3.68m, 3.68m, 4.8m, 3.75m, 6.4m</td>
<td></td>
</tr>
<tr>
<td>north to south</td>
<td>2m, 2.03m, 3.1m, 4.7m, 8.2m</td>
<td>3.8m, 6.38m, 3.74m, 3.68m, 6.58m</td>
<td><strong>3.4m, 4.9m, 5.8m, 2.3m, 2.6m</strong></td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>0m or 2.0m</td>
<td>2m, 2.03m, 3.1m, 4.7m, 8.2m</td>
<td>3.56m, 3.44m, 3.56m, 3.68m, 6.18m</td>
</tr>
<tr>
<td>Measuring from</td>
<td>2m, 2.03m, 3.1m, 4.7m, 8.2m</td>
<td>3.56m, 3.44m, 3.56m, 3.68m, 6.18m</td>
<td><strong>3.4m, 4.9m, 5.8m, 2.3m, 2.6m</strong></td>
</tr>
<tr>
<td>north to south</td>
<td>2m, 2.03m, 3.1m, 4.7m, 8.2m</td>
<td>3.56m, 3.44m, 3.56m, 3.68m, 6.18m</td>
<td><strong>3.4m, 4.9m, 5.8m, 2.3m, 2.6m</strong></td>
</tr>
<tr>
<td><strong>North (rear)</strong></td>
<td>0m, 3.2m</td>
<td>0m, 3.2m</td>
<td>4.8m, 6.58m</td>
</tr>
<tr>
<td>0m, 3.2m</td>
<td>0m, 3.2m</td>
<td>4.8m, 6.58m</td>
<td><strong>4.5m, 8.7m</strong></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>N/A</strong></td>
<td>There is one wall proposed on the northern boundary of 4.2m.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Complies</strong></td>
<td>The development has been sufficiently setback from all habitable room windows.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>N/A</strong></td>
<td>There are no north facing windows within 3m of the shared boundary.</td>
</tr>
</tbody>
</table>

**B21 Overshadowing Open Space**
Ensure buildings do not significantly overshadow existing secluded private open space.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Complies</strong></td>
<td>Due to the north south orientation of the site and that it abuts a corner there is no significant overshadowing to existing secluded private open space.</td>
</tr>
</tbody>
</table>

**B22 Overlooking**
Limit views into existing secluded private open space and habitable room windows.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Complies</strong></td>
<td>All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Complies</strong></td>
<td>All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. At ground floor level internal fencing to a height of 1.8m limits views between adjoining areas of secluded private open space within the development.</td>
</tr>
</tbody>
</table>
### B24 Noise Impacts
Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.

<table>
<thead>
<tr>
<th>Complies</th>
<th>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</th>
</tr>
</thead>
</table>

### CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B25 Accessibility**
Consider people with limited mobility in the design of developments. | Complies | Entries are accessible for people with limited mobility. The development could be further retrofitted to accommodate people with limited mobility in the future if required. |
| **B26 Dwelling Entry**
Provide a sense of identity to each dwelling/residential building. | Complies | Dwelling 1 fronts Brighton Street and Dwelling 2 Minnie Street. Each dwelling includes a clearly identifiable entry with dedicated pedestrian pathway. The entries provide shelter and a sense of personal address. |
| **B27 Daylight to New Windows**
Allow adequate daylight into new habitable room windows. | Complies | All habitable windows will open out onto a space clear to the sky. |
| **B28 Private Open Space**
Provide reasonable recreation and service needs of residents by adequate private open space. | Complies | **Minimum:** 25m² secluded, 40m² overall with a minimum dimension of 3 m; A balcony of 8m² with a minimum width of 1.6m. **Proposed:** Both dwellings exceed the requirement at ground level. Dwelling 1 has a balcony of 8.9m² and Dwelling 2 6.2m² on the first floor. Although dwelling 2 does not meet the minimum size requirement for a balcony this is a secondary space off a bedroom and is not the only private open space for the dwelling so therefore it still complies with B28 requirements. |

<table>
<thead>
<tr>
<th>Private Open Space</th>
<th>Secluded Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling 1 G: 122m² 1: 8.9m²</td>
<td>33.5m²</td>
</tr>
<tr>
<td>Dwelling 2 G: 85.36m² 1: 6.2m²</td>
<td>40.4m²</td>
</tr>
</tbody>
</table>

| **B29 Solar Access to Open Space**
Allow solar access into the secluded private open space of new dwellings/buildings. | Complies | There is adequate solar access to the secluded private open space of each dwelling. |
<table>
<thead>
<tr>
<th><strong>B30 Storage</strong></th>
<th><strong>Complies</strong></th>
<th><strong>Requirement</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide adequate storage facilities for each dwelling.</td>
<td></td>
<td>6 cubic metre of storage space externally accessible.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Provided</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 1 – 8.6 cubic metres</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2 – Two spaces one of 4.78 and the other 2.3 cubic metres</td>
</tr>
</tbody>
</table>

**CLAUSE 55.06 DESIGN DETAIL**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Complies</td>
<td>Refer to Section 6.2 of the report for further discussion.</td>
</tr>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Complies</td>
<td>There are no front fences proposed.</td>
</tr>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>Complies</td>
<td>All areas of common property have been designed to clearly delineate public, communal and private areas. Common property is functional and capable of efficient management.</td>
</tr>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td>Complies</td>
<td>All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entries with waste provisions being provided within the garage or side setback. A condition has been included requiring the location of air conditioning units to be located away from adjoining habitable room windows.</td>
</tr>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Item 4.5 – 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>SJB Planning</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>25/10/2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>21 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 1)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 2)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>5</td>
</tr>
</tbody>
</table>

Proposal
The application seeks the construction of three dwellings and a front fence in excess of 1.2 metres in height on a lot with an area of 812.34 square metres. Key details of the proposal are as follows:

- 3 dwellings
- 2 storey dwellings with a maximum building height of 7 metres
- 2 car spaces are provided for each dwelling. Car parking for Dwellings 1 and 2 will be in the form of a double garage and car parking for Dwelling will be in the form of a single garage and a carport
- Site coverage is 44%
- Permeability is 35.3%
- Garden area is 35%
- All existing native and exotic trees are proposed to be removed from the site

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 1) – Construction of two or
more dwellings on a lot.

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

3. Stakeholder consultation

External referrals
There 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 five objections were received. The following concerns were raised:
- Neighbourhood character
- Overdevelopment
- Parking / Traffic
- Walls on boundaries
- Removal of existing vegetation, including canopy trees
- Site coverage and permeability

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

Consultation meeting
A consultation meeting was held on 26 February 2018 attended by the permit applicant and 1 objector. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 5/2017/641/1 for the land known and described as 45 Tulip Grove, Cheltenham for the construction of three dwellings on a lot and a front fence in excess of 1.2 metres in height in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the
advertised plans prepared by Caisson Architecture Sheets 4TP103, TP104, TP105, TP201, TP202 and TP701 (all Rev.TP02) dated 29/11/17 + Landscape Plan prepared by Carey Cavanagh Landscape Design & Construction Drawing No. AK2 (Rev.1) dated 17/10/17 but modified to show:

a) Pedestrian doors associated with all garages to open outwards and maintain minimum internal dimensions pursuant to Clause 52.06-9 Design Standard 2) of the Bayside Planning Scheme.

b) The relocation of storage and bins outside of each garage. The provision of a 6m³ storage shed must be provided within the secluded private open space of each dwelling.

c) 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.

d) Water Sensitive Urban Design measures in accordance with Condition 8.

e) A Landscaping Plan in accordance with Condition 10.

f) Tree Management and Protection Plan in accordance with Condition 13.

g) Provision of the development contributions fee in accordance with Condition 21.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

Water Sensitive Urban Design

8. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
a) The type of water sensitive urban design stormwater treatment measures to be used.

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

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

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

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

**Landscaping**

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan prepared by Carey Cavanagh Landscape Design & Construction Drawing No. AK2 (Rev.1) dated 17/10/17 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) Within the front setback of Dwelling 1 either two (2) medium 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) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

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

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

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

f) Details of surface finishes of pathways and driveways

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 metres from the edge of the Cupressus x leylandii (Leyland Cypress) street tree asset’s stem at ground level.

17. A tree protection fence is to be installed around the Cupressus x leylandii (Leyland Cypress) street tree in compliance with AS 4970–2009, Protection of trees on development sites.

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

a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.

b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.

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

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

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

19. Prior to soil excavation for a Council approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree.
using root sensitive non-destructive techniques. All roots that will be affected by must correctly pruned.

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

**Development Contribution**

21. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy of $4000 in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

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

**Drainage**

22. 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.

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

**Permit Expiry**

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.

**Permit Notes:**

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

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

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

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

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**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 H5)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 1)
- Clause 43.02 Design and Development Overlay (Schedule 2)
- 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 H5. The proposal is considered to demonstrate an appropriate level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The development has been carefully considered to respect and enhance the prevailing and preferred character of Tulip Grove. The generous landscaping opportunities within the front, side (north) and rear setbacks, chosen external materials with muted tones and overall design incorporate architectural features that result in an articulated built form with separated upper floor levels that are significantly smaller than the ground floor to respect the rhythm and visual separation between dwellings within the streetscape.

The proposed maximum 7m building height satisfies planning scheme requirements and double storey built form towards the rear of the site is supported due to the appropriate ground and first floor setbacks.

Walls constructed to boundaries has been kept to a minimum with only Dwelling 1’s lounge and dining constructed to the northern boundary. The overall 3.6m height and 6.9m length of this wall on the northern boundary fully complies with the requirements of Clause 55 (ResCode) and poses unreasonable amenity impacts to the north adjoining property at 47 Tulip Grove.

The proposed 3.4m and 6.1m dimensions separating the first floors of Dwellings 1, 2 & 3 reduce the appearance of visual bulk when viewed from immediately adjoining properties to the north and south. Further, the articulated built form and varied external materials provide interest to all elevations. The proposed first floor side setbacks to Dwellings 1, 2 & 3 are generally acceptable, however the first floor setbacks to the northern boundary do not fully comply with the numerical requirements of the schedule to the zone by 200mm. This transgression is considered very minor and will not result in any adverse detriment through unreasonable bulk or mass to the residential dwelling at 47 Tulip Grove. Similarly, the proposed 2.9m ground floor rear setback to the robe of Dwelling 3’s bedroom 1 fails the numerical 3m requirement. Again, this is considered acceptable in this instance and reflects the limited setback of the rear adjoining property at 52 Paul Street.

Finally, the proposed 1.2m – 1.3m high masonry front fence is appropriate and respects the varied front fence heights, styles and materials evident within Tulip Grove.

6.2. Compliance with Clause 55 (ResCode)

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

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>Requirement</th>
<th>Proposed</th>
<th>First Floor</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>0m-2m (D1/D2/D3)</td>
<td>0m – 3.8m</td>
<td>4m</td>
<td>3.8m</td>
<td></td>
</tr>
<tr>
<td>South (side)</td>
<td>0m-2m (D1/D2/D3)</td>
<td>4m – 6.5m</td>
<td>3.8m</td>
<td>4m – 5.9m</td>
<td></td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m (D3)</td>
<td>2.9m – 3.5m</td>
<td>4.9m</td>
<td>4.9m</td>
<td></td>
</tr>
</tbody>
</table>

It is noted that the design ensures walls constructed to any boundary are minimised to respond to the prevailing separation between existing buildings within Tulip Grove.

However, as mentioned above the proposed 3.8m setback of Dwelling 1, 2 & 3’s first floor to the northern boundary fail to comply with the numerical side setback standard
required by the schedule to the zone. The objective of the standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The 200mm transgression is considered very minor and the proposed 3.8m side setback provides a good separation between buildings and responds to the open built form neighbourhood character. Similarly, the ground floor rear setback of Dwelling 3’s robe associated with bedroom 1 falls 100mm short of the required numerical 3m rear setback and poses no visual bulk detriment to immediately adjoining dwellings.

Therefore, given the existing site context, full compliance with the schedule side setbacks is not considered warranted in this instance.

Storage (Standard B30)

The submitted plans indicate 6m³ storage will be provided within each garage. Not only is this storage not externally accessible it also restricts the internal dimensions of all garages. This is not supported. There is space within private open space areas to accommodate a storage shed for each dwelling. A condition to address this anomaly is recommended (Condition 1b).

Front Fence (Standard B32)

The proposed front fence would in part be erected to a height of 1.3 metres and would otherwise be 1.2 metres in height. The modest variation to the Standard is negligible and considered acceptable within the context of front fencing that varies in height from 1.2 metres up to 1.8 metres in height within the streetscape of Tulip Grove. The proposed front fence would not be a significant departure from this established and varied character.

Site Services (Standard B34)

The submitted plans indicate bins will be located within each garage. This restricts the internal dimensions of the garages and is not supported by Council’s Traffic Engineer. A condition of approval is recommended to relocate the bins outside of each garage (Condition 1b). Further, a standard condition will require air conditioning, hot water systems and clothes lines to be located away from adjoining habitable room windows (Condition 1c).

6.3. Landscaping

All trees on site are proposed to be removed to facilitate the development. Council’s Arborist advises that existing vegetation on the subject site has a low amenity value and is not protected by the VPO or under a local law. Council’s Arborist supports the removal of all existing vegetation with the exception of the existing Strawberry Tree located in the front setback of the site, which is recommended to be retained by Council’s Arborist. It is noted that the existing Strawberry Tree is not a native. Therefore, its retention is considered onerous and is not supported. To ensure adequate landscaping, including canopy tree planting is provided on-site, it is recommended that the submitted Landscape Plan is amended to accommodate mature canopy tree planting primarily within the front setback in the future. This requirement forms part of the recommended conditions (Condition 10).

The proposed development will pose a minimal impact to existing trees located on adjoining properties to the north and south at 43 and 47 Tulip Grove, however a Tree Management and Protection Plan is recommended via a condition of permit (Condition 13).

6.4. Street tree(s)

The design seeks to locate the new crossover and driveway along the southern boundary. This poses minimal impact to the existing *Cupressus x leylandii* (Leyland
Cypress) street tree and is supported by Council’s Street Tree Arborist, subject to conditions requiring no soil excavation within 2m of the street tree and tree protection measures (Conditions 16-20).

6.5. **Car parking and traffic**

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

Each dwelling comprises at least three bedrooms and is afforded two car parking spaces in the form of two double garages and a single garage and carport. 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 concerns with pedestrian doors opening inwards and bins located within each of the garages. These concerns can be addressed and form part of the recommended conditions (Condition 1a and b).

6.6. **Development Contributions Levy**

The subject site is located within catchment area 15B.

Based on the proposed application and the below recommendation, a payment of $4,000 is required. The payment of the development contributions is recommended as a condition of permit (Condition 21).

**Support Attachments**

1. Development Plans
2. Site & Surrounds Imagery
3. Neighbourhood Character Precinct H5
4. ResCode Clause 55 Assessment
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Objectors at 50 Paul Street and 41 Stuart Avenue, Cheltenham

Objector at 17 Heather Grove, Cheltenham
Objector at 4 Munro Avenue, Cheltenham

Figure 1 Aerial overview of the site and surrounds.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site from the north

Figure 3 View of existing dwelling from the south
Figure 4 View towards 40 Tulip Street to the northeast of the subject site

Figure 5 View towards 43 Tulip Grove to the south of the subject site
Attachment 3 - Neighbourhood Character Precinct H5

Preferred Future Character Statement

The low scale dwellings, with pitched roof forms, sit within established gardens with large native and exotic trees providing a backdrop. The dwellings have a strong horizontality to their form, which ensures buildings do not dominate the streetscape. Consistent front and side setbacks create a cohesiveness, along with the low front fences.

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 (locate footings outside root zone).  
• Minimise impervious surfaces, particularly in front yard spaces.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and vegetation. | Responds  
The proposal seeks to remove all existing native and exotic vegetation on the site and proposes future planting of appropriate landscaping, including canopy tree planting via a concept landscape plan.  
Council’s Arborist requires the retention of the existing Strawberry Tree, yet the retention of this exotic species is not supported. Instead, conditions will require appropriate mature canopy tree planting within the front setback to enhance the garden setting via an amended landscape plan in accordance with Bayside City Council Landscape Guidelines (2016). |

To maintain the rhythm of spacious visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds  
The proposal will present as a single double storey dwelling to Tulip Grove.  
Ground and first floor setbacks provide a good level of compliance to respond and enhance the rhythm of visual separation between dwellings within the streetscape. The first floor side setbacks to Dwellings 1, 2 & 3 and ground floor rear setback of Dwelling 3 fall slightly short of the varied numerical setbacks required by the zone. However the transgressions are minimal |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling. | Car parking structures that dominate the façade or view of the dwelling. | Responds
Proposed car parking in the form of double garages, single width garage and a carport have been hidden behind each dwelling to ensure they do not dominate the prevailing streetscape character and comply with Council objectives. |
| To ensure that buildings and extensions respect the low scale forms of the streetscape. | • Recess second storey elements from the front façade.  
• Use low pitched roof forms with eaves. | | Responds
The proposed development is modest and limited to two storeys. Facades are articulated and the built form, including a flat roof with no eaves respects and reflects the existing character evident within Tulip Grove, particularly at 1 Heather Grove and 24A, 29A, 30, 34, 35 & 49 Tulip Grove. |
| To use building materials and finishes that complement the natural setting. | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | Responds
External materials and finishes are varied and include a mix of render, facebrick, stone and light weight cladding to complement the streetscape setting. |
| To maintain the openness of the streetscape. | • Provide open style front fencing, other than along heavily trafficked roads.  
• Use vegetation as an alternative where possible. | High, solid front fencing. | Responds
Front fence heights, styles and materials are varied within the streetscape. The proposed 1.3m high masonry front fence is appropriate and reflects front fences at 30 and 32 Tulip Grove. Further, its limited height allows views of landscaping within the front setback. |
### ATTACHMENT 4

RESCODE CLAUSE 55 ASSESSMENT

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

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

### CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer to Attachment 3. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Yes | The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Yes | The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the |
Bayside City Council  Planning & Amenity Committee Meeting - 1 May 2018

Attachment 4

**Item 4.5 – Matters of Decision**

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### B5 Integration with the Street

Integrate the layout of development with the street

<table>
<thead>
<tr>
<th>Requirements</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The development will present as a single double storey dwelling to the street, and therefore will successfully integrate appropriately with Tulip Grove. The façade treatment is articulated, resulting in appropriate separation between ground and first floors to provide an appropriate transition to the setbacks of the adjoining properties. The side setbacks to the northern boundary, whilst non-compliant with the varied numerical standards of Standard B17 at (first floor only) are reflective of its immediate adjoining properties to the north and south and larger scale developments which present to Tulip Grove. The overall building height of 7m is well under the allowed max. 9m, reducing any perception of dominance is minimised. See Neighbourhood Character at Attachment 3 for further discussion.</td>
</tr>
</tbody>
</table>

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### CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B6 Street Setback</td>
<td>Yes</td>
<td>Requirement: 7.6m. Proposed: 7.6m at ground floor and 8.2m at first floor.</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Yes</td>
<td>Maximum: 9m. Design and Development Overlay, Schedule 2 also identifies a max. height of 2 storeys excluding a basement. Proposed: 7m (2 storeys)</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Yes</td>
<td>Maximum: 50% Proposed: 44%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Yes</td>
<td>Minimum: 20% Proposed: 35.3%</td>
</tr>
<tr>
<td>Bayside City Council Planning &amp; Amenity Committee Meeting - 1 May 2018</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attachement 4</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Item 4.5 – Matters of Decision Page 188 of 257 |

Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.

<table>
<thead>
<tr>
<th>B10 Energy Efficiency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings.</td>
</tr>
<tr>
<td>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B11 Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
</tr>
<tr>
<td>N/A</td>
</tr>
<tr>
<td>There is no communal open space in or adjacent to the development.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B12 Safety</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>The pedestrian entry points of all dwellings are clearly recognisable while the upper level of Dwelling 1 allows for the passive surveillance of the street.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B13 Landscaping</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide appropriate landscaping.</td>
</tr>
<tr>
<td>To encourage:</td>
</tr>
<tr>
<td>• Development that respects the landscape character of the neighbourhood.</td>
</tr>
<tr>
<td>• Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
</tr>
<tr>
<td>• The retention of mature vegetation on the site.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions. A condition of permit will require an amended landscape plan to be submitted to the satisfaction of the Responsible Authority. See Section 6.3 of the report for further discussion.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B14 Access</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development.</td>
</tr>
<tr>
<td>Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>The communal crossover and accessway seeks to utilise the existing crossover abutting the southern boundary and provides appropriate vehicular access to/from Tulip Grove.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B15 Parking Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking.</td>
</tr>
<tr>
<td>Avoid parking and traffic difficulties in the development and the neighbourhood.</td>
</tr>
<tr>
<td>Protect residents from vehicular noise within developments.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
<tr>
<td>On site car parking is provided in the form of double garages or a single garage and carport which are located behind the proposed dwellings to ensure minimal impact to the streetscape. Refer to the report for further discussion.</td>
</tr>
</tbody>
</table>
### CLAUSE 55.04 AMENITY IMPACTS

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong>&lt;br&gt;Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td>No</td>
<td>Refer to the report for further discussion.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>North (side) 0m-2m</td>
<td>0m – 3.8m</td>
<td>4m</td>
</tr>
<tr>
<td>South (side) 0m-2m</td>
<td>4m – 6.5m</td>
<td>3.8m</td>
</tr>
<tr>
<td>West (rear) 0m or 3m</td>
<td>2.9m – 3.5m</td>
<td>4.9m</td>
</tr>
</tbody>
</table>

| **B18 Walls on Boundaries**<br>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 | North boundary<br>Maximum Height: 3.6m<br>Proposed: 3.6m (D1)<br>Maximum Average Height: 3.2m with no part higher than 3.6m<br>Proposed: 3.6m (D1)<br>Maximum Length: 20m<br>Proposed: 6.95m (D1)<br>D1’s lounge and dining are the only walls constructed to any boundary. |

| **B19 Daylight to Existing Windows**<br>Allow adequate daylight into existing habitable room windows. | Yes | Dwelling 1’s lounge and dining northern wall has been sufficiently setback from all habitable room windows to the abutting property at 47 Tulip Grove to allow a minimum 1m clear to the sky in accordance with the standard. |

| **B20 North Facing Windows**<br>Allow adequate solar access to existing north-facing habitable room windows. | Yes | There are no north facing windows within 3m of the shared boundary. |
| **B21 Overshadowing Open Space** | **Yes** | The submitted shadow drawings demonstrate that a minimal amount of additional overshadowing will extend beyond the shadow cast by the existing boundary fence in the morning to the south and will not result in any amenity impacts. |
| **B22 Overlooking** | **Yes** | All first floor habitable room windows have fixed louvered screens with 25% visibility up to 1700FFL to limit unreasonable overlooking in accordance with this standard. In addition, the height of existing boundary fencing provides adequate protection to immediately adjoining properties from unreasonable overlooking to/from ground floor windows. |
| **B23 Internal Views** | **Yes** | All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. At ground floor level internal masonry or paling fencing to a height of 1.7m limits views between adjoining areas of secluded private open space within the development. |
| **B24 Noise Impacts** | **Yes** | It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses. |

**CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES**

<table>
<thead>
<tr>
<th><strong>Title and Objective</strong></th>
<th><strong>Complies with Standard?</strong></th>
<th><strong>Comments</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td><strong>Yes</strong></td>
<td>Entries are accessible and all dwellings will have a bedroom located at ground floor level for people with limited mobility. The development could also be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td><strong>Yes</strong></td>
<td>The development faces Tulip Grove and includes a clearly identifiable entry with dedicated pedestrian pathway. The entry provides shelter, a sense of personal address and a transitional space around the building entry.</td>
</tr>
</tbody>
</table>
### B27 Daylight to New Windows
Allow adequate daylight into new habitable room windows.

| Yes | All habitable windows will open out onto a space clear to the sky. |

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

| Yes | Minimum:

- 25m² secluded, 40m² overall with a minimum dimension of 3m
- A balcony of 8m² with a minimum width of 1.6m.

**Proposed:**
All dwellings exceed the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents.

It is noted that Clause 32.08-4 of the Bayside Planning Scheme requires a minimum 35% garden area of the site area at ground floor level. This equates to 285.1m². A total of 285.1m² has been provided to satisfy the standard.

| Dwelling 1 | 113m² | 25.6m² |
| Dwelling 2 | 54.3m² | 54.3m² |
| Dwelling 3 | 83.1m² | 83.1m² |

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

| Yes | All dwellings have access to north facing private open space in accordance with the standard. |

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

| No | The submitted plans indicate that each dwelling will be provided with 6m³ of storage within each garage. This achieves the objective yet fails the standard as storage is not external to the dwellings. Further, the proposed location of the storage restricts the internal dimensions of each garage. Conditions of permit can ensure storage is appropriately located throughout the site to comply with the standard. |

---

### CLAUSE 55.06 DESIGN DETAIL

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bayside City Council Planning &amp; Amenity Committee Meeting - 1 May 2018</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Attachment 4
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer to the report for further discussion.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>No</td>
<td>The applicant proposes a 1.2m – 1.3m high masonry front fence. Facing Tulip Grove. Refer report.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<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>Yes</td>
<td>All areas of common property have been designed to clearly delineate public, communal and private areas. Common property is functional and capable of efficient management.</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
<td>No</td>
<td>All appropriate site services can be easily catered for on-site. Mail boxes are shown towards the frontage. Conditions have been included requiring bins to be relocated outside of each garage and solar hot water systems and air conditioning units to be located away from adjoining habitable room windows.</td>
</tr>
</tbody>
</table>
1. **Application details**

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of an Amended Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Chandos Bay Pty Ltd</td>
</tr>
<tr>
<td></td>
<td>C/- Planning &amp; Property Partners Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Zoning</td>
<td>Commercial 2 Zone</td>
</tr>
<tr>
<td>Overlays</td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
</tbody>
</table>

This matter has been reported to the Planning and Amenity Committee for an in-principle agreement reached by all parties prior to a VCAT Compulsory Conference for the use of the land for the purpose of the sale of packaged liquor and associated buildings and works, display of advertising signs, removal of native vegetation and alterations to a Road Zone, Category 1 on a lot with an area of 3,505 square metres at 322-328 Bay Road, Cheltenham.

At the Planning and Amenity Committee Meeting held on 11 December 2017 Council considered an application for the use of the land for the purpose of the sale of packaged liquor and associated buildings and works, display of advertising signs, removal of native vegetation and alterations to a Road Zone, Category 1. Details of the application can be viewed at the following link:


Council determined to issue a Notice of Decision to Grant a Planning Permit and subsequently a Planning Permit was issued on 10 January 2018.

The applicant lodged an appeal under Section 80 of the *Planning and Environment Act 1987* with the Victorian and Administrative Tribunal (VCAT) against some of the permit conditions, namely:

- Amendment to condition 1(d);
- Deletion of conditions 1(b)(l) and (m);
- Deletion of condition 13;
- Amendment to condition 16;
- Amendment to condition 28.

The specific detail of each change is discussed in the assessment section of this report.

A VCAT Compulsory Conference is scheduled for 7 May 2018. The applicant has submitted without prejudice plans (refer Attachment 1) and following discussions with Council Officers, an in-principle agreement was reached between all parties.

2. **Stakeholder consultation**

There were no other parties required to be involved in the discussion and agreement.
3. **Recommendation**

That Council:

**Supports the Grant of a Planning Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/369/1** for the land known and described as **322-328 Bay Road, Cheltenham** for the **use of the land for the purpose of the sale of packaged liquor and associated buildings and works, display of advertising signs, removal of native vegetation and alterations to a Road Zone, Category 1** in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans but modified to show:

   a) The setback of the building from Bay Road increased to 5 metres.
   b) Deleted
   c) The car parking fronting Bay Road to be set back 3 metres to allow for additional landscaping along the frontage, including the provision of 3 canopy trees to the satisfaction of the Responsible Authority.
   d) Deletion of the direct vehicle access to the car park from Chandos Street and provision for landscaping along the Chandos Street frontage within the subject site and complimented by the provision of 5 additional street trees in the Chandos Street road reserve.
   e) In order to comply with conditions (a-d) above, the number of parking spaces can be reduced to the amount required by Clause 52.06.
   f) The provision of external security lighting within the site.
   g) Car parking and accessways to be in accordance with Clause 52.06.
   h) An updated landscaping plan in respect of conditions (a-d) above as required by condition 8.
   i) Details of any kerbing and pedestrian ramps for disabled access.
   j) An amended Arboricultural Assessment and Report to accurately reflect the tree species for trees 3 and 13 and to provide comments on the Callistemon citrinus on the western boundary and the Correa alba at the base of tree 8.
   k) Removal of all advertising signage from the southern elevation of the building.
   l) Deleted.
   m) Deleted.
   n) Removal of the four internally illuminated signage zones below the Dan Murphy’s logo on the pylon sign.
   o) A red line plan showing the area where the liquor licence will apply.
   p) Surface construction, dimensional and kerbing details of the accessway within the carriageway easement. This must be to the satisfaction of the Responsible Authority and be consistent with any relevant requirements.
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 the 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.

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

8. 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 Memia, dated 22 May 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.
9. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

11. Before the development starts, an amended Arboricultural Assessment & Report to the satisfaction of the Responsible Authority must be submitted and endorsed by the Responsible Authority. The Report must generally be in accordance with the Arboricultural Assessment & Report prepared by Treemap Arboriculture dated 2017 but amended to include the details specified in condition 1(j).

12. There is to be no soil excavation within 3 metres of all street tree assets measured from the edge of the trunk. Tree protection fencing is to be installed around all street trees in compliance with AS 4970-2009, Protection of trees on development sites.


14. 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.

15. 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.

16. Prior to occupation of the development, a Loading Management Plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The Plan must include details of:
   a) How the delivery vehicles will enter and exit the loading bay.
   b) Swept paths showing the delivery vehicle movements.
   c) How the traffic will be managed during the delivery times
   d) Times of deliveries.
   e) How any restrictions / requirements will be enforced and communicated with all relevant parties.

The loading and unloading of vehicles and the delivery of goods to and from the premises 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. All loading and associated activities must be undertaken in accordance with the endorsed Loading Management Plan at all times.

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 Infrastructure Assets Department.
19. 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.

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

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

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

21. 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, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
d) Presence of vermin.

22. The use may operate only between the hours of 9am and 11pm, without the prior written consent of the Responsible Authority.

**VicRoads Conditions**

23. Prior to the commencement of the use or occupation of the development, all disused or redundant vehicle crossings on Bay Road must be removed and the area reinstated to the satisfaction of the Responsible Authority and at no cost to VicRoads or the Responsible Authority.

24. Prior to the commencement of the use or the occupation of the buildings or works hereby approved. The access crossover and associated works must be provided and available for use.

**End of VicRoads Conditions**

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.

26. The location and details of the sign/s, including those of the supporting structure, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.

27. All signs must be located wholly within the boundaries of the land.

**Expiry condition – use development and signage**

28. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.
   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.
   e) The signs are not erected within 15 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.
- 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.
- Council records indicate that there is a 1.83 metre wide drainage and sewerage easement along the southern property boundary as indicated on the drawings provided. The plans indicate that a carriageway shall be constructed over the easement. Any proposal to encroach into the easement may require Build Over Easement consent from the Responsible Authority / Authorities. The carriageway shall be partially demountable over the easement and the proposal may require a Section 173 agreement to be created on the property title to ensure the continuation of Council rights of drainage.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.
- Before the vehicle crossing application will be approved, the applicant must pay $5,794.06 to the Responsible Authority for the removal and replacement of the existing street trees. 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 works 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 street tree assets identified as trees numbered 3 (Angophora hispidai) and (Acmena smithii) 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 new vehicle crossing.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>1 May 2018</td>
<td>Amendment issued at the direction of VCAT:</td>
</tr>
<tr>
<td></td>
<td>- Amendment to condition 1(d);</td>
</tr>
<tr>
<td></td>
<td>- Deletion of conditions 1(b)(l) and (m);</td>
</tr>
<tr>
<td></td>
<td>- Deletion of condition 13;</td>
</tr>
<tr>
<td></td>
<td>- Amendment to condition 16;</td>
</tr>
<tr>
<td></td>
<td>- Amendment to condition 28.</td>
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</tbody>
</table>

4. **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.

4.1 **Assessment of revised conditions and amended plans**

**Condition 1 changes:**

*b)* The setback of the building from Hamlet Street increased to a minimum of 1.5 metres.

This condition has been deleted. There is an existing building close up to Hamlet Street. The proposed building will not have any more of an impact on Hamlet Street than the existing building. Furthermore, the landscaped Council nature strip will provide for an appropriate buffer and screen from the roadway. The resulting outcome is acceptable for this robust, industrial streetscape.

*d)* The car parking along Chandos Street to be set back 2 metres from the boundary to allow for additional landscaping to the satisfaction of the Responsible Authority.

This condition has been re-worded to require the deletion of the direct vehicle access to the car park from Chandos Street, which would ensure that the existing vegetated reserve would remain intact. Furthermore, the applicant has agreed to provide an additional 5 street trees along this frontage at their own cost.

*l)* Removal of the advertising signage on the north and south aspects of the entrance portal (wording stating ‘lowest liquor price guarantee’).

This condition has been deleted. The wording is typical of Dan Murphy’s advertising and it is considered acceptable within the commercial context of the site.

*m)* Removal of the advertising signage on the western elevation which states ‘lowest liquor price guarantee’.

This condition has been deleted. The wording is typical of Dan Murphy’s advertising and it is considered acceptable within the commercial context of the site.

**Condition 11 changes:**

*Before the development starts, an amended Arboricultural Assessment & Report to the satisfaction of the Responsible Authority must be submitted and endorsed by the Responsible Authority. The Report must generally be in accordance with the Arboricultural Assessment & Report prepared by Treemap Arboriculture dated 2017 but amended to include the details specified in condition 1(j).*

This condition has been amended to refer to the correct condition 1(j). This amends a clerical oversight from Councils end.
Condition 13 changes:

The street tree assets identified as trees numbered 3 (Angophora hispidai) and (Acmena smithii) 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 new vehicle crossing.

This condition has been deleted as it is covered under separate legislation. It is included as a permit note instead.

Condition 16 changes:

Before the development starts, a Loading Management Plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The Plan must include details of:

a) How the delivery vehicles will enter and exit the loading bay.
b) Swept paths showing the delivery vehicle movements.
c) How the traffic will be managed during the delivery times
d) Times of deliveries.
e) How any restrictions / requirements will be enforced and communicated with all relevant parties.

The loading and unloading of vehicles and the delivery of goods to and from the premises 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. All loading and associated activities must be undertaken in accordance with the endorsed Loading Management Plan at all times.

This condition has been amended to require the submission of the Loading Management Plan prior to occupation rather than prior to commencement of development. The intent of the condition remains the same, but it places a less onerous burden on the applicant and will allow for the development to commence sooner.

Condition 28 changes:

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.
e) The signs are not erected within two 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.

Subset (e) of this condition is incorrect. The expiry time for advertising signs is 15 years, not two. As such the wording of the condition has been amended to reflect this.

5. Conclusion

The proposed changes to the conditions (and associated changes to the plans) are not considered to be significant nor change their intent. The proposal remains compliant with the Bayside Planning Scheme and is an appropriate outcome.
Support Attachments

1. Without Prejudice Plans
2. Site and Surrounds Imagery
3. Decision Plans
Figure 1. Aerial Overview of subject site and objector map. Two additional objectors are located outside of the above map.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2. Subject site viewed from the north side of Bay Road.

Figure 3. View of the subject site from the South-East on Chandos Street.
Figure 4. View of subject site looking west from corner of Bay Road and Chandos Street.

Figure 5. View of subject site looking east from corner of Bay Road and Hamlet Street.
Figure 6. View of subject site from the west on Chandos Street.
4.7 163 SOUTH ROAD, BRIGHTON EAST (ST LEONARD’S COLLEGE)
SUPPORT THE GRANT OF A PERMIT
APPLICATION NO: 2017/147  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/89250

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Permit (VCAT Consent Order)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Urbis 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>24 March 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
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<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
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</tbody>
</table>
| Overlays       | Heritage Overlay, Schedule 347
                | Design and Development Overlay, Schedule 3
                | Development Contributions Plan Overlay
                | Special Building Overlay                         |
| Number of objections | 10 |

Purpose
The purpose of this report is to endorse a consent position for an application at the above property (St Leonard’s College) which was reached between the objector and the permit applicant.

History
At the Planning and Amenity Committee meeting on 12 September 2017, Council determined to support a planning application which authorised the following:

Partial demolition of buildings, construction of new educational facilities including a Performing Arts Centre (‘Leonardian’ PAC), redevelopment of part of the Senior School and basement carpark extension in a Neighbourhood Residential Zone (Schedule 3), Heritage Overlay (Schedule 347), Design and Development Overlay (Schedule 3) and alterations to access in a Road Zone Category 1

10 objections were received for this application.

See Attachment 1 for the application plans and Attachment 2 for the Notice of Decision to Grant a Permit.

VCAT
An Application for Review against the decision made by the Responsible Authority was lodged by the objector at 12 Ratho Avenue, Brighton East (adjoining west) with VCAT pursuant to Section 82 of the Planning and Environment Act 1987.

See Attachment 3 for the site and surrounds imagery.

The matter was heard over a three day hearing commencing Thursday 5 April 2018. No other objectors were parties to the appeal, lodged statement of grounds or were present at the hearing.
At the conclusion of the hearing, the Applicant for Review (the objector) sought a consent position with the permit applicant (St Leonard’s College). The consent position was based on the following:

- Condition 5 is substituted with a new Condition 5 as follows:
  
  *The combined number of attendees for simultaneous events at the Leonardian Centre and the Kevin Wood Centre must not exceed 1,000 persons.*

- A new subjection “j)” is added to Condition 9 as follows:

  *That the use of the Agora that includes electronically amplified sound must cease by no later than 9.00pm on any day.*

- A new subjection “j)” is added to Condition 21 as follows:

  *That existing on-site car parking spaces at the College must be made available for the use of attendees at events and functions at the College that are held outside of normal school hours.*

The permit applicant (St Leonard’s College) has agreed to the above conditions being included on the Planning Permit.

If the consent order is not endorsed by the Planning and Amenity Committee, the Tribunal will make a merits decision on the application (noting that the hearing has already been completed).

2. Recommendation

That Council resolve to:

**Support** the Grant of a Permit under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/147** for the land known and described as **163 South Road, Brighton East (St Leonard’s College)**, for the partial demolition of buildings, construction of new educational facilities including a Performing Arts Centre (‘Leonardian’ PAC), redevelopment of part of the Senior School and basement carpark extension in a Neighbourhood Residential Zone (Schedule 3), Heritage Overlay (Schedule 347), Design and Development Overlay (Schedule 3) and alterations to access in a Road Zone Category 1 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application and advertised but modified to show:

   a) Ground level surfaces abutting “Harefield House” designed to protect the significant fabric. This includes alteration of levels that might have negative impacts such as causing rising damp by bridging existing damp-proof courses, appropriate surface drainage away from original walls, etc. A report from a suitably qualified expert must be provided to the satisfaction of the Responsible Authority.

   b) A Landscape Plan in accordance with Condition 11 of this permit.

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

   d) Drainage Development Contributions in accordance with Condition 18 of this permit.
e) Location of all plant and equipment, including hot water services and air conditioners. All plant and equipment to be located away from habitable room windows of the dwellings and the adjoining properties habitable rooms.

f) A schedule of construction materials, external finishes and colours, including samples.

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

3. 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, 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 combined number of attendees for simultaneous events at the Leonardian Centre and the Kevin Wood Centre must not exceed 1,000 persons.

Noise

6. 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 Leonardian PAC and outside Agora area 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.

7. Noise associated with deliveries and collections to the Leonardian PAC to comply with EPA Publication 1254 Noise Control Guidelines.

8. 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 N-2 policies and/or EPA Technical Guidelines.

9. Before the development starts, a Noise and Amenity Management Plan must be submitted to and approved by the Responsible Authority and contain the following information:

   a) The identification of all noise sources associated with the Leonardian PAC and Agora (including, but not limited to, music noise etc).

   b) Details of the provision of performances including the frequency and hours.

   c) Activities within the Agora to be appropriately tailored to ensure compliance with the requirements of Condition 6 and any amplified events (e.g. outdoor move screening) will considered as appropriate the loudspeaker types, location.

   d) The identification of noise sensitive areas including residential uses and accommodation in close proximity to the Leonardian PAC and Agora area.

   e) Measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures.
f) Standard procedures to be undertaken by staff in the event of a complaint by a member of the public, the Victoria Police and an authorised officer of the responsible authority.

g) Details of any measures to work with neighbours or other residents in the immediate area to address complaints and general operational issues.

h) Any other measures to be undertaken to ensure minimal impacts from the Leonardian PAC and Agora area.

i) Location and operation of air-conditioning, exhaust fan systems and security alarms.

j) That the use of the Agora that includes electronically amplified sound must cease by no later than 9.00pm on any day.

The approved Noise and Amenity Action Plan will form part of the permit and the use must operate in accordance with it to the satisfaction of the Responsible Authority.

10. 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.

Vegetation

11. Prior to the endorsement of plans and 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 by Aspect Studios, dated 10/3/17, 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.

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

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

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

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

f) Details of surface finishes of pathways and driveways.

g) Irrigated vertical green wall to comprise 25% of total surface area of north walls of building identified as the ‘Leonardian’ PAC and new Senior School building.

12. Prior to the endorsement of plans and pursuant to Condition 1, 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;
• Details of any drainage relocation required to accommodate the retention of Heritage Protected trees;
• 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.

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

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

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

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

17. 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.
Drainage

18. Prior to endorsement of the plans pursuant to Condition 1, 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.

19. 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.

20. 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.

Parking and Traffic Management Plan

21. Before the development starts, a traffic and parking management plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Traffic and parking operations on and adjacent to the site must conform to this endorsed plan. Three copies of the plan must be submitted. The plan must be generally in accordance with the plan (specify any earlier submitted plan) but must include:

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

b) Owner’s permission and any required planning permission for parking on other land.

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

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

e) 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.

f) Measures to discourage patron car parking in (specify location).

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

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

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

j) That existing on-site car parking spaces at the College must be made available for the use of attendees at events and functions at the College that are held outside of normal school hours.

Construction Management

22. Before the development starts, 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.

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

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

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

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

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- 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 existing street trees must not be removed or damaged.
- This property is located in a Heritage Overlay and planning permission may be required to demolish or otherwise externally alter any existing structures. External alterations include painting an unpainted surface, but does not include re-painting an already painted surface.
- Council records indicate that there is a 6.10m wide drainage running diagonally through the property as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

3. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 13 Environmental Risks
- Clause 15 Built Environment and Heritage
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.04 Environmental and Landscape Values
- Clause 21.05 Environmental Risks
- Clause 21.06 Built Environment and Heritage
- Clause 22.05 Heritage Policy
- Clause 22.06 Neighbourhood Character Policy
• Clause 22.07  Discretionary Uses in Residential Areas
• Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
• Clause 43.01  Heritage Overlay (Schedule 347)
• Clause 43.02  Design and Development Overlay (Schedule 3)
• Clause 44.05  Special Building Overlay
• Clause 52.06  Car Parking
• Clause 52.29  Land adjacent to a Road Zone (Category 1)
• Clause 65  Decision Guidelines

4. 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.

4.1. Assessment of Conditions

Condition 5

Condition 5 of the Notice of Decision is currently worded as follows:

*The combined performance capacity of the ‘Leonardian’ PAC and Kevin Wood Centre must not exceed a maximum capacity of 1,000 persons to the satisfaction of the Responsible Authority.*

Through the consent order, it is proposed to amend Condition 5 to the following:

*The combined number of attendees for simultaneous events at the Leonardian Centre and the Kevin Wood Centre must not exceed 1,000 persons.*

The proposed condition is effectively a slight rewording of the existing condition to provide more clarity and certainty in relation to the use and capacity of the two centres when events are in place.

Condition 9 j)

*That the use of the Agora that includes electronically amplified sound must cease by no later than 9.00pm on any day.*

The overarching requirement of condition 9 is for the requirement of a noise and amenity management plan. The proposed consent order seeks to introduce a new sub-subsection into the noise and management plan. Namely, the cessation of amplified music after 9pm.

Previously the noise and management plan was silent on this requirement. The introduction of this condition provides for greater amenity protection for adjoining residential properties.

Condition 21 j)

*That existing on-site car parking spaces at the College must be made available for the use of attendees at events and functions at the College that are held outside of normal school hours.*

The overarching requirement for condition 21 is for the requirement of a traffic and car parking management. The proposed consent order seeks to ensure that existing on-site car spaces are adequately set aside for attendees of functions outside normal school hours. Previously the traffic and car parking management plan was silent on this requirement.
The introduction of this condition will ensure that the traffic and car parking impacts of the proposed works will not unreasonably compromise the residential amenity and traffic in the immediate area.

Support Attachments
1. Advertised plans
2. Notice of Decision to Grant a Permit
3. Site & surrounds imagery
**NOTICE OF DECISION TO GRANT A PERMIT**

**NO:** 5/2017/147/1  
**Responsible Authority:** Bayside City Council  
**Planning Scheme:** Bayside

<table>
<thead>
<tr>
<th><strong>Address Of The Land:</strong></th>
<th>163 South Road BRIGHTON EAST</th>
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<tbody>
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<td></td>
<td>Partial demolition of buildings, construction of new educational facilities including a Performing Arts Centre (‘Leonardian’ PAC), redevelopment of part of the Senior School and basement carpark extension in a Neighbourhood Residential Zone (Schedule 3), Heritage Overlay (Schedule 347), Design and Development Overlay (Schedule 3) and alterations to access in a Road Zone Category 1 in accordance with the endorsed plans and subject to the following conditions.</td>
</tr>
</tbody>
</table>

The responsible authority has decided to grant a permit. The permit has not been issued.

**What Will The Conditions Of The Permit Be?**

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application and advertised but modified to show:
   a) Ground level surfaces abutting “Harefield House” designed to protect the significant fabric. This includes alteration of levels that might have negative impacts such as causing rising damp by bridging existing damp-proof courses, appropriate surface drainage away from original walls, etc. A report from a suitably qualified expert must be provided to the satisfaction of the Responsible Authority.
   b) A Landscape Plan in accordance with Condition 11 of this permit.
   c) A Tree Management Plan in accordance with Condition 12 of this permit.
   d) Drainage Development Contributions in accordance with Condition 18 of this permit.
   e) Location of all plant and equipment, including hot water services and air conditioners. All plant and equipment to be located away from habitable rooms windows of the dwellings and the adjoining properties habitable rooms.
   f) A schedule of construction materials, external finishes and colours, including samples.

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

3. 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, 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.

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**Date issued:** 12 September 2017  
**Michael Henderson**  
**Signature for the Responsible Authority**

Planning and Environment Regulations 2005 Form 5
<table>
<thead>
<tr>
<th>NOTICE OF DECISION TO GRANT A PERMIT</th>
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<tr>
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**Responsible Authority:** Bayside City Council

**Planning Scheme:** Bayside

5. The combined performance capacity of the ‘Leonardian’ PAC and Kevin Wood Centre must not exceed a maximum capacity of 1,000 persons to the satisfaction of the Responsible Authority.

**Noise**

6. 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 Leonardian PAC and outside Agora area 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.

7. Noise associated with deliveries and collections to the Leonardian PAC to comply with EPA Publication 1254 Noise Control Guidelines.

8. 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 N-2 policies and/or EPA Technical Guidelines.

9. Before the development starts, a Noise and Amenity Management Plan must be submitted to and approved by the Responsible Authority and contain the following information:
   a) The identification of all noise sources associated with the Leonardian PAC and Agora (including, but not limited to, music noise etc).
   b) Details of the provision of performances including the frequency and hours.
   c) Activities within the Agora to be appropriately tailored to ensure compliance with the requirements of Condition 6 and any amplified events (e.g. outdoor move screening) will considered as appropriate the loudspeaker types, location.
   d) The identification of noise sensitive areas including residential uses and accommodation in close proximity to the Leonardian PAC and Agora area.
   e) Measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures.
   f) Standard procedures to be undertaken by staff in the event of a complaint by a member of the public, the Victoria Police and an authorised officer of the responsible authority.
   g) Details of any measures to work with neighbours or other residents in the immediate area to address complaints and general operational issues.
   h) Any other measures to be undertaken to ensure minimal impacts from the Leonardian PAC and Agora area.
   i) Location and operation of air-conditioning, exhaust fan systems and security alarms.

The approved Noise and Amenity Action Plan will form part of the permit and the use must operate in accordance with it to the satisfaction of the Responsible Authority.

10. 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.

---

**Date issued:** 12 September 2017

*Signature for the Responsible Authority*

Planning and Environment Regulations 2005 Form 5
NOTICE OF DECISION
TO GRANT A PERMIT
NO: 5/2017/147/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Vegetation

11. Prior to the endorsement of plans and 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 by Aspect Studios, dated 10/3/17, 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.
   b) A survey, including botanical names, of all existing vegetation to be removed from the site.
   c) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   e) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   f) Details of surface finishes of pathways and driveways.
   g) Irrigated vertical green wall to comprise 25% of total surface area of north walls of building identified as the ‘Leonardian’ PAC and new Senior School building.

12. Prior to the endorsement of plans and pursuant to Condition 1, 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;
   • Details of any drainage relocation required to accommodate the retention of Heritage Protected trees;
   • 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.

Date issued: 12 September 2017

Michael Henderson
Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 5
NOTICE OF DECISION TO GRANT A PERMIT

NO: 5/2017/147/1

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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.

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

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

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

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

17. 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.

**Drainage**

18. Prior to endorsement of the plans pursuant to Condition 1, 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.

19. 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.

20. 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.

**Parking and Traffic Management Plan**

21. Before the development starts, 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

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**Date issued:** 12 September 2017

*Signature for the Responsible Authority*

Michael Henderson

Planning and Environment Regulations 2005 Form 5
**NOTICE OF DECISION TO GRANT A PERMIT**

**NO:**

5/2017/147/1

**Responsible Authority:** Bayside City Council

**Planning Scheme:** Bayside

Parking operations on and adjacent to the site must conform to this endorsed plan. Three copies of the plan must be submitted. The plan must be generally in accordance with the plan (specify any earlier submitted plan) but must include:

- **a)** The location of all areas on-and/or off-site to be used for staff and patron parking.
- **b)** Owner’s permission and any required planning permission for parking on other land.
- **c)** Specification of staff numbers adequate to enable efficient operation of car parking areas both on- and off-site.
- **d)** The number and location of all on- and off-site security staff.
- **e)** 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.
- **f)** Measures to discourage patron car parking in (specify location).
- **g)** Measures to preclude staff parking in designated patron car parking areas.
- **h)** Staffing and other measures to ensure the orderly departure and arrival of patrons especially any large groups departing at closing time.
- **i)** Servicing of the drainage and maintenance of car parking areas.

**Construction Management**

22. Before the development starts, 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.

*Date issued: 12 September 2017*

*Signature for the Responsible Authority*
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 experienced.


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

r) Details of crane activities, if any.

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

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

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

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

Permit notes:

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

- 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 existing street trees must not be removed or damaged.

- This property is located in a Heritage Overlay and planning permission may be required to demolish or otherwise externally alter any existing structures. External alterations include painting an unpainted surface, but does not include re-painting an already painted surface.

- Council records indicate that there is a 6.10m wide drainage running diagonally through the property as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.”
13 September 2017

Urbs Pty Ltd
tsobel@urbis.com.au

Dear Applicant,

Application Number: 5/2017/147/1
Address: 163 South Road BRIGHTON EAST

The Planning Committee considered the above application and determined to issue a Notice of Decision to Grant a Permit. The planning permit has not been issued.

Attached is a copy of the Notice which explains what the permit will allow and the conditions the permit will be subject to if issued.

Your attention is drawn to the provisions contained on the rear of the Notice.

A planning permit cannot be issued until after the period within which an objector may lodge an Application for Review or, if an Application for Review is made within that period, until the Application for Review has been determined by the Victorian Civil and Administrative Tribunal (VCAT) or withdrawn.

If there is no Application for Review a permit will be issued following notification from VCAT.

Should you have any queries, please contact Council’s Planning Officer:

Patricia Stewart
Email: enquiries@bayside.vic.gov.au
Telephone: 03 9599 4384

Please quote planning application 2017/147 – 163 South Road BRIGHTON EAST in all correspondence / emails.

Yours faithfully

Patricia Stewart

STATUTORY PLANNING DEPARTMENT
Enc. CC: VicRoads, Public Transport Victoria
FORM 5

NOTICE OF DECISION TO GRANT A PERMIT

IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

The Responsible Authority has decided to grant a permit. The permit has not been issued. This notice sets out what the permit will allow and what conditions the permit will be subject to if issued.

WHAT ABOUT APPEALS?

For the Applicant—

* The person who applied for the permit may apply for review of any condition in the notice of decision to grant a permit. The application for review must be lodged within 60 days of the giving of this notice.

For an Objector—

* An objector may apply for review of the decision of the Responsible Authority to grant a permit. The application for review must be lodged within 21 days of the giving of this notice.

* If there is no application for review, a permit will be issued after 21 days of the giving of this notice.

For a Recommending Referral Authority—

* A recommending referral authority may apply for review of the decision of the responsible authority:
  (a) to grant a permit, if that recommending referral authority objected to the grant of the permit; or
  (b) not to include a condition on the permit that the recommending referral authority recommended.

* The application for review must be lodged within 21 days of the giving of this notice.

* If there is no application for review, a permit will be issued after 21 days of the giving of this notice.

For all applications for review—

* An application for review is lodged with the Victorian Civil and Administrative Tribunal.

* An application for review must be made on the Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.

* An application for review must state the grounds upon which it is based.

* An application for review must also be served on the Responsible Authority.

* Notice of the application for review must be given in writing to all other parties to the review as soon as practicable after an application for review is lodged. An objector who applies for a review must give notice to the person who applied for the permit.

An applicant who applies for review must give notice to all objectors.
**NOTIFICATION OF DECISION TO GRANT A PERMIT**

Use this form to notify VCAT that you have decided to grant a permit and have issued a Notice of Decision (NOD) to objectors.

<table>
<thead>
<tr>
<th>Responsible Authority</th>
<th>Bayside City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning Officer</td>
<td>Patricia Stewart</td>
</tr>
<tr>
<td>Planning Application Number</td>
<td>5/2017/147/1</td>
</tr>
<tr>
<td>Address of Land</td>
<td>163 South Road BRIGHTON EAST</td>
</tr>
<tr>
<td><strong>Use/Development</strong></td>
<td>Partial demolition of buildings, construction of new educational facilities including a Performing Arts Centre ('Leonardian' PAC), redevelopment of part of the Senior School and basement carpark extension in a Neighbourhood Residential Zone (Schedule 3), Heritage Overlay (Schedule 347), Design and Development Overlay (Schedule 3) and alterations to access in a Road Zone Category 1</td>
</tr>
<tr>
<td><strong>Cost of the Development</strong></td>
<td>$38,000,000.00</td>
</tr>
<tr>
<td>Permit Applicant’s Name</td>
<td>Urbis Pty Ltd</td>
</tr>
<tr>
<td>Permit Applicant’s Address</td>
<td><a href="mailto:losbel@urbis.com.au">losbel@urbis.com.au</a></td>
</tr>
<tr>
<td><strong>Date NOD Issued</strong></td>
<td>12/09/2017</td>
</tr>
<tr>
<td><strong>Date NOD Posted</strong></td>
<td>15/09/2017</td>
</tr>
</tbody>
</table>

List all objectors and referral authorities to the permit in the table below or provide as an attachment.

<table>
<thead>
<tr>
<th>Objectors</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Referral Authorities</td>
<td>VicRoads</td>
</tr>
<tr>
<td></td>
<td>Public Transport Victoria</td>
</tr>
</tbody>
</table>

How to lodge this form:
Please email your completed form to vcat-admin@justice.vic.gov.au using the subject line ‘NOD: Address of Land’

OFFICE USE ONLY

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Item 4.7 – Matters of Decision

Page 243 of 257
How to check if applications for review have been lodged:
Each day, VCAT will list on its website any applications it has received in the previous 24 hours under section 82 of the Planning and Environment Act 1987 (Vic). VCAT will no longer fax this information to councils. This information will remain online for 30 days.

The information is available here: https://www.vcat.vic.gov.au/disputes/planning-and-environment/notice-decision-grant-permit

How to work out when objectors have to lodge application for review:
Objectors have 21 days to lodge an application for review with VCAT from the time the responsible authority gives notice to the objector of the Notice of Decision to grant a permit. Please note this is not 21 days from the date the notice is posted to the objector. Two additional business days must be added to this date before calculating the 21 days to allow time for the notice to reach objectors, as per section 141 of the Victorian Civil and Administrative Tribunal Act 1998.

Example: If a NOD is posted on Monday 7 July 2014, and (as required) you allow two business days for it to reach an objector, they will have 21 days from Wednesday 9 July to lodge an application for review, ie. Up until 30 July. Note that the 21 days are normal calendar days and not business days only.

DON’T FORGET TO ATTACH THE FOLLOWING

<table>
<thead>
<tr>
<th>Objectors</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Referral Authorities</td>
<td>Attachment</td>
</tr>
</tbody>
</table>
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚪</td>
</tr>
</tbody>
</table>
4.8 VCAT REPORT

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/49136

1. Executive summary

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

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

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

Council has a target for 2017/18 that 50% of all Planning & Amenity Committee and Delegated Officer decisions should not be set aside by VCAT. This is comparable with other inner urban Council’s in Melbourne such as Port Phillip and Stonnington.

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

For the 2017/18 financial year, Council has received 66 decisions, of which 6 have been withdrawn and 1 was struck out. The total number of LGPRF measured decisions for the year to date is therefore 59. This table below reflects the new 2017/18 LGPRF reporting requirements for Council.

<table>
<thead>
<tr>
<th>Time period</th>
<th>Decisions where the Council Delegate or Committees decision has been overturned or ‘Set Aside’</th>
<th>Decisions where the Council Delegate or Committees decision has been agreed with, either having been entirely ‘affirmed’ or the conditions of the permit ‘varied’</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q1 – 2017/18</td>
<td>13</td>
<td>9</td>
</tr>
<tr>
<td>Q2 – 2017/18</td>
<td>14</td>
<td>16</td>
</tr>
<tr>
<td>January 2018</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>TOTAL DECISIONS</td>
<td>32</td>
<td>27</td>
</tr>
<tr>
<td>LGPRF Result</td>
<td>54%</td>
<td>46%</td>
</tr>
</tbody>
</table>

Attachments 1 included provides a summary of each case identifying the key issues for Council policy and strategy.
The decisions reported in the attached January, February and March 2018 VCAT Report were determined by the current Councillor group.

2. Recommendation
   That the report on the VCAT decisions on the planning applications handed down during January 2018 be received and noted.

Support Attachments
1. VCAT Determined appeals Jan 2018
VCAT Determined Appeals from 1/01/2018 to 31/01/2018

Subject land 13 Orchard ST, BRIGHTON
Application no. 2016.843.1
VCAT reference no. P2472/2017
Applicant Jennifer Lang & Dominic Atkinson
Referral Authority N/A
Respondents P N Gibson

VCAT Member J G Rickards
Date of hearing 15/01/2018
Date of order
Proposal Alteration and additions (including demolition) to an existing dwelling in a Heritage Overlay

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

Comments:
The subject site is located within the Neighbourhood Residential Zone (Schedule 3), Heritage Overlay (Schedule 763), Design and Development Overlay (Schedule 3) and a Development Contributions Plan Overlay (Schedule 1).

The objector lodged an appeal against Council’s Notice of Decision to Grant a Planning Permit for alterations and additions (including demolition) to an existing dwelling in a Heritage Overlay. The statement of grounds lodged with the Tribunal listed amenity concerns, visual bulk and access issues.

The permit applicant advised VCAT they did not wish to proceed with the permit application as the owners had sold the property. All parties agreed that no permit should issue and the Tribunal directed that no planning permit be granted.
<table>
<thead>
<tr>
<th>Subject land</th>
<th>12 Louise ST, BRIGHTON EAST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2016.474.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P1210/2017</td>
</tr>
<tr>
<td>Applicant</td>
<td>Michael Szlezynger</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>C &amp; N Oxenenko - P851/2017</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>F Dawson</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>6/10/2017</td>
</tr>
<tr>
<td>Date of order</td>
<td>23/01/2018</td>
</tr>
<tr>
<td>Proposal</td>
<td>The construction of two dwellings on a lot (two attached double storey dwellings above a basement car parking area)</td>
</tr>
</tbody>
</table>

**Officer recommendation/ Delegate determination**: Notice of decision

**Council determination**: Not applicable

**Appeal type**: Conditions

**Plans substituted** (prior to hearing): No

**VCAT determination**: Varied Permit

**LGPRF outcome**: AFFIRMED

**Comments:**

On 4 April 2017 Council issued a Notice of Decision to grant a Planning Permit for the construction of two (2) double storey dwellings with basement car parking at the subject site known as No. 12 Louise Street, Brighton East. Pursuant to Section 82 of the *Planning and Environment Act 1987* two Applications for Review were lodged against Council’s decision. The first was on behalf of an objector seeking design changes to the proposed development with their principal concern relating to overshadowing to the south. The second was by the applicant seeking a review of Condition 1 requirements concerning roof form and the buildings front façade.

The Tribunal in an Order dated 23 January 2018 varied the decision of the responsible authority with a permit being granted subject to modified Condition 1 requirements. The Tribunal found that the proposed design is acceptable. The stepped flat roof form, combined with the modified schedule of external materials and finishes provides an acceptable streetscape response. The modified condition 1 requirements reflect these matters. In addition the Tribunal found that the proposal provides an acceptable design response with respect to overshadowing.
**Subject land**  
1 Koolkuna LNE, HAMPTON

**Application no.** 2016.828.1

**VCAT reference no.** P1479/2017

**Applicant** Village@ Hampton Pty Ltd

**Referral Authority** Public Transport Victoria

**Respondents** VicRoads - Metropolitan South East Region, VicTrack, Director of Housing  
(refer comments)

**VCAT Member** J A Bennett/S J Axford/ K L Partenio

**Date of hearing** 4/12/2017

**Date of order** 31/01/2018

**Proposal** Use land for a shop in Residential Growth Zone Schedule 1; Construct two or more dwellings on a lot in Residential Growth Zone Schedule 1; Construct a building or construct or carry out works for a section 2 use in Residential Growth Zone Schedule 1; Use land for a shop and dwellings in Public Use Zone Schedule 4; Construct a building or construct or carry out works in Public Use Zone Schedule 4; Construct a building or construct or carry out works in Design and Development Overlay Schedule 12; Reduction in the number of car parking spaces required under Clause 52.06-5 and Remove, destroy of lop vegetation

**Officer recommendation/ pursuant to Clause 52.17**

**Delegate determination** Refusal

**Council determination** Refusal

**Appeal type** Refusal to Grant a Permit

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

**VCAT determination** Permit to Issue

**LGPRF outcome** SET ASIDE

**Comments:**

The subject site is located within the Residential Growth Zone (Schedule 1), Public Use Zone (Schedule 4) and Design and Development Overlay (Schedule 12).

The applicant lodged an appeal against Council’s decision to refuse to Grant a Planning Permit with the Victorian Civil and Administrative Tribunal (VCAT).

The Tribunal issued its decision on the Hampton Vic Track land on 31 January 2018. The Tribunal set aside the decision of the Responsible Authority and issued a permit subject to 103 conditions.

The Tribunal found that the development resulted in a net community benefit, acknowledging it would introduce a significant change to the area. It found the proposal represented a high quality design outcome for the site.

The applicant’s submissions on the public plaza, car parking provisions and traffic along Koolkuna Lane were accepted by the Tribunal which also acknowledged potential traffic conflict but that could be addressed at the detailed design stage.
Conditions of the permit require the deletion of two storeys to Building B, from 8 to 6 storeys. All other aspects of the building’s scale and massing remains unchanged.

Other conditions require realignment of Koolkuna Lane to facilitate access to 8 Willis Street, re-configurations to the commuter car park south west of the railway line and ensuring appropriate implementation of preliminary site works, construction, uses on site and maintenance of the building and associated infrastructure.

The applicant will prepare amended plans and reports addressing the permit conditions.
**Subject land** | 74 Champion ST, BRIGHTON  
**Application no.** | 2016.746.1  
**VCAT reference no.** | P1425/2017  
**Applicant** | S and Z Mihalidis  
**Referral Authority** | N/A  
**Respondents** | L and N Gattuso  
**VCAT Member** | B Sibonis  
**Date of hearing** | 18/12/2017  
**Date of order** | 29/01/2018  
**Proposal** | The construction of two, two-storey attached dwellings (plus basement) and the construction of a front fence exceeding 1.2 metres in height  
**Officer recommendation/ Delegate determination** | Refusal  
**Council determination** | Not applicable  
**Appeal type** | Refusal to Grant a Permit  
**Plans substituted (prior to hearing)** | Yes  
**VCAT determination** | Permit to Issue  
**LGPRF outcome** | SET ASIDE  

**Comments:**

Council initially refused this Application on grounds relating to neighbourhood character, dwelling entry and design. Prior to the hearing the Applicant submitted Amended Plans to Council which it determined to support subject to conditions. Despite Council supporting the Amended Plans the Objectors maintained their opposition to the grant of a permit.

At the hearing the Objectors maintained their opposition to the development because of the impact of the proposal on their trees located along the common property boundary. Their expert Arborist Witness gave evidence that the construction of the basement, the southern boundary wall and the swimming pool would compromise the stability and viability of these trees. However this evidence was not based upon any root investigations. The Applicant’s Expert Arborist who having conducted a root investigation trench concluded that the proposed setbacks of 500mm from these trees would ensure the viability of these trees.

The Tribunal held that these trees provided important amenity to the Objectors’ property and that the 500mm setback was minimal and imposed a condition requiring all the basement level with the exception of the proposed cinema to have a 1 metre minimum setback from the southern boundary.
**Subject land**: 84 Carpenter ST, BRIGHTON  
**Application no.**: 2017.111.1  
**VCAT reference no.**: P1428/2017  
**Applicant**: T Messervy  
**Referral Authority**: N/A  
**Respondents**: R Brayshaw, P Beyer, S Palance, P Hall, N Healey  
**VCAT Member**: A Glynn  
**Date of hearing**: 18/12/2017  
**Date of order**: 8/01/2018  
**Proposal**: Construction of a three-storey residential building  

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

**Comments:**

The site is located within the General Residential Zone (Schedule 2) and Design and Development Overlay (Schedule 11).

This application proposed the construction of a three-storey residential building containing five dwellings and a waiver of visitor car parking. The applicant lodged an application to the Victorian Civil and Administrative Tribunal (VCAT) under Section 79 of the Planning and Environment Act 1987 for Failure to Grant a Permit. Prior to the hearing the applicant formally substituted plans showing an increase in on-site parking to provide visitor parking.

At the Planning and Amenity Committee meeting of 11 December 2017, Council determined that had an appeal not been lodged, a Notice of Refusal to Grant a Planning Permit would have been issued. The grounds of refusal related to refusal to respond to neighbourhood character, insufficient provision for meaningful landscaping and failure to comply with side setbacks at upper level.

The Tribunal found that a three-storey building could be accommodated on the site, in the context of its location within the activity centre. Key issues were whether the proposal can achieve this whilst ensuring the front of the site provides an appropriate transition to building outside the activity centre and whether the proposal maintains significant landscaping. The Tribunal was satisfied that the two-storey building with a third recessed level was an appropriate character and design response to the local policy and provisions of DDO11 and that it would not dominate the streetscape. Furthermore, the Tribunal found that although the area of garden around the proposed building will be less than provided in some nearby conventional dwellings, in the policy context of the area, where moderate housing growth is expected, the proposal provides acceptable amenity and character outcomes.

The Tribunal amended the description of the proposal to read ‘Construction of a three-storey residential building’ and directed that the decision of the responsible authority be set aside and a permit be issued.
Subject land: 89 Scott ST, BEAUMARIS

Application no.: 2016.677.1
VCAT reference no.: P1937/2017
Applicant: James Konstantaras
Referral Authority: N/A
Respondents: N/A

VCAT Member: E A Bensz
Date of hearing: 15/01/2018
Date of order: 16/01/2018

Proposal: Construction of two new dwellings on a lot and the construction of a front fence with a height exceeding 1.2 metres

Officer recommendation/ Delegate determination: Permit granted
Council determination: Not applicable
Appeal type: Conditions
Plans substituted (prior to hearing): No

VCAT determination: Varied Permit
LGPRF outcome: AFFIRMED

Comments:

Council issued a permit for construction of two new dwellings on a lot and the construction of a front fence with a height exceeding 1.2 metres subject to the Condition 1(c) requiring the deletion of the double garage for dwelling 2 and converting it to a single garage.

The application was appealed by the permit applicant under section 80 of the Planning and Environment Act 1987 against the imposition of condition 1(c) by Bayside City Council. Given the site is quite an extensive cross fall to the land, in the order of 1.7 m from the front of the site to the rear. This fall means that the double garage for Dwelling 2 is set between 700 mm and 900 mm below the level of the footpath in front of the site. This lower floor level means that the garage doors will be extensively screened by the 1.8 front fence. From the large scale plans tendered, the top of the fence will sit just below the ceiling line of the ground floor of Dwelling 2. VCAT decided to issue a varied permit to delete this condition.

However, given the width of frontage of the property of some 18 m there is an opportunity to increase the canopy landscaping to the front of the property. Whilst deleting the requirement to convert the double garage to a single garage the VCAT requested an additional canopy tree to be planted in the south east corner of the frontage of the property to improve the landscape outcomes for site.

Therefore the Tribunal directs that planning permit 2016/677/1 must contain the conditions set out in planning permit 2016/677/1 issued by the responsible authority on 28 June 2017 with the following modifications:

(a) Condition 1(c) is deleted.
(b) A new condition is included as follows:

8 (g) Planting of an indigenous canopy tree in the front south-west corner of Dwelling 2 with the capacity to reach a mature height of 5 m and a spread of 4 m.
Subject land  15 Wattle AVE, BEAUMARIS
Application no. 2016.838.1
VCAT reference no. P1712/2017
Applicant J K Tye; M Tye; K L Tye; J J Mathieson Cowen
Referral Authority N/A
Respondents Beaumaris Conservation Society Inc.

VCAT Member M Deidun
Date of hearing 31/01/2018
Date of order 31/01/2018
Proposal To construct two or more dwellings on a lot and removal of vegetation

Officer recommendation/ Support
Delegate determination
Council determination Support
Appeal type Failure to Grant a Permit
Plans substituted Yes (prior to hearing)
VCAT determination Permit to Issue
LGPRF outcome SET ASIDE

Comments:
The application was lodged with Council on 21 December 2016 for the construction of two dwellings on a lot, a front fence exceeding 1.2 metres in height and the removal of vegetation within the Vegetation Protection Overlay Schedule 3.

Located in the Neighbourhood Residential Zone, Schedule 3, the subject site is affected by the Design and Development Overlay, Schedule 3, Vegetation Protection Overlay, Schedule 3 and the Development Contributions Plan Overlay Schedule 1.

At the conclusion of the notice period, a consultation meeting was held on 14 June 2017 attended by the permit applicant and the 4 objectors. As a result of this meeting no objections were withdrawn.

The applicant applied to Tribunal on 5 May 2017 for a Section 79 review of Council's failure to determine the application within the prescribed time.

After review, Council's planning officer formed the position to support the proposed application subject to conditions and reported it to the Planning & Amenity Committee Meeting on 21 December 2017. The conditions sought to address compliance with the ResCode Standards (Clause 55) that included front, side and rear setbacks, and was subject to the retention of nominated trees. Council determined to support the application.

No Compulsory Conference was held. The hearing was held on 31 January 2018 and was contested by the Beaumaris Conservation Society Inc. Their sole concern related to the retention and planting of vegetation on the land. They were the only party to the proceeding.

Reasons for the decision were given orally at the conclusion of the hearing. A permit subject to conditions was directed to be issued by the Tribunal to construct two or more dwellings on a lot and removal of vegetation on 31 January 2018.
5. Confidential Business

Nil

As Acting 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.

Mick Cummins

Acting Chief Executive Officer