Planning & Amenity Committee Meeting Agenda

Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 11 September, 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 (Chairman)
Members of the Gallery

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

4. Matters of Decision
   4.1 18-20 Anita Street, Beaumaris Grant a Planning Permit Application No: 2018/267  Ward: Southern ............................... 5
   4.2 19 Iluka Street, Black Rock Support the Grant of a Planning Permit (Consent Order) Application No: 2017/615 Ward: Southern .... 21
   4.3 76 Sandringham Road, Sandringham Notice of Decision to Grant a Planning Permit Application No: 2017/663/1 Ward: Southern 85
   4.4 17-19 Balcombe Park, Beaumaris Notice of Decision to Grant a Planning Permit Application No: 2017/85/1 Ward: Southern .. 125
   4.5 4 Montclair Avenue, Brighton Notice of Decision to Grant a Planning Permit Application No: 2018/160/1 Ward: Northern. 195
   4.6 VCAT Report - Decisions made in August 2018......................... 257

5. Confidential Business
   Nil

Next Meetings 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 28 August 2018.
### 4. Matter of Decision

#### 4.1 18-20 ANITA STREET, BEAUMARIS
GRANT A PLANNING PERMIT
APPLICATION NO: 2018/267  WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/198784

1. **Application details**

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant</strong></td>
<td>Geoffrey Goode</td>
</tr>
<tr>
<td><strong>Title/Covenant/S173 Agreement</strong></td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td><strong>Date application received</strong></td>
<td>8 May 2018</td>
</tr>
<tr>
<td><strong>Current statutory days</strong></td>
<td>58</td>
</tr>
<tr>
<td><strong>Zoning</strong></td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td><strong>Overlays</strong></td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay (SBO)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Overlay (Schedule 1)</td>
</tr>
<tr>
<td><strong>Site area</strong></td>
<td>1,167.24m²</td>
</tr>
<tr>
<td><strong>Number of outstanding objections</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>Is a Development Contribution Levy applicable?</strong></td>
<td>No</td>
</tr>
<tr>
<td><strong>Is the site located within an area of cultural heritage sensitivity?</strong></td>
<td>No</td>
</tr>
</tbody>
</table>

**Proposal**

The application seeks the removal of two native trees in a Vegetation Protection Overlay Schedule 3 on a lot with an area of 1,167.24m².

Key details of the proposal are as follows:

- Removal of Blackwood (Acacia melanoxylon) located to the north of the property near the centre of the front fence.
- Removal of Coastal tea tree (Leptospermum laevigatum) located in the northwest corner of the property against the western boundary fence.

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

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

**History**

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

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 42.02-2 (Vegetation Protection Overlay Schedule 3) – A permit is required to remove, destroy or lop any vegetation native to Australia.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Supports the removal of the Coastal Tea Tree (Leptospermum laevigatum). Blackwood (Acacia melanoxylon) to be retained.</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 no objections were received.

4. Recommendation

That Council resolve to:

Issue a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/0267 for the land known and described as 18-20 Anita Street, Beaumaris, for the removal of native vegetation in a Vegetation Protection Overlay Schedule 3 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Prior to the removal of the tree hereby approved, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions, generally in accordance to the advertised plan and three copies must be provided. The landscaping plan must show:
   a) A Landscape Plan in accordance with Condition 3 of this permit.
   All to the satisfaction of the Responsible Authority.

2. The vegetation removal as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

Landscaping

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

a) The retention of the Blackwood (Acacia melanoxylon)

b) The provision of at least one (1) replacement canopy tree of an indigenous origin within the front setback of the site which is capable of reaching a mature height equal or greater than 8m and a canopy of 6m.

c) A planting schedule of all proposed replacement trees, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each tree.

d) The locations of all relevant trees on the site, clearly labelled and identified. This includes the tree that is being retained, the tree being removed, and the replacement tree.

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

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

6. Unless with the further consent of the Responsible Authority, planting in accordance with the endorsed plan must be undertaken within 6 months of the removal of the tree.

**Permit Expiry**

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

a) The vegetation removal is not started 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.

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 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
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 applicant is seeking permission to remove two native trees in a Vegetation Protection Overlay Schedule 3. One tree is a Blackwood (Acacia melanoxylon) and the other is a Coastal tea tree (Leptospermum laevigatum).

The Blackwood is located close to the fence line in the front setback, approximately in the centre of the property when viewed from the street. The applicant states he wishes to have this tree removed as it extends over the street, small branches are often struck by tall vehicles and regularly fall onto the footpath and road below.

The Coastal tea tree is located in the northwest corner of the property, leaning against the western side fence. The applicant states that he wishes to have this tree also removed as he believes the tree to be nearly dead, and would have already fallen over if not for the side fence supporting it, as a result the tree has begun to damage the fence.

The site is located within Neighbourhood Character Precinct H3. The objectives of this precinct describe its preferred future character as containing bushy gardens that surround the dwellings and dominate the streetscapes. Adequate space is provided around the dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

In relation to this application, subject to the retention of the Blackwood (Acacia melanoxylon), it is considered that the proposal demonstrates an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The Blackwood is a large tree with a wide canopy, resulting in a high level of amenity for the surrounding area. It is considered that the removal of this tree would work against the aims of the preferred future character. As it would disrupt the existing flow of the streetscape and create a large hole in the canopy and tree line, potentially exposing a reasonable amount of the dwellings built form that’s behind the tree.

Council’s Arborist has confirmed that the Coastal tea tree has no retention value. Removing it and replacing it with another tree of equal or greater future value further away from the fence line would only enhance these character aspects by increasing the spacing and distance between other trees and the fence.

6.2 Landscaping

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

The application plans show the removal of two trees from the site protected by the VPO3, identified in the table below.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Blackwood (Acacia melanoxylon)</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Coastal Tea Tree (Leptospermum laevigatum)</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

From an arboriculture perspective, Council’s Arborist has reviewed the application and advises that the removal of the Coastal tea tree is supported as it is in poor health, its structure is hazardous and has a low amenity value. The life expectancy is 0-3 years. On that basis, its removal is supported.

The Blackwood is considered to be a good example of an indigenous tree and has good health and good structure, with a life expectancy of 10-19 years and has a high contribution to the amenity of the area. Its removal would not comply with the VPO objectives. Council’s arborist commented that removal of this tree will have a moderate impact on the vegetative cover in the area, this tree is a valuable example of the species in the area. Furthermore the loss of a large specimen of this indigenous species will have a detrimental impact on the presence of taller indigenous trees in the immediate area surrounding area.

Council’s Arborist further elaborated on the non-compliance with the VPO objectives by explaining that one objective is to provide for the protection of natural resources and the maintenance of ecological processes and genetic diversity. Another objective is 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.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 4. Each tree is the polar opposite to each other, the Blackwood has good health and structure. It has a high retention value and life expectancy, whereas the Coastal tea tree is of poor health and hazardous structure and has low amenity value.

Support Attachments
1. Development Plan ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Vegetation Protection Overlay Assessment ↓
Two crosses (+) mark respectively the position on the above lot of the above trees from the boundaries of the lot on its north and west side.
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

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

Item 4.1 – Matters of Decision
Figure 2. A photo of the Blackwood (Acacia Melanoxylon) Canopy from the street.

Figure 3. Streetscape of 18-20 Anita Street, Beaumaris with the Blackwood in the centre.
Figure 4. A photo of the Coastal Tea tree from the street at 18-20 Anita Street, Beaumaris. (Northwest corner of property from the street).

Figure 5. A close up on the Coastal tea tree from the street looking Southeast.
Figure 6. A photo of the soil heave near the buttress of the roots of the Coastal tea tree (Leptospermum laevigatum)
### Neighbourhood Character Precinct H3

#### Preferred Future Character Statement

The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

#### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds | Responds subject to condition  
The tree removal plan submitted with the application shows the removal of two trees from the site.  
Council’s Arborist supports the removal of one of these trees, being the Coastal Tea tree. As it is deemed to be over-mature and in poor health, with low amenity and no retention value. The removal of the other tree (Blackwood) is not supported and this will be secured via condition. There is extensive vegetation on the site, however it is considered appropriate for a single replacement tree in the front Northwest corner in the front garden, which will be secured via condition. |

| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the | • Buildings should be sited to allow space for a garden, including trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | N/A |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>retention and planting of vegetation.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>- Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>- Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints. The garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To minimise site disturbance and impact of the building on the landscape.</td>
<td>- Buildings should be designed to follow the contours of the site on sloping sites.</td>
<td>Major excavation works and site levelling. Buildings that protrude above the tree canopy height.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>- Minimise the use of retaining walls and battering of slopes.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Design new buildings and extensions so as not to exceed the predominant tree canopy height.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings provide an articulated and interesting façade to the street.</td>
<td>- Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.</td>
<td>Large, bulky buildings. Poorly articulated front and side wall surfaces.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>- Recess upper levels from the front façade.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To use building materials and finishes that complement the natural setting.</td>
<td>- Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Period reproduction styles and detailing.</td>
<td>N/A</td>
</tr>
<tr>
<td>To maintain the openness of the front garden to the street.</td>
<td>- Provide open style front fences, other than along heavily trafficked roads.</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>- Use vegetation as an alternative where possible.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Attachment 4
### Landscaping and Vegetation

<table>
<thead>
<tr>
<th>Tree No</th>
<th>Botanical Name:</th>
<th>Common Name:</th>
<th>Height / Canopy:</th>
<th>Trunk Circ @1m:</th>
<th>Location 1</th>
<th>Location 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Acacia melanoxylon</td>
<td>Blackwood</td>
<td>13m x 8m</td>
<td>173cm</td>
<td>N0</td>
<td>W10</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Origin:</th>
<th>Indigenous</th>
<th>Victorian</th>
<th>Australian</th>
<th>Exotic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age:</td>
<td>Young</td>
<td>Semi-mature</td>
<td>Mature</td>
<td>Over-mature</td>
</tr>
<tr>
<td>Health:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Dead</td>
</tr>
<tr>
<td>Structure:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Hazardous</td>
</tr>
<tr>
<td>Amenity Value:</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Life Expectancy:</td>
<td>20 years +</td>
<td>10-19 years</td>
<td>4-9 years</td>
<td>0 - 3 years</td>
</tr>
<tr>
<td>Retention Value:</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Habitat value:</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
</tbody>
</table>
## Tree Habitat Value Assessment Matrix

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Origin</td>
<td>Indigenous</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>Victorian</td>
</tr>
<tr>
<td></td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>Australian/Exotic</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td>Occupation by native fauna</td>
<td>Occupied by native fauna</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>Signs of use by fauna</td>
</tr>
<tr>
<td></td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>No signs of use by fauna</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td>Diameter of tree trunk</td>
<td>&gt;80cm</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>&lt;60 – 80cm</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>&lt;50cm</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>Living canopy</td>
</tr>
<tr>
<td></td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>Living canopy</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>Dead canopy</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>Dead canopy</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td>Hollow bearing tree</td>
<td>Tree bearing a natural hollow</td>
</tr>
<tr>
<td></td>
<td>Low to moderate level of maintenance</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>No natural hollow or unsuitable for installation of artificial habitat hollow</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>High level of maintenance</td>
</tr>
<tr>
<td>Useful life expectancy</td>
<td>&gt;15 years</td>
</tr>
<tr>
<td></td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>4 – 9 years</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td></td>
<td>0 – 3 years</td>
</tr>
<tr>
<td>Wildlife corridors</td>
<td>Within 50 m of a green space, park or reserve</td>
</tr>
<tr>
<td></td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>Within 5.5 km of a green space, park or reserve</td>
</tr>
<tr>
<td></td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>Greater than 5.5 km from a green space, park or reserve</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td>Impacts on adjacent flora</td>
<td>Removal will have negative impacts on indigenous flora</td>
</tr>
<tr>
<td></td>
<td>3 points</td>
</tr>
<tr>
<td></td>
<td>Removal will have negative impacts on native flora</td>
</tr>
<tr>
<td></td>
<td>2 points</td>
</tr>
<tr>
<td></td>
<td>Removal will have no negative impacts on indigenous or native flora</td>
</tr>
<tr>
<td></td>
<td>1 point</td>
</tr>
<tr>
<td>Total</td>
<td>18 points</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Decision guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact the vegetation removal would</td>
<td>Minor impact on amenity, would potentially affect the ‘bushy streetscape’ aim of the area.</td>
</tr>
<tr>
<td>have on the character of the area</td>
<td></td>
</tr>
<tr>
<td>The impact the vegetation removal would</td>
<td>No foreseeable impact</td>
</tr>
<tr>
<td>have on the presence of indigenous species</td>
<td></td>
</tr>
<tr>
<td>in the locality</td>
<td></td>
</tr>
<tr>
<td>The impact the vegetation removal would</td>
<td>Minor impact on in exposing the built form</td>
</tr>
<tr>
<td>have on the appearance of development.</td>
<td></td>
</tr>
<tr>
<td>The impact the vegetation removal would</td>
<td>No foreseeable impact, however it would take considerable time for a replacement trees canopy to reach a similar size.</td>
</tr>
<tr>
<td>have on the habitat quality of any remains</td>
<td></td>
</tr>
<tr>
<td>vegetation and the fragmentation of wildlife</td>
<td></td>
</tr>
<tr>
<td>corridors.</td>
<td></td>
</tr>
<tr>
<td>Any proposal to regenerate or plant</td>
<td>Proposed to be replaced by Sweet Bursaria (Bursaria spinose 6m Height and 4m Wide at maturity)</td>
</tr>
<tr>
<td>indigenous vegetation on the site.</td>
<td></td>
</tr>
<tr>
<td>Tree No.</td>
<td>Botanical Name: <em>Leptospermum laevisatum</em></td>
</tr>
<tr>
<td>----------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Height / Canopy:</td>
<td>7m x 8m</td>
</tr>
<tr>
<td>Location 1:</td>
<td>N0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Origin:</th>
<th>Indigenous</th>
<th>Victorian</th>
<th>Australian</th>
<th>Exotic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age:</td>
<td>Young</td>
<td>Semi-mature</td>
<td>Mature</td>
<td>Over-mature</td>
</tr>
<tr>
<td>Health:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Dead</td>
</tr>
<tr>
<td>Structure:</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Hazardous</td>
</tr>
<tr>
<td>Amenity Value:</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Life Expectancy:</td>
<td>20 years +</td>
<td>10-19 years</td>
<td>4-9 years</td>
<td>0 - 3 years</td>
</tr>
<tr>
<td>Retention Value:</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td>None</td>
</tr>
</tbody>
</table>

**Decision guideline**

<table>
<thead>
<tr>
<th>The impact the vegetation removal would have on the character of the area</th>
<th>No foreseeable impact, this tree is not overly dominant in streetscape.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact the vegetation removal would have on the presence of indigenous species in the locality</td>
<td>No foreseeable impact</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the appearance of development.</td>
<td>Minor impact on in exposing the built form</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</td>
<td>No foreseeable impact</td>
</tr>
<tr>
<td>Any proposal to regenerate or plant indigenous vegetation on the site.</td>
<td>No proposal has been offered.</td>
</tr>
</tbody>
</table>
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Planning Permit (VCAT consent order)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>DNC Studio</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
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<td>Date application received</td>
<td>12 October 2017</td>
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<td>Current statutory days</td>
<td>N/A</td>
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<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td>Site area</td>
<td>1,137 square metres</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>3</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Catchment Area: 20, $4,040</td>
</tr>
</tbody>
</table>

**Purpose**

The purpose of this report is to endorse a consent position reached by all parties at a Compulsory Conference at VCAT on 29 August 2018.

**History**

At the Planning and Amenity Committee meeting on 15 May 2018, Council determined to refuse the application. The grounds of refusal are included at Attachment 1. The Officer Report for the 15 May Committee is provided at Attachment 2. Key details of the proposal are as follows:

- Alterations to the existing dwelling to include:
  - Relocation of the car parking facilities to the rear of the dwelling
  - Modification to the elevations, to include altered setbacks, built form treatment and finishes
  - Alteration to the roof form (from pitch to parapet)
  - Deletion of the pool and tennis court area.

- Construction of two double storey dwellings with basement car parking
- Shared access to service all three dwellings
- 6.7 metres building height (for existing dwelling) & 6.2 metre building height (for rear dwellings)
• Site coverage 49%
• Permeability 22%

**VCAT**

The permit applicant subsequently lodged an application against Council’s refusal to grant a planning permit with VCAT pursuant to Section 77 of the *Planning and Environment Act 1987*.

The application was heard at a Compulsory Conference (mediation) on 29 August 2018. Three objectors are parties to the appeal. The permit applicant provided ‘without prejudice’ plans in preparation for the compulsory conference, which improved post-construction landscaping and reduced the walls on boundaries. These plans are included at *Attachment’s 3 and 4*.

At the Compulsory Conference, the permit applicant agreed to:

• Decrease the length and height of the boundary wall on the northern and southern boundaries (in accordance with the without prejudice plans identified at Attachments 3 and 4) to comply with Standard B18;
• Increased side boundary setbacks (to comply with Standard B17);
• Improve landscaping opportunities (reduce the amount of hard paving); and
• Improve vehicle access and manoeuvrability within the site.

It is noted that in addition to the above modifications, the vast majority of Council officer recommendations at the 15 May 2018 Committee were accepted by the permit applicant.

The permit applicant and all parties to the appeal (three objectors) agreed to a consent position. If the consent order is not endorsed by the Planning and Amenity Committee, the application will proceed to a two day hearing on 10 October 2018.

2. **Recommendation**

That Council resolve to:

Issu...
Dwelling 1 generally in accordance with Revision C plans dated 03.04.2018.

d) Dwelling 1 garage to be setback by 5.28 metres from Townhouse 3 with increased landscaping adjacent to the garage of Townhouse 1 generally in accordance with Revision C plans dated 03.04.2018.

e) Dwelling 2 and 3 first floor modified to achieve compliance with Standard B17 (Side and Rear Setback provision).

f) Inclusion of front letterboxes, townhouse numbering and entrance canopies for Dwellings 2 and 3 generally in accordance with Revision C plans dated 03.04.2018.

g) Perimeter landscaping within the secluded private open spaces of Dwellings 2 and 3 generally in accordance with Revision C plans dated 03.04.2018.

h) The proposed vehicle crossover designed to maintain a splitter island with 17 Iluka Street, with the provision of a pedestrian sight triangle on the southern side of the vehicle crossover in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.

i) Vehicle access and manoeuvrability in and out of all three dwellings garages must be safe and convenient. Swept path analysis of a B85 vehicle prepared by a suitable qualified traffic engineer must be provided. Any consequential changes to the building envelopes are to the satisfaction of the Responsible Authority.

j) The pedestrian doors to access the garages of dwellings 2 and 3 to swing outwards from the garage.

k) The master bedrooms of dwellings 2 and 3 to be acoustically treated.

l) Provision of window fin extensions adjacent the northern and southern edges of bedroom 3 for dwellings 2 and 3 respectively. The window fins are to extend 0.5 metres from the building line, extend to 1.7 metres above finished floor level and have a maximum transparency of 25%.

m) Location of all plant and equipment, including hot water services and air conditioners. The air condition units for dwellings 2 and 3 are to be located within the basement envelope, while all other plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

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

o) Deletion of indicative landscaping from the development plans.

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

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

r) The proposal to comply with Standard B22 (overlooking objective) where required.

s) Demonstration of compliance with the mandatory building height and minimum garden area requirements.

T) The boundary fencing to have an average wall height of 3.2 metres in accordance with Standard B18 (walls on boundary objective).

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

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

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

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

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

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

**Water Sensitive Urban Design**

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

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

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

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

**Landscaping**

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts and be drawn to scale with dimensions and three copies must be provided. The plan must show:
a) Provision of six indigenous canopy trees across the site. Trees within the front setback must be capable of reaching a minimum height of 4 metres and 8 metres within the remainder of the site.

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. Plantings must be 80% indigenous by species type and count.

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

**Drainage**

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

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

**Development Contribution**

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

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

**Permit Expiry**

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

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

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

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

**Permit Notes:**

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

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

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

- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
Council records indicate that there is a 2m wide drainage and sewerage easement running North to South through the back of 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.

Support Attachments
1. Refusal to Grant a Permit ↓
2. Officer Report - 15 May 2018 Committee ↓
3. Without Prejudice Plan 1 ↓
4. Without Prejudice Plan 2 ↓
NOTICE OF
DECISION TO
REFUSE TO
GRANT A PERMIT

Application No.: 5/2017/615/1
Planning Scheme: Bayside
Responsible Authority: Bayside City Council

ADDRESS OF THE LAND: 19 Iluka Street BLACK ROCK
WHAT HAS BEEN REFUSED? Alterations to the existing dwelling and construction of two double storey dwellings (three dwellings)

GROUNDs OF REFUSAL:

1. The proposal fails to respond to the objectives of Clause 22.06 (Neighbourhood Character, Precinct H3) of Bayside Planning Scheme, on the following grounds:
   a) The development fails to respond to the existing and preferred neighbourhood character for this precinct
   b) The proposal fails to reflect the visual separation of buildings
   c) The development fails to result on an open front setback

2. The proposal fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
   a) Standard B5 – Integration with street – the proposal fails to appropriately integrate with Iluka Street
   b) Standard B17 – side and rear setbacks – the proposed side boundary setbacks have an unreasonable impact on the amenity of adjoining properties
   c) Standard B20 – north facing windows – the proposal has an unreasonable impact on existing north facing habitable room windows

3. The proposal fails to ensure for an appropriate post-construction landscaping outcome.

4. The proposal fails to ensure vehicles can safely egress from the site and manoeuvre within the site in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.

Date of notice: 15 May 2018

Signature for the Responsible Authority

Planning and Environment Regulations 2019 - Form 7
FORM 7

 Sections 65(1) and 66(4)

IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

- The responsible authority has decided to refuse to grant a permit.
  (Note: This is not a refusal under Division 5 of Part 4 of the Planning and Environment Act 1987.)
- This notice sets out on which the application has been refused.
- The reasons or grounds on which the application has been refused are those of the responsible authority unless otherwise stated.

WHAT ABOUT REVIEWS?

For the applicant —

- The person who applied for the permit may apply for a review of the refusal.
- The application for review must be lodged within 60 days of the giving of this notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on the relevant 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.
- A copy of an application for review must be served on the responsible authority, each other party and each other person entitled to notice of the application for review under the Planning and Environment Act 1987 and the Victorian Civil and Administrative Tribunal Act 1998 within 7 days after lodging the application with the Victorian Civil and Administrative Tribunal.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.

For a recommending referral authority—

- If the applicant applies for a review of this decision, the applicant must give notice to any recommending referral authority that objected to the grant of the permit after an application for review is lodged.

For an objector—

- If the applicant applies for a review of this decision, the applicant must give notice to objectors in accordance with the requirements of the Planning and Environment Act 1987 and the Victorian Civil and Administrative Tribunal Act 1998.

Planning and Environment Regulations 2015
4.6 19 ILUKA STREET, BLACK ROCK
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/615  WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755  –  Doc No: DOC/18/100079

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>DNC Studio</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>12 October 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>126 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal

The application seeks alterations to the existing dwelling and construction of two double storey dwellings (three dwellings) on a lot with an area of 1,137 square metres. Key details of the proposal are as follows:

- Alterations to the existing dwelling to include:
  - Relocation of the car parking facilities to the rear of the dwelling
  - Modification to the elevations, to include altered setbacks, built form treatment and finishes
  - Alteration to the roof form (from pitch to parapet)
  - Deletion of the pool and tennis court area
- General retention of the dwelling layout at ground and first floors
- Construction of 2 double storey dwellings with basement car parking, each containing 3 bedrooms
- Shared accessway to service all three dwellings
  - Garage at rear for dwelling one and basement car parking for dwellings two and three
- 6.7 metre building height (for existing dwelling) & 6.2 metre building height (for rear dwellings)
- Site coverage 49%
- Permeability 22%

The application plans are provided at Attachment 1.

It is noted that as part of the consultation process with objectors, without prejudice plans
were circulated (discussed below). These are included at Attachment 2.
An aerial image and photographs of the site and surrounds are provided at Attachment 3.

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

2. Planning controls
Planning Permit requirements
A planning permit is required pursuant to:

- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot and construction of a front fence greater than 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</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection</td>
</tr>
</tbody>
</table>

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

- Neighbourhood character
- Landscaping
- Building height
- Site coverage
- Permeability
- Vehicle access
- Drainage
- Side boundary setbacks

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

A consultation meeting was held on 28 March 2017 attended by the permit applicant and three objectors. One objection was withdrawn subsequent to this meeting. Therefore, there are three outstanding objections in the system.

Following the consultation meeting, the permit applicant has circulated a new set of plans to all parties to detail improvements to the design to assist in resolving both Council and objector concerns. The changes of these plans (between those of which were advertised) are picked up in conditions 1a – 1e of the recommendation below.

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 2017/615 for the land known and described as 19 Iluka Street, Black Road, for the alterations to the existing dwelling and construction of two double storey dwellings (three dwellings) in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

   a) Dwelling 1 setback 4.125 metres from the northern boundary with landscaping to be shown on either side of the driveway adjacent to Dwelling 1 generally in accordance with Revision C plans dated 03.04.2018.

   b) Dwelling 1 garage to be setback by 5.28 metres from Townhouse 3 with increased landscaping adjacent to the garage of Townhouse 1 generally in accordance with Revision C plans dated 03.04.2018.

   c) Dwelling 2 and 3 first floor modified to achieve compliance with Standard B17 (Side and Rear Setback provision) generally in accordance with Revision C plans dated 03.04.2018.

   d) Inclusion of front letterboxes, townhouse numbering and entrance canopies for Dwellings 2 and 3 generally in accordance with Revision C plans dated 03.04.2018.

   e) Perimeter landscaping within the secluded private open spaces of Dwellings 2 and 3 generally in accordance with Revision C plans dated 03.04.2018.

   f) The front fence to have a maximum height of 1.2 metres and included a minimum 25% transparency. Vegetation/landscaping may be incorporated within the front fence design to provide for seclusion to the private open space of dwelling one.

   g) The internal fence along the private open space of dwelling 1 (within the front setback) to have a maximum height of 1.5 metres.

   h) Provision of pedestrian sight triangles in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.
i) The vehicle accessway to be constructed with permeable paving and include decorative treatment/brick banding.

j) The garage and laundry area of dwelling 1 setback 1.0 metre from the southern property boundary.

k) Vehicle access and manoeuvrability in and out of all three dwellings garages must be safe and convenient. Swept path analysis of a B85 vehicle prepared by a suitable qualified traffic engineer must be provided. Any consequential changes to the building envelopes are to the satisfaction of the Responsible Authority.

l) The pedestrian doors to access the garages of dwellings 2 and 3 to swing outwards from the garage.

m) The gazebo areas within the rear private open space areas of dwellings 2 and 3 deleted and replaced with landscaping.

n) The master bedrooms of dwellings 2 and 3 to be acoustically treated.

o) Provision of window fin extensions adjacent the northern and southern edges of bedroom 3 for dwellings 2 and 3 respectively. The window fins are to extend 0.5 metres from the building line, extend to 1.7 metres above finished floor level and have a maximum transparency of 25%.

p) Location of all plant and equipment, including hot water services and air conditioners. The air condition units for dwellings 2 and 3 are to be located within the basement envelope, while all other plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

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

r) Deletion of indicative landscaping from the development plans.

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

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

u) Payment of the development contributions levy in accordance with Condition 19.

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
Bayside City Council

Planning & Amenity Committee Meeting - 11 September 2018

Attachment 2

Bayside City Council

Planning & Amenity Committee Meeting - 15 May 2018

B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

Water Sensitive Urban Design

8. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
   a) The type of water sensitive urban design stormwater treatment measures to be used.
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) Provision of six indigenous canopy trees capable of reaching a minimum height of 8 metres and 4 metres in width at maturity.
   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. Plantings must be 80% indigenous by species type and count.
   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. Before the development starts tree protection fencing is to be established
around the street trees marked for retention prior to demolition and maintained
until all works on site are complete. The fencing is to be constructed and
secured so its positioning cannot be modified by site workers. The fencing is
to encompass the entire nature strip under the drip line of the tree. The Tree
Protection Zone is to be established and maintained in accordance with AS
4970-2009. During construction of the crossover, tree protection fencing may
be reduced to the edge of the Council approved crossover to facilitate the
construction of the crossover.

Drainage

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

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

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

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

Permit Expiry

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

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the permit 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 2m wide drainage and sewerage easement running North to South through the back of 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.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.
• Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.

Relevant strategies of the Council plan include:

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

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

Bayside Planning Scheme

• Clause 11 Settlement
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.04 Environmental and Landscape Values
• Clause 22.06 Neighbourhood Character Policy (Precinct H3)
• 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 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 H3. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 4, subject to conditions.

To ensure that the proposed development suitable meets the preferred character of the area, conditions of permit have been recommended to setback the garage and laundry area of the existing dwelling from the common boundary with 21 lluka Street. This will ensure an appropriate level of visual permeability through the front part of the site when visible from the streetscape.

Conditions of permit have also been recommended to lower the height and modify the finishes of the front fence to ensure the landscape setting is enhanced. The lowering of the front fence height also improves integration with the lluka streetscape.

6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 5. Those non-compliant standards are discussed below:

Standard B5 – Integration with the street

The application proposes the retention and modification of the existing 1.9 metre high fence. The existing fence is constructed with brickwork, while the application seeks to modify the fence treatment to render
The height and design of the fence is considered to unreasonably compromise the dwellings integration with the streetscape and obscures the garden setting of the development. Although the height of the fence affords some seclusion to the private open space area of dwelling one, this is considered to come at the cost of the streetscape, which on balance is considered inappropriate.

It is therefore recommended that the fence height be lowered to 1.2 metres and incorporate a minimum 25% transparency. It is considered that vegetation can be incorporated into the front fence design to provide for appropriate seclusion as sought by Council Policy.

**Standard B17 – side and rear setbacks**

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
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<tbody>
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<td>Requirement</td>
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</tr>
<tr>
<td>South (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 2m</td>
</tr>
</tbody>
</table>

The side boundary setbacks associated with the sitting and void areas at first floor for dwellings 2 and 3 fails to comply with the prescriptive side boundary setback requirements.

However, it is noted that the plans circulated to all parties after the consultation meeting detail how compliance can be achieved through the utilisation of a raked roof. Therefore, this is recommended to be included as a condition of permit.

**Standard B20 – North facing windows**

The bay window of 21 Iluka Street is located within 3.0 metres of the common boundary with the subject site. Therefore, the proposed built form of the garage and laundry of dwelling 1 need to be setback 1.0 metre. This will ensure an appropriate level of solar access to the north facing habitable room window, while also improving the visual permeability through the site (as discussed above). Consequently to this, a condition of permit will be recommended to ensure that vehicles can still safely egress to and from the site in accordance with Clause 52.06 of the Bayside Planning Scheme.

### 6.3. Landscaping

Existing vegetation on site is non-native and therefore not covered by the VPO3. Further, no trees on the land are protected by the Local Law. Notwithstanding this, the development plans show the retention of three trees within the front setback (Bougainvillea, Citrus lemon and a Melaleuca).

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

Council’s Arborist has reviewed the development application and submitted landscape plan and has not raised any issues. Conditions of permit are recommended to ensure appropriate post-construction landscaping, including the planting of mature vegetation and 80% of vegetation being indigenous.
Notwithstanding this, conditions of permit have also been recommended to improve post-construction landscaping opportunities by way provision of permeable paving for the accessway and deletion of the rear gazebo areas of dwellings 2 and 3.

6.4. Street tree(s)

The existing street tree will be able to be successfully retained as part of this application. The application was reviewed by Council’s Open Space Arborist who has supported the application, subject to 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.

Car parking is provided in accordance with the car parking standards outlined at Clause 52.06 (car parking) of the Bayside Planning Scheme, with each dwelling having provisions of two car spaces.

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 sightlines and internal parking dimensions. 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.

As outlined prior (when assessing Standard B20 – north facing windows), a condition of permit has been recommended to shift the garage of the existing dwelling northward 1 metre. Therefore, this may have consequential impact on vehicle manoeuvrability for all three dwellings. A condition of permit will be recommended to ensure all vehicle movements are safe.

6.6. Development contributions levy

The subject site is located within catchment area 20.

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

6.7. Objection issues not already addressed

Drainage

Concerns have been raised by objectors in relation to access to the rear easement and the subsequent drainage impacts this may have on the area. The applicant referred this to South East Water who have consented to the proposal. Further, the application was referred internally to Council’s Drainage Engineer who did not object to the proposal, subject to conditions.

Notwithstanding this, a condition of permit has been recommended to ensure that the vehicle accessway is constructed with permeable paving to improve permeability across the land, thereby reducing the potential wider drainage impacts.

Support Attachments

1. Application Plans
2. Further circulated plans
3. Site & Surrounds Imagery
4. Neighbourhood Character Precinct H3
5. Clause 55 Assessment

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Item 4.2 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

Legend

<table>
<thead>
<tr>
<th>Description</th>
<th>Icon</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
<tr>
<td>Withdrawn objection</td>
<td>☐</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site from Iluka Street
Neighbourhood Character Precinct H3

Preferred Future Character Statement

The buxus gardens surrounding the dwellings dominate the streetscape. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of tender views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To strengthen the buxus garden character of the area through the planting of appropriate species.</td>
<td>• Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (to site footings outside root zone).</td>
<td>Lack of landscaping and substantial vegetation. Removal of large established trees. Planting of environmental weeds.</td>
<td>Responds: A landscape plan has been prepared which details the retention of vegetation within the front setback and post construction landscaping. Council’s arborist has not identified landscaping as a concern with this application.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around battens for the retention and planting of vegetation.</td>
<td>• Buildings should be sited to allow space for a garden, including trees and shrubs. • Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.</td>
<td>Loss of front garden space.</td>
<td>Responds, subject to conditions: The development will result in built form adjacent both the northern and southern side boundaries. The existing garage is built adjacent the northern boundary, otherwise the existing conditions are detached. It ensures an appropriate level of visual permeability, it is recommended that the garage and laundry area of the existing dwelling be setback 1.0 metre from the common boundary with 21 Luka Street.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>• Locate garages and carports behind the fias of the dwelling. • Underground car parking accessed from the front of the site should only be</td>
<td>Car parking structures that dominate the facade or view of the dwelling.</td>
<td>Responds: Vehicle access to the site is via a shared accessway adjacent the northern boundary, with car parking facilities for all dwellings.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
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<tr>
<td>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>located behind the existing dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

To minimise site disturbance and impact of the building on the landscape:
- Buildings should be designed to follow the contours of the site on sloping sites.
- Minimise the use of retaining walls and bulkening of slopes.
- Design new buildings and extensions so as not to exceed the predominant tree canopy height.

Major excavation works and site levelling. Buildings that protrude above the tree canopy height.

Responds
The natural topography of the site has already been significantly compromised due pool and tennis court area of the rear of the site. Notwithstanding this, the application proposes to retain the topography at the front of the site where the land rises from the street into the site.

To ensure that new buildings provide an articulated and interesting façade to the street:
- Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.
- Recess upper levels from the front façade.

Large, bulky buildings. Poorly articulated front and side wall surfaces.

Responds
The application largely seeks to retain the existing building envelope as it presents to Luka Street (minus the deletion of the garage). Notwithstanding this, the design detailing to the street is proposed to change from a pitched roof form to parapet and from face brickwork to render. These design changes are considered appropriate.

To use building materials and textures 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, subject to conditions
The streetscape elevation is primarily proposed to be finished in render. To ensure a greater variety of materials and finishes, it is considered appropriate to alter the finish of the front fence from render to timber. This will be recommended as a condition of permit.

To maintain the openness of the front garden to the street:
- Provide open style front fences, other than along heavily trafficked roads.
- Use vegetation as an alternative where possible.

High or solid front fences.

Responds, subject to conditions
The application seeks to retain/modify the existing 1.9 metre front fence. This
<table>
<thead>
<tr>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>is considered inappropriate and compromises the ability for the development to deliver a landscape presentation to the streetscape. Therefore, it is recommended that the height of the fence be reduced. Vegetation can be incorporated into the fencing design to provide appropriate screening (if necessary).</td>
</tr>
</tbody>
</table>
### Attachment 4

**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>
</tbody>
</table>

  - Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.
  - Development responds to features of the site and surrounding area.

| B2 Residential Policy | Complies | The subject site is appropriately located with regard to services and facilities to support the construction of two dwellings. |

  - 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.

| B3 Dwelling Diversity | N/A | |

  - Encourages a range of dwelling sizes and types in developments of ten or more dwellings.

| B4 Infrastructure | Complies | The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. |

  - Provides appropriate utility services and infrastructure without overloading the capacity.
### CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B6 Street Setback</strong>&lt;br&gt;The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Complies</td>
<td>Minimum: 9.0 metres&lt;br&gt;Proposed: 9.1 metres</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong>&lt;br&gt;Building height should respect the existing or preferred neighbourhood character.</td>
<td>Complies</td>
<td>Maximum: 9 metres&lt;br&gt;Proposed: 6.7 metres</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong>&lt;br&gt;Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Complies</td>
<td>Maximum: 60%&lt;br&gt;Proposed: 49%</td>
</tr>
<tr>
<td><strong>B9 Permeability</strong>&lt;br&gt;Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Complies</td>
<td>Minimum: &gt;20%&lt;br&gt;Proposed: 23%</td>
</tr>
<tr>
<td>Item 4.2 – Matters of Decision</td>
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</table>

**B10 Energy Efficiency**  
Achieve and protect energy efficient dwellings and residential buildings.  
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.  
Complies  
Dwellings have been sited and designed to maximise energy efficiency.

**B11 Open Space**  
Integrate layout of development with any public and communal open space provided in or adjacent to the development.  
N/A  
No communal open space is proposed as part of this application.

**B12 Safety**  
Layout to provide safety and security for residents and property.  
Complies, subject to conditions  
The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.  
Further, it is noted that the without prejudice plans show an improved design response which is identified within the recommended conditions.

**B13 Landscaping**  
To provide appropriate landscaping.  
To encourage:  
- Development that respects the landscape character of the neighbourhood.  
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
- The retention of mature vegetation on the site.  
Complies  
Refer section 6.3 of the report for discussion.

**B14 Access**  
Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character.  
Complies  
The existing access from Iluka Street is proposed to be modified, to allow for a 3.0 metre wide crossover.

**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 within the basement level. Access to and from the basement is easy and convenient for all residents.
<table>
<thead>
<tr>
<th>Title and Objective</th>
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<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>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
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<td>-------------------------------</td>
<td>----------------</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>Yes</th>
<th>North (side)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Maximum Height: 3.6m</td>
</tr>
<tr>
<td></td>
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<td>Proposed: 3.2m</td>
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<td></td>
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<td>Average Height: 3.2m</td>
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<td></td>
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<td>Proposed: 3.2m</td>
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<td></td>
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<td>Maximum Length: 25m</td>
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<td></td>
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<td>Proposed: 11.1m</td>
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<tr>
<td>East (rear)</td>
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<td>Maximum Height: 3.6m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 3.1m</td>
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<tr>
<td></td>
<td></td>
<td>Average Height: 3.2m</td>
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<td></td>
<td></td>
<td>Proposed: 3.1m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum Length: 11.6m</td>
</tr>
<tr>
<td>South (side)</td>
<td></td>
<td>Proposed: 7.6m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum Height: 3.6m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 3.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 3.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum Length: 25m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 22m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B19 Daylight to Existing Windows</th>
<th>Complies</th>
<th>The development has been sufficiently setback from all habitable room windows to abutting properties.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>Does not comply</th>
<th>There is an existing north facing habitable room window associated with 21 Iluka Street that is within 3.0 metres of the common boundary with the subject site. The proposed garage wall of dwelling 1 fails to meet the setback requirements.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B21 Overshadowing Open Space</th>
<th>Complies</th>
<th>Additional overshadowing will occur over the adjoining private open space areas. However, the overshadowing requirements are satisfied.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**B22 Overlooking**
Limit views into existing secluded private open space and habitable room windows.

Complies

All proposed first habitable room windows are appropriately screened to ensure no unreasonable overlooking of adjoining secluded private open space areas and habitable room windows. Notwithstanding this, window fin projections adjacent the bedroom 3 windows of dwellings 2 and 3 are recommended to ensure overlooking is satisfied.

**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

No internal overlooking will occur as a result of this development.

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

Complies

No unreasonable noise impacts will derive as a result of the proposed development. Notwithstanding this, a condition of permit is recommended to require all air-conditioning units to be located within the basement envelope.

<table>
<thead>
<tr>
<th>CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title and Objective</strong></td>
</tr>
<tr>
<td>B25 Accessibility</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</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: 40 square metres secluded, 60 square metres overall</th>
</tr>
</thead>
</table>
| Proposed: Dwelling 1: 140 square metres  
Dwelling 2: 95 square metres  
Dwelling 3: 93 square metres |

### 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 | Adequate storage space is provided for each dwelling, either within the basement level of adjacent garages. |

---

### 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 Detall**  
Encourage design detail that respects the existing or preferred neighbourhood character. | Complies | Refer to Attachment 3 for further discussion. |
| **B32 Front Fences**  
Encourage front fence design that respects the existing or preferred neighbourhood character. | No | The application seeks the modification of the existing 1.9 metre high front fence. This is considered an inappropriate outcome that unnecessarily compromises the streetscape integration. |
| **B33 Common Property**  
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.  
Avoid future management difficulties in common ownership areas. | Complies | The common areas are suitable located and accessible for all residents. |
<table>
<thead>
<tr>
<th>B34 Site Services</th>
<th>Complies</th>
<th>All appropriate site services are nominated on the site.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Complies</td>
<td>All appropriate site services are nominated on the site.</td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td>Complies</td>
<td>All appropriate site services are nominated on the site.</td>
</tr>
</tbody>
</table>
Item 4.2 – Matters of Decision
4.3 76 SANDRINGHAM ROAD, SANDRINGHAM
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/663/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/201881

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>Crowhurst Building Design</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>26 October 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>145 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>Located within 400 metres of the Principal Public Transport Network</td>
</tr>
<tr>
<td>Site area</td>
<td>643.83 square metres</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>7</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>$2,020.00 Drainage Area:13</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>Yes. The proposed development is exempt from a Cultural Heritage Management Plan.</td>
</tr>
</tbody>
</table>

Proposal

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

Key details of the proposal are as follows:

- Two dwellings.
- Two storeys with a maximum building height of 7.68 metres.
- Site coverage of 49.05%.
- Permeability >20%.
- Garden Area 45.8% (296.23 square metres).
- A total of four car spaces are provided with two car spaces allocated to each dwelling within a double garage.
- 2 metre high front fence to Sandringham Road.

The application plans are provided at Attachment 1.

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

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

2.

Planning controls

Planning Permit requirements
A planning permit is required pursuant to:

- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.

Note: Clause 32.09-4 requires that for the construction of a dwelling or residential building on a lot between 400 square metres and 500 square metres, a lot must provide a minimum of 25% garden area at ground floor level. Given the site comprises of two lots where the gardens area requirements are based on each existing lot (See Sargentson V Campaspe SC (Red Dot) [2018] VCAT 710 (7 May 2018)) is 25% for Lot 1 and 0% for Lot 2. The total Garden Area requirement is 111 square metres.

The submitted plans confirm that the development will have a garden area of 296.23 square metres or 45.8% which significantly exceeds the minimum garden area required by the Clause.

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

3.

Stakeholder consultation

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</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 seven objections were received. The following concerns were raised:

- Neighbourhood character (articulation, materials, colours and finishes);
- Overdevelopment and Garden Area;
- Visual bulk;
- Overlooking;
- Overshadowing;
- Solar access;
- Car parking; and
- Noise.
The number of objections received for this application is consistent across Council’s record management systems.

Consultation meeting

A consultation meeting was held on 13 June 2018 attended by the permit applicant and one 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 2017/663/1 for the land known and described as 76 Sandringham Road, Sandringham for the construction of two double storey dwellings and a front fence exceeding a height of 1.2 metres in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans advertised with the application prepared by Crowhurst Building Design referenced Project No. 495 Sheets Nos. TP3 of 10, TP4 of 10, TP5 of 10, T6 of 10 & TP Appendix 1 of 1 (all Rev.A), dated February 2018 and Landscape Plan prepared by Bayview Landscaping Sheet No. TPL1 of 1 dated February 2018 but modified to show:

   a) The provision of a 2 metre x 2 metre splay to the north-east corner of the subject site. The splay must not contain structures or vegetation exceeding a height of 0.6 metres.

   b) Sightlines to each crossover in accordance with the provisions at Clause 52.06-9 of the Bayside Planning Scheme or diagram shown in AS2890.1 to the satisfaction of the Responsible Authority.

   c) A reduction to front fencing adjacent to each secluded private open space area to a maximum height of 1.8 metres and deletion of front fence sections immediately opposite Dwelling 1 and 2’s lounge.

   d) Deletion of Dwelling 1 and 2’s swimming pools and replaced with landscaping.

   e) Dwelling 1 and 2’s kitchen and pantry to be setback a minimum of 1 metre from the western boundary. The increased setbacks must be absorbed within the approved building envelope of each dwelling.

   f) The incorporation of weatherboard or timber cladding sections (or similar) to the western and southern elevations.

   g) Sill heights of Dwelling 1 & 2’s WC, bath, wir and ensuite west and south facing first floor windows to show a minimum 1.7 metre dimension measured from the finished floor level.

   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) Water Sensitive Urban Design measures in accordance with Condition 7 of this permit.

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

k) A Tree Management and Protection Plan and Tree Impact Assessment Report in accordance with Conditions 12 and 13 of this permit.

l) Street Tree Protection in accordance with Condition 14 of this permit.

m) Development Contributions requirements in accordance with Condition 11 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.

Water Sensitive Urban Design

7. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
   a) The type of water sensitive urban design stormwater treatment measures to be used.
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

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

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

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Bayview Landscaping Sheet No. TPL1 of 1, dated February 2018 but modified to show:

a) The deletion of Dwelling 1 & 2’s swimming pools, replaced with landscaping in accordance with the Bayside Council Landscape Guidelines (2016).

b) Tree protection zones (TPZ) for those neighbouring trees where their TPZ extends into the subject site.

c) An amended planting schedule including sufficient tree spacing and planting areas to ensure trees reach their mature canopy size.

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

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

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

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

h) Details of surface finishes of pathways and driveways.

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

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

Tree Management and Protection Plan

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

- Details of Tree Protection Zones for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site;
- Comment on methods to be utilised and instruction on how to deploy them;
- Comment on when the protection measures are to be deployed;
- Comment on when the protection measures can be modified;
- Process that will be followed if any damage occurs to a tree;
- Process that will be followed if construction works require alteration to protection measures outlined in report; and
- Stages of development at which inspections will occur.
Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist. Such approval must be noted and provided to the Responsible Authority within 28 working days of a written request.

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

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

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

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.

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.

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

Tree Impact assessment Report

13. The report will be in accordance with part 2.3.5 of the Australian Standard Protection of Trees on Development Sites 4970 and will identify impacts that may be detrimental to the Jacaranda tree located at 74 Sandringham Road, Sandringham. This report will include design responses required to reduce any identified negative impact. The proposal will be modified to include any recommendations made in the report.

Street Tree Protection

14. Before the development starts tree protection fencing is to be established around the multiple existing Melia azedarach (Persian Lilac) street tree assets fronting the subject site, along the eastern boundary facing Neptune Street 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.

15. There is to be no soil excavation within 2.7m of the existing Melia azedarach (Persian Lilac) street tree asset, measured from the edge of the trunk on either side of the proposed crossover.

Drainage

16. 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.
17. 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

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

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

Permit Expiry

19. 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, if applicable, prior to the commencement of the connection to the Council Drain / kerb / channel.

- 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.
- 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 13 Environmental Risks and Amenity
- Clause 14 Natural Resource Management
- 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 21.05 Environmental Risks
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct E3)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 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 E3. Subject to conditions, 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 area is generally intact, characterised by single storey original housing stock constructed predominantly of weatherboards, however examples of double storey infill dwellings and contemporary development are evident within the immediate area and wider neighbourhood character precinct. Front setbacks are open and generous and feature established landscaping, including canopy tree planting, set behind typically low front fencing which is generally constructed of either facebrick or semi-transparent wire.

The design response is contemporary and its general form, scale and building massing with appropriate first floor setbacks responds to the preferred residential feel of Sandringham Road and wider surrounds. However, the proposed ground floor setbacks, particularly Dwelling 1’s wall constructed to the western boundary creates unnecessary visual bulk and reduces opportunities for appropriate landscaping to soften the development to the adjoining neighbour and is contrary to the prevailing and preferred pattern of development within the streetscape character where some visual separation between dwellings at ground floor level is characteristic of the area. Therefore, this wall should be offset from the side boundary by at least 1 metre via a recommended permit condition.

A condition of permit also recommends that Dwelling 2 be offset from the western boundary. This setback is required to offset against any perception of visual bulk and will assist with the protection of vegetation located within the rear garden of 74 Sandringham Road.

Similarly, conditions requiring the deletion of the swimming pools to allow for additional landscaping and a reduction in hard stand/paving, a reduction to the overall fencing height to Neptune Street, which now presents as the frontage for the proposed dwellings. A reduction in the fence height allows an open streetscape presentation and appropriate articulation to western and southern elevations will assist in varying these façade treatments, resulting in an improved design response to the preferred residential garden setting and visual separation between ground and first floors facing the Sandringham Road and Neptune Street streetscapes.

On balance and subject to conditions as described above, the proposal is generally supported and will contribute favourably to the preferred neighbourhood character objectives envisioned for this 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></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>0m and 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>3m (as this represents the dwelling frontage)</td>
<td>3m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>0m and 2m</td>
</tr>
</tbody>
</table>

The objective of the standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.
The subject site is on a corner allotment. The front setback is to Sandringham Road with the dwelling entries being orientated to Neptune Street as a secondary frontage.

The proposed ground floor southern setback associated with Dwelling 2 comprises of a garage being constructed on the southern boundary for a length of 7 metres (compliant) and a bedroom offset 2 metres in lieu of 3 metres. The 1 metre variation is considered acceptable as the setback is to a driveway and will not result in any amenity detriment to 14 or 14A Neptune Street.

The proposed first floor setbacks to the west and south boundaries seek variations to the numerical side and rear setbacks required by the schedule to the zone.

An eastern side setback of 2.95 metres to 3.55 metres is proposed in lieu of 3.74 metres to 4.58 metres. Proposed variations between 0.79 metres and 1.03 metres is considered acceptable as these changes present to Neptune Street and are comparable of the setbacks associated with dwellings constructed on corner allotments. The elevations of both dwellings to Neptune Street are well articulated with skillion roof forms, mix of materials, wall recesses and a strong use of glazing emphasising horizontality and lightness of built form to ensure the proposed contemporary built from continues to respect the fine grain development pattern of the area. This is further supplemented with a 6.2 metres setback at ground floor and 8.5 metres separation at first floor between the proposed dwellings.

To the western site boundary, first floor setbacks are proposed at 2.5 metres and 3.8 metre in lieu of 3.74 metres and 4.58 metres respectively. Variations of 1.24 metres and 0.78 metres are considered acceptable as the reduced side setbacks at first floor do not result in any unreasonable amenity detriment to the adjoining property at 74 Sandringham Road. The greatest variations are sought to the bathroom and W.C associated with both dwellings and extend for a wall length of 3.6 metres. The proposed setbacks provide for articulation whilst a condition requiring further material changes will ensure an acceptable outcome to the adjoining property at 74 Sandringham Road and oblique streetscape views. Conditions of permit requiring the ground floor setback to be increased to 1 metre and the deletion of the swimming pools will provide for improved landscaping opportunities to soften the built form.

The first floor rear setback to the master bedroom and ensuite associated with Dwelling 2 is proposed at 2.12 metres in lieu of 4.8m to 4.86 metres. The proposed non-compliant length of wall extends for 6.8 metres and is located opposite a driveway associated with 14 Neptune Street. The proposed variation is considered acceptable as the roof profile slopes down to the southern site boundary and conditions of permit requiring articulation to the southern façade will ensure the massing of the building is appropriately located to minimise amenity impacts. This approach is further considered to address any perception of visual bulk from oblique views when travelling north along Neptune Street. Existing street trees will further assist with softening the variation to the rear and side setbacks in this location.

Internal views (Standard B23)
The submitted plans lack detail showing how internal views between Dwellings 1 and 2’s private open space areas will be restricted. This should be clearly detailed on the plans via a condition of approval.

Front Fences (Standard B32)
Front fences within this section of Sandringham Road, returning to Neptune Street are generally low, constructed of facebrick or semi-transparent wire providing open frontages to these streetscapes.

Council acknowledges that front fencing adjacent to Unit 1 & 2’s secluded private open space areas facing Sandringham Road and Neptune Street must be high enough to provide reasonable privacy for future residents, however, the proposed 2m high solid
rendered front fence is considered inappropriate and fails to adequately respect the low
front fencing evident within the immediate area.

Therefore, fencing adjacent to each secluded private open space area should be
reduced to a maximum height of 1.8m, whilst front fence sections immediately opposite
Unit 1 & 2's lounge should be deleted to open up the frontages and allow views of future
landscaping within the front setbacks.

6.3. Landscaping

Council's Arborist advises that existing on-site vegetation, including on-site trees has a
low amenity value and is not protected by the VPO or any local law and supports its
proposed removal subject to conditions of permit requiring appropriate replacement
landscaping, including canopy tree planting in accordance with Council's Bayside

The combination of the proposed timber decks and swimming pools and associated hard
paving areas restrict space for appropriate landscaping opportunities. Removing the
swimming pools will create improved space and opportunities for meaningful
landscaping. This can be achieved via a recommended permit condition.

In addition, Council's Arborist advises that Dwelling 2’s kitchen and pantry may impact
the existing Jacaranda tree located at 74 Sandringham Road. Therefore, a Tree
Management and Protection Plan and a Tree Impact Assessment Report to protect and
ensure the viability of this tree into the future is also recommended as a condition of
approval.

6.4. Street trees

Council's Open Space Arborist advises that there are multiple existing Melia azedarach
(Persian Lilac) street tree assets fronting the subject site, along the eastern boundary
facing Neptune Street. The applicant proposes to retain the existing crossover to access
Dwelling 2’s garage and construct a new 3m wide crossover to access Dwelling 1’s
garage. Council’s Open Space Arborist supports the development in its current f
om form
provided no soil excavation within 2.7m of the trunk of each street tree asset and
appropriate tree protection fencing measures are undertaken to protect the street trees
during construction. These recommendations can be controlled via permit 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.

Each unit will comprise four bedrooms with each afforded two car parking spaces within
a double garage. Therefore, the proposed on-site car parking provision satisfies the
requirements of Clause 52.06-5.

The submitted plans were referred to Council's Traffic Engineer who supports the
proposal subject to conditions that seek a minimum 2 metre x 2 metre splay to the north-
est corner of the subject site, 4.8m wide garage door openings and a minimum 5.5m
front setback in front of each garage to allow vehicles to park on the driveway. The
suggested splay and appropriate sightline requirements are supported and
recommended as conditions of approval.

However, the submitted plans demonstrate 5.8m wide garage door openings with a 3m
front setback in front of each garage. Altering these design features are considered
onerous and will reduce the internal amenity and safe and effective functionality of the
development. Therefore, these recommendations are not supported.

In addition, it is considered that the proposed development will have no significant impact
on traffic congestion and/or the existing on-street car parking network within
Sandringham Road and/or Neptune Street or surrounding streets and was not raised as a concern by Council's Traffic Engineer.

6.6. Development contributions levy

The subject site is located within catchment area 13.

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

6.7. Objection issues not already addressed

Noise

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

Construction techniques and effects – noise, dust, stability of existing foundations and damage to nearby dwellings are not a consideration under the Planning & Environment Act or Bayside Planning Scheme.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment (Precinct E3) ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.3 – Matters of Decision
Item 4.3 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

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

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2. Subject site looking south and west across Neptune Street.

Figure 3. Subject site looking north and west across Neptune Street.
Figure 4: Subject site looking west across Neptune Street with 14 and 14A Neptune Street to the left of the photograph.

Figure 5: Looking west to the subject site with driveway to 14A Neptune Street to the left of the photograph.
Figure 6: Looking north and east to Allambee Park diagonally opposite the subject site.

Figure 7: Looking south across Sandringham Road to 78 Sandringham Road.
Figure 8: Looking east across Neptune Street to 78 Sandringham Road.

Figure 9: Looking south across Sandringham Road to the subject site with 74 Sandringham Road to the right of the photograph.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct E3)

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings and be appropriate to the building era.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td>To provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>Responds, subject to conditions</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------</td>
<td>-------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td>- Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>As above noted above the buildings have generally be sited to allow for vegetation to establish. This is contingent on the deletion of swimming pools and a reduction to the areas of hard standing. These form recommended conditions of permit.</td>
</tr>
</tbody>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | - Locate garages and carports behind the line of the dwelling.  
- Minimise paving in front garden areas including driveways and crossovers. |  | Responds, subject to conditions  
Conditions recommend Dwellings 1 and 2’s western walls be offset by a minimum of 1 metre from the side boundary and additional articulation to western and southern elevations to improve the developments presentation to neighbouring residential properties.  
A 1 metre setback to this boundary is considered acceptable as it will be consistent with the development pattern within the area where minimal side setbacks are provided at ground floor level to adjoining properties. |
| To ensure new development respects the dominant building scale and forms within the streetscape. | - Recess upper storey elements from the front façade.  
- Incorporate pitched roof forms with eaves. |  | Responds  
The proposed storey built form with recessive first floor elements and skillion roof forms respects the prevalent single and double storey mass and scale of dwellings evident within the street, whilst |

<table>
<thead>
<tr>
<th>Planning Officer Assessment</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</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>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
Clause 55 (ResCode) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Complies | Refer to Attachment 3 and report for further discussion. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Complies | Subject to recommended conditions seeking changes to the western and southern facade treatments, the proposal is considered modest and appropriately located with regard to services and facilities to support the construction of multiple dwellings on a lot of this size. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Complies | The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council’s drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street | Complies | Subject to conditions recommending the deletion of swimming pools, the open front setbacks with recessive first floor elements from the street and side setbacks and low scale contemporary built form will positively contribute to the preferred streetscape character. The skillion roof form, proposed maximum 7.8m building height, scale and massing is responsive to immediate |
### 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>Minor variation sought</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Dwelling 1: 6.25m to Sandringham Road</td>
</tr>
<tr>
<td></td>
<td>Dwelling 2: 3m to Neptune Street</td>
</tr>
<tr>
<td></td>
<td><strong>Proposed:</strong> Dwelling 1: 6.69m at ground floor and 6.78m at first floor. Dwelling 2: 3m at ground floor and 2.95m - 3.55m at first floor</td>
</tr>
<tr>
<td></td>
<td><strong>Note:</strong> the 50mm variation at first floor is considered inconsequential to the overall design and deemed to comply with the standard in this instance.</td>
</tr>
</tbody>
</table>

### B7 Building Height
Building height should respect the existing or preferred neighbourhood character.

| Complies | Maximum: 9m. Proposed: 7.68 metres (2 storeys) |

### B8 Site Coverage
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.

| Complies | Maximum: 50% Proposed: 49.05% |

### B9 Permeability
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.

| Complies | Minimum: >20% Proposed: 20% |

### B10 Energy Efficiency
Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.

| Complies | 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. |

### B11 Open Space
Integrate layout of development with any public and communal open space provided in or adjacent to the development.

| N/A | There is no communal open space in or adjacent to the development. |

### B12 Safety
Layout to provide safety and security for residents and property.

| Complies | The pedestrian entry points are clearly recognisable from Neptune Street, while the upper levels allow for the passive surveillance of the street. |

### B13 Landscaping

| Does not Comply | The extent of timber decking and proposed swimming pools restrict space |

---

**Item 4.3 – Matters of Decision**
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.

for appropriate landscaping opportunities. Therefore, a condition requiring the deletion of the swimming pools is recommended.

Further, Council’s Arborist advises that Dwelling 2’s kitchen and pantry may impact the existing Jacaranda tree located at 74 Sandringham Road. Therefore, a Tree Management and Protection Plan and a Tree Impact Assessment Report to protect and ensure the viability of this tree into the future is recommended as a condition of approval.

Refer to Attachment 3 and the report for further discussion.

<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. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
</tr>
<tr>
<td>Complies</td>
</tr>
<tr>
<td>The proposed access to/from Neptune Street to each garage is safe and convenient. Council’s Traffic Engineers suggestions to reduce garage door openings and increase the length of Dwelling 1 &amp; 2’s driveways are not supported as they reduce internal amenity and increase the extent of hard paving within the front setback facing Neptune Street.</td>
</tr>
<tr>
<td>Refer to the report for further discussion.</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. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
</tr>
<tr>
<td>Complies</td>
</tr>
<tr>
<td>On site car parking is provided in the form of double garages. Standard traffic permit conditions are recommended to ensure appropriate sightlines are provided on-site.</td>
</tr>
<tr>
<td>Refer to the report for further discussion.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
</tr>
<tr>
<td>Does Not Comply</td>
</tr>
<tr>
<td>Refer to the report for further discussion. Note: the subject site is on a corner. Entries face Neptune Street (east), therefore this interface is presumed to be the frontage.</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>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>3m (as this represents the dwelling frontage)</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
</tbody>
</table>
| B16 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. | Complies | West boundary  
Maximum Height: 3.6m  
Proposed: 3m  
Maximum Length: 18.16m  
Proposed: 18m (9m + 9m)  

South boundary  
Maximum Height: 3.6m  
Proposed: 3.6m  
Maximum Length: 11.27m  
Proposed: 7.2m  

Dwelling 1’s kitchen and pantry and Dwelling 2’s garage are proposed to be constructed to the western and southern boundaries, respectively. Their proposed wall heights and lengths accord with the standard. Notwithstanding compliance with this standard, a condition of permit requires the wall to be offset from the boundary to provide to appropriately respond to the neighbourhood character as discussed at Attachment 3. |
| B19 Daylight to Existing Windows | Allow adequate daylight into existing habitable room windows. | Complies | The distance between Dwelling 1’s kitchen and pantry wall constructed to the western boundary and eave to existing habitable room windows at 74 Sandringham Road demonstrates a minimum 1 metre dimension clear to the sky and 3m² lightcourt can be achieved to ensure these windows will have adequate access to daylight in accordance with the standard. Solar access to these windows will be improved by a condition requiring the western wall on the boundary being offset 1m from the common boundary. This is discussed in greater detail at Attachment 3. |
| 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 boundary. |
| B21 Overshadowing Open Space | Ensure buildings do not significantly overshadow existing secluded private open space. | Complies | The submitted shadow diagrams indicate additional shadows will be cast over the adjoining non-sensitive driveway at 14A Neptune Street only ensuring no additional overshadowing of adjoining private open space in accordance with the standard. |
| B22 Overlooking | Complies | The submitted elevations indicate west and south facing first floor habitable room windows will have high sills to prevent unreasonable overlooking to adjoining properties. This is considered appropriate, yet a condition requiring a minimum 1.7m dimension above finished floor level is added to the western and southern elevations for clarity.

It is also noted that corner windows of Dwelling 1’s bedroom 1 and Dwelling 2’s master bedroom will have sills lower than 1.7m above finished floor level, yet they are considered satisfactory given they overlook adjoining non-sensitive front setbacks and pose no unreasonable overlooking impact to immediately adjoining neighbours.

In addition, the existing 1.8m high boundary fencing to the west and south will provide adequate protection to immediately adjoining properties from unreasonable overlooking to/from ground floor windows. |

| B23 Internal Views | Does Not Comply | The submitted plans appear to have some form of screening between Dwelling 1 & 2’s private open space areas yet fail to provide sufficient detail on how internal views will be restricted. A condition can correct this anomaly. |

| B24 Noise Impacts | Complies | It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses. |

| B25 Accessibility | Complies | Entries are accessible for people with limited mobility and each dwelling has a bedroom located at ground floor to accommodate people with limited mobility.

It is further noted the dwellings can be retrofitted to future living needs if required. |

<p>| B26 Dwelling Entry | Complies | Entries of the development face Neptune Street and includes a clearly identifiable entries and a separate pedestrian pathway. The entries provide shelter, a sense of personal address and a transitional space for the residential building. |</p>
<table>
<thead>
<tr>
<th><strong>B27 Daylight to New Windows</strong></th>
<th>Complies</th>
<th>All habitable windows will open out onto a space clear to the sky.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Complies</td>
<td>Minimum: 25m² secluded, 40m² overall with a minimum dimension of 3 m.</td>
</tr>
<tr>
<td>提供合理娱乐和服务需求的私密开放空间</td>
<td></td>
<td>Proposed: Both units meet the requirements of this standard and are provided with adequate private open space for the reasonable recreation and service needs of residents. It is noted that Clause 32.09-4 of the Bayside Planning Scheme requires a minimum garden area at ground floor level of 25% of the site area. This equates to 111m². A total of 296.23m² has been provided according to the submitted Garden Area Plan, equating to a 45.8% garden area.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Private Open Space</th>
<th>Secluded Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling 1 &gt;40m²</td>
<td>116.72m²</td>
</tr>
<tr>
<td>Dwelling 2 &gt;40m²</td>
<td>108.64m²</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B29 Solar Access to Open Space</strong></th>
<th>Complies</th>
<th>Dwelling 1 &amp; 2’s secluded private open space areas will have a northerly orientation to provide appropriate solar access for future residents.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow solar access into the secluded private open space of new dwellings/buildings</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B30 Storage</strong></th>
<th>Complies</th>
<th>The submitted plans indicate that both dwellings will be provided with storage within each garage. Whilst the storage is not externally accessible it is conveniently located to suit the needs of future residents and maintains minimum internal dimensions for each garage in accordance with the requirements of Clause 52.06-9.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide adequate storage facilities for each dwelling</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B31 Design Detail</strong></th>
<th>Complies</th>
<th>Subject to conditions recommending the deletion of swimming pools and varied external materials and finishes to the west and south elevations to improve articulation between ground and first floors, the proposed development respects the preferred neighbourhood character of Precinct E3. Refer to Attachment 3 and the report for further discussion.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item 4.3 – Matters of Decision</td>
<td>Page 124 of 265</td>
<td></td>
</tr>
</tbody>
</table>

| B32 Front Fences | Does Not Comply | Council acknowledges that front fencing adjacent to secluded private open space areas facing Sandringham Road and Neptune Street must be high enough to provide reasonable privacy to these areas. However, the proposed 2m high solid rendered front fence is considered inappropriate and fails to adequately respect the low front fencing evident within the immediate area.

A condition requiring a maximum 1.8m front fence height adjacent to Dwelling 1 & 2’s secluded private open space and deletion of the front fence sections immediately opposite Dwelling 1 & 2’s lounge is recommended. |

| B33 Common Property | N/A | There is no need for common property. |

| B34 Site Services | Complies | All appropriate site services have been catered for on-site with sufficient space for storage of rubbish bins and provision of mailboxes.

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>Henan Hercules Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>7 June 2017 (Amended 20 June 2018)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>70 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) Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td>Site area</td>
<td>1,394m²</td>
</tr>
<tr>
<td>Number of outstanding objections</td>
<td>11</td>
</tr>
<tr>
<td>Is a Development Contribution Levy applicable?</td>
<td>Yes, $4,040</td>
</tr>
<tr>
<td>Is the site located within an area of cultural heritage sensitivity?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the construction of three (3) double storey dwellings and removal of vegetation within the Vegetation Protection Overlay (VPO3). (See amended development plans at Attachment 1).

Key details of the proposal are as follows:

- Number of dwellings: 3
- Building height in metres and storeys: 6.45m and 2 storeys
- Site coverage: 37.74%
- Permeability: 42.11%
- Garden Area: 45.56% (835.11m²)
- A total of 7 car spaces will be provided on-site with 2 car spaces allocated to each dwelling within a double garage.

The original advertised plans are provided at Attachment 2. The plans which the recommendation is based on are the amended plans provided at Attachment 1.

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

History

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

Planning Permit requirements
A planning permit is required pursuant to:
- Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 42.02-2 (Vegetation Protection Overlay) – Remove, destroy or lop any vegetation native to Australia.

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

3. Stakeholder consultation

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Street Tree 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 11 objections were received.

11 objections remain outstanding at the time of this report.

The following concerns were raised:
- Removal of trees protected by the VPO
- Setbacks, particularly at first floor
- Neighbourhood character/Overdevelopment
- Overlooking
- Overshadowing
- Traffic congestion

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

Consultation meeting
A consultation meeting was held on 9 April 2018 attended by the permit applicant and 11 objectors. As a result of this meeting no objections were withdrawn. The development proposal was however revised from 4 dwellings on the lot to 3 dwellings on the lot.

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 2017/85/1 for the land known and described as 17-19 Balcombe Park Lane, Beaumaris for the construction of three (3) double storey dwellings and removal of native vegetation within the Vegetation Protection Overlay (VPO3) in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Zai Pty Ltd Building + Urban Design reference as Drawing Nos. TP-27004/101, TP-27004/102, TP-27004/103 & TP-27004/104 (all Rev.C) dated 14 June 2018 and Landscape Plan prepared by Graeme Wootton (Amendment No.2) dated November 2017 but modified to show:

   a) All crossovers to be dimensioned on the plans.

   b) Sightlines to each crossover in accordance with the provisions at Clause 52.06-9 of the Bayside Planning Scheme to the satisfaction of the Responsible Authority.

   c) Each double garage a minimum of 5.5m wide and 6m long in accordance with Clause 52.06 of the Bayside Planning Scheme.

   d) Garage doors with a minimum width of 5.2m wide.

   e) A reduction to the overall size of Unit 3’s master bedroom (Bedroom 5) to achieve a minimum 3.7m side setback to the southern boundary and a minimum 4.7m rear setback to the western boundary. The increased setbacks must be absorbed within the approved building envelope and any change to the internal layout and/or any windows to Unit 3 must be to the satisfaction of the Responsible Authority.

   f) Screening between the secluded private open space of Units 1, 2 & 3 to be in accordance with of Clause 55.04-7 (Standard B23) of the Bayside Planning Scheme.

   g) A schedule of construction materials, external finishes and colours (incorporating for example paint samples/colour swatches) to the satisfaction of the Responsible Authority.

   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) Water Sensitive Urban Design measures in accordance with Condition 7.

   j) A Landscaping Plan in accordance with Condition 9.

   k) Drainage Contribution Levy in accordance with Condition 18.

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.

**Water Sensitive Urban Design**

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

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

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

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

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

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

**Landscaping**

9. 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 Graeme Wootton (Amendment No.2) dated November 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) The retention of Tree 7 and 33 and the removal of Tree 18.

   b) A full planting schedule and replacement canopy tree species in accordance with Table 3 within the Bayside City Council Landscape Guidelines (2016).

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

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

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

g) Details of surface finishes of pathways and driveways

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

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

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

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

- Details of Tree Protection Zones for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site;
- Comment on methods to be utilised and instruction on how to deploy them;
- Comment on when the protection measures are to be deployed;
- Comment on when the protection measures can be modified;
- Process that will be followed if any damage occurs to a tree;
- Process that will be followed if construction works require alteration to protection measures outlined in report; and
- Stages of development at which inspections will occur.

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

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

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

If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.
13. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

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

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

16. The report will be in accordance with part 2.3.5 of Australian Standard Protection of Trees on Development Sites 4970 and will identify impacts that may be detrimental to the tree. The report will include design responses required to reduce any identified negative impact. The proposal will be modified to include any recommendations made in the report.

Street Tree Protection

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

Development Contribution

18. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy of $4040 in accordance with the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

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

Traffic

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

Drainage

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

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

**Permit Expiry**

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

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

**Permit Notes:**
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours' notice is required.
- The applicant must clearly identify what impact, if any, the proposed vehicle crossings will have on Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan.
- The applicant is to bear the cost to reinstate/relocate the Council assets if any, to provide the required access to the proposed development.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Works on Assets within the Road Reserve Policy 2018”.

**5. Council Policy**

**Council Plan 2017-2021**
- 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
6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3. The proposal is considered to demonstrate an appropriate level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 4.

The Balcombe Park Lane streetscape features numerous street trees with varied front setbacks set behind a variety of front fence types, heights and materials. Gardens are well established and present a bushy landscape to the street frontage. The proposed contemporary design which comprises three separate, well-modulated buildings with recessive first floor elements that articulate and separate each unit between ground and first floor level, a flat roof form and natural external building materials, such as stone, brick, render and timber cladding in muted colours is considered low scale and fits within its landscape surrounds in response to the preferred coastal garden character of the street and wider neighbourhood.

Local residents were particularly concerned the proposed removal of existing on-site vegetation. A reduction in dwelling numbers allowed for the retention of Tree 33 on the site. Discussions between the applicant and Council's Arborist which included the submission of a Tree Impact Assessment and Tree Management Plan and amended design response required a reduction in Unit 2’s building envelope and the relocation of
the swimming pool to retain Trees 7, whilst seeking the removal of Tree 18, has achieved an appropriate outcome for the subject land. A condition of permit will require an amended landscape plan includes the removal of Tree 18 and ensures the future landscape planting schedule comprises a minimum 80% indigenous species type and count.

Whilst the proposed setbacks of Unit 1 & 3’s first floor envelopes fail the numerical requirement of Council’s varied side and rear setbacks required by the schedule to the zone, they are considered reasonable and respect the pattern of development within the immediate area, particularly the siting of the dwelling at 13 Balcombe Park Lane. In addition, the siting of the three detached units with their own building envelopes creates visual space and separation between new buildings and space for appropriate landscaping opportunities that are responsive to the preferred garden setting and neighbourhood character of Precinct H3.

Finally, the proposed low front fence is considered suitable to the varied streetscape character and will allow views of retained vegetation and future landscaping within the front setback and sideage between Units 1 & 2 to soften the development when viewed from the street.

Overall, the proposed development will make a positive contribution to the Balcombe Park Lane streetscape and wider H3 Neighbourhood Character Precinct.

6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 5. Those non-compliant standards are discussed below:

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m – 2m</td>
<td>0m – 4.86m – 7.65m (U1) 9.12m (U3)</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m – 2m</td>
<td>5.13m – 7.13m (U2) 0m (U3)</td>
</tr>
<tr>
<td>West (rear)</td>
<td>3m</td>
<td>3.05m – 5.06m (U3)</td>
</tr>
</tbody>
</table>

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

The proposed first floor side setback of Unit 1’s WIR and ensuite associated with the master bedroom, bath, WC and retreat from the northern boundary fails Council’s varied setback requirement by 500mm – 900mm. The remainder of the building footprint accords or exceeds the requirement. The area of transgression is sited opposite a non-sensitive carport and/or a building with similar side setbacks to the shared boundary located on the north adjoining property.

However, the 3.2m side setback and 4m rear setback to Unit 3’s master bedroom and ensuite from the southern and western boundaries, respectively poses an unreasonable visual bulk impact to the ‘open’ private open space areas of adjoining neighbours to the south and west at 21 Balcombe Park Lane and 22-24 Mary Street and is not supported in its current form. A condition of permit will require a reduction to Unit 3’s master
bedroom/ensuite to achieve the varied standard requirement.

**Internal Views (Standard B23)**

The submitted planning drawings potentially indicate a 1.8m rendered wall will be erected between the secluded private open space areas of each dwelling, yet the notations are unclear on the submitted plans. This should be clarified via a recommended condition of permit.

6.3. Landscaping

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

The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous trees are marked with an "*":

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>2, 5, 6, 13, 14, 15, 16, 17, 22, 23, 25, 27, 28, 34, 35, 37, 40,</td>
<td>1, 7, 20, 21, 29, 33, 36, 38,</td>
<td>26</td>
</tr>
</tbody>
</table>

The application plans show the removal of 17 trees from the site protected by the VPO3. There are 41 trees on the site in total. An assessment against the decision guidelines of the VPO3 is provided at **Attachment 6**.

The proposed extent of vegetation removal is considered to be acceptable when assessed against the decision guidelines of the VPO3. The character of the area, including the extent of indigenous vegetation present, will be maintained once replacement plantings are undertaken. The proposed vegetation removal will also not impact on the overall quality of habitat within the broader area and the extent of removal is justified when considered against the level of development proposed. Therefore the proposed vegetation removal is considered to comply with the objectives of the VPO3.

Council’s Arborist raised concerns and originally required the retention of Trees 7, 23, 33 and 34 identified on the development plans. The applicant submitted a draft Tree Impact Assessment and Tree Management Plan, an amended concept landscape plan and reduced Unit 2’s building footprint and relocated the swimming pool in order to retain Tree 7. The submitted draft tree assessment and tree management plan, landscape plan and amended design were re-referred to Council’s Arborist for comment. Council’s Arborist is now satisfied with the removal of Trees 23 and 34, including Tree 18 (comprising 3 trees) within Unit 2’s front setback to accommodate the relocated swimming pool. This is on the basis that high amenity trees 7 and 33 would be retained in the site. This is considered to be a good development outcome for the subject land.

Essentially, the proposal seeks to retain the high amenity value trees and allow the removal of the remaining lower amenity value trees to facilitate the proposed development. The trees on site for the most part are of good and fair health.
As a result, a condition of permit requiring an amended landscape plan indicating the removal of Tree 18 and demonstrating 80% of future plantings will be indigenous by species, type and count is recommended to retain the preferred bushy coastal landscape aesthetic evident within the streetscape and wider surrounds. Matters controlling the implementation of a Tree Impact Assessment and Tree Management Plan respectively form part of the recommended conditions.

6.4. Street tree(s)

The applicant proposes to retain the existing crossovers to access all units. The width of the existing northern-most crossover is proposed to be increased by approx. 1m to improve vehicle access. This is supported given it poses no significant visual change to the streetscape and/or detriment to the existing street tree asset located in front of the subject land.

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.

Units 1 and 2 will comprise four (4) bedrooms, whilst Unit 3 will comprise 5 bedrooms. Two (2) car spaces will be allocated to each unit, located within a double garage.

The proposed on-site car parking satisfies the requirements of Clause 52.06-5.

A standard parking condition requiring crossover dimensions and sightlines to be in accordance with Australian Standards will be included as part of this approval.

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. Cultural Heritage management plan

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

6.7. Development contributions levy

The subject site is located within catchment area 22.

Based on the proposed application and the below recommendation, a payment of $4040 is required. The payment of the development contributions is included as a condition of permit.

6.8. Objector issues not already addressed

Standard B21 – Overshadowing

The submitted shadow drawings indicate that a small section of south adjoining private open space at 21 Balcombe Park Lane will experience additional overshadowing throughout the day between 9am – 3pm. However, the primary useable private open space of this dwelling will be free of additional shadows. This meets the tests contained within the standard and ensures no unreasonable shadow amenity impact to this adjoining property.

Standard B22 - Overlooking

The submitted elevations indicate first floor west and south facing habitable room windows will be screened with louvers or have high sills measured a minimum 1.7 metres above finished floor level, however notations on the plans fail to state whether the louvers
will be fixed or what their transparency will be. Further, Unit 1’s first floor retreat window requires screening given its limited setback to the northern boundary. As such a condition of permit will require these rooms to be screened in accordance with the standard to limit unreasonable overlooking to immediate neighbours.

In addition, existing 1.8m – 2m high boundary fencing will limit overlooking to/from ground floor windows in accordance with this Standard.

Support Attachments
1. Amended Development Plans ⇩
2. Advertised Development Plans ⇩
3. Site & Surrounds Imagery ⇩
4. Neighbourhood Character Precinct H3 ⇩
5. Rescode Clause 55 Assessment ⇩
6. VPO Assessment ⇩
Item 4.4 – Matters of Decision

Attachment 1

Bayside City Council
Planning & Amenity Committee Meeting - 11 September 2018
Attachment 1
AERIAL VIEW FROM THE SOUTHEAST

PRESENTATION DESIGN DRAWINGS
No 17-19 BALCOMBE PARK LANE BEAUMARIS

Received
20 JUN 2018
Planning Department

Amended Plan
PROPOSED 2 UNIT RESIDENTIAL DEVELOPMENT

17-19 BALCOMBE PARK LN, BEAUMARIS VIC 3193

BAYSIDE CITY COUNCIL

Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
AERIAL VIEW FROM THE NORTHWEST

PRESENTATION DESIGN DRAWINGS
No 17-19 BALCOMBE PARK LANE BEAUMARIS
DRAWN NO. 87700401 1 20 NOVEMBER 2017

Received
24 DEC 2017
Planning Department

Advertised Plan
Site and Surrounds Imagery - Attachment 3

Figure 1 Aerial overview of the site and surrounds (A total of 11 objections were received to the application, not all are shown above).

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site from northeast

Figure 3 View of subject site from east
Figure 4 Subject site from southeast

Figure 5 View north of subject site
Figure 6 View south of subject site

Figure 7 View of subject site from the northeast
Figure 8 View opposite subject site

Figure 9 View opposite subject site
Figure 10 View south along Balcombe Park Lane

Figure 11 View north along Balcombe Park Lane
Neighbourhood Character Precinct H3

Preferred Future Character Statement

The bushy gardens surrounding the dwellings dominate the streetscapes. Where the topography is hilly, the buildings are set within the landscape, and are sometimes sited to take advantage of water views without dominating the streetscape. Adequate space is provided around dwellings for the retention and planting of vegetation, and indigenous canopy trees are common. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds. | Responds  
The proposal seeks to remove a substantial number of existing on-site trees from the subject site. Discussions with Council’s Arborist and a redesign of the development have resulted in a suitable outcome that seeks to retain Tree 7 by reducing the footprint of Unit 2 and relocating the swimming pool outside of Tree 7’s TPZ to respect the bushy garden character evident within Balcombe Park Lane and wider neighbourhood character of Precinct H3.  
Note: the redesign also requires the removal of Tree 18 (comprising 3 trees).  
The amended redesign response is supported by Council’s Arborist, subject to a condition of permit requiring an amended landscape plan prepared by Graeme Wodecott dated November 2017 to show the removal of Tree 18 and the future planting schedule to have at least 80% indigenous trees by species type and count. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>and ensure adequate space is provided around buildings for the retention and planting of vegetation.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.</td>
<td></td>
<td>footprints with no attached party walls sited on the subject land and recessive first floor elements. Further, the flat roof forms and low scale building height sit amongst the landscape. Therefore, the proposed design response adequately maintains the visual separation and sense of space between buildings to accommodate future vegetation, including canopy tree planting throughout the site to respect the preferred bushy garden setting evident within the Balcombe Park Lane streetscape and wider precinct H3.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>• Locate garages and carports behind the line of the dwelling</td>
<td>Car parking structures that dominate the facade or view of the dwelling</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the facade and the front setback area is retained as predominantly garden space.</td>
<td></td>
<td>Unit 2 and 3's double garages are set behind their building forms and well recessed from the street frontage, obscuring their visibility and dominance to the streetscape. Whilst Unit 1's double garage is setback in excess of 9m from the Balcombe Park Lane frontage.</td>
</tr>
<tr>
<td>To minimise site disturbance and impact of the building on the landscape.</td>
<td>• Buildings should be designed to follow the contours of the site on sloping sites.</td>
<td>Major excavation works and site levelling. Buildings that protrude above the tree canopy height.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Minimise the use of retaining walls and battering of slopes.</td>
<td></td>
<td>The proposed building height is low scale at 6.45m with a flat roof form, resulting in a built form that minimises its impact on the prevailing landscape canopy.</td>
</tr>
<tr>
<td></td>
<td>• Design new buildings and extensions so as not to exceed the predominant tree canopy height.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings provide an articulated and interesting facade to the street.</td>
<td>• Incorporate design elements into the front facade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations.</td>
<td>Large, bulky buildings Poorly articulated front and side wall surfaces.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed dwellings are fully detached with separate building envelopes and recessive first floor elements that are</td>
</tr>
</tbody>
</table>

Item 4.4 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To use building materials and finishes that complement the natural setting</td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick</td>
<td>Period reproduction styles and detailing</td>
<td>Responds</td>
</tr>
<tr>
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</tr>
<tr>
<td>To maintain the openness of the front garden to the street</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High or solid front fences.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use vegetation as an alternative where possible.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Responds
The development seeks to utilise natural building materials such as light grey aggregate driveway finishes, facebrick, render at ground floor and light weight timber cladding with a low scale flat roof form that sits well amongst the bushy landscape setting evident within Balcombe Park Lane.
Attachment 5

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);</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>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 multiple dwellings on a lot of this size.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td>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 raised 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>
<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></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td><strong>Complies</strong></td>
<td><strong>Dwellings</strong> within Balcombe Park Lane are varied yet feature predominantly architecturally designed homes. It is considered that the proposed development is well articulated and will integrate appropriately with the Balcombe Park Lane streetscape. In addition, separate pedestrian and vehicular accessways are well designed and clearly identifiable from the street. Refer to Neighbourhood Character at Attachment 2 and the report for further discussion.</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>--------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>

### CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING

<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>B6 Street Setback</strong></td>
<td><strong>Complies</strong></td>
<td>Requirement: 9m. Proposed: 9m – 10.2m at ground floor and 10m at first floor. Ground floor porches and separate building footprints at ground and first floors create an appropriate transition to immediately adjoining neighbours and Balcombe Park Lane.</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td><strong>Complies</strong></td>
<td>Maximum: 9m Proposed: 6.45m (2 storeys)</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td><strong>Complies</strong></td>
<td>Maximum: 50% Proposed: 37.74%</td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td><strong>Complies</strong></td>
<td>Minimum: &gt;20% Proposed: 42.11%</td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td><strong>Complies</strong></td>
<td>All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources.</td>
</tr>
</tbody>
</table>
### Attachment 5

<table>
<thead>
<tr>
<th>Item</th>
<th>4.4 – Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>B14 Access</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>B15 Parking Location</strong></td>
<td>Complies</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>Does Not Comply</td>
<td>A new building not on or within 200mm of a boundary should be set back 2m from the side boundary, and 3m from the rear boundary, plus 0.6 for every metre of height over 3.6m up to 6.9m, plus 2m for every metre of height over 6.9m. Areas of non-compliance are underlined. Refer to the report for further discussion.</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 – 2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m – 2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>3m</td>
</tr>
</tbody>
</table>

<p>| <strong>B18 Walls on Boundaries</strong>&lt;br&gt;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. | Complies | <strong>North boundary</strong>&lt;br&gt;<strong>Maximum Height:</strong> 3.6m&lt;br&gt;<strong>Proposed:</strong> 3.2m above NGL&lt;br&gt;<strong>Maximum Length:</strong> 18.93m&lt;br&gt;<strong>Proposed:</strong> 7.98m&lt;br&gt;<strong>South boundary</strong>&lt;br&gt;<strong>Maximum Height:</strong> 3.6m&lt;br&gt;<strong>Proposed:</strong> 3.2m above NGL&lt;br&gt;<strong>Maximum Length:</strong> 18.93&lt;br&gt;<strong>Proposed:</strong> 8.27m&lt;br&gt;The proposed height and length of Unit 1 and 3’s garages abutting the northern and southern boundaries, respectively comply with the standard and pose no unreasonable detriment to any neighbour. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Compliance Status</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B19</td>
<td>Daylight to Existing Windows</td>
<td>Complies</td>
<td>The development has been sufficiently setback from all existing habitable room windows on properties to the immediate north and south to maintain adequate daylight to these rooms in accordance with the standard.</td>
</tr>
<tr>
<td>B20</td>
<td>North Facing Windows</td>
<td>Complies</td>
<td>The submitted plans indicate Unit 2’s southern wall will be setback at least 4m from the shared boundary opposite existing north facing habitable room windows located at 21 Balcombe Park Lane to satisfy the standard.</td>
</tr>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
<td>Complies</td>
<td>The submitted shadow drawings indicate that a small section of south adjoining private open space at 21 Balcombe Park Lane will experience additional overshadowing throughout the day between 9am – 3pm. However, the primary useable private open space of this dwelling will be free of additional shadows. This meets the tests contained within the standard and ensures no unreasonable shadow amenity impact to this adjoining property.</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td>Complies</td>
<td>The submitted elevations indicate first floor west and south facing habitable room windows will be screened with louvers or have high sills measured a minimum 1.7 metres above finished floor level; however notations on the plans fail to state whether the louvers will be fixed or what their transparency will be. Further, Unit 1’s first floor retreat window requires screening given its limited setback to the northern boundary. As such a condition of permit will require these rooms to be screened in accordance with the standard to limit unreasonable overlooking to immediate neighbours. In addition, existing 1.8m – 2m high boundary fencing will limit overlooking to/from ground floor windows in accordance with this Standard.</td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>Does Not Comply</td>
<td>The submitted plans indicate a barrier will be erected between the units private open space areas, possibly a 1.8m rendered wall, yet the notation is unclear on the plans. A condition of permit requiring clearer notations can address this anomaly.</td>
</tr>
</tbody>
</table>
**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 considered accessible for people with limited mobility and a bedroom will be located at ground floor for each unit. Further, there is scope to further modify/retrofit the development in future to accommodate people with limited mobility, if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Complies</td>
<td>Entries are clearly identifiable from Balcombe Park Lane with Units 1 &amp; 2 having separate pedestrian pathways to each porch/entry, whilst access to Unit 3’s entry is easily accessible via the communal driveway.</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>
<tr>
<td>Item</td>
<td>Description</td>
<td>Complies</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Complies</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Complies</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Complies</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>B31 Design Detail</td>
<td>Complies</td>
<td>Refer to Attachment 1 &amp; 2 and 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>B32 Front Fences</td>
<td>Complies</td>
<td>Approx. 1m - 1.2m front fence is proposed.</td>
</tr>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Complies</td>
<td>A common driveway is proposed to access Unit 2's garage &amp; Unit 3. Specific requirements can be resolved at the subdivision stage.</td>
</tr>
<tr>
<td>---------------------</td>
<td>----------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complies</td>
<td>All appropriate site services can be easily catered for on-site with sufficient space for storage of rubbish bins and provision of mailboxes, as shown on the plans in accordance with the standard. A standard condition will be placed on the permit to ensure domestic services are located to avoid unreasonable amenity impacts to adjoining properties.</td>
<td></td>
</tr>
<tr>
<td>B34 Site Services</td>
<td></td>
<td></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>
### Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact the vegetation removal would have on the character of the area.</td>
<td>A number of trees exist on the site including native, indigenous and exotic species. Two trees of note are the Banksia (Tree #7) within the front setback and the Spotted Gum (Tree #33) within the rear setback. The proposed removal of 17 of the 25 native/indigenous trees on the site and the retention of the most significant, would not have a detrimental impact on the character of the area and the replacement planting, when amended in line with Arborist comments, would be consistent with the VPO.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the presence of indigenous species in the locality.</td>
<td>The loss of native trees on the site would be mitigated with 80% indigenous plantings.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the appearance of development.</td>
<td>The extent of development has been reduced from a 4 dwelling development to a 3 dwelling development, with the footprint of dwellings being altered to allow for the retention of high amenity trees on the site. Proposed planting coupled with the trees to be retained on the site, will mitigate the medium term impact on the streetscape associated with the proposed tree removal.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</td>
<td>There is no evidence to suggest the proposed tree removal would impact on local fauna.</td>
</tr>
<tr>
<td>Any proposal to regenerate or plant indigenous vegetation on the site.</td>
<td>Subject to conditions the proposed landscape plan will include a schedule of 80% indigenous by species type and count providing an appropriate setting to the native and indigenous trees to be retained on the site.</td>
</tr>
</tbody>
</table>

Tree profile below
### Definitions

The retention value of a tree considers the tree as a whole including its health, structure, amenity value and life expectancy. The criteria for high, medium and low retention value trees are:

- **(H) High**
The tree is generally in good health and structure, provides high levels of amenity and is likely to do so for more than 20 years. The tree may have historic or cultural significance.

(M) Medium
The tree is generally in fair to good health and structure, provides moderate levels of amenity and is likely to do so for up to 20 years.

(L) Low
Tree Location Plan:
Proposed Plans: Trees to be removed, outlined in orange. To be retained, outlined in green.
4.5 4 MONTCLAIR AVENUE, BRIGHTON  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2018/160/1  WARD: NORTHERN

City Planning & Community Services - Statutory Planning  
File No: PSF/15/8755 – Doc No: DOC/18/205709

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>Fredman Malina Planning Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant/S173 Agreement</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>22 March 2018 (amended on 22 June 2018)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>55 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
</tbody>
</table>
| Overlays       | Development Contribution Plan Overlay (Schedule 1)  
|                | Design and Development Overlay (Schedule 10) |
| Site area      | 671.54m²                                     |
| Number of outstanding objections | 35 |
| Is a Development Contribution Levy applicable? | Yes – $8080 |
| Is the site located within an area of cultural heritage sensitivity? | No |

Proposal

The application seeks to construct five apartments in a three storey building (plus basement) on a lot with an area of 671 square metres. Key details of the proposal are as follows:

- Five dwellings are proposed, four with 3 bedrooms and one with 2 bedrooms;
- Proposed building height would be three storeys, or 10.03m at its maximum point;
- A basement level is included, containing 11 car park spaces (inclusive of one visitor space). No reduction in car parking is sought (in fact two excess spaces are provided);
- Site coverage equates to 53.7%;
- Permeability 19.5%; and
- External finish would best be described as contemporary, with large areas of face bricks, rendered finish and a flat pitched roof.

The application plans are provided at Attachment 1.

An aerial image and photographs of the site and surrounds are provided at Attachment 2.
There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

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

Planning Scheme Amendments

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

VC148, as relevant to the proposal,

- incorporates the Principal Public Transport Network Area Maps (State Government of Victoria, 2018), and
- amends Clause 52.06 (Car Parking) to apply the car parking rates in Column B of Table 1 if any part of the land is identified as being within the Principal Public Transport Network (PPTN) Area as shown on the Principal Public Transport Network Area Maps (State Government of Victoria, 2018).

The subject site is located within the PPTN area and therefore the car parking rates in Column B of Table 1 apply.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Waste Management</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 35 objections were received. All objections remain outstanding at the time of this report. The following concerns were raised:

- Non-compliant with neighbourhood character;
- Insufficient side setbacks;
- Insufficient site coverage;
- Tree removal;
- Unsympathetic to surrounding dwellings in terms of number of storey, built form and design materials;
- Insufficient front setback;
- Inadequate site coverage;
- Impact on heritage properties;
- Overlooking;
- Overshadowing;
- Setting apartment building as a precedent
- Loss of view
- Narrow street unable to cope with additional traffic;
- Not being notified for DDO10
- Covenant concerns; and
- Waste management issues;

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

Consultation meeting

A consultation meeting was held on 20 August 2018 attended by the permit applicant and 16 objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2018/160 for the land known and described as 4 Montclair Avenue, Brighton, for the Construction of a three storey building over basement car parking containing five dwellings in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (advertised) prepared by Format Architects Project Number 1761, Council dated 22 June 2018 and issue number 5 but modified to show:

a) Ground and first floor front setback to be increased to a minimum of 7.9m. The second floor front setback to be increased accordingly to ensure a minimum of 4m setback is achieved from the first floor.

b) The removal of the two pedestrian gates along the frontage that lead to the building entrance.

c) Increased permeable surface to a minimum of 20% in accordance with Standard B9 of the Bayside Planning Scheme.
d) Side setbacks to be increased to achieve full standard compliance in accordance with Standard B17 of the Bayside Planning Scheme. A new cross section plan(s) must be provided, that demonstrates full compliance for the entire length of building (with particular focus on the mid and rear building section).

e) Revised overlooking diagrams showing a sight level at 1.7m from the Finished Floor Level to ensure the Objective of Overlooking under Clause 55.04-6 is achieved.

f) An internal fence at a minimum of 1.8m to be provided to separate the private open space of G1 and G2 in accordance with Standard B23 of the Bayside Planning Scheme.

g) A revised floor plan to demonstrate at least 3 apartments have met the Standard B41 (Accessibility) of the Bayside Planning Scheme.

h) Internal storage floor and elevation plans to demonstrate the proposal complies with Standard B44 of the Bayside Planning Scheme.

i) Revised ramp access section plan showing all intermediate levels in accordance with Clause 52.06 of the Bayside Planning Scheme.

j) 3.6m wide to the proposed ramp access.

k) 3.6m wide crossover with 1m offset from the northern property boundary.

l) Adequate slight lines to be provided at the top of the ramp in accordance with Clause 52.06 of the Bayside Planning Scheme.

m) Car parking space allocation to each apartment

n) The existing crossover to be shown on the proposed development plans. It must be annotated that the crossover is to be reinstated to nature strip at the developer’s cost.

o) 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.

p) A schedule of construction materials, external finishes and colours (incorporating for example paint samples). The roof materials must be amended to be selected from terracotta, red black and subdued coloured tiles or similar.

q) An acoustic report prepared by a qualified acoustic engineer in accordance with Condition 25 to demonstrate the compliance of Standard B40 of the Bayside Planning Scheme. Any modifications must be accommodated in the current design without alterations to the external building envelope.

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

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

t) A Tree Management Plan in accordance with Condition 13.

u) Revised Waste Management Plan in accordance with Condition 26.

v) Development Contribution in accordance with Condition 23.
w) Any amendments to the existing building must be absorbed within the current building footprint.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

Water Sensitive Urban Design

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

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

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John
Patrick, Job Number 18-0017, Council dated 22 June 2018 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

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

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

e) Details of surface finishes of pathways and driveways

f) Retention of the existing street tree.

g) Tree Protection Zone (TPZ) of the existing street tree.

h) Adequate planting areas including soil volume to facilitate at least five (5) small replacement canopy trees, located outside of any easements. The canopy tree species must be capable of achieving mature canopy dimensions of 6m in height, and 4m width in accordance with Bayside City Council Landscape Guidelines (2016).

i) The TPZ of neighbouring trees where it extends within the subject site.

j) Any requirements as listed in the Condition 13.

k) Any amendments to the development plans.

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), a Tree Impact Assessment (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 Impact Assessment must be specific the encroachment within the TPZ of Tree #16 and demonstrate its retention. This assessment must take the proposed planter boxes along the boundary into consideration.

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) Any recommendations suggested by the Tree Impact Assessment.

b) 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.

c) 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 16 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 16 to be retained is to be done by hand by a qualified Arborist.

Street tree protection

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

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

19. Street trees must not be removed, lopped, damage or pruned by any party other than Bayside City Council authorised tree care contractors.

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

Drainage

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

22. 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.

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

Construction Management Plan

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).

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

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

Dwellings acoustically treated

25. Prior to the endorsement of the plans, an acoustic report must be submitted to and approved by the Responsible Authority to demonstrate how the dwellings will be acoustically treated to minimise noise transmission (compliance with Standard B40 under Clause 55 of the Bayside Planning Scheme) from the adjacent railway line to the satisfaction of the Responsible Authority.

Waste Management Plan

26. Before the endorsement of plans, the Waste Management Plan prepared by Leigh Design, Report Date 09 January 2018, must be revised and submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:

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

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.

Permit Expiry

27. 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 southeast water sewerage drain running parallel to the east property boundary.
- 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 “Works on Assets within the Road Reserve Policy 2018”.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
6. Considerations

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

6.1. Strategic Context

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

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

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

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

The Local Areas policy (Clause 21.11-2) contains a subsection relating specifically to the Bay Street Major Activity Centre. Policy seeks to increase the number, and variety of...
dwelling types through the redevelopment of sites for higher density living. The subject site is designated for three storeys in Map 1 to Clause 21.11-2.

The themes contained in Clause 21 are further reinforced through Clause 21.09 (Transport and Access), that encourages high density development close to Activity Centres to then encourage more sustainable transport modes (i.e. public transport). It is further noted the subject site is located within the Principal Public Transport Network (PPNT).

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

6.2. **Design and Development Overlay**

The subject site is covered by Schedule 10 to the Design and Development Overlay, that controls built form standards for Bay Street Major Activity Centre.

A permit is required under this overlay for buildings and works.

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

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

With a maximum height of 10.03m and three storeys, the proposed development complies with the maximum height requirements as stipulated under the overlay.

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

With respect to the setback requirements of Clause 55, there are some minor variations sought, however condition 1d will be enforced requiring full compliance and hence this aspect of the requirement will be fulfilled.
With respect to the 4.0m second floor setback, the proposed building has been setback 3.98m which seeks a variation of 0.02m. Given the variation is extremely minor in nature it is considered the requirement has been achieved.

6.3. Neighbourhood character

As a starting point, it must be acknowledged that the site is located within the Bay Street Major Activity Centre and is covered by the DDO10, where high density development is encouraged.

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

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

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

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

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

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

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

The underlined section above applies to the development under consideration, and the relevance of the Neighbourhood Character Precinct B5 is diminished by the sites inclusion in the Bay Street Activity Centre and the DDO10.

Failure to acknowledge such a contradiction would result in an assessment whereby one would effectively ‘have one foot on the accelerator and one foot on the break’. I.e., the intensive development sought under the DDO10 (and various other State and Local Policy) would be severely restricted by the objectives of Clause 22.06 (Neighbourhood Character Policy) that effectively requires development to respect the surrounding, largely single and double storey housing stock.

Notwithstanding the above, an assessment has been undertaken against Neighbourhood Character Precinct B5, and an appropriate level of compliance has been achieved with the preferred future character statement and precinct guidelines as contained in Attachment 3.
The proposed development contains generous areas of landscaping for a development of this type, allowing for an appropriate natural frame of the building. Car parking is located at basement level and hence would be largely hidden from the public realm. The building contains good levels of articulation and would not unreasonably overwhelm any of the adjacent properties.

6.4. Compliance with Clause 55 (ResCode)

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

Development Entrance (Standards B5, B26 and B42)

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

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

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

Street Setback (Standard B6)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.9m</td>
<td>7.5m</td>
<td>0.4m</td>
</tr>
</tbody>
</table>

The applicant failed to adequately justify the proposed variation and also incorrectly state that the first floor front setback is at 10m. In fact, the proposed first floor front setback should be measured from the front balcony to its frontage given it is a sheer wall structure with an overall height of 7.13m.

Moreover, the reduced setbacks relate to very modest, single storey dwellings, and to rely on these for a reduced setback of a three storey building is not an acceptable approach and will not provide appropriate landscape space for canopy trees to frame the proposed building. The variation will be rejected and conditioned in the permit to achieve compliance (condition 1a).

Permeability (Standard B9)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>20%</td>
<td>19.5%</td>
<td>0.5%</td>
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</tbody>
</table>

It is acknowledged the proposed variation is minor in nature however the subject site is not constrained and full compliance should be achieved. This will be required through condition 1c.

Side and rear setback (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m - 1m</td>
<td>2m - 4m</td>
<td>1.83 – 2.12m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m - 1m</td>
<td>0m – 2.245m</td>
<td>1.95m – 1.78m</td>
</tr>
</tbody>
</table>
The proposed building is largely compliant, with the exception of the north and south first and second floor setbacks (with the main non-compliance associated with second floor rear section facing the south adjoining property).

The proposed non-compliance section will cause unreasonable amenity impacts on the adjoining property and full compliance will be achieved through condition 1d.

**Overlooking (Standard B22)**

The proposal includes a number of first floor windows serving habitable rooms that are within 9 metres of the secluded private open space (SPOS) and habitable room windows at adjoining properties. The applicant has attempted to design responsively to avoid overlooking issues to the adjoining properties by providing overlooking diagrams (TPA519, Revision 5). However the set eye level is 1.6m above the FFL which is not acceptable and should be at least 1.7m from the FFL to achieve the compliance. Full compliance will be required through condition, with revised overlooking diagrams to demonstrate this (condition 1e).

**Internal Views (Standard B23)**

The objective of this standard is to limit views into the secluded private open space and habitable room windows of dwellings and residential buildings within a development. The application does not provide any internal fencing details between the apartments G1 and G2 which will be conditioned in the permit to comply with the standard.

**Noise Impacts (Standard B40)**

The standard identified 80m from the centre of a railway servicing passengers is a noise influence area. The subject site is located within 80m from the centre of the railway line which may result in unreasonable amenity impacts. The applicant failed to identify this. A permit condition request for an acoustic assessment to ensure the proposal achieves standard compliance.

**Accessibility (Standard B41)**

The standard requires for at least 50 per cent of dwelling should meet the accessibility design standard as listed under B41. The applicant claims the Apartments G1, L1-1 & L2 have achieved the compliance however assessment would indicate that this is not the case. Compliance will be required through condition.

**Storage (Standard B44)**

The objective of this standard is to ensure adequate storage facilities for each dwelling is provided. The proposed 5 dwellings have adequate room size in order to provide the internal space however no details have been shown on the plan. It will be conditioned in the permit to achieve compliance.

### 6.5. Landscaping

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that there are no significant trees on site that demand retention.

The only concerns the arborist raised is the Tree #16 which is a European Olive (Olea europaea) is located within the private open space of the neighbouring property, 2 Montclair Avenue. This tree will be impacted by the construction of the proposed

<table>
<thead>
<tr>
<th></th>
<th>East (rear)</th>
<th>0m - 1m</th>
<th>3.05m – 3.8m</th>
<th>1.77m to 1.78m</th>
<th>3.05m</th>
<th>3.5m – 3.6m</th>
<th>5.42m</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>3.59m</td>
<td>3.98m</td>
<td>3.37m</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
basement carpark and proposed planting box which requires a retaining wall along the boundary.

Although this tree would likely remain viable post development with the 21.8% encroachment calculated within the provided arborist report, the proposed planting box will result in over 30% encroachment which may have an impact on its health and future viability.

The basement plan has scope to be reduced, in particular the car parking space 11 and L2 storage area. A condition will be imposed to demonstrate the retention of Tree 16 and if it is required, the footprint of the basement car parking space can be reduced.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable, subject to conditions.

6.6. Street tree(s)

Street Tree is located within the nature strip and is proposed for retention. Council’s Street Tree Arborist has advised that no soil excavation within 2 metres of the street tree asset measured from the edge of the trunk. It will be conditioned in the permit.

6.7. Car parking and traffic

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

Pursuant to the car parking requirements at Clause 52.06, a dwelling requires car parking to be provided at a rate of 1 car space per one or two bedroom dwellings and 2 car spaces per three or more bedroom dwellings. No visitor car parking space is required to be provided.

The development comprises 4 x three bedroom dwellings and 1 x two bedroom dwelling. A total of 9 car parking spaces are therefore required, and 11 car parking spaces have been provided (two space in excess of that formally required).

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to vehicle access, driveway gradients, sightlines and internal parking dimensions. 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.

6.8. Cultural Heritage management plan

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

6.9. Development contributions levy

The subject site is located within catchment area 8A.

Based on the proposed application and the below recommendation, a payment of $8,080 is required. The payment of the development contributions is included as a condition of permit.

6.10. Objector issues not already addressed

Insufficient information

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

**Setting apartment building as a precedent**

Future planning permit applications on this site or neighbouring and nearby land will be assessed against relevant planning policy and site conditions, based on their own merits at the time of assessment.

**Loss of view**

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

**Covenant concerns**

Residents have raised concerns that their property is subject to a single dwelling covenant. Whilst this may be the case, the subject site has no such covenant and covenants that exist on nearby land cannot be applied to a site that does not contain the same restriction.

**Not being notified of the implementation of the Design and Development Overlay (DDO10) that encourages higher density**

A number of residents claim that they have been living in the area for a long time but were not notified for the Planning Scheme Amendment to introduce the DDO10. This DDO was proposed through Amendment C101.

This amendment was exhibited from 24 February 2011 and Council accepted submissions until 20 May 2011. Notification included a Council mail out for all affected properties including owners, occupiers and any interested parties on 21 February 2011. A Notice of Amendment C101 was posted in the Leader (Local Newspaper) on 22 February 2011.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
Item 4.5 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial Overview of subject site and objector map. Please note some objectors have been received from beyond the map boundaries.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors</td>
<td></td>
</tr>
</tbody>
</table>
Photo 2: View of the subject site.
Figure 3: View towards south at Montclair Avenue.
Figure 4: View towards north at Montclair Avenue.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct B5)

Preferred Future Character

The area retains a predominance of pre WWI dwellings, and in Meyer Crt, 1950s brick dwellings. The new pitched roof dwellings sit within established, largely exotic gardens and respect the older dwellings while not replicating these styles. Dwellings are well articulated in plan and elevation, use simple detailing and contain a variety of materials within the front façade. They are also low in scale and do not dominate the streetscape. Space for the planting of vegetation is provided in front yards by the provision of generous front and side setbacks and locating car ports and garages behind the line of the dwelling. Fences are open in style and appropriate to the era of the dwelling. In Meyer Crt front fences are not provided.

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. | The existing dwelling is not considered to hold such significance that retention would be warranted, particularly given the planning controls applicable to the site that encourage redevelopment. |
| To maintain and enhance the garden settings of the dwellings.              | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation.                     | The proposed garden setting is acceptable for a development of this type, with sufficient open space at ground floor to provide for various planting, including canopy trees and screen vegetation.  
  A landscape plan has been prepared, and been reviewed by Council's Arborist who has stated that it meets the Landscape Guidelines subject to conditions. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide adequate space for front gardens.</td>
<td>Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>The proposal has provided adequate front setback for front garden. Council’s arborist has confirmed the front garden space is acceptable.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td>Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Whilst some increase in setbacks will be required through condition, the development would generally be well sited to allow for a variety of plantings as discussed throughout the body of the report. Appropriate setbacks are provided along the frontage to transition the building from those immediately adjacent.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>Locate garages and carports behind the line of the dwelling. Provide only one single width driveway crossover per typical site frontage. Minimise paving in front garden areas including driveways.</td>
<td>Car parking structures that dominate the façade or view of the dwelling. Front setbacks dominated by impervious surfaces.</td>
<td>All parking would be located at basement level and hence would be hidden from the public realm. Only one single width crossover is proposed.</td>
</tr>
<tr>
<td>To ensure that buildings and extensions do not visually dominate the streetscape.</td>
<td>Recess upper level elements from the front façade.</td>
<td></td>
<td>The proposed second floor has been setback 4m from the ground and first floor which ensures the building will not visually dominate the streetscape unreasonably.</td>
</tr>
<tr>
<td>To encourage modern and contemporary architectural responses to surrounding dominant building forms.</td>
<td>Adopt, adapt or re-interpret existing building forms (eg. façade proportions and articulation, roof forms and plan forms) without copying period design details.</td>
<td>Reproduction of historic building styles.</td>
<td>The proposed building is a modern architectural design response incorporating a pitched roof at the top level. It can be easily distinguished from any historic building styles.</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or building massing.</td>
<td>It is acknowledged that the subject site abuts an existing individual significant heritage building at 33 Warleigh Grove. However, the proposal has no impact on the existing heritage building, in particularly viewing from the Warleigh Grove.</td>
</tr>
</tbody>
</table>
| To use a variety of building materials and finishes that reflect those in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Roof materials should generally be terracotta, red black or subdued coloured tiles or similar.  
• Use simple building details. | Exclusive use of one material on external wall surfaces.  
Period reproduction detailing. | The proposed building would look more contemporary than the traditional housing stock, however the selected face bricks and rendered finishes are commonly found in this neighbourhood.  
The proposed roof material as a ‘standing metal powder coated metal roof sheets’ does not comply with the suggested roof materials and it will be conditioned in the permit. |
| To maintain the openness of the streetscape.                              | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era.               | High, solid front fencing.                                                           | The proposed 1.5m high front fenco is considered as an appropriate height given the closeness to railway line. |
## ATTACHMENT 4
BAYSIDE PLANNING SCHEME – CLAUSE 55

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</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 report. |
| **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 construction of a three storey building comprising five (5) dwellings is supported by relevant policies for this site. |
| **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 dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street. | No | The entrance is obscured by gates as discussed at standard B26. These gates would be removed through condition. |
| **B6 Street Setback**  
The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | No | Required: 7.9m  
Proposed: 7.5m |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Maximum allowed: 11m Proposed: 10.03m</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
<td>Maximum allowed: 60% Proposed: 53.7%</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>No</td>
<td>Minimum: 20% Proposed: 19.5%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwellings.</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td>The proposal provides clear legibility and access to the dwellings from the Street. The proposal allows for stairs and a lift to each apartment.</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
</tbody>
</table>
**B14 Access**  
Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character.  
Yes Refer report.

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

**B17 Side and Rear Setbacks**  
Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.  
No Refer to report the table below. Areas of noncompliance are underlined.

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m - 1m</td>
<td>2m - 4m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m - 1m</td>
<td>0m - 2.245m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m - 1m</td>
<td>3.05m - 3.8m</td>
</tr>
</tbody>
</table>

**B18 Walls on Boundaries**  
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.  
Yes Height 2.83m (max allowable 3.2m)  
Length 7.2m (max allowable 16.6m)

**B19 Daylight to Existing Windows**  
Allow adequate daylight into existing habitable room windows.  
Yes The proposal is setback from property boundaries to ensure daylight to existing windows is maintained and comfortably complies with the setback requirements of the standard.

**B20 North Facing Windows**  
Allow adequate solar access to existing north-facing habitable  
N/A There are no existing north facing habitable room windows within 3 metres of the boundary of an adjoining lot.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75% of 40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>No</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are accessible for people with limited mobility. A lift is provided for access to the upper level dwellings. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>No</td>
<td>The entrance point is obscured by gates. These gates are considered to be unnecessary and security would be better controlled at the entrance point itself. The removal of the gates would increase the presence of the buildings to the street and hence this will be required through condition.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
<td>All balconies are 8sqm or greater with a minimum width of 1.6 metres. The proposed ground floor apartments have an area of 25sqm plus open space with convenient access from a living and a minimum dimension of 3 metres or more.</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td></td>
<td>Yes</td>
<td>External storage is provided in the basement to each apartment to meet the requirements of his</td>
</tr>
</tbody>
</table>
Provide adequate storage facilities for each dwelling. | standard.

**B31 Design Detail**
Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer report.

**B32 Front Fences**
Encourage front fence design that respects the existing or preferred neighbourhood character. | Yes | Refer report. A 1.5 metre high front fence is proposed which complies with the standard requirement.

**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 | Common property is easily identifiable and is limited to the basement and pedestrian access to the apartments.

**B34 Site Services**
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. | Yes | Plans show storage and bin storage areas.

---

### Clause 55.07: Apartment Development

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **Standard B35 Energy efficiency objectives**  
To achieve and protect energy efficient dwellings and buildings.  
To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy.  
To ensure dwellings achieve adequate thermal efficiency | Yes | Each apartment has its living area and an area of private open space that will receive north and west daylight. |
| **Standard B36 Communal open space**  
To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development. | N/A | N/A |
<table>
<thead>
<tr>
<th>Item 4.5 – Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard B37 Solar access to communal outdoor open space</strong></td>
</tr>
<tr>
<td>To allow solar access into communal outdoor open space.</td>
</tr>
<tr>
<td><strong>Standard B38 Deep soil areas and canopy trees objective</strong></td>
</tr>
<tr>
<td>To promote climate responsive landscape design and water management in developments to support thermal comfort and reduce the urban heat island effect.</td>
</tr>
<tr>
<td><strong>Standard B39 Integrated water and stormwater management</strong></td>
</tr>
<tr>
<td>To encourage the use of alternative water sources such as rainwater, stormwater and recycled water. To facilitate stormwater collection, utilisation and infiltration within the development. To encourage development that reduces the impact of stormwater run-off on the drainage system and filters sediment and waste from stormwater prior to discharge from the site.</td>
</tr>
<tr>
<td><strong>Standard B40 Noise impacts</strong></td>
</tr>
<tr>
<td>To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources.</td>
</tr>
<tr>
<td><strong>Standard B41 Accessibility</strong></td>
</tr>
<tr>
<td>To ensure the design of dwellings meets the needs of people with limited mobility.</td>
</tr>
<tr>
<td><strong>Standard B42 Building entry and circulation</strong></td>
</tr>
<tr>
<td>Standard B43 Private open space above ground floor</td>
</tr>
<tr>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>To provide adequate private open space for the reasonable recreation and service needs of residents.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Standard B45 Waste and recycling</th>
<th>Yes</th>
<th>A WMP is provided as part of the submission. Council’s waste unit has assessed it and confirmed that a private collection is required.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure dwellings are designed to encourage waste recycling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that waste and recycling facilities are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Standard B47 Room depth</th>
<th>Yes</th>
<th>Each habitable room has a minimum of one window in an external wall of a building. No bedrooms require a secondary area within the bedroom for natural daylight.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into single aspect habitable rooms.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B48 Windows</th>
<th>N/A</th>
<th>No bedrooms require a secondary area within the bedroom for natural daylight, all rooms are appropriately sited to ensure receipt of daylight.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into new habitable room</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **Standard B49 Natural ventilation**  
To encourage natural ventilation of dwellings.  
To allow occupants to effectively manage natural ventilation of dwellings. | Yes  
Each apartment is appropriately designed to achieve dual aspect / orientation and consequently each dwelling will receive appropriate ventilation. |
1. Executive summary

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

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

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

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

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

For the 2018/19 financial year, Council has received 22 decisions, of which 14 have been settled by consent orders and 1 has been struck out. The total number of LGPRF measured decisions for the year to date is therefore 7. This table below reflects the new 2018/19 LGPRF reporting requirements for Council.

<table>
<thead>
<tr>
<th>Time period</th>
<th>Decisions where the Council Delegate or Committees decision has been overturned or ‘Set Aside’</th>
<th>Decisions where the Council Delegate or Committees decision has been agreed with, either having been entirely ‘Affirmed’ or the conditions of the permit ‘varied’</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 2018</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>August 2018</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>September 2018</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>TOTAL DECISIONS</strong></td>
<td><strong>3</strong></td>
<td><strong>4</strong></td>
</tr>
<tr>
<td><strong>LGPRF Result</strong></td>
<td>43%</td>
<td>57%</td>
</tr>
</tbody>
</table>

Attachment 1 included provides a summary of each case identifying the key issues for Council policy and strategy.

The decisions reported in the attached August 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 August 2018 be received and noted.

Support Attachments
1. VCAT Decisions - August 2018 📜
VCAT Determined Appeals from 1/08/2018 to 31/08/2018

<table>
<thead>
<tr>
<th>Subject land</th>
<th>48 Heath CRES, HAMPTON EAST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2017.500.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P693/2018</td>
</tr>
<tr>
<td>Applicant</td>
<td>Hadi Zadeh</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>Henryk Pont, Naomi Bardsley, Samantha Taylor</td>
</tr>
<tr>
<td>VCAT Member</td>
<td>M Carew</td>
</tr>
<tr>
<td>Date of hearing</td>
<td>13/07/2018</td>
</tr>
<tr>
<td>Date of order</td>
<td>17/08/2018</td>
</tr>
<tr>
<td>Proposal</td>
<td>Construction of three dwellings</td>
</tr>
<tr>
<td>Officer recommendation/</td>
<td>Refusal</td>
</tr>
<tr>
<td>Delegate determination</td>
<td></td>
</tr>
<tr>
<td>Council determination</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Appeal type</td>
<td>Refusal to Grant a Permit</td>
</tr>
<tr>
<td>Plans substituted</td>
<td>No</td>
</tr>
<tr>
<td>(prior to hearing)</td>
<td></td>
</tr>
<tr>
<td>VCAT determination</td>
<td>Permit to Issue</td>
</tr>
<tr>
<td>LGPRF outcome</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Comments:

The application was refused under delegation for construction of three dwellings based on the neighbourhood character and a number of ResCode non-compliant issues. The application was appealed by applicant with objectors joined as parties.

A Compulsory Conference was held at VCAT on 13 July 2018 with four registered parties to attend. All parties agreed on a revised set of plans including a number of amendments (refer to 14 August 2018 Committee Meeting Minutes for details). The application was reported back to Planning and Amenity Committee Meeting on 14 August 2018 and agreed to sign the Draft Terms of Settlement to issue a permit.

As a consequence, the permit was issued on 22 August 2018.
Subject land: 15 Rooding ST, BRIGHTON
Application no.: 2017.565.1
VCAT reference no.: P541/2018
Applicant: Han Chua & Others
Referral Authority: N/A
Respondents: Becker Wright P/L

VCAT Member: K Birtwistle
Date of hearing: 24/07/2018
Date of order: 20/09/2018
Proposal: Construction of a three storey apartment building

Officer recommendation/ Delegate determination: Notice of decision
Council determination: Notice of decision
Appeal type: Notice of Decision to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Varied Permit to Issue
LGPRF outcome: N/A

Comments:

At the Planning and Amenity Committee on 27 February 2018, Council determined to support the proposal and issue a Notice of Decision to Grant a Planning Permit (NOD). Conditional upon Council’s approval was the requirement for the development to increase the provision of residential visitor car spaces, increase setbacks and screening of habitable room windows and balconies.

An application for review against Council’s decision was lodged with VCAT by the objector at 13 Rooding Street (adjoining west) pursuant to Section 82 of the Planning and Environment Act 1997. The objector also represented the interests of seven other objectors.

No appeal against the conditions of Council’s decision was lodged by the permit applicant.

The application was heard at a Compulsory Conference (mediation) on 24 July 2018. The applicant for review (objector) was accompanied by additional objectors.

At the Compulsory Conference, the permit applicant agreed to:
- Relocate air conditioning units to the basement level;
- Increased northern and western boundary setbacks at the first and second floor (in excess of the side and rear setback requirements at Standard B17);
- Increased screening to habitable room windows and terrace areas (in excess of the overlooking requirements at Standard B22);
- Deletion of terrace areas at the second floor;
- Alterations to the street setback (in accordance with street setback requirements at Standard B6).

The permit applicant and the objectors all agreed to the above changes.

The consent order was ratified by the Planning and Amenity Committee on 14 August 2018.
Subject land  
65 Well ST, BRIGHTON

Application no.  
2017.706.1

VCAT reference no.  
P1270/2018

Applicant  
L & A Bruno

Referral Authority  
N/A

Respondents  
N/A

VCAT Member  
J G Rickards

Date of hearing  
6/08/2018

Date of order  
6/08/2018

Proposal  
Construction of a three storey building (above basement level) comprising five dwellings on land affected by the Design and Development Overlay (Schedule 11)

Officer recommendation/ Delegate determination  
Notice of decision

Council determination  
Notice of decision

Appeal type  
VCAT Permit - No Applications Received

Plans substituted (prior to hearing)  
No

VCAT determination  
Struck-out by VCAT

LGPRF outcome  
AFFIRMED

Comments:

Council's Planning and Amenity Committee determined to issue a Notice of Decision to Grant a Planning Permit for construction of a three storey building (above basement level) comprising five dwellings on land affected by the Design and Development Overlay (Schedule 11) on 15 May 2018.

An Application for Review against Council's Notice of Decision was lodged by an adjoining objector on 9 July 2018. The appeal was lodged outside the time period and after Council had already issued the Planning Permit.

The Tribunal directed a Practice Day to resolve the issue of dates, timing and the status of the Planning Permit on 3 August 201.

The Tribunal determined the following:

The application was lodged out of time. The Notice of Decision to Grant a Permit was dated 15 May 2018. The Notice of Decision was emailed to the applicants on 18 May 2018. The applicants have 21 days from the date of receipt to lodge an application for review with the Tribunal. The application for review was lodged on 28 June 2018 well outside the date for lodging which was 8 June 2018. As the application was not lodged within the required time a permit has now been granted.

Further, it is noted that the Applicant for Review (the objector) did not attend the VCAT hearing to discuss the appeal.

On the basis of the above, the matter was struck out and the decision of Council affirmed.
Subject land: 10 Love ST, BLACK ROCK

Application no.: 2017.822.1
VCAT reference no.: P922/2018
Applicant: Mr N D Carley
Referral Authority: N/A
Respondents: N/A

VCAT Member: Alison Glynn
Date of hearing: 7/08/2018
Date of order: 7/08/2018
Proposal: Removal of one native tree in a vegetation protection overlay schedule 3

Officer recommendation:
Delegate determination: Refusal
Council determination: Not applicable
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Permit to Issue
LGPRF outcome: N/A

Comment:
The applicant applied to Council for the removal of one native tree in a VPO3 on 19 December 2017. After the Planning Department received all of the required information and Council’s Arborist made an assessment of the tree, the application was refused on 16 March 2018. The applicant sought an application for review of Council’s refusal pursuant to Section 77 of the Planning and Environment Act 1987.

Throughout the preliminary appeal period a second Council Arborist made an assessment of the subject tree. This Arborist found the tree was of poor structure and fair health and that the tree could be removed subject to replacement indigenous species planting. As such, the matter settled under a consent order with the final order set down by VCAT on 7 August 2018.

Council’s refusal was set aside and a planning permit granted subject to 5 conditions.
Subject land 2/77 Park RD, CHELTENHAM
Application no. 2016.632.1
VCAT reference no. P715/2018
Applicant Peter Blazek
Referral Authority N/A
Respondents Finley Roberts Design

VCAT Member Christina Fong
Date of hearing 22/08/2018
Date of order 22/08/2018
Proposal Allocations and additions of existing dwelling on a lot less than 500 square metres

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

VCAT determination Varied Permit to Issue
LGPRF outcome N/A

Comments:
An Application for Review pursuant to Section 82 of the Planning and Environment Act 1987 was lodged with the Tribunal against Council's Notice of Decision to Grant a Planning Permit. The application involved a single storey extension to an existing dwelling on a lot less than 500 square metres.

The matter was resolved at a Compulsory Conference in which an outcome was successfully agreed to by all parties.

The primary concerns raised by the appellant were in relation to building matters. Subsequently, in its Order dated 22 August 2018, the Tribunal direct the decision of the Responsible Authority to be varied with an additional condition added to the recommendation.

As such, the hearing was vacated and a permit granted.
Subject land  125 Abbott ST, SANDRINGHAM
Application no.  2017.448.1
VCAT reference no.  P799/2018
Applicant  Michael Gorey & Emma Aprea
Referral Authority  N/A
Respondents  N/A
VCAT Member  Rachel Naylor
Date of hearing  31/08/2018
Date of order  31/08/2018
Proposal  Construction of a single dwelling on a lot less than 500 square metres
Officer recommendation/
Delegate determination  Notice of decision
Council determination  Not applicable
Appeal type  Conditions
Plans substituted
(prior to hearing)  No
VCAT determination  Varied Permit to Issue
LGPRF outcome  AFFIRMED

Comments:
The subject site is zoned Neighbourhood Residential Zone 3 and covered by Schedule 3 to the Design and Development Overlay.

The development proposed a two storey dwelling on a lot less than 500sqm. The proposed development included a boundary-to-boundary form, and Council placed a condition (1(a)) on the permit to provide a setback of at least 1200mm on one side. The applicant appealed this condition.

In varying Council’s permit, the VCAT Member felt that the condition was onerous and that the stepped façade of the dwelling did enough to break up the built form. A revised condition was placed on the permit to provide for additional landscaping adjacent one of the side boundaries.

A modified Planning Permit was issued in accordance with the Order.
5. Confidential Business

Nil

As Chief Executive Officer, I hereby declare that the contents of this agenda relating to the closed meeting of the ordinary meeting of Council are deemed confidential and accordingly members of Council are reminded that the contents of the agenda are not to be disclosed to any other party.

Mick Cummins

Chief Executive Officer