Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 12 September, 2017
at 7.00pm

Chairperson: Cr Laurence Evans

Councillors: Cr Alex del Porto (Mayor)
            Cr Michael Heffernan
            Cr James Long BM JP
            Cr Clarke Martin
            Cr Rob Grinter
            Cr Sonia Castelli
Members of the Gallery

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

Section 92 The Chair’s Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies
2. Declarations of Interest
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5. Confidential Business
Nil

Next Meetings 2017

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Thursday 2 November 2017
Tuesday 14 November 2017
Thursday 30 November 2017
Monday 11 December 2017
Thursday 21 December 2017
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 15 August 2017.
1. **Purpose and background**

To report an in-principle agreement reached by all parties at a VCAT Compulsory Conference for partial demolition of heritage buildings and construction of a four storey building with two levels of basement car parking in a Heritage Overlay. The building comprises two shops and three offices at ground level, 15 dwellings on upper floor levels, a reduction in the required car parking by two spaces and a waiver of the loading and unloading facilities (refer Attachment 1) at 123 – 127 Martin Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Grace (Aust) Investment Pty Ltd C/O Minter Ellison</th>
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<tr>
<td>Date received</td>
<td>18 August 2017</td>
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At the Planning and Amenity Committee Meeting on 18 April 2017 Council considered an application for partial demolition of heritage buildings and construction of a four storey building with basement car parking in a Heritage Overlay. This proposal comprised two shops and three offices at ground level, 27 dwellings on upper floor levels, a reduction in the required car parking by 11 spaces and a waiver of the loading and unloading facilities. Council determined to refuse the proposal on the following grounds:

1. The proposed development of the land does not comply with the purposes of the Commercial 1 Zone (C1Z) as the density proposed is not complimentary to the role and scale of the Martin Street Major Activity Centre due to the excessive proposed height.

2. The proposed development of the land does not comply with the purposes of the Design and Development Overlay Schedule 18 (DDO18) as:

   a) *The proposed height and reduced upper level setbacks are not compatible with the preferred future role and character of the Martin Street Neighbourhood Activity Centre.*

   b) *The visual bulk and dominant form as a result of the excessive height and reduced upper level setbacks proposed does not conserve or enhance the valued heritage character.*

3. The proposed development of the land does not comply with the purposes of the Heritage Overlay (HO) as:

   a) *The visual bulk and dominant form as a result of the excessive height and reduced upper level setbacks proposed does not conserve or enhance the valued heritage character and will adversely affect the significance of the heritage place.*

4. The proposed reduction in car parking fails to respond to the purpose of Clause 52.06 (Car Parking) of the Bayside Planning Scheme, in particular:

   a) *The proposal fails to provide the number of car parking spaces required in accordance with Clause 52.06 and as a result will impact on the amenity of the locality by negatively impacting surrounding areas.*
5. The proposal fails to provide the loading bay facilities for the shops and the collection of residential and commercial waste as required by Clause 52.07 of the Bayside Planning Scheme which will have a resulting impact the amenity of the immediate area.

6. The proposal fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
   a) **Standard B22 – Overlooking** – The proposed north facing windows and balconies at first and second floor level will overlook adjoining secluded private open space and habitable room windows.
   b) **Standard B23 – Internal views** – The proposed west facing habitable room windows and balconies will overlook habitable rooms and spaces of dwellings within the development.
   c) **Standard B28 – Private open space** – Dwellings 1.04 and 2.10 fail to provide appropriate secluded private open space for the reasonable recreation needs of the residents.

The applicant has lodged an appeal under Section 77 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s decision to refuse to grant a planning permit.

At the VCAT Compulsory Conference held on 10 August 2017, attended by the permit applicant, Council Officers and the one objector party to the appeal, an in-principle agreement was reached between all parties.

The outcome was to:
- Add one additional level of basement car parking to increase the number of spaces from 37 to 44 spaces and provide independent access (deletion of car stackers) and relocate the basement car parking access.
- Reduce the number of dwellings from 27 to 15.
- Alter the western façade to amend screening and increase setbacks with 83 Asling Street.
- Reduce the balcony sizes to apartments fronting Martin Street at Second Floor Level to improve solar access to dwellings below; and
- Increase the street setback to the Third Floor Level from 5.5 metres to 7 metres to ensure visibility from Martin Street and surrounding vantage points is minimal.

A set of ‘without prejudice’ amended plans were tabled at the VCAT Compulsory Conference by the applicant and are appended as Attachment 1 to this report. These plans form part of the in-principle agreement reached by all parties in addition to the conditions noted in the recommendation. These plans have been formally substituted with VCAT and have been re-advertised to all original persons notified and all original objectors. Two additional Statement of Grounds have been received. It is noted that both objectors have elected not to become a parties to the appeal. The concerns raised by this objector related to heritage, access arrangements, disturbances during construction period and overshadowing.

The original development plans refused by Council are included as Attachment 4.

If Council agrees to support the recommendation below then a planning permit will be issued by VCAT which contains, unchanged, all of the conditions in the recommendation section of this report. Alternatively, should Council determine to not support the issue of an amended permit, then the application will proceed to a VCAT merits hearing.
scheduled on 25 September 2017 for three days.

2. **Policy implications**

**Planning permit requirements**

Clause 34.01-4 (Commercial 1 Zone) – Buildings and works not otherwise exempt.
Clause 43.01-1 (Heritage Overlay) – Partial demolition, buildings and works.
Clause 52.06-3 (Car Parking) – Reduction in the number of car parking spaces required under Clause 52.06-5.
Clause 52.07 (Loading and Unloading of Vehicles) – Waiver of loading bay

**Planning scheme amendments**

The exhibition period for Amendment C152 (Martin Street Structure Plan) finished on 16 January 2017. Council considered the submissions and determined at its Council meeting on 28 March 2017 to request the Minister for Planning to appoint a Planning Panel to consider the submissions received for Amendment C152 in accordance with Section 23(1)(b) of the *Planning and Environment Act 1987*. A Directions Hearing occurred on 20 April 2017 with a Panel Hearing on 29 May 2017. The Panel Report was received by Council on 9 August 2017 and is currently being considered by Council.

Pursuant to Section 60 (1A) (eb) (g) of the Planning and Environment Act 1987 before deciding on an application, “the responsible authority must consider… any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council.”

Council adopted the Martin Street Structure Plan at its Council Meeting March 2016. Therefore the objectives, guidelines, requirements and vision of the Structure Plan must be considered as part of any planning application in the Martin Street Activity Centre.

Amendment C152 is in the middle stages of the Planning Scheme Amendment process. Therefore, the proposed planning controls, specifically DDO18 and GRZ9, do not yet hold any statutory weight and the current Planning Scheme requirements should be applied to any planning application made within the Martin Street Activity Centre. However, some regard will need to be given to the vision, objectives and strategies of Martin Street Structure Plan as this document has been adopted by Council.

Amendment C152 seeks to introduce DDO18 to the Martin Street Activity and replace the existing NRZ3 with a GRZ9.

**Other Planning Scheme Amendments**

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. This amendment has been approved and gazetted within the Bayside Planning Scheme at Clause 45.06. Conditions requiring payment are included in the recommendation.

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

3. **Stakeholder Consultation**

**External referrals**

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

Internal referrals

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

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

Public notification

The original application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 14 objections were received. The following concerns were raised:

- Height
- Overshadowing
- Loss of privacy
- Visual bulk
- Waste management
- Loading
- Car parking
- Traffic generation and safety
- Noise
- Commercial trading hours
- Architectural design
- Neighbourhood character
- Overdevelopment
- Construction impacts (traffic, noise, dust)
- Surrounding property values
- Accuracy of the plans.

Consultation meeting

VCAT arranged and held a Compulsory Conference on 14 June 2017. The applicant, Council representative and the one objecting party to the VCAT proceedings were in attendance. The applicant tabled ‘without prejudice’ plans, and an in-principle agreement was reached by all parties in attendance.

The appellant was directed by VCAT to re-advertise the amended plans to all persons previously notified and all original objectors. Two additional statement of grounds were received by two objectors who indicated they did not wish to be joined as a party to the appeal.
4. **Recommendation**

That Council:

Determines to **Support** the application under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/144/1** for the land known and described as **123 – 127 Martin Street, Brighton for the demolition of 123 Martin Street and partial demolition of 125-127 Martin Street in a Heritage Overlay Schedule 749 (HO749) and the construction of a four storey building plus two levels of basement car parking comprising two shops and three offices at ground level, 15 dwellings on upper floor levels in a Commercial 1 Zone, a reduction in the required car parking rate and a waiver of the loading and unloading facilities** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended Buchan Group Plans dated 15 Project Number 315110, Drawing Numbers ATP20000 – 20016, ATP-40000, ATP40001, ATP500000 – ATP500003 Revision VCAT issue and dated 15 August 2017 but modified to show:
   a) The front façade of 125-127 Martin Street cleaned and bagged with white paint
   b) Car parking allocation as per the below:
      i. One tandem parking space (i.e. 2 car spaces) to each 3-bedroom residential dwelling (total of 14 car spaces);
      ii. One parking space to each 1 and 2-bedroom residential dwelling (total of 8 car spaces);
      iii. Three parking spaces for residential visitors.
      iv. Three parking spaces to each office tenancy (total of 9 parking spaces); and
      v. Four parking spaces to each shop tenancy (total of 8 car spaces).
   c) Dimensions to all parking spaces, aisle widths, column locations, etc.
   d) All storage areas are to be provided with safe and convenient access.
   e) Any bicycle parking spaces to be in accordance with as required in AS2890.3.
   f) Bicycle parking spaces to be in accordance with as required in AS2890.3.
   g) A swept path assessment demonstrating that a B99 vehicle can pass at B85 vehicle should be provided.
   h) Swept paths should also be provided to demonstrate that two cars can pass at the bottom of the ramps at basement levels 1 and 2.
   i) A disabled parking space provided in accordance with AS2890.6.
   j) Car spaces located adjacent to walls should have an additional 300mm clearance in accordance with AS 2890.1:2004. This has not been provided for car spaces adjacent to stores.
   k) The ramps to/from ground level and between basement levels 1 and 2, at the eastern end to be in accordance with AS29890.1, 300mm clearance is
to be provided to a high kerb or barrier.

l) In accordance with AS2890.1, the aisle should be extended 1m past car spaces 1/T1 (basement level 1) and car space 19/T19 (basement level 2).
m) Swept paths should be provided to demonstrate convenient access/egress to car spaces 33, 34/T34, 35/T35 and 36/T36.
n) All elevations and roof plan to show all plant, equipment and services concealed within the design of the building. No plant, equipment, services or architectural features will be permitted above the roof level of the buildings without the written consent of the Responsible Authority, and no air conditioning units will be permitted to be visible from the street.
o) Any changes to comply with the Site and Environment Management Plan (SEMP) conditions of this permit.
p) Any changes to comply with the Construction Management Plan in conditions of this permit.
q) Any notations or changes to meet the Drainage conditions of this permit
r) Any consequential changes to the plans to comply with any conditions of this permit which must result in no increase in the building form and envelope.

All to the satisfaction of the Responsible Authority.

Ongoing conditions for the lifetime of the permit

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

3. Before the occupation of the any of the development or use hereby approved, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

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

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

6. 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.

7. The customer patronage shown on the endorsed plans, as associated with the car parking as shown on the endorsed plans, must not be exceeded at any time.

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

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

**Landscaping**

11. 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 drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) Planter boxes to be located on the inside of each north and south facing balcony with no reduction to the area of secluded private open space provided and no increase to the built form or building envelope.

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

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

   d) A planting schedule of all proposed vegetation within the planter boxes including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

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

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

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

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

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

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

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

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

17. Prior to the endorsement of plans to Condition 1 of this permit, a Site and Environmental Management Plan (SEMP) must be prepared by a suitably qualified person, to the satisfaction of, and submitted to and approved by, the Responsible Authority. The SEMP will remain in perpetuity for the life of the use and development hereby approved, and must be updated to reflect new non-residential uses on the commencement of any tenancy. The SEMP must include operational and site management details including but not limited to:

a) The Waste and Recycling Management Plan, prepared by Leigh Design dated 14 August 2017, to be updated to include the following:

i. Clarification of the arrangement for private waste collection contractor’s vehicle to collect the waste on site and entering and exiting in a forward direction. Swept paths should be provided to demonstrate waste vehicles can satisfactorily access the bin store on Basement Level 1. Turning around and exist the site in a forward direction.

ii. Direct access from the shops to the waste collection and storage area. Access via the residential lobby is not supported.

iii. All waste streams including garbage and recycling, hard/electronic/liquid/medical and home detox (paint and chemicals) are the responsibility of the private contractor and the body corporate. Council will not be offering these services; and

iv. A litter trap meeting Australian Standards for the size of the bin room to be installed and cleaned on a regular basis by a contractor;

b) The details of operation and how the hours of operation will be managed by the owners/operators of the non-residential uses;

c) An ongoing 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, and details of how all relevant traffic and parking related permit conditions will be complied with for the life of the development;

d) Details of staff car parking management, staff bicycle parking, staff education regarding considerate commercial operations and any other relevant details relating to staff education and management; and

e) Details of how the commercial owners/occupiers will ensure that amenity of adjacent residences will be not be adversely affected by noise, smell, waste management, loading and unloading, pests and any other considerations.

18. Prior to the endorsement of plans to Condition 1 of this permit, a construction Management Plan (CMP) must be prepared by a suitably qualified person, to the satisfaction of, and submitted to and approved by, the Responsible Authority. The CMP must include operational and site management details including but not limited to:

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

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

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

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

f) 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.

g) Site security.

h) Public safety measures.

i) Construction times, noise and vibration controls.

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

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

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

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


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

p) Hoarding details, if any.

Traffic

19. Prior to the completion of the basement floor constructions, written confirmation by a Licensed Land Surveyor must be provided to the Responsible Authority verifying that the car park floor levels have been constructed in accordance with the endorsed plans (prior to the construction of the levels above being commenced).

20. Prior to the completion of the ramps within the basement car parks, written confirmation by a Licensed Land Surveyor must be provided to the Responsible Authority verifying that the ramps have been constructed in accordance with the endorsed plans (prior to the construction of the levels above being commenced).

21. Prior to the completion of the basement floor constructions, written confirmation by a Licensed Land Surveyor must be provided to the Responsible Authority verifying that the car park levels have been constructed in accordance with the endorsed plans (prior to the construction of the levels above being commenced).

22. Prior to the completion of the ramps within the basement car parks, written confirmation by a Licensed Land Surveyor must be provided to the Responsible Authority verifying that the ramps have been constructed in accordance with the endorsed plans (prior to the construction of the levels above being commenced).
Drainage

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

24. Before the endorsement of plans at Condition 1 of this permit, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

25. The water sensitive urban design stormwater treatment system as detailed in the Sustainable Design Assessment report, prepared by Sustainably Design Consultants (Dated December 2016) 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.

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

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

Cultural Heritage Management Plan

28. Prior and during construction the requirements and Recommendations of the Ecology and Heritage Partners Aboriginal Cultural Heritage Management Plan dated 18 August 20016, Number 14331 must be implemented to the satisfaction of the Responsible Authority.

Permit Expiry

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

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

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

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

Permit Notes

- This permit does not constitute any authority to carry out any building works, works to public property or occupy the building or part of the building unless all relevant building and asset protection permits are obtained. The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.

- The proposed development would not be eligible for Council parking permits

- Other permits and approvals are likely to be required for this development. Please contact Council on 9599 4444 for more information.
5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategies of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.11 Local Areas (Martin Street Neighbourhood Activity Centre)
- Clause 22.05 Heritage Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 34.01 Commercial 1 Zone
- Cause 43.01 Heritage Overlay Schedule 749 (Martin Street Heritage Precinct)
- Clause 52.06 Car Parking
- Clause 52.07 Loading and Unloading of Vehicles
- Clause 52.34 Bicycle Facilities
- 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, the individual merits of the application and whether the amended plans response to Council’s previous Grounds for Refusal.
6.1 Strategic Justification

Justification in respect of the Strategic Considerations, Land Uses, Heritage, Vegetation and Cultural Heritage Management Plans are detailed in Item 4.5 of the Planning and Amenity Committee Meeting Agenda for 18 April 2017.

6.2 Amended Plans Assessment

This report will detail how the amended plans at Attachment 1 respond to the previous Grounds for Refusal and relevant planning policies.

Ground for Refusal 1

The amended plans seek a reduction in the number of dwellings from 27 to 15 and an additional level of basement car parking which result in a reduction in the waiver of two car parking spaces in lieu of 11 spaces previously sought.

The reduced dwelling density and change to the type of dwellings now incorporating three bedroom dwellings will provide for a range of occupants, including families. The amendments now meet the purposes of the Commercial Zone and the development will contribute to creating a vibrant retail, office and residential activity centre. The changes to the proposed built form are discussed below.

Grounds for Refusal 2 and 3

Planning Scheme amendment C152 seeks to rezone land around the Martin Street Neighbourhood Activity Centre from NRZ to GRZ and applies a new DDO to the activity centre area.

The DDO seeks to ensure that new buildings in commercial areas present a fine grain human scale to the streetscape and provide active frontages with shopfronts at street level. This design response is further advocated in Heritage Policy.

The subject site is located within Precinct C of DDO18. Pursuant to DDO18, Precinct C has a preferred height of 3 storeys (11 metres) and a minimum upper level front setback of 5 metres. These requirements are discretionary, and a planning permit may be granted to vary these requirements.

An assessment of the proposed amendments identifies the variations are acceptable for the reasons outlined below.

- Whist the overall height exceeds the 11 metres preferred height by 3.88 metres, the proposal is considered acceptable as the design response mitigates against the additional height and creates a more appropriate transition to the lower adjacent building forms along this side of Martin Street. Further, the front setback to this level now exceeds the minimum 5 metres at this level. The changes also provide for a simpler and well-proportioned backdrop to the heritage façade enabling the original heritage fabric to remain the primary focal point of the streetscape.

- The smaller balconies at Second Floor level and a central recess of 5 metres to the bedroom of Apartment 2.05 present a finer grain design response, replicating the proportions of the heritage facades beneath.

- At Third Floor Level the 5 metre central recess is continued to the balconies above. These balconies are recessed by 3.4 metres from the street boundary while the front wall has been further recessed from 5.6 metres to 7 metres which will ensure visibility of this level is limited from street level and oblique views from other vantage points.

Ground for Refusal 4

The original development sought consent for 27 dwellings comprising 14 x one bedroom dwellings and 13 x two bedroom dwellings with a car parking waiver of 11 spaces.
The proposed development seeks to reduce the number of dwellings to 15 comprising 2 x one bedroom dwellings, 6 x two bedroom dwellings and 7 x three bedroom dwellings with a car parking waiver of 2 spaces.

The existing use on site includes 300 square metres of retail floor space and a single dwelling equating to a total requirement for 13 car parking spaces to be provided on site. A total of two spaces are provided equating to an existing parking waiver of 11 spaces. Notwithstanding this, the application has been amended to provide a shortfall of two spaces in the absence of applying any previous car parking credits. The below table outlines the car parking requirements.

<table>
<thead>
<tr>
<th>USE</th>
<th>SIZE</th>
<th>PLANNING SCHEME PARKING RATE</th>
<th>CAR PARKING REQUIREMENT</th>
<th>CAR PARKING PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>2 x 1-bedroom  6 x 2-bedroom 7 x 3-bedroom</td>
<td>1 space to each 1 or 2-bedroom dwelling, 2 spaces to each 3 or more bedroom dwelling</td>
<td>22 resident spaces</td>
<td>Not allocated</td>
</tr>
<tr>
<td>Dwelling (visitor)</td>
<td>15 dwellings</td>
<td>1 space for visitors to every 5 dwellings</td>
<td>3 visitor spaces</td>
<td>Not allocated</td>
</tr>
<tr>
<td>Office</td>
<td>266m² net floor area</td>
<td>3.5 spaces to each 100m² of leasable floor area</td>
<td>9 spaces</td>
<td>Not allocated</td>
</tr>
<tr>
<td>Shop</td>
<td>272m² leasable floor area</td>
<td>4 spaces to each 100m² of leasable floor area</td>
<td>10 spaces</td>
<td>Not allocated</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>44 SPACES</strong></td>
<td></td>
<td><strong>42 SPACES</strong></td>
<td></td>
</tr>
</tbody>
</table>

It is noted the application material does not outline how the proposed spaces are to be allocated therefore a condition has been included to provide all residential, residential visitor and offices to be provided with full compliance with eight spaces in lieu of 10 being provided for the shops. A shortfall of two spaces for the shops is considered acceptable and supported by the proximity to Gardenvale Railway Station less than 200m away, the availability of alternative parking within the area and the likelihood that trips to this location will be multi-purpose and not solely to visit this development.

Council’s Traffic Engineer has reviewed the amended plans and offered no objections subject to conditions relating to disability accesses.

**Ground for Refusal 5**

The parking pressures and reliance on street car parking associated with the development has been reduced. It is likely that the shops will not demand a dedicated bay on site and will be by smaller delivery vans or can be accommodated by existing loadings bays within the immediate area. It is considered reasonable that the loading bay facilities for the delivery to the commercial properties is waived. It is noted that a revised Traffic Management Plan demonstrates that waste collection can comfortably occur on site.

**Ground for Refusal 6**

The revised plans alter the proposed layout and the above grounds for refusal are now not applicable. All dwellings and associated balconies have been redesigned to provide compliance with Standard B22 Overlooking and Standard B23 Internal Views. All balcony areas are now considered sufficient in size and dimension provide for the reasonable recreational needs of future residents. Further the development incorporates larger light wells which improves internal solar access and accessibility within the development in accordance with the requirements of Clause 58, Apartment Developments.
6.3. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Disturbances during construction

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

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. The developer will however be required to meet relevant Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

A Construction Management Plan is included as a condition of permit.

Use and condition of the rear laneway

Concerns have been raised regarding the condition of the rear laneway and the impacts of additional traffic movement. The proposed laneway is not within the ownership of the permit applicant but the titles benefit from a carriageway easement over the laneway. Council’s Traffic Engineer has not raised concerns regarding the surfacing of this area.

Support Attachments

1. Amended Development Plans
2. Site and Surrounds Imagery
3. List of Amendments to Development Plans
4. Refusal Development Plans
Figure 1. Aerial Overview of subject site and objector map.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Consenting Party</td>
</tr>
<tr>
<td>New Statements of Grounds (not parties to the appeal)</td>
</tr>
</tbody>
</table>
Figure 2. View looking north to the subject site.

121 Martin Street (three storey development to the rear of a contributory building to the Martin Street Heritage Precinct) to the left of the photograph.

123 Martin Street (non-contributory building) proposed to be demolished and 125-127 Martin Street (contributory building with front facades proposed to be retained) to the right of the photograph.
Figure 3. View looking north to 125-127 Martin Street (contributory building) with front façade proposed to be retained. To the right of the photograph is 129-135 Martin Street (contributory building).

Figure 4. View looking west along Martin Street with 129 – 135 Martin Street in the foreground and the subject site beyond.
Figure 5. View looking east along Mart Street towards Gardenvale Railway Station.

Figure 6. View looking east along Martin Street towards five storey development at 124 Martin Street.
Figure 7. View looking west along Martin Street with No. 116 to the foreground. It is noted these properties are not within the Martin Street Heritage Precinct but recessed upper floor levels are not visible from street level views.
Figure 8. View looking west to the subject site.
Figure 9. View looking west from Asling Street towards the subject site with the three storey development at 83 Asling Street to the right of the photograph.
Figure 10. Vegetation on site

Tree 1 – *Coprosma repens* (Mirror Bush)

Tree 2 – *Callistemon paludosus* (River Bottlebrush)

Tree 3 – *Ligustrum lucidum* (Broad-leaved Privet)
ATTACHMENT 3
List of amendments to development plans

Basement Level B02 (ATP-20000)
- 1 Additional Level of Basement, with full excavation to provide 23 car spaces (including 5 tandem spaces) and 8 storage units at this level.
- No car stacker parking.

Basement Level B01 (ATP-20001)
- Removal of Car Stackers
- New carpark layout with 19 car spaces (including 2 tandem spaces), 8 bicycle parks and 7 storage units.
- Column relocation.
- Waste room relocated from Ground level to B01.

Ground Floor Level (ATP-20002)
- Wider building entry (2m) all the way through to the lobby.
- Courtyard to Shop 2 deleted.
- Courtyard to Office 1 relocated and resized.
- Courtyard to Office 2 relocated and resized.
- Shops and Offices resized.
- Courtyard at rear of Office 3 now extends along the north boundary, providing light to the office space and providing building setback from north boundary.
- Substation, switchroom, gas meter room and pump room relocated.
- Removal of 2 visitor car parking spaces from north side.
- Minor changes to services sizes/locations.

Level 01 (ATP-20013)
- Revised Apartment number and mix with new internal layouts (as per table overleaf).
- Removal of balconies to western boundary wall (light well area), replaced by shallow balcony with 1.7m side screening and larger light well to ground level below.
- Balconies to northern façade resized to meet Better Apartment Design Guidelines, with 1.7m high screening balustrades. Balcony profile modified to increase setback from 83 Asling Street boundary.
- Balcony to eastern façade resized to meet Better Apartment Design Standard, with light well relocated.
Level 02 (ATP-20014)
- Apartment number and mix revised with new internal layouts (as per table below).
- South facing glazed balconies over Martin Street resized to allow more light to level 1 balconies below.
- Balconies removed from the west side light well. Light well north and south facing bedroom walls relocated to increase length of light well.
- Balconies to northern façade adjusted and resized to meet Better Apartment Design Guidelines, with 1.7m high balustrade screens.
- East facing balcony resized to meet Better Apartment Design Standard. Balcony to south end of light well removed providing larger light well opening. North facing wall at east side light well relocated further north with screen to window.
- External wall boundary setbacks unchanged. North facing balcony setbacks increased.

Level 03 (ATP-20015)
- Revised apartment number and mix with new internal layouts (as per table below).
- East side light well balcony reduced in depth.
- Balconies to northern façade resized to meet Better Apartment Design Standards, with 1.3m high balustrade screens and 1.7m high balustrade screen at unit 3.02 north eastern corner.
- West side light well terrace extends further to the north, and south facing wall retracts to the north. Balcony on north side of light well removed.
- Brick Planter Boxes to south balcony edge removed and replaced with glazed balustrades.

Apartment Number and Mix (Levels 1-3):

<table>
<thead>
<tr>
<th>LEVEL 1</th>
<th>NOVEMBER 2016</th>
<th>JULY 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>1B</td>
<td>2B</td>
<td>3B</td>
</tr>
<tr>
<td>LEVEL 1</td>
<td>7</td>
<td>4</td>
</tr>
<tr>
<td>LEVEL 2</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>LEVEL 3</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**DESIGN RESPONSE**

**heritage discussion**

**HERITAGE INTRODUCTION**

We note preliminary Heritage Architect advice has been sought for the proposed project, and will be provided as a supplementary document. The property at 123-127 Martin Street, Brighton, is included as part of the Martin Street Precinct, as identified in H0743, in the Schedule to the Heritage Overlay, of the Bayside Planning Scheme.

The property is formed of two components:

- No.123 is a non-contributory building.
- No.125-7 is identified as a contributory building at Clause 22.05 ‘Heritage Policy’.

Clause 22.05 is the local heritage policy for Bayside, which includes a statement of significance for the subject precinct, and identifies contributory buildings. This Clause also contains objectives and policies relating to demolition, and additions to heritage buildings & new buildings.

The issue of proposed building height, is to be addresses with the Urban Design Report, as prepared by Urbe.

**KEY DESIGN ITEMS / RESPONSES**

The proposed design intends to pay respect to the streetscape, within the context of being located within a heritage overlay precinct.

The design has been carefully considered, seeking to meet the clear objective of the specific heritage overlay. Of note, is the respectful way the design intends to all within the Martin Street streetscape, understanding the patterns & grain of the shopping strip built form, the retention and reassertion of important existing building fabric, and a considered approach to setbacks up the built form.

The provision of a new shopfront to 123 Martin St, takes note of visual cues from the existing shopfronts on the property - ie. two remixed shops to the frontage, three vertical column elements, austere detailing, masonry construction, high level of glazing, and the parapet heights - in the proposed expression of retail frontage.

The design retains the existing on-site grain, of gaps between buildings, and expresses this in new built form as darker and glazed recesses. The grain is continued up the façade to levels 1 & 2, through french carved lines to the masonry finish.
DESIGN RESPONSE
3d visualisation

123-127 MARTIN ST

TERMINAL PLANNING DESIGN RESPONSE
MARTIN STREET RESIDENCES
125-127 Martin St, Alberton, VIC, 3150

DATE: JANUARY 2016
SCALE: NOT TO SCALE
ATP - 10028

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Bayside City Council
Planning & Amenity Committee Meeting - 12 September 2017
Attachment 4

Page 74 of 505
4.2 1/133 THOMAS STREET, BRIGHTON EAST  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2016/270/1 WARD: NORTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/17/175766

1. Purpose and Background
To report a planning permit application for a liquor licence in association with a food and drink premises (refer Attachment 1) at 1/133 Thomas Street, Brighton East (refer Attachment 2).

This application was heard at the Planning & Amenity Committee on 6 July 2017. The Committee made a decision to defer the determination of the application to allow the then applicant to make representation at the meeting.

In the intervening period, the permit applicant has been amended from the property owner to the current business operator of the site.

It is noted that when the application was first presented to the 6 July Planning & Amenity Committee, the report referred to an external dining area on the nature strip. However, this land does not form part of this application and has been removed from the consideration of officers. The red line was removed from the external dining area as a result of the consult meeting held between objectors and the applicant.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr J Peynenborg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>31 March 2-16 (Amended: 3 October 2016)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>10 December 2016</td>
</tr>
</tbody>
</table>

The application seeks permission to sell and consume liquor in association with the existing ground floor food and drink premises.

The proposed hours to sell and consume liquor are as follows:
- Monday – Saturday: 12:00pm – 10:30pm; and
- Sunday: 12:00pm – 9:30pm.

A maximum of 49 patrons are proposed to be on-site at any one time.

Application history
The original land was developed as part of planning permit 2004/261/1 which authorised alterations and additions to a food and drink premises and dwelling and the construction of two (2) additional dwellings with car parking in a Design and Development Overlay.

The "as of right" use of the premises for a food and drink premises does not have a control on the hours of operation and patron numbers.

The applicant has advised that the existing use - “Café Largo” - currently operates from the premises between the hours of:
- Monday – Saturday: 7:00am to 3.30pm; and
- Sunday: 8:00am – 3:30pm.

The licence is being sought to allow alcohol to be consumed when accompanied with food on the premises within the hours proposed above and which vary from those currently operated.

The application as originally submitted proposed the sale and consumption of liquor between the hours of:
• Monday – Saturday: 7:00am – 11:00pm
• Sunday: 10:00am – 10:00pm

However, following a consultation meeting with the objectors, the hours that liquor is proposed to be sold and consumed was reduced (see Section 3 below).

2. Policy implications

Planning permit requirements
Clause 52.27 (Licensed Premises) – Use land to sell or consume liquor.

Planning scheme amendments
There are no relevant planning scheme amendments associated with the proposal.

3. Stakeholder Consultation

External referrals
There were 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>Community Partnerships and Health Planning</td>
<td>No objection</td>
</tr>
</tbody>
</table>

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

• Parking, congestion and traffic safety issues
• Noise
• Rubbish and waste disposal
• No restroom as part of premises
• Limited public transport availability

It is noted that as part of the advertising of the application in July 2017, the owner’s corporation (identified as PS708733J) were notified.

Consultation meeting
A consultation meeting was held on 22 August 2016 which was attended by objectors and the applicant.

Subsequent to this meeting, the applicant lodged an amended application to reduce the hours to sell and consume liquor on the premises as described in Section 1 above.

No objections were withdrawn as a result of the amended application.

4. Recommendation

That Council:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application No. 2016/270/1 for the land known and described as 1/133 Thomas Street, Brighton East, for a liquor licence for
an existing food and drink premises in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. The licensed area as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
2. The sale and consumption of liquor may only occur within the licenced area as shown on the endorsed plan.
3. The sale and consumption of liquor must remain ancillary to the principal use of the premises as a food and drink premises.
4. The service of alcohol may only occur in conjunction with a meal.
5. The sale of liquor may only occur on the premises between the following hours:
   - Monday – Saturday: 12:00pm – 10:30pm
   - Sunday: 12:00pm – 9:30pm
6. A maximum of 49 patrons are permitted on-site at any one time.
7. Before the use starts, a Noise and Amenity Plan must be submitted to and approved by the Responsible Authority and contain the following information:
   a) The identification of all noise sources associated with the licensed premises (including, but not limited to, music noise, external areas allocated for smokers, queuing lines, entries and exits to the premises and courtyards).
   b) Hours of operation for all parts of the premises.
   c) Details of the provision of music including the frequency and hours of entertainment provided by live bands and DJs.
   d) The identification of noise sensitive areas including residential uses and accommodation in close proximity to the licensed premises.
   e) Measures to be undertaken to address all noise sources identified, including on and off-site noise attenuation measures.
   f) Details of staffing arrangements including numbers and working hours of all security staff.
   g) Standard procedures to be undertaken by staff in the event of a complaint by a member of the public, the Victoria Police, an Authorised Officer of the Responsible Authority or an officer of the liquor licensing authority.
   h) Location of lighting within the boundaries of the site, security lighting outside the licensed premises and any overspill of lighting.
   i) Details of waste management including storage and hours of collection for general rubbish and bottles, and delivery times associated with the licensed premises.
   j) Details of any measures to work with neighbours or other residents in the immediate area to address complaints and general operational issues.
   k) Any other measures to be undertaken to ensure minimal impacts from the licensed premises.
   l) Location and operation of air-conditioning, exhaust fan systems and security alarms.

The approved Noise and Amenity Action Plan will form part of the permit and the use must operate in accordance with it to the satisfaction of the Responsible Authority.
8. This permit will expire if one of the following circumstances applies:
   a) The premises is not licenced under the Liquor Control Reform Act 1998 within two (2) years of the date of this permit.
   b) The use is not started within two years of the date of this permit.
   c) The use is discontinued for a period of two years or more.

   In accordance with Section 69 of the Planning and Environment Act 1987, the Responsible Authority may extend the periods referred to if a request is made in writing within the prescribed timeframes, where the use allowed by the permit has not yet started.

5. Council Policy

   Council Plan 2017-2021

   Relevant strategic objectives of the Council plan include:

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

   Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.07 Economic Development
- Clause 21.11 Local Areas
- Clause 34.01 Commercial 1 Zone
- Clause 52.27 Licenced Premises
- Clause 65 Decision Guidelines

6. Considerations

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

6.1 Liquor Licence

   The applicant seeks a planning permit for the sale and consumption of liquor in association with the food and drink premises during the following hours:

   - Monday – Saturday: 12:00pm – 10:30pm
   - Sunday: 12:00pm – 9:30pm
Pursuant to Clause 52.27 (licenced premises) a planning permit is required to use land to sell or consume liquor if a license is required under the *Liquor Control Reform Act 1998* and a different license or category of license is required from that which is in force.

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

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

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

As defined by Clause 21.11 – Local Areas, the subject site is located within Brighton East Neighbourhood Activity Centre. The liquor license will strengthen the provision of services offered to local residents in a convenient location to residential and commercial areas.

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

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

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

The food and drink premises that are the subject of this application has seating internal for patrons. In this and owing to the principal function of the premises as an eatery, it is considered that there be less likelihood of “vertical drinking” which would foster excessive drinking and encourage more extreme behaviours.

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

In order to minimise the likelihood of “vertical drinking” and the consequential effects on the amenity of the surrounding area, it is recommended that the selling and consumption of liquor may only occur in conjunction with a meal.

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

The applicant is seeking a liquor licence for operation between the following hours:

- Monday – Saturday: 12:00pm – 10:30pm
- Sunday: 12:00pm – 9:30pm

The hours sought for operation have been reduced from those proposed originally sought through this application.

These hours fall within the Victorian Commission for Gambling and Liquor Regulation’s (VCGLR) and *Liquor Control Reform Act 1998*. 
It is considered that the proposed trading hours for the sale and consumption of liquor on the premises will not create undue detriment to the amenity of surrounding land users and is not associated with increased alcohol related harm.

It is noted that the hours to sell and consume liquor are greater than the current operating hours of the food and drink premises (as identified above, the ‘as of right’ use of the land as a food and drink premises does not have a planning control relating to operating hours), therefore it is recommended that a condition of permit be included to ensure that the sale and consumption of liquor must remain ancillary to the principal use of the premises as a café. This will ensure that the use of the premises as a café with a liquor licence does not evolve.

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

It is considered an existing café which can currently operate with a maximum of 49 patrons will not adversely impact the amenity of the surrounding area as the serving of alcohol will be with a meal only.

Furthermore, a noise and amenity condition has been recommended to protect the amenity of the surrounding area.

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

Pursuant to Bayside Council’s Alcohol Harm Minimisation Policy June 2013, locations at risk of harm associated with cumulative impact have been identified as three or more licensed premises (including the proposed premises) within a radius of 100 metres of the proposed land; or 15 or more licenced premises (including the proposed premises) within a radius of 500 metres from the subject land.

The Council’s Co-ordinator for Community Partnerships and Health Planning advises that there are an estimated 2 liquor licences within 100 meters of the proposed venue. This is well within the threshold and not likely to cause increased alcohol related harms.

They further advise there is no evidence to suggest the introduction of a Restaurant and Café licence to the area will result in an increased risk of harm due to alcohol consumption. Noting that this recommendation is based on the trading hours, outlet density and outlet type.

7. Objections Received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

No restroom

Whether the licenced premises has a restroom is not a material consideration in the determination of an application for a planning permit. The provision of this is controllable under legislation other than planning legislation.

Notwithstanding this, whilst the café does not have dedicated restroom facilities within it, a restroom is accessible via a communal area.

Limited public transport & parking, congestion and traffic safety issues

The consideration of a liquor licence is limited to those matters discussed above. It cannot retrospectively consider the impacts of the existing use of the premises as a café on neighbouring land uses.

Notwithstanding this, it is not considered that the sale or consumption of liquor on the premises would give rise to any greater impact on existing parking provision, raise significant traffic safety or congestion issues over and above the existing operational use of the premises.
Noise, rubbish and waste disposal

A condition on the permit has been recommended to require that the applicant provide a noise and amenity plan to ensure minimal impacts to neighbouring land uses as a result of the proposed use. Such a control would also identify measures for waste management.

Support Attachments

1. Liquor Licence Area/ Red Line Plan
2. Site & Surrounds Imagery
3. Planning Permit
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.
N.B. No address provided by one objector

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

Figure 3 View towards the site from the southeast
Address Of The Land: No. 133 Thomas Street BRIGHTON EAST

The Permit Allows:

Alterations and additions to food and drink premises and dwelling and the construction of two (2) additional dwellings with car parking in a Design and Development Overlay 2 in accordance with the endorsed plans and subject to the following conditions. In accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply to this Permit

1. Before the use and developments starts, three (3) copies of the revised plans drawn to scale and dimensioned, 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 generally in accordance with the endorsed plans dated 18 February 2005, but modified to show:

   a. Revisions to the plans to remove the notation 'shop' and replace it with 'food and drink premises'; in accordance with the drawing numbers TP1-1 Revision A3, dated September 2012.
   b. Alterations to the proposal as indicated in the revised plans dated 19 August 2004.
   c. Documentation of materials, finishes, textures, fixing detail of windows and doors and colours of the entire building (which is partially incorporated in the documentation supplied to VCAT in review hearing P2598/2004 dated January 2005). This includes paint/render finishes and colours of the northern and southern walls of the building.
   d. Nomination of heights and finished floor levels to AHD.
   e. All plant and equipment (including air conditioning units, heating units, hotwater systems, etc) which are proposed to be located externally shall be identified on the plans and located to the satisfaction of the Responsible Authority.
   f. The car spaces designated to each use with provision for one (1) fully accessible car space for the existing shop and one (1) fully accessible car space for each of the proposed apartments.
   g. The location of mailboxes and intercommunication systems at the front of the building.
   h. Designated bin enclosures and storage areas for the apartments and the shop on the ground level.

Date issued: 18 February 2005

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

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IMPORTANT INFORMATION ABOUT THIS NOTICE

WHAT HAS BEEN DECIDED?

- The responsible Authority has issued a permit.

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4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision:
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i. The provision of six (6) cubic metres of externally accessible storage space to each residential tenancy.

2. The use and/or development as shown on the endorsed plans must not be altered or modified (whether or not in order to comply with any statute, statutory rule or for any other reason) without the prior written consent of the Responsible Authority.

3. Before occupation, all buildings and works specified in this permit must be completed to the satisfaction of the Responsible Authority. The Responsible Authority must be advised in writing when all construction and works are completed to enable the site to be inspected.

4. The alterations of soil levels involving an increased or decreased level at the boundaries must be retained by the provision of an adequate retaining wall, constructed of brick or masonry or other suitable alternative approved by the Responsible Authority, to buttress the soil against the possibility of shift. The construction of this retaining wall shall be the sole responsibility of the owner/developer.

5. Street numbers contrasting in colour to the background must be fixed at the front boundary of the property as near as practicable to, or on the letterboxes in order to clearly establish the identity of the property. Separate unit numbers shall be placed adjacent to the front entrance of each dwelling, such numbers to be clearly legible from the access driveway.

6. Before the use and/or development starts, a site layout plan drawn to scale and dimensioned must be approved by a Building Practitioner registered under the Building Act 1993 and submitted to the Responsible Authority to show a drainage scheme providing for the collection of storm water within the site and for the conveying of the storm water to Council’s nominated point of discharge to the satisfaction of the Responsible Authority.

7. All service pipes, fixtures and fittings must be concealed on exposed elevations to the satisfaction of the Responsible Authority.

8. All brickwork on or facing the boundaries of the site must be raked and cleaned or rendered to the satisfaction of the Responsible Authority.

Date issued: 18 February 2005

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PLANNING PERMIT
2004/261/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

9. Before any construction or demolition works commence on the site, to the extent that the site perimeter is unfenced and/or is not fenced to the satisfaction of the Responsible Authority, a secure fence is to be erected around the perimeter of the site to prevent access to the site from unauthorised persons. This fence is to be maintained for the duration of the construction and demolition, be a minimum height of 1.8 metres or such alternative height as is approved by the Responsible Authority and to be constructed and sited to the satisfaction of the Responsible Authority. The gate or opening to the fence must be securely locked at all times when work has ceased on the site.

10. All noise emanating from any mechanical plant (air conditioners etc) on the site must be kept at a level satisfactory to the EPA and the Responsible Authority.

11. All plant and equipment (including air conditioning units, heating units, hot water systems, etc) which is/are proposed to be located externally shall be identified on plans and located to the satisfaction of the Responsible Authority. Such plant and equipment shall be located away from the bedrooms on dwellings in the nearby residential zone and shall not be located on top of the building unless otherwise approved by the responsible authority.

12. Before the occupation building areas set aside for parked vehicles and associated access ramps as shown on the endorsed plans must be:
   (a) constructed to the satisfaction of the Responsible Authority;
   (b) properly formed to such levels that they can be used in accordance with the plans;
   (c) access is from an all-weather sealcoat to the satisfaction of the Responsible Authority;
   (d) drained, maintained and not used for any other purpose to the satisfaction of the Responsible Authority;
   (e) in accordance with the relevant Australian Standard for car parking facilities. Parking areas and access lanes must be kept available for these purposes at all times.

13. Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

14. Prior to the issuing of a building permit for the development hereby permitted, a report must be submitted to the satisfaction of the Responsible Authority. This report must certify that the proposed development has been designed to achieve a four star energy rating, using the Sustainable Energy Authority of Victoria 'FirstRate' system or equivalent.

Date Issued: 18 February 2005

Planning and Environment Regulations 2006 Form 4

Signature for the Responsible Authority

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PLANNING PERMIT
2004/261/1

Responsibility Authority: Bayside City Council
Planning Scheme: Bayside

15. The Legal Point of Discharge for this development is to be the grated pit installed within the sealed laneway at the rear of the property. The pipe leading from this pit should be checked for operation before connection. The Developer should be satisfied that levels permit the adoption of the above discharge point.

16. The Mechanised Car Lift Well agricultural and seepage drainage must be pumped to the nearest Council Drain Pit and not be discharged to the kerb and channel.

17. Plans for the construction of the drainage must be to the satisfaction of the Responsible Authority prior to the commencement of the development.

18. Any paved courtyards/paths must be graded/drained to prevent stormwater discharge into properties.

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

- The development and use is/are not started within two (2) years of the date of this permit.
- The development is not completed within two (2) years of the date of the commencement of the works.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.
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<table>
<thead>
<tr>
<th>Date</th>
<th>Brief description of amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 April 2009</td>
<td>Extension of time granted to allow development to be completed by April 2010.</td>
</tr>
</tbody>
</table>
| 12 June 2009  | Permit Amended under Section 71 of the Planning and Environment Act 1987 to:  
* Correct administrative error to Planning Permit preamble to reflect the VCAT Order.                                                                                                                                                        |
| 19 July 2010  | Extension of time granted to allow development to be completed by April 2012.                                                                                                                                                                     |
| 2 March 2012  | Extension of time granted to allow the development to be completed by 1 March 2013.                                                                                                                                                                 |
| 19 November 2012 | Directed by the Victorian Civil Administrative Tribunal Order dated 15 November 2012:  
* Alterations to the permit preamble to state: Alterations and additions to food and drink premises and dwelling and the construction of two (2) additional dwellings with car parking in a Design and Development Overlay 2 in accordance with the endorsed plans and subject to the following conditions.  
  * Conditions in the permit amended as follows  
    > Condition 1 is amended to read:  
    
    * Revisions to the plans to remove the notation 'shop' and replace it with 'food and drink premises; in accordance with the drawing numbers TP1-1 Revision A3, dated September 2012.  

| 19 March 2013 | Extension of time granted to allow development to be completed by 3 March 2014.                                                                                                                                                                 |
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PLANNING PERMIT
2004/261/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

16 August 2013
Amendment to the endorsed plans under Secondary Consent:
- Deletion of glass bricks in the southern wall on the boundary
to be replaced with rendered masonry matching the
remaining wall.

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.

Date issued: 18 February 2005
Planning and Environment Regulations 2005 Form 4

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4.3 48 CAMPERDOWN STREET, BRIGHTON EAST  
NOTICE OF DECISION TO AMEND A PLANNING PERMIT  
APPLICATION NO: 2013/668/3  WARD: NORTHERN  
City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/17/165212  

1. Purpose and background  
To report an application for a Section 72 Amendment to Planning Permit 2013/668/2 (refer Attachment 1) which allows the construction of two double storey dwellings and a front fence exceeding a height of 1.2 metres at 48 Camperdown Street, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Krisp Landscape Design Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>5 December 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>4 September 2017</td>
</tr>
</tbody>
</table>

The submitted amendment seeks approval to amend condition 1a from Planning Permit 2013/668/2 which reads the height of fencing directly in front of the dwellings facing Carrington Grove reduced to a maximum of 1.2 metres and of an open style. The proposal seeks to erect a 1.8 metre high aluminium and timber batten fence along both the Carrington Grove frontage and the Camperdown Street side of the lot.

The aluminium batten fencing is sought to extend north-south around the front yards for both dwellings. The timber batten fencing is proposed to stretch from the northern edge of Dwelling 2 to enclose the northern yard abutting the corner of Camperdown Street and Carrington Grove.

The existing planning permit has permission for a 1.8 metre high fence along this interface and an open style fence 1.2m high along the front yards of both dwellings.

2. Background  
Planning permit 2013/668/1 was issued at the direction of VCAT (following an objector appeal against Council’s Notice of Decision) on 16 December 2015. The permit allowed the construction of two double storey dwellings and a front fence exceeding a height of 1.2 metres, subject to conditions. Plans were endorsed on 5 February 2016. The permit was amended pursuant to Section 72 of the Planning and Environment Act 1987 on 22 April 2016 to include the removal of one native tree located in the front setback of the site.

This is the second request to amend the permit.

3. Policy implications  
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.

4. Stakeholder Consultation  
External referrals
There were 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.
Internal Referral  |  Response
--- | ---
Traffic Engineer | Verbal Support, subject to confirmation of a 3m x 3m splay at the north-eastern corner of the lot

Public notification

The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and 8 objections were received with 1 subsequently withdrawn. 7 objections to the amendment to the planning permit remain. The following concerns were raised:

- Reduced sightlines around the corner;
- Public safety;
- Negative impacts on streetscape;
- Fencing style should be consistent;

Consultation meeting

A consultation meeting was held on 17 May 2016 attended by the permit applicant, the land owners and 5 objectors. As a result of this meeting 1 objection was withdrawn.

5. Recommendation

That Council:

Issues a **Notice of Decision to Grant an Amended Planning Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **48 Camperdown Street, Brighton East**, 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:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans dated 8 June 2017 but modified to show:

   a) **Correction to the landscape concept plan to accurately show a minimum 3000mm x 3000mm splay and solid diagonal setback of the fence.**

   b) The provision of a privacy screen to the south facing study window of dwelling 1 in accordance with the requirements of Standard B22 of Clause 55 of the Planning Scheme.

   c) The height of the dividing wall between the side rear gardens of the dwellings at a minimum height of 1.8 metres.

   d) The width of the garage door openings increased to a minimum of 3 metres.

   e) All pedestrian garage doors to open outwards.

   f) The width of driveways increased to a minimum of 3 metres.

   g) The width of the crossovers increased to a minimum of 3 metres and aligned with the driveways.

   h) No excavation within 2.2 metres from the edge of the trunks of the two street trees fronting Carrington Grove.
i) The location of plant and equipment including air conditioning units and condensers located against the shared wall between the dwellings so as to minimise visual and noise impacts to adjoining properties.

j) A landscaping plan in accordance with Condition 9 of this permit including a canopy tree capable of reaching a mature height of 8 metres within the setbacks of each dwelling along Carrington Grove.

k) The site plan to show the in-ground swimming pool in the rear secluded private open space of 46 Camperdown Street.

l) The provision of 6 cubic metres of storage for each dwelling.

m) sill height of all west facing windows (House 1 and 2) be a minimum of 1700mm above finished first floor level.

n) Deletion of first floor study (House 1) resulting in a wall set back of west wall of bedroom 2 of not less than 7.5 metres from the west boundary with 46 Camperdown Street.

o) Consequential changes to the roof line in accordance with Condition 1(n) to be substantially in accordance with plan 05, dated 16 December 2015 and marked in red.

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

3. Prior to the commencement of the development a tree protection methodology report is required to be submitted to and approved by the Responsible Authority. This report must accurately identify all vegetation on the site that is to be retained and adjacent to the property that has a Tree Protection Zone inside the property boundary in accordance with AS4970. This report must provide direction on tree sensitive engineering and protection measures during the construction process, in particular for Tree 1 and Tree 11 located at 1 Carrington Grove.

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

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

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

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

8. Vehicular crossings must be constructed to the road to suit the proposed driveways to the satisfaction of the responsible authority.

9. Before the development starts, 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 and three copies must be provided. The landscaping plan must show:

   a) A survey (including botanical names) of all existing vegetation to be retained and/or removed
b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundaries.

c) Details of surface finishes of pathways and driveways.

d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant including the trees required by Condition 1j) of this permit.

e) Landscaping and planting within all open areas of the site.

All species selected must be to the satisfaction of the responsible authority. The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.

10. Before the occupation of the development starts or by such later date as is approved by the responsible authority in writing, 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. Tree Protection Fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete.

a) The fencing is to be constructed and secured so its positioning cannot be modified by site workers.

b) The fencing is to encompass the entire nature strip under the drip line of the trees.

c) The Tree Protection Zones are to be established and maintained in accordance with Australian Standards 4970 (Protection of trees on development sites).

d) 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.

13. Root pruning within the TPZ (Tree Protection Zone)

a) Prior to soil excavation, a trench along the line of the proposed crossover must be dug by hand.

b) All affected roots must be correctly pruned according to AS 4373-2007.

14. The existing street trees must not be removed or damaged.

15. The applicant must apply for the nominated legal point of discharge for the development where stormwater run-off must be collected and free drained to Council's drainage assets to Council standards.

16. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

17. Any seepage/agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain/Pit and not be discharged to the kerb and channel unless directed otherwise.
18. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:
   a) A trench grate (150mm minimum internal width) located within the property and/or
   b) Shaping the driveway so that water is collected in a grated pit on the property and/or
   c) Another Council approved equivalent.

19. Before the development begins, three sets of detailed plans indicating the method of stormwater discharge to the nominated Legal Point of Discharge (and Stormwater Detention Systems where applicable) must be lodged with Council’s Engineering Services department for approval.

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

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

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

**Permit Notes**

- 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.
- Building approval must be obtained prior to the commencement of the above approved works.
- Consultation should take place with Council respect of the removal of the vehicular crossing and reinstatement works.

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

   The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.

- The existing street tree/s must not be removed or damaged.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator, Mon-Fri 9:00am to 1:00pm on 9599 4638.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 September 2017</td>
<td>Amended Plans under Section 72:</td>
</tr>
<tr>
<td></td>
<td>• Installation of a 1.8 metre high aluminium batten fence along the Carrington Grove frontage.</td>
</tr>
</tbody>
</table>
- Replacement of the permitted 1.8 metre high timber fence with a 1.8 metre high timber batten fence painted black.
- Minor changes to the endorsed landscape plan.

Amended Conditions under Section 72:
- Deletion of existing Condition 1(a) and replacement with a new Condition 1(a)

<table>
<thead>
<tr>
<th>22 June 2015</th>
<th>Amended Plans under Section 72:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Removal of a Sweet Pittosporum (Tree 2) located within the front setback of the site.</td>
</tr>
</tbody>
</table>

6. **Council Policy**

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11  Settlement
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.06  Built Environment and Heritage
- Clause 22.06  Neighbourhood Character Policy
- 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 55  Two or more dwellings on a lot
- Clause 65  Decision guidelines

7. **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.

7.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct D4 and the proposal is considered to demonstrate a high level of compliance with the preferred future character
statement and precinct guidelines as contained in Attachment 2.

The preferred future character statement of the precinct is:

“The wide variety of dwelling styles sit within established gardens, with occasional canopy trees, and do not dominate the streetscape. The buildings are consistently set back from the front and at least one side boundary, which, combined with the open style front fencing, creates a sense of spaciousness in the streetscape. Avenues of street trees assist in unifying streetscapes.”

The precinct guidelines are as follows:

<table>
<thead>
<tr>
<th>Objective</th>
<th>Design Response</th>
<th>Avoid</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings and rhythm of front boundary setbacks.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. • Retain large trees wherever possible. • Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large trees.</td>
</tr>
<tr>
<td>To maintain the rhythm of 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>
</tr>
<tr>
<td>To minimise the dominance of car parking structures in the streetscape.</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>
</tr>
<tr>
<td>To ensure that buildings and extensions do not dominate the streetscape.</td>
<td>• Recess second storey elements from the front façade. • Use simple building details.</td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the streetscape and the views into front gardens.</td>
<td>• Front fences should be open style, other than along heavily trafficked roads.</td>
<td>High, solid front fences.</td>
</tr>
</tbody>
</table>

The relevant objective to this amendment is that new development should maintain the openness of the streetscape and views into front gardens. The proposed fence is a mixture of angled aluminium batten for the front gardens along Carrington Grove and timber batten fencing surrounding the northern yard from Dwelling 2 to the north. The fence is sought to be a maximum of 1.8 metres high along the northern and eastern street-facing sides of the lot. 1.6 metre insets are proposed for both gateways along the Carrington Grove frontage.

The existing character of the front fencing in both Camperdown Street and Carrington Grove is one of mixed heights and variable visual permeability. Numerous front fences in the vicinity are greater than 1.5 metres high and visually impermeable, specifically 2 and 4 Carrington and 53 Camperdown (directly across the Camperdown/Carrington intersection). The two new dwellings at 48 Camperdown Street are raised at the ground floor level when compared with the elevation of the Carrington Grove streetscape.

The proposed 1.8 metre high angled aluminium batten fencing along the Carrington Grove frontage provides partially obscured views into the private open space of both new dwellings. This style and height of fencing is considered to provide a reasonable compromise between the preferred character of an open streetscape and partial seclusion of the street-facing private open space. Given the aesthetically pleasing appearance of the fence it is recommended for support.
The fencing of the northern yard is required to provide secluded private open space to Dwelling 2. The 1.8 metre high timber batten fencing surrounding the northern yard of Dwelling 2 provides similar visual permeability to several other front yards along Camperdown Street. Importantly, the height of this fence is the same as what was permitted as a part of the original planning permit 2013/668/1, albeit the siting is slightly different and the materials more contemporary.

The proposed fence – particularly the materials – is considered to respond to the existing neighbourhood character of Camperdown Street in that it is of a similar design and style to others in the vicinity, particularly 53 Camperdown. Additionally, the proposed materials and design of the fence is considered to more accurately reflect the existing neighbourhood character of the immediate surrounds than that of the existing fence approved under planning permit 2013/668/1 (shown in Figure 4 of Attachment 2).

Therefore, the style and design of the proposal is considered to respect existing neighbourhood character and will not unreasonably impact on the preferred character of the precinct.

7.2. Compliance with the Relevant Clause 55 (ResCode)

Front Fences (Standard B32)

The proposed front fence requires a variation to Standard B32 which is varied under Schedule 3 to the Neighbourhood Residential Zone to have a maximum front fence height of 1.2 metres. The front fences objective seeks to encourage design that respects the existing or preferred neighbourhood character. As outlined in Section 7.1 of this report, the planning department considers that the proposal satisfactorily respects the existing neighbourhood character.

7.3. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Reduced sightlines around the corner / public safety

Numerous objectors raised concerns about public safety and the preservation of vehicle sightlines on the adjoining corner of Carrington Grove and Camperdown Street. The amendment was referred to Council’s Traffic Engineer for comment who was supportive of the application provided a condition was added to the permit that the fence be splayed a minimum of 3 metres inset from the lot boundary closest to the corner intersection. The plans submitted to Council on 8 June 2017 include some minor scaling errors to the proposed splay that can be corrected by the applicant.

The existing planning permit includes permission for a visually impermeable 1.8 metre high fence bounding the northern yard. The existing fence splay is 3.05 metres by 3.05 metres on the endorsed plans. This fence was constructed in May 2017 (shown in Figures 2 & 3 in Attachment 2). The design and location of the proposed fence is considered unlikely to result in further reductions to sightlines around this intersection, over and above that already considered, approved and constructed.

7.4. Vegetation & Landscaping

A number of minor changes are proposed to the endorsed landscape plan including changes to quantities of numerous proposed plants. The changes are only to ground level vegetation and the several canopy trees proposed as a part of the original landscape plan are sought to be retained.

Therefore, these minor changes to the landscaping are considered acceptable and are recommended for support.
Support Attachments

1. Amended Development Plans
2. Site Surrounds and Imagery
3. Current Endorsed Plans
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1. Aerial overview of the site and surrounds
*An additional objection included a group of existing objectors and is not shown on the map

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚫</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>▲</td>
</tr>
</tbody>
</table>
Figure 2. View towards intersection of Carrington Grove and Camperdown Street (taken 11 August 2017)
Figure 3. View across intersection of Carrington Grove and Camperdown Street (taken 27 April 2017)
Figure 4. Existing fencing style at 48 Camperdown Street (taken 11 August 2017)
Figure 5. Example of similar fencing style at 53 Camperdown Street (taken 27 April 2017)
1. **Purpose and Background**

To report a planning permit application for the construction of two dwellings on a lot, the construction of a front fence with a height in excess of 1.2 metres, and the construction of a roof deck above the second storey of a building on a lot with an area of 980m² (refer Attachment 1) at 25 Dawson Avenue, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Urbis Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>19 September 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>13 January 2017</td>
</tr>
</tbody>
</table>

2. **Policy Implications**

**Planning permit requirements**

Clause 32.09-5 (Neighbourhood Residential Zone – Schedule 3) – Construction of two or more dwellings on a lot and construction of a fence exceeding 1.2m in height.

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

3. **Stakeholder Consultation**

**External referrals**

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

**Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Arborist</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 Section 52(1)(a) and (d) of the *Planning and Environment Act 1987* and four (4) objections were received. The following concerns were raised:

- Visual bulk and excessive height;
- Overdevelopment;
- Inconsistency with neighbourhood character;
- Lack of garden area and tree removal;
- Impacts on local bird and mammal species;
- Overlooking / loss of privacy;
- Overshadowing;
- Impacts on trees on neighbouring properties;
- Construction noise; and
- Undermining of neighbouring dwellings’ foundations

Consultation meeting

A consultation meeting was held on 20 March 2017. As a result of this meeting one objection was withdrawn. Three (3) objections remain outstanding.

4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **25 Dawson Avenue, Brighton**, for the **construction of two dwellings on a lot**, the **construction of a front fence with a height in excess of 1.2 metres**, and the **construction of a roof deck above the second storey of a building** in accordance with the endorsed plans and subject to the following conditions:

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

2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. Before the occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works must be carried out and completed to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

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

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

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

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

14. Prior to endorsement of plans pursuant to Condition 1, a detailed landscape plan must be submitted to, and endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan prepared by Craig Eldridge Design, titled “25 Dawson Ave Brighton, Victoria”, dated 10/04/17, Sheets TP01 – TP04, and be drawn to scale with dimensions. Three copies must be provided. The plan must show:
   a) A survey, including botanical names, of all existing trees to be retained on the site.
   b) A survey, including botanical names, of all existing vegetation to be removed from the site.
   c) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
e) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
f) Details of surface finishes of pathways and driveways

g) One large coastal canopy tree with the capacity to reach a mature height of 10 m and spread of 6 m at maturity, in the front setback of each new dwelling.
h) One small coastal canopy tree, with the capacity to reach a mature height of 8 m and spread of 4 m at maturity in the rear private open space of each dwelling.
i) Shrubs and ground-covers must also include coastal species.
j) All proposed plantings that were shown on Council land, removed.
k) Landscaping of the enlarged permeable area adjacent to the western boundary to be created by 0.6 metre reduction in the width of the paved pathway, in accordance with Condition 1(b).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.
In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit Notes

- This permit does not constitute any authority to carry out any building works, works to public property or occupy the building or part of the building unless all relevant building and asset protection permits are obtained. The applicant is to bear the cost to remove and reinstate any street furniture or infrastructure items to provide the required access to the proposed development.

- Before any Asset Protection Permit is issued by Council, the applicant must pay $2,168.55 to the Responsible Authority for the removal and replacement of the Ulmus procera (English Elm) street tree located centrally along the site frontage. This amount has been determined in accordance with Council's current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

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

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

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

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

- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy (Precinct C1)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development 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 C1 and, subject to appropriate conditions being imposed, 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.

In particular, it is considered that the landscaping of the site will be acceptable, provided that the mix of species proposed is amended to be more consistent with the coastal vegetation character of the local area. In order to achieve this, a suitable condition will be imposed on any permit issued.

The Neighbourhood Character Precinct Guidelines state that the upper-level elements should be recessed from the front façade. Although the design response features a first-floor (Dwelling 2) that overhangs the ground floor along its front façade, this relates to only a narrow (6m wide) portion of the building, and given the 21.34m width of the site, as well as the substantial 9.02m front setback, it is considered that this overhang will not be a visually dominant feature within the streetscape.

To ensure that the proposed development is consistent with the existing and preferred built character of the neighbourhood, a condition will be imposed requiring the height of Dwelling 1 to be reduced to comply with the relevant standard. This will involve a reduction in the maximum building height from 9.19m to 9m.

It is also noted that the first floor of Dwelling 2 partly overhangs the driveway ramp to the basement, where ground-floor development is precluded by the need to provide sufficient clearance height for vehicles entering and exiting the basement.

Furthermore, the neighbourhood is becoming increasingly characterised by less traditional, more angular buildings designs, and the highly contemporary design proposed will not be conspicuous within the streetscape. Examples of modern design, and flat-roofs in particular, in close proximity to the site are visible at 4, 10/10A, 13, 16, 17, 31, 32 and 34 Dawson Avenue.

The proposed development does involve a substantial encroachment into the side setback along its western elevation at the first floor (refer detailed discussion in Attachment 4). It is considered, however, that the proposed streetscape drawing (Sheet TP01) that forms part of the advertised plans demonstrates satisfactorily that, in respect of its upper–storey side setbacks, the proposal will not represent an inappropriate departure visually from other two-storey dwellings in close proximity to the site. The proposal will not look markedly different from existing two-storey developments at 21, 23 and 29 Dawson Avenue when viewed from the public realm. The dwellings on those sites have sheer two-storey walls, and are built relatively closely to the boundary.
In addition, the submitted landscape plan requires amending to ensure that the proposal maintains and enhances the garden settings of the dwelling. In order to achieve this, a condition will be imposed on any permit issued requiring more substantial landscaping within the front and rear setbacks, most notably through the planting of canopy trees capable of achieving greater height and spread. Also, a greater focus on the planting of coastal species will be required.

A generally adequate area for landscaping has been provided on the site, but this aspect of the development could be further enhanced by reducing the width of the proposed 1.8m wide path adjacent to the site’s west (side) boundary. A 0.6m reduction in the path’s width would increase the site’s permeable area by approximately 1.6% (15m²), and consequently the area available for landscaping by the same amount. A reduction in impervious surfacing will ensure that the site is more consistent with existing development in the local area, where higher levels of permeable area are commonplace.

The application proposes a 1.5m high fence and hinged vehicle gates, comprising rendered brick piers with vertical metal bars in-between. The elevations do not clearly indicate the level of visual permeability, so a condition will be imposed requiring a notation to be added to the plans stating that the fence’s metal-bar sections will be at least 50% open. A visually permeable fence will ensure that a greater level of openness is maintained within the streetscape and will be more respectful of the existing and preferred neighbourhood character.

Refer Section 5.2 below for further discussion of the proposed front fencing.

6.2. Compliance with Clause 55 (ResCode)

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

Building Height (Standard B7)

The maximum proposed height of the building (Dwelling 1), to the roof of the lift structure atop the rooftop deck, is 9.19m. This represents a 0.19 metre variation above the maximum permitted standard of 9m. A condition will be imposed requiring the building’s height to be reduced to no greater than 9m, thus ensuring the proposal complies with the standard (refer Condition 1(a)).

<table>
<thead>
<tr>
<th></th>
<th>Permitted</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling 1</td>
<td>9m</td>
<td>9.19m</td>
</tr>
<tr>
<td>Dwelling 2</td>
<td>9m</td>
<td>6.94m</td>
</tr>
</tbody>
</table>

Side and Rear Setbacks (Standard B17)

At ground level, the living area of Dwelling 1, located towards the rear of the site, encroaches 740mm into the required 2m setback to the western side boundary. This is considered acceptable because the encroaching area will be situated entirely adjacent to the existing garage on the neighbouring property (27 Dawson Avenue), which is built to the boundary. This is, therefore, considered a non-sensitive interface where a relatively minor setback encroachment at ground level will not give rise to physical dominance.

At the first floor, the western wall of Dwelling 1 will encroach 3.04m into the required 6.18m side setback to the adjacent side boundary. This is considered acceptable because the encroaching length of building will be situated entirely adjacent to the existing carport and driveway on the neighbouring property (27 Dawson Avenue). Like the garage behind it, the carport is built to the boundary. It is also noted, being located to the west of the subject site, any shadowing effects on the neighbouring property will be limited to the morning, and will not impact to any significant degree on access to
daytime sunlight. The secluded private open space of the 27 Dawson Avenue is located to the rear of the site, a sufficient distance from the proposal's first floor to be unaffected by the encroachment in to the required setback.

The proposed streetscape drawing (Sheet TP01) that forms part of the advertised plans demonstrates that the development will not represent an inappropriate departure visually from other two-storey dwellings in close proximity to the site, in respect of its upper-storey side setbacks. The proposal will not look markedly different from existing two-storey developments at 21, 23 and 29 Dawson Avenue in this regard. The dwellings on those sites have sheer two-storey walls, and are built relatively closely to the boundary.

Further, no objection has been received from the owners or occupiers of the property at 27 Dawson Avenue.

Due to these features, this is considered a non-sensitive interface where the proposed encroachment will not give rise to physical dominance.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

Front Fences (Standard B32)

The proposal involves the construction of a partially solid front fence to a maximum height of 1.8m.

As described above, high, solid fencing is common in Dawson Avenue, and much of the existing fencing on nearby properties does not offer the same level of variety of materials or colours as that proposed in this application. It is considered that the proposed fence will offer a high degree of visual interest.

It is also noted that the sections of solid fence proposed will be interspersed with steel and timber picket gates that are 50% visually permeable. This will ensure that a suitable level of visual interest and openness of streetscape is provided.

Although comprising sections of 1.8m high rendered brick, it is nonetheless consistent with the existing neighbourhood character and the subject site’s existing front fencing, which comprises a high red brick wall that extends across the entire front boundary with the exception of the driveway. There are, however, also existing solid timber gates within the driveway, set back approximately 6m from the front boundary. As a result, with the gates shut the site frontage is presently 100% visually impermeable. The proposed front fencing, therefore, represents an improved outcome in this regard.

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front fence</td>
<td>1.2m</td>
</tr>
</tbody>
</table>
6.3 Car parking and traffic

The application was assessed by Council’s traffic engineer, who stated no objection to the proposal, subject to minor amendments relating to vehicle access. A 0.8m splitter island will need to be shown on amended plans, physically separating the driveways within the nature strip. Also, the 1.0m ramp transitions within the driveways need to be increased to 2.0m to meet the relevant standard for vehicle ramps (refer Conditions 1(e) and (f)).

The addition of the splitter driveways within the nature strip would marginally increase the width of the crossover, but with no consequential impacts on street trees, as the large Elm tree in that general location will need to be removed in any case. Having assessed the proposed changes to the site’s vehicle access, i.e. the removal of the existing crossover and the reinstatement of the kerb / nature strip and the addition of a new double-width crossover in the middle of the site’s frontage, the Council’s traffic engineer has offered no objection in respect of potential loss of on-street car parking spaces. This is on the basis that the loss of only one on-street space is acceptable and expected where it is proposed to add one further dwelling that meets its own car parking requirements on-site.

The minor changes required to the ramp grade may potentially have a minor impact on the design on the development, the most likely consequence, if any, being a requirement to move the ground floor slightly further back to ensure that the minimum headroom clearance is maintained at every point along the ramp.

Each dwelling is provided with more than the two required car parking spaces, as set out on Clause 52.06 of the Planning Scheme. Dwelling 1 contains five bedrooms and will be served by four spaces within the basement. Dwelling 2 contains four bedrooms and will be served by three spaces within the basement. The proposal accords with Clause 52.06 of the Bayside Planning Scheme.

The level of increased traffic and car parking demand generated by the proposed development will not adversely impact upon the local road network and Council’s traffic engineer has raised no objection in this regard.

6.4 Street tree removal

The proposal has been assessed by Council’s Open Space Arborist, who has provided comment regarding the two street trees within the nature strip adjacent to the subject site. These two trees are discussed below:

Tree 1: Chinese Elm (*Ulmus parvifolia*)

This is a small tree is located at the western end of the road frontage. The proposed new vehicle crossover is sufficiently distant from the tree to avoid adverse impacts on the tree. Nevertheless, the Arborist recommends a condition be imposed stating that no soil excavation is to occur within two metres of the tree, measured from the edge of the trunk.

Tree 2: English Elm (*Ulmus procera*)

This is a much larger tree, located more centrally within the nature strip. The installation of the proposed vehicle crossover will severely impact the tree, and the Arborist recommends that a note be added to any permit issued, stating that no Asset Protection Permit will be issued until a payment is made to the Responsible Authority sufficient to cover the cost of the removal and replacement of the *Ulmus procera* (English Elm) street tree. This is included as a note at the end of the recommendation.

6.5 Vegetation & landscaping

The proposal involves the removal of several trees from the site, and Council’s Arborist has reviewed the application material and undertaken an on-site assessment. The
Arborist states:

"With exception of the London Plane (Platanus acerifolia) growing in the south-eastern corner of the site, existing trees have low amenity values. Removal of these trees is acceptable if replaced with suitable new plantings and landscaping.

The aforementioned London Plane is an early-mature tree with a moderate amenity value. This species produces leaves and seeds covered in fine hairs; these are recognised as a respiratory irritant. The species is not suitable for a rear private open space."

The removal of the existing trees is considered acceptable, provided that they are replaced with suitable new plantings and landscaping.

The Arborist also notes that there is a Queensland Brushbox (Lophostemon confertus) tree within the neighbouring property at 27 Dawson Street, to the west of the subject site. The Tree Protection Zone (TPZ) of this tree appears to fall within the subject site. There is also an Elm tree growing adjacent to the subject site's southern (rear) boundary within the neighbouring property at 9 Cole Street whose TPZ also appears to fall within the subject site. It will be necessary for the applicant to demonstrate, prior to works commencing on the site, either that the health and longevity of these trees will not be compromised by the proposed development or, in the event that unacceptable adverse effects are identified, to amend the design to ensure the health and longevity of these, and any other neighbouring trees that fall into the same category, is protected. The applicant will be required to submit a Tree Impact Assessment Report to establish this.

The Arborist has assessed two submitted landscape plans: the first, prepared by BE Architecture, was included in the package of advertised plans, while the second, prepared by Craig Eldridge Design, was submitted voluntarily by the applicant post-advertising, and at this stage has no formal status. Nonetheless, this latter plan represents an improvement on the advertised plan, and forms the basis for the recommended conditions relating to landscaping herein.

The Arborist has recommended a range of conditions relating to the provision of a Tree Management / Protection Plan, a Tree Impact Assessment Report, and landscaping.

6.6 Design and Development Overlay (Schedule 1)

The proposal involves the construction of a roof deck to Dwelling 1. The roof deck complies with the relevant requirements of the Overlay, as follows:

- It is set back 2 metres from the roof edge immediately below on all sides.
- Its colours and materials are consistent with the architectural style and form of the balance of the building.
- It does not include and structures with a height greater than 1.7 metres other than the proposed access structure.
- The proposed access structure does not exceed 2.4 metres in height.
- It is located adjacent to the driveway of the neighbouring site to the west, such that views into secluded private open space and the habitable room windows of adjoining dwellings are appropriately limited.

6.7 Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Private drainage
One objector stated that the proposal fails to consider the private stormwater drain within the easement on the western side of the property. The proposed building is set back 1.26m from the side boundary at ground level, and there is no construction proposed within the easement.

Construction noise

An objector raised the issue of construction noise during development. 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 1987 or Bayside Planning Scheme.

Support Attachments
1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character (Precinct C1) Assessment
4. ResCode (Clause 55) Assessment
Item 4.4 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🔴</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>▲</td>
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</tbody>
</table>
Figure 1. View towards the subject site from the western end of the road frontage.
Figure 2. View towards the subject site from the eastern end of the road frontage.
Figure 3. Front-on view of the subject site, with existing two-storey development visible to the left at 23 Dawson Avenue.
ATTACHMENT 3

Neighbourhood Character Policy (Precinct C1)

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | N/A                         |
|                                                                            |                                                                                  |                                                                      | The proposed duplex-style configuration of the development does not lend itself to the retention of the existing dwelling, which is itself not an exceptional example of the pre-WW2 architectural period. Further, the subject site is not within a Heritage Overlay or a Neighbourhood Character Overlay. |}
| To maintain and enhance the spacious garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds, subject to condition  
The applicant has submitted a landscape plan that provides for a reasonable degree of planting of trees and shrubs. Trees varying in height from 6m – 8m are proposed in the front and rear setbacks. Council’s arborist considers, however, that more substantial plantings, as well as a greater focus on the planting of coastal species that will cope better with the local conditions, is required.  
A condition will be imposed on any permit issued requiring the submitted plan to be amended to include more substantial plantings and a greater focus on coastal species.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To enhance the bayside vegetation character of the area.</td>
<td>Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible.</td>
<td>Removal of large native and coastal trees. Planting of environmental weeds.</td>
<td>Responds, subject to condition</td>
</tr>
<tr>
<td>To retain the sense of spaciousness in the area and provide adequate space for front gardens.</td>
<td>Buildings should be sited to allow space for the planting of trees and shrubs. Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td>To minimise the dominance of car parking facilities, driveways and crossovers.</td>
<td>Locate garages and car ports at or behind the line of the dwelling. Minimise hard paving in front yards. Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints.</td>
<td>Car parking facilities that dominate the facade or view of the dwelling. Loss of front garden space.</td>
<td>Responds</td>
</tr>
</tbody>
</table>

The required car parking spaces are located within a basement level. This ensures that the car parking facilities will not unreasonably dominate the façade of the dwelling or create a visually obtrusive element within the streetscape.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>• Recess upper level elements from the front façade.</td>
<td>High pitched roof forms with dormer windows.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or massing.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To encourage the use of a variety of building materials, finishes and design detail that</td>
<td>• Use a mix of materials including timber or other non-masonry wall materials in building design.</td>
<td>Large, poorly articulated external wall surfaces of</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Responds**

Although the first floor of Dwelling 2 overhangs the ground floor along its front façade, this relates to only a narrow (6m wide) portion of the building. Given the generous 21.34m width of the site and the substantial 9.02m front setback proposed, the overhang will not be a visually dominant feature within the streetscape.

It is also noted that the first floor of Dwelling 2 partly overhangs the driveway ramp to the basement, where ground-floor development is precluded by the need to provide sufficient clearance height for vehicles entering and exiting the basement.

Furthermore, the neighbourhood is increasingly characterised by less traditional, more angular buildings designs, and the modern design proposed will not be unreasonably conspicuous in the streetscape. Examples of dwellings of contemporary design, and flat-roofs in particular, in close proximity to the site are visible at 4, 10/10A, 13, 16, 17, 31, 32 and 34 Dawson Avenue.

**N/A**

There are no identified heritage buildings adjoining the subject site.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>complement the coastal setting.</td>
<td>Use simple building details and articulate roof forms.</td>
<td>one material only.</td>
<td>Heavy materials and design detailing (e.g. large masonry columns and piers).</td>
</tr>
<tr>
<td>To encourage the openness of the streetscape.</td>
<td>Provide open style fencing, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>Responds The proposed front fence, although comprising sections of 1.8m high rendered brick, is nonetheless consistent with the existing neighbourhood character and the subject site’s existing front fencing, which comprises a high red brick wall approximately 1.8 - 2m in height. High, solid fencing is common in Dawson Avenue, and much of the existing fencing on nearby properties does not offer the same level of variety of materials or colours as that proposed in this application. It is also noted that the sections of solid fence proposed will be interspersed with steel and timber picket gates that are 50% visually permeable. This will ensure that a suitable level of visual interest and openness of streetscape is provided.</td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting the reserve and visible from the reserve.</td>
<td>Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading. Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Buildings that have no relationship to the foreshore setting. Poorly articulated roof and building forms. Highly reflective materials or glazing.</td>
<td>Responds The subject site does not have a direct interface with the foreshore. Nevertheless, the proposed development shares many design characteristics of substantial coastal residences in the local area. The proposal features a high level of articulation, mixes a suitable variety of external construction materials.</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>
<tr>
<td></td>
<td>• Provide a fence or landscaping treatment to delineate the property boundary fronting the foreshore reserve.</td>
<td>Blank walls facing the foreshore. Lack of distinction between public and private spaces along the foreshore.</td>
<td>The two dwellings will also have different roof forms and heights, and feature markedly varied front façade treatments.</td>
</tr>
<tr>
<td></td>
<td>• Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Comments</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>-------------------------</td>
<td>----------</td>
<td></td>
</tr>
<tr>
<td><strong>B1 Neighbourhood Character</strong>&lt;br&gt;Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.&lt;br&gt;Development responds to features of the site and surrounding area.</td>
<td>Yes, subject to condition(s)</td>
<td>Refer detailed discussion in Attachment 3.</td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong>&lt;br&gt;Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.&lt;br&gt;Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong>&lt;br&gt;Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong>&lt;br&gt;Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong>&lt;br&gt;Integrate the layout of development with the street.</td>
<td>Yes</td>
<td>The dwellings appropriately address the street frontage, with the bedroom decks and balconies of Dwelling 1, and the bedroom and lounge windows of Dwelling 2 orientated towards the street. Furthermore, high, solid fencing is interspersed with visually permeable fencing along the frontage.</td>
<td></td>
</tr>
<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</td>
<td>Yes</td>
<td>Required: 9m&lt;br&gt;Proposed: 9.02m</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Requirement</td>
<td>Proposed</td>
<td></td>
</tr>
<tr>
<td>-------------</td>
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</tbody>
</table>
| B7 Building Height | No          | Required: 9 metres  
Proposed: 9.19 metres  
The highest point of the proposed building is the roof of the rooftop terrace access structure. |
| B8 Site Coverage  | Yes         | Maximum: 50%  
Proposed: 44% |
| B9 Permeability   | Yes         | Minimum: 20%  
Proposed: 20.1%  
Note: This figure would be increased by 1.6%, or 15m², to 21.6% of the site area, through a 0.6m reduction in the width of the proposed 1.8m wide pathway adjacent to the west boundary. |
| B10 Energy Efficiency  | Yes         | The proposal provides appropriate solar access to the dwellings. |
| B11 Open Space     | N/A         | N/A |
| B12 Safety         | Yes         | No safety issues are considered to be likely to arise. |
| B13 Landscaping    | Yes, subject to condition | Adequate space is provided for landscaping, particularly within the front and rear setbacks where the positive impact on neighbourhood character and visual amenity will be maximised.  
It is noted that surrounding properties generally contain substantial dwellings with relatively sparse vegetation. Although the application proposes a greater level of landscaping than is evident within |
and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.

much of the local neighbourhood, the submitted landscape plan still requires amending to ensure that the proposal maintains and enhances the garden settings of the dwelling. In order to achieve this, a condition will be imposed on any permit issued requiring more substantial landscaping within the front and rear setbacks, most notably through the planting of canopy trees capable of achieving greater height and spread. Also, a greater focus on the planting of coastal species capable of coping better with the local conditions will be required.

<table>
<thead>
<tr>
<th>B14 Access</th>
<th>Yes</th>
<th>Appropriate vehicular access for each dwelling is provided.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
<th>No</th>
<th>Refer report and table below. Areas of non-compliance are underlined.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

At ground level, the living area of Dwelling 1, located towards the rear of the site, encroaches 740mm into the required 2m setback to the western side boundary. This is considered acceptable because the encroaching area will be situated entirely adjacent to the existing garage on the neighbouring property (27 Dawson Avenue), which is built to the boundary. This is, therefore, considered a non-sensitive interface where a relatively minor setback encroachment at ground level will not give rise to physical dominance.

At the first floor, the western wall of Dwelling 1 will encroach 3.04m into the required 6.18m side setback to the adjacent side boundary. This is considered acceptable because the encroaching length of building will be situated entirely adjacent to the existing carport and driveway on the neighbouring property (27 Dawson Avenue). Like the garage behind it, the carport is built to the boundary. It is also noted that, being located to the west of the subject site, any shadowing effects on
the neighbouring property will be limited to the morning, and will not impact to any significant degree on access to daytime sunlight. The secluded private open space of the 27 Dawson Avenue is located to the rear of the site, a sufficient distance from the proposal’s first floor to be unaffected by the encroachment into the required setback.

Refer to Section 5.2 of this report for further, more detailed discussion.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

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

Yes

**East boundary**

**Max. length and max. height:** 18.98m and 3.6m (average 3.2m)

**Proposed max. length and max. height:** 11.86m and 3.4m (average 3.3m)

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

Yes

The proposal is sufficiently set back from property boundaries to ensure daylight to existing windows is maintained.

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

Yes

No north-facing windows on adjoining properties are affected.

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

Yes

Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.

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

Yes

The application proposes opaque windows to the first floor of proposed Dwelling 2 to ensure that no overlooking of the adjoining property to the east occurs.

**B23 Internal Views**

Yes

No internal overlooking between dwellings will occur. Views to the courtyard of Dwelling 1 from
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</strong></td>
<td></td>
<td></td>
<td>the first-floor hallway of Dwelling 2 will be restricted by a privacy screen with no greater than 25% visual permeability.</td>
</tr>
</tbody>
</table>
| **B24 Noise Impacts**  
Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | Yes | The development will not generate any noise above that typically expected from a residential building. |
| **B25 Accessibility**  
Consider people with limited mobility in the design of developments. | Yes | Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required. |
| **B26 Dwelling Entry**  
Provide a sense of identity to each dwelling. | Yes | Although the pedestrian entry of Dwelling 1 is located within the western side wall of the dwelling, the pathway from the gate built into the front fence to the entry is obvious from the road and footpath, due to the gate being 50% visually permeable, and well differentiated from the rendered brick walls to either side. These design elements will ensure that the pedestrian entry is easily identifiable.  
The entry to Dwelling 2 is within the front façade, in direct line of sight from the pedestrian gate within the front fence. |
| **B27 Daylight to New Windows**  
Allow adequate daylight into new habitable room windows. | Yes | All habitable room windows are provided with appropriate daylight access. |
| **B28 Private Open Space**  
Provide reasonable recreation and service needs of residents by adequate pos. | Yes | Minimum: 40m² private open space, including 25m² secluded private open space.  
Dwelling 1: 95m² secluded private open space  
Dwelling 2: 68m² secluded private open space  
As both dwellings are provided with an area of secluded private open space that exceeds the total area of private open space required, the proposal automatically complies with both arms of the standard. |
| **B29 Solar Access to Open Space**  
Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Both dwellings are afforded adequate solar access to the secluded private open space areas. |
| **B30 Storage**  
Provide adequate storage | Yes | There is ample area within the dwellings' basements to provide 6m³ storage spaces. |
facilities for each dwelling.

<table>
<thead>
<tr>
<th>B31 Design Detail</th>
<th>Yes</th>
<th>Refer detailed discussion in Attachment 3.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B32 Front Fences</th>
<th>No</th>
<th>Maximum: 1.2m Proposed: 1.8m Refer detailed discussion in Attachment 3.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B33 Common Property</th>
<th>Yes</th>
<th>No safety issues are considered to be likely to arise.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B34 Site Services</th>
<th>Yes</th>
<th>Appropriate site services can readily be provided for each dwelling.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.5 163 SOUTH ROAD, BRIGHTON EAST (ST LEONARD'S COLLEGE) - PERFORMING ARTS CENTRE AND SENIOR SCHOOL
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/147/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/162809

1. Purpose and background
To report a planning permit application for the partial demolition of buildings, construction of new educational facilities including a Performing Arts Centre (‘Leonardian’ PAC), redevelopment of part of the Senior School and basement carpark extension and alterations to an access of a Road Zone Category 1 (refer Development Plans at Attachment 1) at St Leonard’s College located at 163 South Road, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Urbis Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>24 March 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>6 June 2017</td>
</tr>
</tbody>
</table>

Key details of the proposal are as follows:

Demolition:
- Demolition of the part of existing Senior School building (‘Merton’) and Reception Centre (‘Miram’s Lodge’). These buildings are non-contributory to the heritage significance of the site;

New buildings:
- Construction of a Performing Arts Centre (PAC) with a 600 person capacity. The PAC is sited in the general location of the former Reception Centre and setback over 100 metres from the South Road frontage. The building adopts a contemporary design with an overall height of 14.7 metres and an angled front façade to retain views to Harefield House, the primary heritage building on site.
  The PAC adopts a modern palette of construction materials, colours and finishes including bronze glazing. Facilities within the building include a 600 seat auditorium, stage, catwalk floor, an orchestra pit, entrance foyer, control and lighting rooms, storage facilities and a sound shell to the rear of the main auditorium.
  The PAC will accommodate performances currently held in the Kevin Wood Centre which will be utilised as an indoor sports and well-being facility.
- Construction of a new Senior School comprising of a three storey building standing to a height of 14 metres and generally located in the same location as the former Senior School building (‘Merton’). The building will be setback approximately 35 metres from Heathfield Road and 7.3 metres from the existing Senior School to the north with connecting corridors at first floor level.
  The building will have a similar footprint to the Senior School building which is being demolished but the creation of external courtyards and accessways will better manage level changes between buildings, improving overall accessibility.
  The building presents a contemporary design with curved facades and raked mansards at upper levels.
  An extension to the existing basement car park will provide 25 additional staff car
parking spaces (a net increase of 10 spaces overall on site, discussed below).

At ground floor there will be a canteen, staff offices, student learning areas with locker and bathroom facilities. At first floor there will be a common sitting and kitchen area, staff offices, student learning area, study areas and lockers and bathroom facilities. At second floor there will be 625 square metre exam area, kitchenette, an external decking area, bathroom and storage facilities.

New open spaces:

- Creation of an Agora (an open space used for assemblies) linking the PAC and new Senior School building. The northern limits of this space are defined by steps and ramps to the new Senior School building with upper levels providing weather protection and the ground floor canteen being fully openable to the outdoor space. The southern site boundary includes a stage area recessed into the façade of the PAC. The eastern limits of this area will be defined by vegetation appropriately positioned to retain principle views to Harefield House.

- A planted mews to the north of the between the new Senior School building and the existing Senior School building fronting Heathfield Road. This will replace the current steps, ramps and planters with wide steps to manage the level difference between the lower level of the existing Senior School building to the north.

- A promenade will be located between the proposed PAC and Harefield House and will run north to south to provide the main entry to the agora detailed above. This area will form an access point to the loading area to the PAC with grade change to separate vehicular and pedestrian movements within the area.

- The existing platforms to the sports fields to extend further south with a 2.8 metre wide boardwalk adjacent to the proposed PAC for provide further informal seating areas.

Additional car parking:

- The existing basement car park accessed off the corner of Mirams Lane and Chapman Street is proposed to be extended by 25 additional car parking spaces. The additional spaces will be allocated to staff and will offset the relocation of 8 car parking spaces adjacent to Harefield House. Relocation of 4 visitor car parking spaces to the South Road car park and the loss of three basement car parking spaces to accommodate the basement extension. This results in a net gain of 10 car parking spaces on site accessed

The proposed works do not include any increases in staff or student number or intensity of the existing uses. The applicant has confirmed the proposed buildings are to provide improved facilities and greater diversity in classes only.

2. Policy implications

Planning permit requirements

A planning permit is required pursuant to:

- Clause 32.09-7 (Neighbourhood Residential Zone) – To construct a building and carry out works for a Section 2 Use (Education Centre). It is noted the use has already been established on site and does not require further consent.

- Clause 43.01-1 (Heritage Overlay) – To partially demolish, carry out works including construct a building and externally alter a building. It is noted the Heritage Overlay whilst encompassing the majority of the College site generally relates to the central ‘Merton’ building and Morton Bay Fig Trees which the proposed works will not impact, subject to conditions.

- Clause 43.02-2 (Design and Development Overlay) – To construct a non-
residential building exceeding a height of 8 metres.

- Clause 52.29 (Road Zone, Category 1) – Alteration of an access to a Road Zone, Category 1

Note: The site is located within a Special Building Overlay. The proposed works are located outside the mapping of the flood prone areas and as such a planning permit is not required pursuant to this overlay. Accordingly a referral to Melbourne Water is not necessary.

Planning scheme amendments

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. This amendment has been approved and gazetted within the Bayside Planning Scheme at Clause 45.06. Conditions requiring payment are included in the recommendation.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. It is noted that the subject site is partially within the SBO area and is it proposed to reduce the area included in the SBO.

3. Stakeholder Consultation

External referrals

The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Transport Victoria (PTV)</td>
<td>No objections.</td>
</tr>
<tr>
<td>VicRoads</td>
<td>No objections.</td>
</tr>
</tbody>
</table>

Internal referrals

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

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

Public notification

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

- Bulk of the PAC dominating Harefield House;
- Overdevelopment of the site;
- The use on site being for commercial rather than educational uses;
- Noise associated with concerts at the PAC and external areas;
• Noise disturbances during construction;
• Insufficient car parking associated with the performances at the PAC;
• Increased traffic movements in the surrounding road network resulting from the PAC;
• Inaccuracies in the Applicant’s Planning Report; and
• Quality of information available on Council’s website.

It is noted that a number of other concerns relating to current car parking within the surrounding road networks, drop-off and pick-up arrangements for school children and noise levels associated with the sports fields have also been raised. Whilst these are not directly associated with the proposed buildings and works, due consideration will be given to these concerns in the context of the decision guidelines contained within the relevant Planning Policies of the Bayside Planning Scheme.

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

Consultation meeting
A consultation meeting was held on 24 May 2017 attended by Councillor Grinter, the permit applicant and four objectors. It is noted that a total of eight objectors were registered before the meeting with two additional objections being received after the consultation meeting. As a result of this meeting no objections were withdrawn.

In response to the concerns raised at the meeting the Applicant provided additional information on the current activities of the school, how the outdoor spaces are proposed to be used, car parking, traffic and loading considerations and a Noise Impact Assessment for the proposed Agora Space. This information has been circulated to all objectors for their information.

Council Officers have been informed that the concerns raised in this forum have led the Planning Permit Applicant to instruct independent traffic advice from GTA Consultants. GTA Consultants have been engaged to consider strategies to improve car parking and traffic within the area. It is understood that initiatives external to this planning permit process are currently being explored by St Leonard’s College and Council’s Traffic Engineer.

External information sessions
Upon lodgement of the planning permit application, the applicant held a Community Drop-In Session on 28 March 2017. This process was independent of the Council decision making process and Council officers were not in attendance. Council Officers have been informed that all abutting and properties within a 50 metre radius of the school were notified.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2017/417/1 for the land known and described as 163 South Road, Brighton East (St Leonard’s College) for the partial demolition of buildings, construction of new educational facilities including a Performing Arts Centre (‘Leonardian’ PAC), redevelopment of part of the Senior School and basement carpark extension in a Neighbourhood Residential Zone (Schedule 3), Heritage Overlay (Schedule 347), Design and Development Overlay (Schedule 3) and alterations to access in a Road Zone Category 1 in accordance with the endorsed plans and subject to the following
1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application and advertised but modified to show:
   a) Ground level surfaces abutting “Harefield House” designed to protect the significant fabric. This includes alteration of levels that might have negative impacts such as causing rising damp by bridging existing damp-proof courses, appropriate surface drainage away from original walls, etc. A report from a suitably qualified expert must be provided to the satisfaction of the Responsible Authority.
   b) A Landscape Plan in accordance with Condition 11 of this permit.
   c) A Tree Management Plan in accordance with Condition 12 of this permit.
   d) Drainage Development Contributions in accordance with Condition 18 of this permit.
   e) Location of all plant and equipment, including hot water services and air conditioners. All plant and equipment to be located away from habitable room windows of the dwellings and the adjoining properties habitable rooms.
   f) A schedule of construction materials, external finishes and colours, including samples.

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

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

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

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

Noise

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

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

8. At the request of the Responsible Authority, the owner/occupier must undertake noise measurements by a suitably qualified acoustic consultant and a report must
be submitted to the Responsible Authority for compliance in relation to N-2 policies and/or EPA Technical Guidelines.

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

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

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

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

Vegetation

11. Prior to the endorsement of plans and pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the Landscape Concept Plan by Aspect Studios, dated 10/3/17, and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) A survey, including botanical names, of all existing trees to be retained on the site.
   
   b) A survey, including botanical names, of all existing vegetation to be removed from the site.
   
   c) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

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

f) Details of surface finishes of pathways and driveways.

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

12. Prior to the endorsement of plans and pursuant to Condition 1, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to, and be endorsed by, the Responsible Authority.

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

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

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

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

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

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

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

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

14. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
15. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.

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

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

**Drainage**

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

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

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

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

**Parking and Traffic Management Plan**

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

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

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

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

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

e) The means by which the direction of traffic and pedestrian flows to and from car parking areas will be controlled both on- and off-site.
f) Measures to discourage patron car parking in (specify location).

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

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

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

Construction Management

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

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

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

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

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

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

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

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

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

r) Details of crane activities, if any.

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

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

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

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

Permit notes:

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

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

- The existing street trees must not be removed or damaged.

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

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

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

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

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

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
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 Considerations

Local Policy at Clause 21.10-1 specifically seeks to ensure there is adequate infrastructure to facilitate community and educational facilities within the Bayside area. Objective 1 of this policy seeks to, “To provide high quality public and private community facilities and services based on the needs and expectations of all age groups, including those with limited mobility and special needs”.

The proposed development is considered to result in a net community benefit, improving quality education facilities available within the municipality. The College campus predominantly caters to residents of the municipality with approximately 77% living within the municipality. The proposed works seek to improve existing facilities to enhance the learning environment which the school wishes to provide students.

The proposed buildings are needed as the current performing arts and music centre (the Kevin Wood Centre) also houses the school’s exam centre, assembly area and indoor sporting facilities. The current building is no longer fit for purpose given the changing needs of the school and the lack of adaptability of this space. The school is seeking a standalone performing arts centre to have a fit for purpose centre separate from the variety of uses occurring in the Kevin Wood Centre. The proposal meets 21.01-1 as it provides a facility to service the needs and expectations of the community.

6.2. Heritage

The site is covered by Heritage Overlay 347 - 163 South Road, Brighton - St Leonard’s College former residence “Harefield” later “Merton” - former residence and trees - Morton Bay Figs and has external paint controls.

The Statement of Significance notes, “The mature trees located within the grounds of St Leonard’s College are of local interest as mature plantings contemporary with the
Victorian-era development of the site. The trees provide a suitable setting to a significant building and contribute strongly to the heritage character of the area.”

The application was referred to Council’s Heritage Advisor who noted, “This is a big project, but it is relatively simple in heritage terms, because it respects and protects the heritage values of the significant elements of the site - the former mansion “Harefield”, the significant trees and the principal open spaces.

The original dwelling “Harefield” is the only remaining building of heritage significance in the wide expanse of HO347. It is currently closely surrounded on the north and east sides by a variety of later 20th Century buildings, all of low architectural values. To the west is an interwar two storey building of no particular significance. This and the first building to the north are to be demolished to make way for the new school facilities. There are no heritage issues with these proposed demolitions”.

The proposed new buildings are to the north of “Harefield”, replacing the demolished building with a classroom block and to the west, as a performing arts centre around a substantial theatre. Both these are reasonably spaced from “Harefield” at proportionate distances from it according to the significance of the relevant facades, i.e., reasonably at the side and less distant at the less important rear. This will enable its separate built form and character to read independently and clearly ensuring protection of the heritage fabric.

In terms of architectural character, the contemporary architectural style, built forms and materials of the proposed buildings are distinctly in contrast with the complex Italianate detailing of the significant “Harefield”, thereby enabling its identity to remain clearly expressed in the context of more substantial modern buildings. The relatively fluid lines of the new structures and the simplicity of their elevational treatments, in particular the way in which they lean away from the historic building, will leave “Harefield” as the architectural focus of its context. Its main address to the south is unchanged.

The only condition of permit desirable for the heritage fabric would be that changes to ground level surfaces abutting “Harefield” are designed to protect the significant fabric. This would cover the possible alteration of levels that might have negative impacts such as causing rising damp by bridging existing damp-proof courses, appropriate surface drainage away from original walls, etc.

Given the scale of the proposed development and its necessity which focus built form in a limited area and a requirement to retain the open space values of the greater site, the outcomes as proposed are generally acceptable in heritage terms.

6.3. Neighbourhood character

Pursuant to Clause 22.06 of the Bayside Planning Scheme (Neighbourhood Character Policy) the school campus is surrounded by Neighbourhood Character Precinct E1. The subject site is not formally included within this Precinct, like many other Heritage properties and other educational facilities. Notwithstanding this, it is considered to be a useful tool to assess the appropriateness of the built form as it relates to the streetscape of South Road. A full assessment is included at Attachment 3.

The proposed development is considered to make an acceptable fit within the streetscape of South Road given its setback with critical views of Harefield House and its garden setting being retained. Views of the PAC and new Senior School building present as secondary backdrop elements in the streetscape with the Morton Bag Fig trees softening views to the built forms on site.

The proposed built form of the new Senior School building adopts a similar footprint to that which it is replacing but will stand to a height of 11.4 metres, 2.19 metres higher than the existing Senior School fronting Heathfield Road. As this built form is set behind the existing Senior School, views of the additional built form will be limited and will not have a marked impact on the streetscape of Heathfield Road to the north, Miram’s Lane or...
Chapman Street. The existing Senior School will continue to define the streetscape and views to the surrounding road network.

The PAC extends further south of the existing Miram’s Lodge and forward of Harefield House. The massing of the PAC is largely absorbed by its location where vantage points of the building are primarily from South Road. Due to the generous front setbacks, the height of the building, sitting above that of Harefield House but below that if its tower, is considered to ensure the built form is not dominant to the streetscape or overwhelms the finer grain Harefield House.

PAC has been sensitively treated with a curved eastern wall profile, angled away from the front façade of Harefield House to allow the side building profile to be read in conjunction front façade. The facilitation of the built form to provide a two-dimensional view of Harefield House further increases the sense of separation between buildings on site.

Whilst the architectural design of the PAC present as contemporary, the design is interpretive based on historical characteristics of Harefield House including the roof profile and the schedule of construction materials, colours and finishes such as the embossed concrete which draws on rendered elements of Harefield House. It is acknowledged that good quality contemporary design is encouraged by Heritage planning policy and is preferable to copying original design.

The proposed setbacks from South Road and vantage points from the surrounding road network ensure that the proposed additional built forms on site will not dominate or result in a marked departure from the prevailing neighbourhood character. Given the limited opportunities for sensitive development elsewhere on site, the proposed development is considered to present a site responsive proposal that balances the needs of the end users whilst respecting the existing and preferred character of the area.

6.4. Discretionary uses in a Residential Area

Clause 22.07 of the Bayside Planning Scheme seeks to ensure that development respects the established neighbourhood character and responds to the preferred neighbourhood character, that uses do not adversely affect residential amenity of the area, that traffic generated by the use is appropriate and to ensure that local community needs are served by the proposal.

It is noted this application is for an extension to the existing facilities. The ‘use’ of the subject site for an educational centre does not require additional planning consent, only the proposed buildings and works. Whilst a planning permit is not required for the use, resultant amenity impacts are considered. An assessment against the relevant policies at Clause 22.07 is included at Attachment 4.

It is considered that the size of the site facilitates generous setbacks. The new Senior School will be setback approximately 35 metres from Heathfield Road, 20 metres from Mirams Lane and the PAC setback 108 metres from South Road. Given the location of the works it is not anticipated that any unreasonable adverse amenity impact will result to the adjoining properties or neighbourhood subject to conditions relating to noise, and traffic management. These are discussed in greater detail at Sections 6.5 and 6.6 of this report.

The proposed works do not immediately abut residential properties and will not result in any further amenity impacts such as overlooking and overshadowing. The works will not facilitate additional staff or students but instead improve on-site facilities through the new Senior School building, the PAC and Agora (open space area used for assemblies).

The new buildings will not result in any additional noise sources being located closer to residential properties, in fact the source of noise for performing arts will be further away from dwellings fronting Chapman and Griffin Street. The preforming arts centre will be used by current students of the school only and it is therefore anticipated that the noise
level associated with the current use of the site as an education centre will remain unchanged. It is noted Council has not received concerns regarding current performing arts practices and it is not proposed to vary current school operating hours.

6.5. Car parking and traffic

Concerns regarding current car parking and traffic concerns have been raised in the context of this application. Additional car parking pursuant to Clause 52.06 of the Bayside Planning Scheme is not required for this proposal because as the number of staff and students remains unchanged. A detailed discussion regarding the concerns and effective management of parking and traffic are discussed below.

Insufficient car parking associated with reduced class sizes

Objections have raised concerns that reduced class sizes will necessitate additional staff and parking demands on site and within the surrounding road network. Staff and student number are not proposed to be increased and the Applicant advises that the reduced class numbers have been introduced, the PAC provides a purpose built space for performances only.

Notwithstanding the above, the existing basement car park accessed off Chapman Street is proposed to be extended to accommodate 25 additional car parking spaces. The additional spaces will be allocated to staff and will offset the relocation of eight car parking spaces adjacent to Harefield House, relocation of four visitor car parking spaces to the South Road car park and the loss of three basement car parking spaces to accommodate the basement extension. This results in a net gain of 10 car parking spaces on site.

The additional spaces will assist in reducing any offsite car parking pressure in the surrounding road network created by school employees.

Insufficient car parking associated with the performances at the PAC

The proposed PAC has a capacity of 600 persons, 400 less than that of the Kevin Wood Centre of 1000 persons. Therefore performances in the PAC will not attract anymore visitors, in fact given the reduced numbers it is anticipated that parking demand when a performance is occurring will be less than existing. It is further noted that no large functions would be held concurrently after 7pm in the Kevin Wood Centre. A condition has been included in the recommendation confirming no net increase above the existing capacity of 1,000 persons between the PAC and Kevin Wood Centre.

Concerns raised largely relate to the car parking demand during existing performance evenings. As this is a pre-existing condition the gambit of discretion afforded by the Planning Scheme does not allow the retrospective consideration of such matters. Notwithstanding this the school has acknowledged parking pressures within the area and has advised of its plans to undertake car parking and traffic improvements within the area to the benefit of both local residents and the school.

Increased traffic movements in the surrounding road network resulting from the performances at the PAC

The proposed works will not increase the number of journeys to the subject site. The GTA Consultant Transport Impact Assessment dated 20 March 2017 notes that no additional traffic will be generated by the proposed works but the proposed changes to loading and unloading facilities and relocation and addition of car parking will alter traffic distribution. This redistribution is considered minimal and, ‘is not anticipated to compromise the safety of function of the surrounding road network’.

The application was referred to VicRoads and Public Transport Victoria who offered no objection to the proposed works. No conditions were required to be included in the recommendation by either of these Section 55 (determining) authorities.

Concerns largely relate to existing site conditions and grievances with car parking issues
and failure to strictly adhere to other Traffic Management Plans associated with the school. The Applicant has considered suggestions raised in objections and at the Consultation meeting by the neighbouring residents but these cannot be facilitated and would likely create a follow-on issues.

In order to ensure no conflicts between previously approved Traffic Management Plans a condition has been included for an amended Traffic Management Plan to ensure the safety of road users.

It is acknowledged there is potential for disturbances to traffic movements within the local roads surrounding the site during the construction process, this is further discussed at Section 6.8 of this report.

Whilst not a consideration of this application, the Applicant has advised that the school’s subsidised school bus initiative will encourage more students to take the bus in lieu of being dropped off in a car and the relocation of visitor car parking off South Road and reallocation of some deliveries to the Junior School reception will discourage and consequently reduce the number of traffic movements in the surrounding street network.

Loading and unloading

The proposed works do not generate a requirement to provide loading and unloading facilities on site. Notwithstanding this the relocation of the Reception Centre to the Junior School building fronting South Road will result in some deliveries services accessing the site off South Road as opposed to the surrounding residential road network. The application was referred to VicRoads who offered no objection to this arrangement. Further to this, two new loading areas are proposed as part of this application within the extended basement for van deliveries and a loading area adjacent to the PAC.

The proposed works and uses will not generate additional trips to the surrounding road network but will result in a distribution of traffic. Council’s Traffic Engineer and VicRoads do not object to the proposed works in this regard.

Concerns regarding noise associated with deliveries is discussed at Section 6.6 of this report.

6.6. Noise

As previously mentioned, the consideration of this planning application is confined to the proposed buildings and works. The use does not require a planning permit. The noise levels generated by the development will not be any more than the existing operations on site. Notwithstanding this, concerns in respect of noise have been raised in objections and are discussed below.

Noise associated with the PAC

The relocation of activities from the Kevin Wood Centre to the proposed PAC, centrally located on site, will move potential noise sources further away from sensitive residential interfaces. The proposed PAC will have a high degree of acoustic insulation and will not feature any direct openings such as doors directly between the theatre and the exterior building. Airlocks or foyer areas will effectively control noise egress. Background noise level associated with persons attending performances will also be reduced at the entry and circulation areas will be further setback from adjoining residential properties. The proposed works will improve the overall amenity of abutting residential properties.

Noise associated with deliveries and collections to the PAC

Delivery times are likely to be restricted to coincide with performances. A planning permit condition has been included to comply with EPA regulations. The Applicant has confirmed this will be limited to daytime hours only.

Concerns relating to current deliveries sit outside the considerations of this application but it is noted that the addition of a loading bay within the extended basement car park
and adjacent to the proposed PAC will relocate these activities further away from sensitive residential interfaces.

**Noise associated with the Agora (outdoor assembly area)**

Concerns have been raised that the new Agora space and performances in this area will result in additional noise disturbances to adjoining residential properties. This space is nestled within the linking spaces of existing and proposed built forms and is therefore well shielded from neighbouring residential properties.

The Applicant advised that current outdoor performance areas are already utilised and the proposed Agora will not increase the frequency or nature of these gatherings, only the space in which they occur will be formalised.

In response to these concerns, the Applicant provided an updated Acoustic Report (Marshall Day Acoustics dated 23 May 2017) which notes that activities will be compliant with the requirements of SEPP N-2. A condition has been included in the recommendation to ensure compliance is achieved.

It is considered that the proposal will not result in any increase in noise levels within and adjoining the site. Appropriate noise attenuation measures will ensure compliance with relevant noise regulations. Conditions of permit include a Noise and Amenity Management Plan to manage any noise or amenity impacts.

### 6.7. Vegetation & Landscaping

The Morton Bay Figs Trees are protected by Heritage Overlay 347 and contribute strongly to the heritage character of this site and area. These are proposed to be retained as part of this application.

Council’s Arborist is supportive of the proposed development subject to conditions requiring off-set planting including the use of vertical green walls on the new buildings. Details of the proposed ‘Irrigated Vertical green screen with climbing wires’ and ‘Irrigated vertical green wall’ are requested as condition of permit to ensure viability of these elements. Further, a condition has been included to require additional landscaping along the northern facades of the PAC and new Senior School building. These conditions will not compromise the architectural integrity of these buildings.

Council’s Arborist has also identified that part of the drainage upgrade, the Urwincsult Plan 16ME0235-CSK005, appears to run through the Tree Protection Zone for one of the Heritage Protected Trees. A Tree Impact Assessment is required to demonstrate the viability of Tree 47 and generally of trenching is going to encroach greater than 10% within the Tree Protection Zone. Council’s Arborist notes that in a conversation with Urwincsult that the location of this drain can be amended and forms a recommended condition.

### 6.8. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Overdevelopment of the site**

Overdevelopment is a commonly used expression to dismiss development proposals which seek to remove existing buildings and to introduce significant new built form into particular neighbourhoods. An assessment against State and local planning policies demonstrated that a proposal is not an overdevelopment despite being more intensive than what existed before.

The design responds to the opportunities and constraints of the site and its context and is considered acceptable subject to conditions included in the recommendation of this report.

**Use of the Kevin Wood Centre**
Concerns relating to the use of the Kevin Wood Centre should a planning permit be granted for the proposed works has been raised. The centre is currently used for performances, rehearsals, parent teacher evenings, information nights, social and speech nights. The Applicant notes that this building will be utilised as an indoor sports and well-being facility however it is noted that the uses occurring within this building are not restricted as part of any previously planning permit. As outlined in the traffic and car parking consideration of this report a condition has been included restricting the combined capacity of this building and the PAC after 7pm to that of its current capacity (1,000). This will ensure the intensity of the uses on the site remain as existing.

Further, in the event there are concurrent events in the PAC and the Kevin Wood Centre it is considered unlikely that there would be any increase in the noise levels to neighbouring residential properties given the high degree of sound insulation to the new PAC. Accordingly, noise generated by the activity in the Kevin Wood Centre is expected to be no higher than the noise currently generated and restrictions to the number of persons in these buildings would likely result in an overall decrease in noise levels.

The use on site being for commercial rather than educational uses

Concerns have raised that the ‘Leonardian’ PAC is a commercial venture undertaken by the school. The school has not sought permission to use the proposed buildings for any uses that extend outside the scope of an educational facility associated with the school. Any such uses would require a separate planning permission.

Disturbances during construction

Noise and truck movements during the construction phase of development are a temporary and unavoidable consequence of development and is not considered as 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. The developer will however be required to meet relevant Building regulations, Local Laws and EPA regulations regarding construction practices to ensure these impacts are mitigated.

A Construction Management Plan is included as a condition of permit to further mitigate any impacts.

Inaccuracies in the Applicant’s Planning Report

Concerns relating to inaccuracies in the Applicant’s accompanying report are not relied upon as part of this assessment. The assessment is based on the plans and data. The information submitted is deemed sufficient to determine this application.

Quality of information available on Council’s website

Concerns relating to the document resolution and legibility of documentation on Council’s website have been noted and the Development Services Team is working to improve the quality of information available. Notwithstanding this it is noted that a hard copy of the information is always available to view at Council’s Corporate Centre in Sandringham. There is no requirement requirements under the Act to post on website.

Support Attachments

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment (Precinct E1)
4. Discretionary Uses in a Residential Area Assessment
Figure 1. Aerial image of the subject site and wider surrounding context.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
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<td>Objectors</td>
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Figure 1: View looking north towards Harefield House with the Morton Bay Fig Trees in the foreground.

Figure 2: View looking north with Harefield House to the right and Miram’s Lodge to the left of the photograph. The visitor car parking spaces in the foreground are proposed to be relocated.
Figure 3: View looking South-east from the rear of Miram’s Lodge towards Harefield House.

Figure 4: View from the Junior School entry and proposed Reception Centre at the South Road frontage looking north towards the Morton Bay Fig Trees.
Figure 5: View looking South from the existing Senior School to be replaced with the rear of Harefield House to the left of the photograph and Miram’s Lodge (proposed to be demolished) to the right of the photograph.

Figure 6: View looking south from the corner of Miram’s Lane towards the service area and the staff car parking area.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct E1)

Preferred Future Character Statement

The well articulated dwellings with roof eaves are set within spacious landscaped grounds. In some streetscapes, there is a continued presence of pre WW2 era dwellings, with complementary new development. Dwellings do not dominate the streetscape and vegetation appears to wrap around the buildings. The sense of spaciousness is retained by the dwellings being set back from front and side boundaries, which also provides space for garden planting. Buildings incorporate a variety of materials or design details providing visual interest within the streetscape.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
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| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in the design of new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct.   | The extent of demolition of the existing buildings on site is acceptable in order to facilitate the proposed works. The main built heritage building on the site is being retained whilst it is further noted that the proposed buildings and works ensure the primacy of Harefield House to the South Road Streetscape. The proposed PAC and new Senior School is complementary to the existing building scale, massing and architectural style.  
See Section 6.2 of the report for further details. |
| To maintain and enhance the garden settings of the dwellings.               | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.  
• Retain large trees and provide for additional trees wherever possible.    | Lack of landscaping and substantial vegetation.  
Removal of large trees.                                                   | The proposed landscaping is considered acceptable and retains the heritage protected Morton Bay Fig trees and garden setting presented to South Road. |
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<th>Objectives</th>
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<tbody>
<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>Council’s Heritage Advisor has minor changes which are included as recommended conditions. See Section 6.2 and 6.7 for further discussion.</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>The proposed development maintains adequate space to incorporate meaningful landscaping surrounding the proposed buildings whilst along respecting the Morton Bay Figs trees. Council’s Arborist has confirmed the proposed landscaping is acceptable, subject to conditions. The proposed development will further encroach into the street setback of South Road and at its closest location will be 108 metres tapering back to 135 metres adjacent to Harefield House. This retains critical view lines and the garden setting of Harefield House. See Section 6.7 for further discussion.</td>
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The new Senior School building will not be highly visible from South Road, Heathfield Road, Mirams Lane or Chapman Street. This building is not considered to have any detrimental impact to the character of the existing streetscapes.
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| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Minimise paving in front garden areas including driveways and crossovers. | Car parking structures that dominate the façade or view of the dwelling.  
Front setbacks dominated by impervious surfaces. | Relocation of car parking will result in four additional car parking spaces being relocated away from Harefield House to the South Road site frontage (in front of the Hawkes Sports Centre). Other car spaces will be relocated to the basement car park extension.  
The proposed basement extension will not be visible from the surrounding streetscapes and the proposed access arrangements from Chapman Street and Mirams Lane remain unchanged.  
See Section 6.7 for further information. |
| To ensure new development respects the dominant building form and scale of buildings in the Precinct. | • Recess second storey elements from the front façade.  
• Articulate front facades, and provide roofs with eaves. | Reproduction of historic building styles. | The development proposes a contemporary design which features a variety of modern materials and finishes.  
The proposed outcome offers an articulated and visually appealing design response to the streetscape of South Road.  
Whilst the proposed building will be taller than the single storey Harefield House, the tower of Harefield House will retain primacy of views to the heritage property.  
The proposed massing and siting are discussed at Section 6.2 of this report. |
| To respect the identified heritage qualities of adjoining buildings. | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design. | Buildings that dominate heritage buildings by height, siting or massing.  
Period reproduction detailing. | As noted in Section 6.2 of this report the proposed demolition, buildings and works are considered to be sensitive to the heritage building on the site. The proposed new buildings will respect the scale, massing form and siting of Harefield House and as such ensure a sympathetic addition adjacent to this building. |
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| To encourage building facades to add visual interest to the streetscape.  | • Use a mix of materials, colours and finishes in building facades, drawn from the palette commonly found in the area. | Excessive use of render or one material on external wall surfaces. | The fine grain detail and architectural style of Harefield House is contrasted by the contemporary architectural style of PAC with clean lines and variety of materials which are a departure from the 1890’s architecture. The materials provide for a glazed curtain wall directly behind the building and the curved façade angles away from Harefield House so as to principal views.  
The proposed building adds visual interest to the streetscape with embossed concrete and glazing at the southern facade in order to reduce any perception of bulk and soften the most sensitive interfaces between the built forms.  
The inclusion of landscaping assists in softening the built form and integrating the building into the streetscape. |
## ATTACHMENT 4
### Discretionary Uses in a Residential Area Assessment

**Clause 22.07-3 Policy Considerations**

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<tr>
<th>Policy</th>
<th>Objectives</th>
<th>Complies</th>
<th>Planning Officer Assessment</th>
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| Preferred location         | - The discretionary use abuts a Road Zone or collector road. Other locations may only be favourably considered where it can be demonstrated that residential amenity will not be unreasonably compromised.  
- Site consolidation is encouraged to ensure adequate on-site parking, landscaping and setbacks are provided.  
- The discretionary use is on a corner site.  
- The discretionary use is located on the periphery of commercial areas or adjacent to other discretionary uses to provide a transition between commercial and residential areas.  
- The discretionary use is located near similar community and support facilities.  
- The discretionary use is located within walking distance of public transport and promotes safe and convenient pedestrian access. | Yes      | The works are located on an existing site.                   |
| Siting, built form and    | - Setbacks from front, side and rear boundaries for buildings or additions must be in accordance with the setback provisions contained in Clauses 54 and 55 of the Bayside Planning Scheme.  
- Any increase in building height is transitional and represents a height increase of no more than one storey above the prevailing building height.  
- The materials and finishes reflect that prevailing in the area.  
- The discretionary use respects the prevailing built form, scale and materials of surrounding buildings, | Yes      | The proposed demolition, new buildings and works primarily present to South Road with some visibility of the proposed works from the surrounding residential streets.  
The massing of the built form is largely presented internally to the site and the built form is largely absorbed by its location where vantage points of the building are principally long–distant views that are softened by landscaping. |
<table>
<thead>
<tr>
<th>Policy</th>
<th>Objectives</th>
<th>Complies</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>The height of the new Senior School and the PAC whilst sitting higher than the ridge line of the adjacent built forms (but for the tower to Harefield House) are well articulated and avoid any perception of bulk or dominance over adjoining buildings or residential properties.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The new materials and finishes palette for the buildings reference those commonly found within the area but have been reinterpreted and utilised in a contemporary design.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The PAC will stand to an overall height of 14.88 metres adjacent to Harefield House and 17.7 metres adjacent to the basketball courts.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The building height steps down in height to the southern façade, presenting a height of 8.8 metres adjacent to Harefield House and 11.8 metres adjacent to the playing fields. This results in the bulk of the building being located to the central portion of the site, away from surrounding dwellings.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>To the Heathfield Road frontage, the new Senior School will increase in height from 8.2 metres to 11.58 metres. The overall height of this building increases to 14.35 metres due to level changes on site. The setbacks to the tallest point of this building is located approximately 90 metres from the Heathfield Road frontage.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The siting, built form and design are discussed in detail at Sections 6.2 and 6.3 of this report.</td>
</tr>
<tr>
<td>Policy</td>
<td>Objectives</td>
<td>Complies</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>--------------</td>
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<td>---------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| Streetscape  | • Front setbacks are consistent with the prevailing setbacks in the area and meet requirements at Clause 54, Standard A3.  
• Vehicle car parking and access areas do not form a dominant element in the streetscape.  
• Car parking is provided at the rear of the premises.  
• Where car parking is provided within the front setback, a minimum landscape buffer of 3 metres from the front boundary is provided. A reduction may be considered where it can be demonstrated that such a reduction will not reduce the effectiveness of the landscaping or unreasonably impact on the streetscape | Variation considered acceptable | The front setbacks remain unchanged to Heathfield Road and Mirams Lane / Chapman Street as the proposed senior school is to be constructed behind the existing built form presenting to these streetscapes.  
To South Road, the PAC will encroach into the existing front setback by approximately 27 metres. This encroachment is considered acceptable and continues to allow Harefield House to be appreciated in its garden setting. The composition of the existing and proposed buildings presents an interesting streetscape featuring a high level of contemporary architecture.  
It is noted that the inclusion of additional landscaping surrounding the built forms will assist in softening any perception of visual bulk associated with the new buildings.  
The proposed works will also facilitate the relocation of car parking facilities away from Harefield House and the new building in favour of an extended basement car park and four spaces to the front of the Hawkes Sports Centre.  
The streetscape considerations are discussed in further detail at Sections 6.2 and 6.3 of this report. |
| Traffic and car parking | • The number of vehicle access points is restricted to one unless two access points are required for the safe, convenient and efficient movement of vehicles.  
• Off street parking is designed to allow for entry and exit to the site in a forward direction. | N/A                       | The proposed staff and student numbers are not proposed to increase and the proposal seeks to utilise existing access points to continue servicing the site.  
A planning permit condition has been included to manage traffic and parking during construction and performances. |
<table>
<thead>
<tr>
<th>Policy</th>
<th>Objectives</th>
<th>Complies</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- One disabled car space is provided on site, with a minimum width of at least 3.2 metres.</td>
<td></td>
<td>See Section 6.5 of this report for further discussion.</td>
</tr>
</tbody>
</table>
4.6 11 ALBERT STREET, HIGHETT
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/745/1 WARD: CENTRAL

1. Purpose and background
To report a planning permit application for the construction of two double storey dwellings
on a lot with an area of 696 square metres (refer Attachment 1) at 11 Albert Street,
Highett (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr Bruno Strati</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>19 June 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>19 August 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more
dwellings on a lot.

Planning scheme amendments
There are not planning scheme amendments relevant to this application.

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

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

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

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

- Overshadowing and Setbacks
- Overlooking
- Neighbourhood character
- Landscaping
- Car parking

Applicant
Mr Bruno Strati
Date application received
19 June 2017 (Amended)
Statutory days expired
19 August 2017
• Water Sensitivity – Use of non-permeable materials
• OH&S/environmental regulations
• Construction procedures

Consultation meeting
A consultation meeting was held on 24 May 2017 attended by the permit applicant and five objectors. The applicant sought to address the objectors’ concerns and plans were amended to show the following changes:

• The retention of the existing trees to the northern boundary to dwelling 1.
• Provision of additional articulation to both the living areas of each dwelling at first floor level.
• Additional articulation using different materials, coloured rendered walls to both dwellings.
• Relocation of air conditioning condensers to the first floor level at the rear of each dwelling.

The plans were not re-advertised as there was no additional amenity impact upon any objectors’ property.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of the Planning Application 2016/745/1 for the land known and described as 11 Albert Street, Highton, for the construction of two double storey dwellings on a lot in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans dated 2 June 2017 but modified to show:

   a) Southern boundary fence raised in height (where required) to provide an effectively visual screen to a minimum of 1.8 metres in height from natural ground level in accordance with Standard B22.

   b) The northern crossover (and associated driveway where it intersects) must be 3.0m wide with a 1.0m offset from the northern boundary. The new crossover must be installed with a 1.0m separator from the adjacent crossover.

   c) The existing southern crossover must be removed, and replaced with a new 3.0m wide crossover offset a minimum 1.0m from the south boundary.

   d) A Tree Protection report and a Tree Management Plan is required in accordance with Condition 6 of this permit.

   e) Water sensitive urban design measures is required in accordance with Condition 7 of this permit.

   f) An amended landscape plan is required in accordance with Condition 12 of this permit.

   g) Relocate the condenser to that it is not visible from the public realm and
does not have an unreasonable impact on neighbouring habitable room
to windows (by way of noise).

h) Any other reductions in the development area required to comply with the
above conditions.

All to the satisfaction of the Responsible Authority.

2. The development as shown on the endorsed plans must not be altered 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, 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. 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 in accordance with AS4970-2009, be drawn
to scale and provide details of:

a) A Tree Protection Zone and Structural Root Zone 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.

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.

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

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

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

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

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

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

12. Prior to the endorsement of plans pursuant to condition 1, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Creative Living Innovations and dated June 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) Revised landscape plan to show one (1) tree at the front setback of each dwelling. The trees are to have the capacity to reach a mature height of 8 metres and a spread of 4 metres.

   b) A canopy tree in the rear private open space of each dwelling capable of reaching at maturity a height of 8 metres and a spread of 4 metres.

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

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

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

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

17. Council records indicate that there is a 3.05m wide drainage and sewerage easement along the western property boundary as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.

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

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

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

Permit Notes:

- 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 Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan. A street tree may require to be removed at applicants cost.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.
- This permit does not constitute any authority to carry out any buildings works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- Before development commences the applicant must pay $4,715.74 to the Responsible Authority for the removal and replacement of the existing street tree. This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible Authority.

5. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

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

Relevant strategies of the Council plan include:

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

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 21.11 Local Areas
- Clause 22.06 Neighbourhood Character Policy
- 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 Guideline

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct G1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2.

The proposal has sufficient setbacks to maintain the rhythm of spacious visual separation between buildings and to allow space for new vegetation around the building to be introduced.

Dwelling 1 has a 6.54 metre front setback and a 2 metre side setback (behind the garage) to accommodate vegetation. Dwelling 2 has a 7.03 metre front setback and a 2 metre side setback to allow vegetation to be accommodated on the site.

Although there is adequate space for trees to be planted to the frontage to each dwelling, the proposal fails to provide substantial trees required by the Neighbourhood Character Policy guidelines for Precinct G1. Conditions of approval are recommended to require one tree in front and rear setback to each dwelling, each measuring 8m by 4m at maturity (i.e. two trees per dwelling).

The proposed location of the garages to the dwellings is acceptable. The garages are behind the building line. The entrances to each of the dwelling will project forward to minimise car structure dominance to the front facades.
The proposed dwellings are double storey with a pitched roof and eaves, an appropriate response to the existing neighbourhood character. The incorporation of recessed elements that would separate the mass of the front façade and provide interest to the streetscape is a good design response. The integration of fenestration, articulation and a low front fence to maintain the openness to the streetscape is acceptable.

An objector has raised concerns with lack of articulation to the northern façade particularly on the first floor level. Changes were made after the consultation meeting to address this issue. The application shows articulated portions to the living area to first floor level to each dwelling. This is considered acceptable in minimising visual bulk and providing additional visual interest.

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

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

Overlooking (Standard B22)

Standard B22 applies to new habitable room windows where there is a visual barrier at least 1.8 metres high and the floor level is less than 0.8 metres above ground level at the boundary.

The proposed visual barrier to the south will be built at a height of 1.6 metre with a floor level of 0.4 metres above ground level at the southern boundary. It is considered that on an overlooking perspective existing habitable room windows to adjoining properties will be overlooked. A condition of approval is recommended for the southern boundary fence to be a minimum of 1.8 metres in height in accordance with the standard.

6.3. **Car parking and traffic**

Dwelling 1 is provided with three car spaces, and dwelling 2 is provided with two car spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions. All recommendations are included as conditions of approval.

The level of increased traffic and parking demand generated by the proposed development is not unreasonable and Council’s Traffic Engineer has raised no objection in this regard.

6.4. **Street tree removal**

Council’s Open Space Arborist has reviewed the application and advises that there is a White Cedar (*Melia azedarach*) street tree to the front of the site. The removal of this tree is acceptable given retention would be unviable and it is not so significant as to warrant refusal on this ground.

6.5. **Vegetation & Landscaping**

The application plans show the removal of 4 trees from the site. Council’s Arborist has reviewed the application and visited the site and confirms that the trees proposed for removal are acceptable. There are no trees of significance on site for retention, therefore suitable replacement planting including canopy trees will be required. A condition of approval is recommended.

A row of Pencil Pines (*Cupressus sempervirens* ‘Swanes Golden’) trees at No. 13 Albert Street that are adjacent to the northern site boundary appear to provide screening and amenity to the properties. It is mostly likely that these trees located on adjoining sites have their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure that these trees remain viable both during and post construction. A condition to this effect is included in the recommendation.
6.6. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Overshadowing & Front Setbacks**

The proposal complies with the overshadowing standard (B21) and front setbacks standard (B6).

**Overlooking**

All first floor windows are appropriately screened in accordance with Standard B22.

**Car parking**

Existing parking problems and traffic congestion in the area cannot be addressed through the current application, nor should the burden of relieving these existing problems be imposed on the developer of the subject land. The proposed car parking and new crossovers is sufficient and complies with Clause 52.06.

**Water Sensitivity – Use of non-permeable materials**

Permeability complies with Standard B4 and is acceptable.

**OH&S/environmental regulations**

All construction activity must comply with Occupational Health and Safety Standards. This is the responsibility of the owner or their agent appointed for the site development and is not managed through the planning process.

**Construction procedures**

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. These factors will be dealt with the relevant Building Surveyor.

**Support Attachments**

1. Development Plans
2. Site & Surrounds Imagery
3. Neighbourhood Character Assessment Precinct G1
4. Clause 55 (ResCode) Assessment
Figure 1: Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th><img src="star.png" alt="Star" /></th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td><img src="black-circle.png" alt="Black Circle" /></td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the west

Figure 3 View towards the site from no. 9 Albert Street
Figure 4 View from the site towards the southeast at properties No.13 Albert Street.

Figure 5 View from the site towards the north
Figure 6 examples of properties along Albert Street

Figure 7 examples of properties along Albert Street
Neighbourhood Character Policy (Precinct G1)

Preferred Future Character Statement

The well-articulated dwellings sit within landscaped gardens, some with established trees. New buildings are frequent and are designed to respond to the site, and include a pitched roof form to reflect the dominant forms in the area. Buildings are occasionally built to the side boundary, however the overall impression of the streetscape is of buildings within garden settings due to the regular front setbacks, well vegetated front yards and additional street tree planting in the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | - Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
- Retain large, established trees and provide for the planting of new trees wherever possible.  
- Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | A landscape plan has been prepared however, the proposed landscaping is considered insufficient. A condition will be imposed for substantial trees and vegetation to be planted.  
Adequate space between buildings have been provided to allow planting of trees and shrubs. |
<p>| To maintain the rhythm of visual separation between buildings. | - Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | The building have been sited to create an appearance of space between buildings with a 2 metre side setback to allow vegetation to be introduced. |
| 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. | Large, bulky buildings with poorly articulated front and side wall surfaces. | Articulation on the first level is appropriate. The inclusion of recessed elements, dwelling positioned behind the building line and the combination of render, brick, and aluminium framed windows is acceptable. The use of |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use pitched roof forms with eaves.</td>
<td></td>
<td>pitched roof forms with eaves and parapets is a good design response.</td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>High, solid front fencing.</td>
<td>The proposed low front fence at a height of 900mm is acceptable in maintaining the openness of the streetscape.</td>
<td></td>
</tr>
</tbody>
</table>
### ATTACHMENT 4
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 4.98m, 6.47m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td>Proposed Dwelling 1: 6.54m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed Dwelling 2: 7.03m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Refer report for discussion.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Requirement</td>
</tr>
<tr>
<td>------</td>
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<td>-------------</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td></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>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
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<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>
</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>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</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>
</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.  

<p>| | |</p>
<table>
<thead>
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</table>
| **Yes** | Appropriate vehicular access is provided.  
**Maximum**: 40% of street frontage  
**Proposed**: 39% of street frontage |

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

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>Yes</strong></td>
<td>The proposed car parking areas are appropriately located subject to conditions.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Dwelling 1 Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>Nil</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dwelling 2 Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>North (side)</td>
<td>Nil</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

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

<p>| | |</p>
<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
</table>
| **Yes** | **Maximum Height**: 3.6m  
**Dwelling 1 Proposed**: 3.1m  
**Dwelling 2 Proposed**: Nil  
**Maximum Average Height**: 3.3m  
**Dwelling 1 Proposed**: 3.1m  
**Dwelling 2 Proposed**: Nil  
**Maximum Length**: 9.25m |
| Item 4.6 – Matters of Decision | Dwelling 1 Proposed: 7m  
Dwelling 2 Proposed: Nil |
|--------------------------------|---------------------------------------------------------------|
| **B19 Daylight to Existing Windows**<br>Allow adequate daylight into existing habitable room windows. | Yes  
The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained. |
| **B20 North Facing Windows**<br>Allow adequate solar access to existing north-facing habitable room windows. | Yes  
Setbacks comply with this standard. |
| **B21 Overshadowing Open Space**<br>Ensure buildings do not significantly overshadow existing secluded private open space. | Yes  
Shadow diagrams submitted with the application demonstrate that there is no overshadowing to adjoining properties. The abutting properties will receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September. |
| **B22 Overlooking**<br>Limit views into existing secluded private open space and habitable room windows. | No  
Refer report Section 6.2. |
| **B23 Internal Views**<br>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. | Yes  
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. |
| **B24 Noise Impacts**<br>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | Yes  
The development will not generate any noise above that typically expected from a residential building. |
| **B25 Accessibility**<br>Consider people with limited mobility in the design of developments. | Yes  
Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required. |
| **B26 Dwelling Entry**<br>Provide a sense of identity to each dwelling. | Yes  
The entries to both dwellings are easily identifiable from the street. |
| **B27 Daylight to New Windows**<br>Allow adequate daylight into new habitable room windows. | Yes  
All habitable windows have direct access to daylight. |
| **B28 Private Open Space**<br>Provide reasonable recreation and service needs of residents by adequate pos. | Yes  
Minimum: 25m² secluded, 40m² overall  
Dwelling 1 Proposed: 59 m² secluded, 125 m² overall  
Dwelling 2 Proposed: 47 m² secluded, 117 m² |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Overall</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>Provided adequate storage facilities for each dwelling within the garages.</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
</tbody>
</table>
| **B32 Front Fences** | Encourage front fence design that respects the existing or preferred neighbourhood character. | Yes | Maximum: 1.2m  
Dwelling 1 Proposed: 900mm  
Dwelling 2 Proposed: 900mm |
| **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. | N/A | |
| **B34 Site Services** | Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. | Yes | Site services and facilities are proposed and are accessible, adequate and attractive. |
4.7 131 LINACRE ROAD, HAMPTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/748/1 WARD: CENTRAL

1. Purpose and background
To report a planning permit application for the construction of two double-storey dwellings on a lot with an area of 715 square metres (refer Attachment 1) at 131 Linacre Road, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Econstruct Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>9 August 2017 (amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>9 December 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.
Planning scheme amendments
There are no relevant planning scheme amendments associated with the proposal

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

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

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

Public notification
The application was advertised pursuant to Sections 52(1) (a) and (d) of the Planning and Environment Act 1987 and three objections were received. The following concerns were raised:
- Negative impact on street trees;
- Overshadowing;
- Loss of privacy;
- Inaccurate plans;
- Visual bulk;
• Out of character; and,
• Violation of Human rights.

Consultation meeting

A consultation meeting was held on Monday 26 June 2017 attended by the permit applicant, an objector and Cr. Grinter.

As a result of the consultation meeting, amended plans in order to address the objector concerns were submitted by the applicant to Council and circulated to all objectors (via email) on 6 July 2017.

The plans were then formally amended again and submitted to Council and circulated to all objectors (via email) on 9 August 2017, these plans are the basis of Councils’ decision.

It is noted that as a result of the consultation meeting or these amended plans, no objections were withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/768/1 for the land known and described as 131 Linacre Road, Hampton, for the construction of two dwellings on a lot in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

   a) Adequate sightlines must be provided where the proposed driveway intersects with the front footpath as per the requirements of Clause 52.06;
   b) An amended Landscape Plan in accordance with Condition 9 of this permit;
   c) Provision of a 1 metre setback from the northern boundary of dwelling 2 (without increasing the overall footprint of dwelling 2)
   d) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 10 of this permit;
   e) Relocation of the driveway located along Little field Street in accordance with Condition 11;
   f) Provision of sectional elevation (East to West);
   g) Provision of a permeable 1.2 metre fence along the frontage of dwelling 1;
   h) Provision a 1.8 metre fence located between the front line of dwelling 1 and the side fence;

2. The development as shown on the endorsed plans must not be altered unless 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 and the conditions of this permit must be carried out and completed to the satisfaction of the Responsible Authority.
4. All pipes (except downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

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

6. Detailed plans to the satisfaction of the Responsible Authority drawn to scale with dimensions to show:
   a) The type of water sensitive urban design stormwater treatment measures to be used.
   b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaped areas.
   c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

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

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

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

9. Prior to the endorsement of plans pursuant to Condition 1, a Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. 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 protected vegetation to be removed from the site.
   c) Provision of a medium tree reaching a minimum size of 8 metres located within the rear dwelling 2;
   d) Provision of a large tree reaching a minimum size of 12 metres located within the frontage of the dwelling 1;
   e) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
f) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

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

h) Details of surface finishes of pathways and driveways.

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

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

a) Construction of the alfresco area of 38a Keats Street (south-east) to be constructed above existing grade and of a permeable nature.

b) Retention of the natural soil level within the POS of Unit 2;

c) Demonstrated recommendations outlines within the arborist report relating to the use of root sensitive techniques for neighbouring trees.

d) Pruning of roots uncovered during excavation works within the TPZ of tree #7. Pruning must be undertaken by a qualified arborist in accordance with AS 4373-2007 Pruning of Amenity Trees.

e) 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;

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

g) Comment on when the protection measures are to be deployed;

h) Comment on when the protection measures can be modified;

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

j) Process that will be followed if construction works require alteration to protection measures outlined in report; and

k) 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.

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.

11. Prior to the endorsement of plans pursuant to Condition 1, an amended site plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must show

a) No soil excavation with the 3.2 metres measured from the edge of the trunk at ground level from the Eucalyptus conuta tree (tree #1) located at the northern end of the nature strip along the Little Field Street frontage;
b) No soil excavation with the 3.4 metres measured from the edge of the trunk at ground level from the Eucalyptus conuta tree (tree #2) located centrally within the nature strip along the Little Field Street frontage;

c) No soil excavation with the 3.8 metres measured from the edge of the trunk at ground level from the Eucalyptus conuta tree (tree #3) located at the southern end of the nature strip along the Little Field Street frontage;

d) No soil excavation with the 2 metres measured from the edge of the trunk at ground level from the Lophostemon confertus tree (tree #11) located at the eastern end of the nature strip along the Linacre street frontage.

12. 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.

13. 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.

14. 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.

15. 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.

16. Before the development starts, including demolition or removal of vegetation, a tree protection fence must be installed for the protection of a tree’s canopy and root zone. Street tree protection fencing during development are as follows:

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

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

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

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

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

17. Root pruning within the TPZ:

   a) Prior to soil excavation for a Council approved crossover within the TPZ of the street tree, a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques.

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

18. Installation of utility services within the TPZ, any installation of services and drainage within the TPZ must be undertaken using root sensitive non-destructive techniques.

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

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.

22. Any subsurface water captured on site must be treated in accordance with Council’s Policy for “Discharge of pumped Subterranean Water Associated with Basement or Below Ground Structures”. Any seepage/agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain/Pit and not be discharged to the kerb and channel unless directed otherwise.

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

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

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

**Permit Notes:**

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

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

- Before the development commences, the applicant must pay $1,847.97 to the Responsible Authority of the removal and replacement of the existing street tree. This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street trees. Any replacement planting will be at the discretion of the Responsible Authority must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

5. Council Policy

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

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

• Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

• Clause 11 Settlement
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy (Precinct E3)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 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 the Neighbourhood Character Precinct E3. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. It is noted that the character of Linacre Street and Little Field Street consists of various built form elements, therefore the proposed contemporary design will not seem at odds with the immediate area. The dwellings will sit comfortably within their context largely due to the articulated facades, roof form responsive to dwelling forms in the neighbourhood, appropriate front setbacks, materials and finishes that are complementary to the existing and the preferred character of the area. The contemporary design of the dwellings provide a level of visual interest along with various forms of articulation along all boundaries. The various forms of external building materials including timber lining assist in integrating the development in to the prevailing and emerging neighbourhood character.
The buildings setback from the side boundaries allow for suitable landscaping opportunities to enhance the landscaped character of the area. The proposed setback along with the amount of open space along Linacre Road provides ample opportunity for the provision of landscaping, thus maintaining the vegetated streetscape.

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

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

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

**B17 Side and Rear Setbacks**

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>West (side)</strong></td>
<td><strong>North (rear)</strong></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>0m or 5.9m</td>
</tr>
<tr>
<td>0m or 3m</td>
<td>0m – 9.5m</td>
</tr>
</tbody>
</table>

The encroachment if the first floor along the western boundary of Dwelling 1 proposes a setback of 2m, therefore a variation of 1.5m is sought. This variation is considered to be appropriate as:

- The subject wall abuts a none-interactive interface (driveway / carport) therefore negative impact on the abutting allotment is not anticipated;
- Sufficient solar access is provided to the abutting allotment,
- Due to the proposed mixture of building materials along the western boundary the visual bulk is reduced;
- The encroachment is not considered to have a detrimental impact on neighbourhood character of the area as it does not create an unreasonable amount of visual bulk when viewed from the abutting allotment as well as the public realm;
- The variation of 1.5m is considered to be minimal as it achieves the objective of the standard;
- Full compliance with B17 would unreasonably compromise the internal layout of the proposed development;
- A condition will be placed on any permit issued requiring the first floor along the western boundary to be setback a minimum of 2.5m;
- The proposed condition would provide sufficient build form separation (recession) between first and ground floor;
- The proposed increased setback further provides the applicant the opportunity to mirror the location of the rumpus room and Bedroom 4 of dwelling 1;

The encroachment if the first floor along the northern boundary of Dwelling 2 proposes a setback of 1.9 m, therefore a variation of 2.3m is sought. This variation is considered to be appropriate as:
• The proposed setback does not negatively overshadow the abutting allotment as it meets all the requirements;
• No objection was received by the abutting allotments (58 David Street);
• The requirement for the development to comply with the required setback of 4.2me would deem the rumpus room located at first floor (northern boundary) unusable as it would not meet the minimum dimensions for a room, therefore unreasonably compromise the internal layout of the proposed development;
• The variation of 2.3m is considered to be minimal as it achieves the objective of the standard;
• The wall has an interface with the adjoining dwellings primary car parking area, therefore no negative impacts are anticipated;
• The encroachment is not considered to have a detrimental impact on neighbourhood character of the area as it does not create an unreasonable amount of visual bulk when viewed from the abutting allotment as well as the public realm;

The proposed variations are considered to appropriate as the setbacks are not considered to negatively impact the neighbouring properties, the setbacks are consistent with the built from within the immediate area and the overall proposal has a high degree of compliance with ResCode.

B18 Walls on Boundaries
The proposed western boundary of dwelling 2 does not comply with Standard B18, therefore a condition will be placed on any permit issued requiring compliance with the requirements of B18.

B32 Front Fences
A 1.8m fence is proposed, therefore a variation of 0.6m is sought. The variation is considered to be appropriate as:
• The 1.8m fence provides seclusion to the private open space of unit 1;
• There are various examples of similar fencing heights throughout Linacre Street; and,
• The proposed fence (for unit 2) consists of various building materials that allow a level of permeability.
• In order to reduce fencing height along street frontage, a condition will be placed on any permit issued requiring the provision of a permeable 1.2 metre fence;
• In order to seclude the private open space for dwelling 1, a condition will be placed on any permit issued requiring the provision of a 1.8 metre solid fence to be provided between the front line of dwellings 1 and the side fence.

6.3. Street tree removal
The existing Lophostemon confertus abutting the crossover (Western end of Linacre Rd frontage) will be removed to accommodate the crossover. Council’s Open Space Arborist has supported the application subject to conditions which are included should a permit issue.

Council’s open space arborist did raise concerns with the proposed relocation of an existing crossover and its impact on Tree #1 (Eucalyptus conuta) and Tree #2 (Eucalyptus conuta). The proposed layout would impact the tree’s health and stability due to severe impact to the SRZ (structural root zone) of Tree #1. Nevertheless Council’s open space arborist provided support for an alternative design, subject to conditions. These conditions will form part of any permit issued.
6.4. Car parking and traffic

A minimum of two off-street parking spaces are to be provided for each dwelling, in accordance with the requirements of Clause 52.06 (Car parking) of the Planning Scheme.

Council’s Traffic Engineer has also requested that a corner splay be provided to enable adequate visibility between the road and footpath users. This has been included as a condition in the recommendation.

The development is likely to result in a marginal increase in traffic, but this can be accommodated within the surrounding street network. Council’s Traffic engineer has no concerns with this minor increase in traffic.

Due to requirements stipulated by Councils street tree arborist (above), Council’s Traffic Engineer has requested that the setback of dwelling 2 be increased to 1 metre from the northern boundary; therefore a condition will be placed on any permit issued requiring a 1 metre setback from the northern boundary.

The setback will allow for further separation from the abutting allotment and provide landscaping opportunities. Furthermore, due to the size of the dwellings, the provision of a 1 metre setback can be absorbed (internally) without compromising the useability and internal amenity of dwelling 2.

6.5. Vegetation & Landscaping

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

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

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

Council’s Arborist in their referral response advised that there is no objection to the proposed removal of all trees on their low amenity value and subject to replacement value. Conditions will be placed on any permit issued requiring replacement planting to occur throughout the development.

Council’s Arborist in their referral response advised that the proposed development should adopt the recommendation of the arborist report with regards to trees located on neighbouring properties (tree #7 an English Oak (Quercus robur)). It is for this reason that a condition requiring a tree management plans will be placed on any permit issued.

With regards to the future planting on the site, the proposed development incorporates landscaping opportunities to achieve an outcome consistent with the existing and preferred character of the area. The Bayside City Council Landscape Guidelines (2015) specify that for low density applications, one large canopy tree (8-15 m height and greater than 4m canopy spread) should be planted in the front of dwelling one and one – two medium tree and two small (6m to 8m height) tree are planted in the rear of the site.

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

6.6. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Increased traffic**

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

**Inaccurate plans**

The advertised plans have a few inaccuracies. Council in its consideration of Condition 1 plans will ensure all inaccuracies are rectified.

**Neighbourhood character**

Neighbourhood character, design, form and materials are addressed within the assessment section of this report with particular focus on Clause 22.06 and Clause 55 of the Bayside Planning Scheme and the relevant Neighbourhood Character Guidelines.

The proposal is consistent with Council’s Neighbourhood Character Policy and satisfies Clause 55 of the Bayside Planning Scheme for the reasons outlined in Section 6.1 of this report.

**Violation of Human Rights**

The proposed development of 2 dwellings is not considered to be a violation of Human Rights. Furthermore the Planning Scheme and the *Planning and Environment Act 1987* allow landowners to apply for such developments.

**Support Attachments**

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment - Precinct E3
4. Clause 55 Assessment
131 LINACRE ROAD, HAMPTON

TP1 - COVER SHEET
TP2 - EXISTING SITE ANALYSIS
TP3 - SITE PLAN GROUND FLOOR
TP4 - SITE PLAN FIRST FLOOR
TP5 - SITE PLAN ROOF LEVEL
TP6 - ELEVATIONS EAST AND WEST
TP7 - ELEVATIONS NORTH AND SOUTH
TP8 - SHADOWS 9AM
TP9 - SHADOWS 10AM
TP10 - SHADOWS 11AM
TP11 - SHADOWS 11PM
TP12 - SHADOWS 1PM
TP13 - SHADOWS 2PM
TP14 - SHADOWS 3PM
TP15 - WATER SENSITIVE URBAN DESIGN
TP16 - NEIGHBOURHOOD CHARACTER DESIGN
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds showing objectors (three) in the immediate vicinity of the site.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>★</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
</tbody>
</table>
Figure 2 View of the site as seem from Linacre Street

Figure 3 View of the site as seem from Little Field Street
Neighbourhood Character Precinct E3

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
  • Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
Linacre Street contains various forms of development including contemporary design. The proposed development will enhance the existing and emerging character of the area by utilising similar forms of materials, finishes; and, landscaping. |
| To maintain and enhance the garden settings of the dwellings.              | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation.                     | Responds  
There is sufficient space to provide substantial trees to maintain and enhance the garden settings of the dwellings. |
| To provide space for front gardens.                                       | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space.                                       | Responds  
There is sufficient area for the provision of landscaping to occur within the front setback of both dwellings. |
| To maintain the rhythm of spacious visual separation between buildings.    | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |                                                                      | Responds  
Subject to conditions, the dwellings will be appropriately setback from the side boundaries to maintain the rhythm of visual separation between buildings. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Minimise paving in front garden areas including driveways and crossovers. | Car parking structures that dominate the façade or view of the dwelling.  
Front setbacks dominated by impervious surfaces. | Responds  
The garages are located behind the line of the dwellings, all effort has been taken to reduce the garages dominance. This has been done by utilising timber as the external finish of both garage doors, thus reducing the visual impact on the streetscape.  
The landscaping plan demonstrates sufficient landscaping opportunities in order to meet the vegetated streetscape of Linacre Street. |
| 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 dwellings feature articulated forms and second storey elements (subject to conditions) will be recessed from the side walls and surfaces. The recessed upper storey element from the front façade response to the neighbourhood character of the street.  
It is considered that due to the architectural design found throughout Linacre street, the roof form for both dwellings is considered to be appropriate as it meets the existing and emerging neighbourhood character of the street. |
| To use lighter looking building materials and finishes that complement weatherboard where it predominates in the streetscape. | • Incorporate timber or other non-masonry wall materials where possible. | Heavy materials and design detailing where weatherboard predominates (eg. Large masonry columns and piers) | Responds  
The proposed development incorporates a mixture of building material such as timber, timber cladding; and, render. The colours are considered to compliment the streetscape of Linacre Street. |
Objectives | Design Responses | Avoid | Planning Officer Assessment
--- | --- | --- | ---
To maintain the openness of the streetscape. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid front fencing | Responds  
Portions of the front fence for dwelling 2 contains permeable surfaces that provides an openness to the streetscape. The fence for dwelling 1 is solid however the reasoning for this is that it provides seclusion to the private open space. The fencing material is considered to be appropriate and will not seem juxtaposed to the immediate area.
## ATTACHMENT 4
### ResCode Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td>The proposed development is for two dwellings therefore B3 Dwelling Diversity does not apply.</td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Development is capable of being connected to necessary reticulated services. Permit conditions from engineering further ensure compliance.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>Both dwellings will integrate with Linacre Road and Field Street Avenue.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 3m - 7.6m Proposed: 3m - 8.4m Corner allotment.</td>
</tr>
</tbody>
</table>
Dwelling 1 fronts Linacre Rd and has a setback of 8.4m which is greater than the 7.6 m setback of the dwelling on the adjoining lot.

Side elevation of dwelling 1 to Field Street is 3 m

Dwellings 2 front the side street; Field St and has a front setback of 3m.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Status</th>
<th>Requirement</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>B7</td>
<td>Building Height</td>
<td>Yes</td>
<td>Required: 9m</td>
<td>Proposed: 7.5 m</td>
</tr>
<tr>
<td>B8</td>
<td>Site Coverage</td>
<td>Yes</td>
<td>Maximum: 50%</td>
<td>Proposed: 48.8%</td>
</tr>
<tr>
<td>B9</td>
<td>Permeability</td>
<td>Yes</td>
<td>Minimum: 20%</td>
<td>Proposed: 31.2%</td>
</tr>
<tr>
<td>B10</td>
<td>Energy Efficiency</td>
<td>Yes</td>
<td>Both dwellings will receive adequate solar access.</td>
<td></td>
</tr>
<tr>
<td>B11</td>
<td>Open Space</td>
<td>N/A</td>
<td>There is no adjoining public or communal open space abutting the subject site.</td>
<td></td>
</tr>
<tr>
<td>B12</td>
<td>Safety</td>
<td>Yes</td>
<td>The entrances of both dwellings will be clearly seen from Linacre Street and Field Street. The secluded private open space areas of both dwellings will be appropriately fenced so that public thoroughfares are avoided.</td>
<td></td>
</tr>
<tr>
<td>B13</td>
<td>Landscaping</td>
<td>Yes</td>
<td>Refer report.</td>
<td></td>
</tr>
</tbody>
</table>
### Item 4.7 – Matters of Decision

| B14 Access | Yes | Maximum: 33% of street frontage  
Proposed crossovers: 31% of street frontage |
|-------------|-----|----------------------------------------------------------------------------------|
| Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. | | A 3m (unit 2) and 3.6 (unit 1) metre wide crossover is proposed to be constructed within the adjoining road reserve. The number of crossovers proposed is consistent with the neighbourhood character and equates to 33% of the total site frontage.  
Garages provided to each dwelling. Individual access to each dwelling provided  
Extent of crossovers does not exceed the standard and is consistent with the streetscape.  
Entry and exit to the site is safe and manageable |

<table>
<thead>
<tr>
<th>B15 Parking Location</th>
<th>Yes</th>
<th>The car space of each of the dwellings will be located in proximity to their respective dwellings.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
<th>Variation</th>
<th>Refer report and table below. Areas of non-compliance are underlined.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ground Floor</td>
<td>First Floor</td>
</tr>
<tr>
<td>------------------------</td>
<td>---------------------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m or 5.9m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
<td>0m – 9.5m</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, subject condition

<table>
<thead>
<tr>
<th></th>
<th>Unit 1</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Maximum Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 3.2 m</td>
</tr>
<tr>
<td></td>
<td>Maximum Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td>Maximum Length: 20 m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 7.00 m (Western Boundary)</td>
</tr>
</tbody>
</table>

Unit 2

|                        | Maximum Height: 3.2m                             |
|                        | Proposed: 3.5 m                                  |
|                        | Maximum Average Height: 3.4m                     |
|                        | Maximum Length: 20 m                             |
|                        | Proposed: 6.5 m (Western Boundary)               |

The proposed western boundary of dwelling 2 does not comply with Standard B18, therefore a condition will be placed on any permit issued requiring compliance with the requirements of B18.

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

Yes

|                        | All habitable room windows adjoining the subject site will have a light court that is 3sqm in area and 1m clear to the sky, and the proposed buildings have been adequately setback from boundaries to ensure that daylight to existing habitable room windows is not reduced. |

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

Yes

|                        | No north facing windows on adjoining properties are affected. |

**B21 Overshadowing Open Space**
Ensure buildings do not significantly overshadow

Yes

|                        | Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm |

Item 4.7 – Matters of Decision
existing secluded private open space. | on 22 September.
---|---
**B22 Overlooking**<br>Limit views into existing secluded private open space and habitable room windows. | Yes | A combination of fixed obscure glazing and appropriately located windows have been incorporated within the design.
**B23 Internal Views**<br>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. | Yes | There will not be any internal overviewing within the development.
**B24 Noise Impacts**<br>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | Yes | The development will not generate any noise above that typically expected from a residential building.
**B25 Accessibility**<br>Consider people with limited mobility in the design of developments. | Yes | Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.
**B26 Dwelling Entry**<br>Provide a sense of identity to each dwelling. | Yes | The entries to both dwellings are easily identifiable from the street.
**B27 Daylight to New Windows**<br>Allow adequate daylight into new habitable room windows. | Yes | Each dwelling will have habitable room windows that will face an open outdoor space of adequate proportions.
**B28 Private Open Space**<br>Provide reasonable recreation and service needs of residents by adequate pos. | Yes | Minimum: 25m² secluded, 40m² overall<br>Proposed:<br>Unit 1 = 61.9sqm;<br>Unit 2 = 50.5sqm.
**B29 Solar Access to Open Space**<br>Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Appropriate solar access to the private open space areas is provided.
**B30 Storage**<br>Provide adequate storage facilities for each dwelling. | Yes | 6m³ storage units are located within the garages of both dwellings.
**B31 Design Detail** | Yes | Refer Attachment 2.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Variation</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Encourage design detail that respects the existing or preferred neighbourhood character.</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td><strong>Variation</strong></td>
<td><strong>Required</strong>: 1.2 m  <strong>Proposed</strong>: 1.8 m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>A 1.8m fence is proposed, therefore a variation of 0.6m is sought. The variation is considered to be appropriate as:</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- The 1.8m fence provides seclusion to the private open space;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- There are various examples of similar fencing heights throughout Linacre Street; and,</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- The proposed fence consists of various building materials that allow a level of permeability.</td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td><strong>N/A</strong></td>
<td>No common property is proposed.</td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td><strong>Yes</strong></td>
<td>Site services are nominated on the plans and are adequate.</td>
</tr>
</tbody>
</table>
4.8 25G & 25H Bolton Street, Beaumaris (Formerly Lots 17 & 18 - 489 Balcombe Road) 
NOTICE OF DECISION TO GRANT A PLANNING PERMIT 
APPLICATION NO: 2016/185/1 WARD: SOUTHERN

This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Purpose and background

To report a planning permit application for the construction of two double storey dwellings around two lots with areas of 467 and 400 square metres (refer Attachment 1) at 25G & 25H Bolton Street, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Trusch Design Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>20 June 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expires on</td>
<td>20 August 2017</td>
</tr>
<tr>
<td>Reported timeframe within statutory</td>
<td>No</td>
</tr>
</tbody>
</table>

Site History

Planning permit 2014/516 was granted on the 17 March 2015 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) for the subdivision of the former Beaumaris RSL site at 489 Balcombe Road into 20 lots, removal of vegetation, alteration of access to a Category 1 Road Zone and variation and removal of easements.

The permit was amended via Section 72 of the Planning and Environment Act 1987 on the 13 October 2015 for minor amendments to the conditions. The permit was amended again via Section 71 of the Planning and Environment Act 1987 on the 5 November 2015 to correct a minor clerical error in the original drafting of the conditions.

Individual titles for the 20 lots have been issued. A number of the conditions of the subdivision permit, the endorsed plans and a Section 173 agreement lodged on all titles across the site place restrictions on the development of each site. These are discussed later in the report.

Subdivision plans have been endorsed that direct a number of aspects of the development of individual sites, including the provision of building envelopes and maximum building heights.

A landscape concept plan has also been endorsed for the larger site. All landscape plans for individual lots must be consistent with the landscape concept plan.

The section 173 agreement on each title imparts obligations on the owner in relation to the building envelope, height of development and tree protection fencing, and requires landscape plans to be prepared for each site and arborist reports where trees are to be retained.

It is noted the original Section 173 agreement did not allow works outside of the building envelope. This prohibited all works that would normally be associated with a dwelling including site cuts, driveways and letterboxes from occurring outside the building envelope. It is acknowledged this was over and above the intent of the building envelopes as decided by the VCAT decision and an amended Section 173 agreement
was re-drafted that reflects the intent of the VCAT decision and community expectations for the development of the site, while enabling landowners to reasonably develop each site. The amended section 173 was signed by all owners and Council and registered on all titles on the 21 June 2017 (Dealing No. AN936521R).

2. **Policy implications**

   **Planning permit requirements**

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

3. **Stakeholder Consultation**

   **External referrals**

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

   **Internal advice**

   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>Conditions requested.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic</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 six objections were received. The following concerns were raised:

   - Bolton Street setback should be 9 metres
   - Overlooking
   - No landscape plan
   - No subdivision plan
   - Visual bulk
   - Glare
   - Dust and wind impacts
   - North and south elevations incorrectly labelled
   - Living spaces not oriented to sunlight
   - Traffic
   - Neighbourhood character
   - Exceeds maximum building height
   - Limited useable open space
   - Development impact on neighbouring trees and retaining walls
   - Flooding

   This application was formerly amended on the 20 June 2017. However was not re-advertised as only minor changes were made including increasing setbacks from the
boundaries. The amendments were not considered to result in an increase in material
detriment to any person.

Consultation meeting
The applicant declined a consultation meeting. The applicant has approached objectors
directly and has provided Council with details of these discussions. No objections have
been withdrawn as a result of this consultation.

4. Recommendation
That Council:

Issues a Notice of Decision to Grant a Planning Permit under the provisions of the
Bayside Planning Scheme in respect of Planning Application 2016/744/1 for the land
known and described as 25G & 25H Bolton Street, Beaumaris, for the construction of
two double storey dwellings across two lots less than 500 square metres in
accordance with the endorsed plans and subject to the following conditions from the
standard conditions:

1. Before the development starts, amended plans to the satisfaction of the
   Responsible Authority must be submitted to and approved by the Responsible
   Authority. When approved, the plans will be endorsed and will then form part of
   the permit. The plans must be drawn to scale with dimensions and three copies
   must be provided. The plans must be generally in accordance with the amended
   plans (Drawing No: 2 – 6 and L-TP01 (Rev A and dated July 2016)) but modified
   to show:

   a) The street setback of the first floor balcony to the dwelling at No.25G
      Bolton Street increased to a minimum of 7 metres.

   b) Brick banding, pavers or similar along the boundaries of driveways to both
      properties.

   c) First floor side facing windows serving the kitchen, dining room and living
      room one and the front balconies of No.25G Bolton Street and the side
      facing window serving the kitchen and dining room of No.25H Bolton
      Street to be treated to avoid overlooking in accordance with Standard A15
      of the Bayside Planning Scheme.

   d) All screening proposed to first floor windows of both dwellings to be no
      more than 25% transparent.

   e) Driveway to 25H Bolton Street to be minimised in width as far as practical
      and to be installed above grade.

   f) Both garages to have minimum dimensions in accordance with Clause
      52.06-9 Design Standard 2 of the Bayside Planning Scheme.

   g) Longitudinal section of the driveways showing the grades and lengths of
      grades in accordance with AS2890.1.

   h) Sightlines where the driveway meets the crossover in accordance with
      Clause 52.06-9 of the Bayside Planning Scheme.

   i) A schedule of construction materials, external finishes and colours.

   j) A Water Sensitive Urban Design response in accordance with Condition 7
      of this permit.

   k) A Landscape Plan in accordance with Condition 10 of this permit.

   l) A Tree Management and Protection Plan in accordance with Condition 13
of this permit.

2. The development as shown on the endorsed plans must not be altered 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 occupation, screening of windows and roof decks including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

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

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

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

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 plan, prepared by John Patrick Landscape Architects Pty Ltd and dated July 2016) and be drawn to scale with dimensions and three copies must be provided. The plan must show:
    a) Quantities of shrubs, climbers and ground covers to be detailed.
    b) The three Broad-leaved Paperbarks in the front setback of No.25G Bolton Street to be replaced with three (3) Black Sheoak (*Allocasuarina littoralis*).
c) One Black Sheoak (*Allocasuarina littoralis*) in the front setback of No.25H Bolton Street.

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.

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

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

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

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

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

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

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

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

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

19. Before the development commences, the owner(s) must enter into an agreement with the Responsible Authority made pursuant to Section 173 of the
Planning and Environment Act 1987 to provide for the following:

a) The construction of both dwellings shall be undertaken and completed concurrently

Except with the written consent of the Responsible Authority.

Before the development commences an application must be made to the Registrar of Titles to register the Section 173 Agreement on the title to the land under Section 181 of the Act.

The owner/operator under this permit must pay the reasonable costs of the preparation, (and) execution and registration of the Section 173 Agreement.

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.

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

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

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

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

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

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

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

- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:
• Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy (Precinct H3)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 42.03 Vegetation Protection Overlay (Scheduled 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 52.06 Car Parking
• Clause 54 Single dwelling on a lot
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

Given the comparatively narrow and adjoining building envelopes provided for the development of No.25G and 25H Bolton Street, it is clear that two adjoining dwellings set in from the No.25F and 25I Bolton Street was envisaged by the subdivision permit. The envelopes for all former Beaumaris RSL properties which front Bolton Street would ensure the rhythm of the street scene and visual separation envisaged by the subdivision permit will be achieved.

The dwellings retain sufficient space across the site to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects. Subject to the recommended conditions of approval the proposal would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area.

The proposed double garages for each dwelling do project forward of the first floor of the dwellings, with the exception of the first floor balconies. The dwelling entries are setback from the garages; although are clearly identifiable from the street with small porches.
Both properties retain a significant amount of front garden space. The landscape plan submitted in support of the application demonstrates a meaningful level of vegetation consistent with the anticipated character of the development can be achieved in the front setbacks, in particular No.25G Bolton Street. While not an ideal outcome, the location and placement of the garages in the context of the dwellings are not considered to dominate the presentation of the dwellings to the street.

Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to establish a useable area of private open space to the rear of each dwelling is also acknowledged. The proposed site cuts for the dwelling are considered minimal in this context.

The proposal incorporates a number of recessed elements, changes in materials, finishes/ textures and design features that break up the mass of the dwellings into smaller components. The proposal is considered to contribute an acceptable level of visual interest to the streetscape. The dwelling would utilise timber, render and aluminium cladding. The balustrades would be glazed and the window and door joinery would be aluminium. No front fence is proposed for either property. The proposal would enhance the openness of front gardens in the street.

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

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

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

<table>
<thead>
<tr>
<th>25G Bolton Street</th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>West (Side)</td>
<td>0m</td>
<td>1.7m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>4m</td>
<td>8m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>25H Bolton Street</th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m</td>
<td>1.7m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>4m</td>
<td>7m</td>
</tr>
</tbody>
</table>

Both dwellings would be constructed to the boundary at ground and first floor levels on the adjoining boundary, which would vary the side setback standard. The objective of Standard A10 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 two dwellings have been designed together and would avoid any amenity impact
between the two properties. A condition of approval is recommended to secure by way of Section 173 Agreement the construction of both dwellings commences and is complete concurrently. This would ensure one dwelling is not constructed which would then prejudice the development of the adjacent property and will also avoid any significant neighbourhood character impacts associated with a two storey sheer wall being exposed on the boundary if only one dwelling is constructed.

The footprint of both dwellings would be located wholly within the building envelope established by the endorsed subdivision plans (Ref: 2014/516/2). The envelopes for all former Beaumaris RSL properties which front Bolton Street would ensure the rhythm of the street scene and visual separation envisaged by the subdivision permit would be achieved.

Given the comparatively narrow width of the two sites and the adjoining building envelopes provided for the development of No.25G and 25H Bolton Street, it is clear that two adjoining dwellings was envisaged by the subdivision permit. Although the building envelopes extend to the boundaries with No.25F and 25I Bolton Street, the building envelopes for these two adjoining properties are setback two metres from the proposal site.

In this context, the two proposed dwellings are considered to achieve the rhythm of the street scene and a sense of visual separation that was envisaged by the subdivision permit issued at the direction of VCAT. The proposal is considered to achieve the objective of this standard.

Walls on boundaries (Standard A11)

The length of a proposed wall on a boundary may be constructed for the length of a simultaneously constructed wall on the abutting boundary of an adjacent lot. The walls on the boundary between the two dwellings would be equal in length; although offset by 1 metre. The height of a wall on a boundary should not exceed a maximum height of 3.6 metres and an average height of 3.2 metres, unless abutting a higher existing or simultaneously constructed wall. The proposed walls on the boundary would be of equal height; although No.25G Bolton Street would be offset one metre forward. The proposal is considered to comply with this standard.

Overlooking (Standard A15)

All side and rear ground floor windows proposed would face a boundary fence to two metres in height. The ground floor internal floor height does not exceed 800mm above natural ground level at any point and as such the proposal complies with the overlooking standard at ground floor level.

The windows serving bedroom one at No.25G Bolton Street would be within 9 metres of the rear of No.25F Bolton Street and No.7 and 9 Ruxton Rise. These three properties are vacant; however concurrent applications have been submitted for all three. Given the building envelope provided for the development of these sites, it is reasonable to assume regardless of the concurrent application that the rear of all three properties will be developed as secluded private open space. As such it is considered appropriate to ensure no overlooking of this private open space occurs. The elevations show screening to these windows annotated as horizontal slate compliance privacy screen. A condition of approval is recommended to require the screening to be no more than 25% transparent.

The dwelling proposed at No.25G Bolton Street includes a number of western facing first floor windows and the balcony at the front of the dwelling. Those serving the pantry and toilet would not create overlooking impacts; however the windows serving the dining room, kitchen and living room and the front balcony would be 3.65 metres from the
boundary. The approved dwelling at No.25F Bolton Street (2016/166) includes a number of ground floor windows facing No.25G, although not all serve habitable rooms. Regardless of whether this approved development is constructed, given the building envelope provided for the site it is reasonable to expect the development of this neighbouring site will have similar ground floor windows.

The proposed side facing windows serving the dining room, kitchen and living room and the front balcony are all within 9 metres, measured at a 45 degree angle, from a window serving a study approved at No.25F Bolton Street. A condition of approval is recommended to ensure these windows and the balcony are treated to avoid overlooking of the neighbouring property.

The windows serving bedroom 1 at No.25H Bolton Street would be within 9 metres of the rear secluded private open space at No.73 Haydens Road and the rear of 7 Ruxton Rise. & Ruxton Rise is currently vacant; however a concurrent application has been submitted for the site (2017/381/1). Given the building envelope provided for the development of this site, it is reasonable to assume regardless of the concurrent application that the rear of No.7 Ruxton Rise will be developed as secluded private open space. The elevations show screening to these windows annotated as horizontal slate compliance privacy screen. A condition of approval is recommended to require the screening to be no more than 25% transparent.

The dwelling proposed at No.25H Bolton Street includes a number of eastern facing first floor windows and the balcony at the front of the dwelling. Those serving the pantry and toilet would not create overlooking impacts; however the windows serving the dining room, kitchen and living room and the front balcony would be 3.65 metres from the boundary. The concurrent application at No.25I Bolton Street (2016/689) proposes a number of ground floor windows facing No.25H, although not all serve habitable rooms. Regardless of this application, given the building envelope provided for the site it is reasonable to expect the development of this neighbouring site will have similar ground floor windows.

The proposed side facing window serving the dining room and kitchen are within 9 metres of windows serving a living room proposed at No.25I Bolton Street and secluded private open space containing a pool. A condition of approval is recommended to ensure this window is treated to avoid overlooking of the neighbouring property. The side facing window serving living room one and the front balcony would be within 9 metres of No.25I; however would not face any ground floor windows and would only provide views of a utility area, which is not considered to be a sensitive interface. Regardless of the concurrent application, given the building envelope proposed for No.25I Bolton Street and the location of the crossover approved in the subdivision permit for the overall site (2015/416), the built form in this area of the site is likely to be a garage. As such screening to the window serving living room one and the front balcony is not considered necessary.

A number of objections have been received raising concerns with overlooking from the first floor balconies and living spaces to the secluded private open space of properties on the southern side of Bolton Street. The proposed balconies would be setback in excess of 17 metres from the secluded private open space of these properties, which comfortably exceeds the 9 metre distance in the privacy standard.

### 6.3. Bolton Street setback

The original subdivision permit issued at the direction of VCAT did not include a condition to alter the setback of building envelopes to Bolton Street; despite commentary in the decision indicating that a 9 metre setback would be appropriate. Subdivision plans were correctly endorsed by Council with a six metre setback to Bolton Street on this basis. Council wrote to VCAT in November 2016 to bring this discrepancy to the Tribunal’s
attention; however following a review by the Deputy President, VCAT declined to amend the 2015 permit or the endorsed plans.

There are a range of setbacks in the area typified by the large setback to No.25 Bolton Street and the relatively smaller setbacks on the southern side of Bolton Street, opposite the former Beaumaris RSL site. Officers consider the existing and preferred neighbourhood character of the surrounding area supports a street setback from Bolton Street larger than six metres. It is acknowledged the development of the former Beaumaris RSL site is an unusual situation where a number of individual applications have been made for a row of properties all fronting Bolton Street. Concurrent applications made for the other adjacent sites and the location of built form directed by the size and shape of the lots are all considerations in the appropriate street setbacks for each individual lot.

The proposed dwelling for No.25G Bolton Street would be setback from the street 8.2 metres and 10.2 metres for the ground and first floor respectively. A front balcony at first floor level would be setback 6.2 metres from the street. The proposed dwelling at No.25H Bolton Street would be setback from the street 9.2 metres and 11.2 metres for the ground and first floor respectively. A front balcony at first floor level would be setback 7.2 metres from the street. The lot boundaries and building envelopes of No.25G to 25J Bolton Street all align and as such a consistent street setback for these properties would be desirable. The lot boundary of No.25F Bolton Street steps back at an angle from this alignment.

The objective of the street setback control (Standard A3) is to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. The existing character of Bolton Street is considered to be a 9 metre street setback. It is noted a number of dwellings have lesser setbacks, notably the dwellings with side setbacks to Bolton Street directly west of Haydens Road. This is a position consistent with the findings of the VCAT members in Red Star Beaumaris Pty Ltd v Bayside CC [2015] VCAT P1885.

The preferred neighbourhood character precinct speaks to bushy gardens dominating the streetscape, dwellings set within the landscape, which are sometimes sited to take advantage of water views without dominating the streetscape, minimising impervious surfaces in front garden spaces to ensure space for planting and ensuring adequate space is provided around buildings for the planting of vegetation. In this context the level of planting achieved in the front setback is considered to be an important consideration of whether a sufficient setback has been achieved.

As discussed in the Vegetation and Landscaping section of this report, the landscape plan submitted in support of the application proposes six canopy trees in the front garden of the No.25G Bolton Street and a mature Southern Mahogany (*Eucalyptus botryoides*) is located in the front setback of No.25H Bolton Street.

A dwelling has been approved at No.25F Bolton Street (2016/166) with a street setback of 7 metres. Given the shape of the lots and the building envelopes specified through the VCAT issued permit, it can be assumed that, whether this approved dwelling is constructed or not, the development of 25F Bolton Street will sit to the rear of No.25G Bolton Street. Despite this, it is considered an increased setback to 7 metres of the front balcony to No.25G Bolton Street would improve the integration of the dwellings into the anticipated streetscape. A condition of approval is recommended to reflect this.

Concurrent applications at No.25I (2016/689) and 25J Bolton Street (2016/710) propose street setbacks of 9 and 9.255 metres respectively. The proposal would provide a graduated setback to these two adjacent properties to the east. In this context, subject to the condition of approval requiring the front balcony of the dwelling at No.25G Bolton Street to be setback 7 metres from the street, the proposal would fit comfortably with the
development anticipated along these nine sites fronting Bolton Street and the existing properties in the surrounding area.

6.4. Car parking and traffic
Each dwelling is provided with a double car garage in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding internal dimensions of the garages, driveway grades, sightlines and crossovers. The dual crossover has been constructed in accordance with the endorsed subdivision plans. Conditions of approval in relation to the garages, driveway grades and sightlines are included in the recommendation.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.5. Vegetation & Landscaping
A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 Agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies the Southern Mahogany (Eucalyptus botryoides) located in the front setback of No.25H Bolton Street for retention. The landscape concept plan also identifies a Coast Banksia and three Black Sheoak in the front setback of No.25G Bolton Street and one Black Sheoak in the front setback of No.25H Bolton Street.

A landscape plan for the site, prepared by John Patrick Landscape Architects Pty Ltd and dated July 2016, has been submitted in support of the application. Council’s Arborist has reviewed the application and advises that the proposed planting is not completely consistent with the endorsed landscape plan. The wording “consistent with” is considered to be a higher test than the commonly used “generally in accordance with”.

In this context it is considered appropriate for the proposed canopy tree planting for the site to be in accordance with the landscape concept plan; however the shrubs, groundcovers, grasses and climbers may deviate from the planting palette in the endorsed landscape concept plan provided the alternative design achieves a sufficient bushy garden character with the use of a high level of native species.

The proposed landscape plan provides ten canopy trees which exceeds that in the endorsed landscape concept plan; however the species selection does not accord with the endorsed landscape concept plan. The three Black Sheoak (Allocasuarina littoralis) in the front setback of No.25G Bolton Street in the endorsed landscape plan have been replaced with three Broad-leaved Paperbarks. This is considered to be an outcome inconsistent with the landscape concept plan and the aim of planting indigenous canopy trees on site. A condition of approval is recommended to replace the Broad-leaved Paperbarks with three Black Sheoak.

In addition the endorsed landscape concept plan also identifies one Black Sheoak (Allocasuarina littoralis) in the front setback of No.25H Bolton Street that is not included in the proposed landscape plan. A condition of approval is recommended to add a Black Sheoak in the front setback of No.25H Bolton Street.

The proposed landscape plan also details a wide variety of shrubs and smaller planting that while not entirely in accordance with the planting palette in the endorsed landscape concept plan contain a significant number of native and indigenous species. Quantities of shrubs and groundcovers are not provided and a condition of approval is recommended to address this.
The proposed landscape plan is considered to appropriately respond to the preferred bushy garden character sought for the area and subject to the recommended conditions is consistent with the endorsed landscape concept plan.

An Arborist report for the former 489 Balcombe Road, prepared by Greenwood Consulting dated 29 September 2015, was submitted to satisfy condition 6 of the original subdivision permit. The Section 173 Agreement lodged on the title requires that an Arborist Report is submitted to Council prior to the commencement of any works where a tree protection zone extents into a site.

A mature Southern Mahogany (*Eucalyptus botryoides*) in the front setback of No.25H Bolton Street is identified for retention in the endorsed subdivision plans. An arborist report, prepared by Greenwood Consulting and dated 26 October 2016, has been submitted in support of the application. The report identifies the built form footprint as proposed would have an 8% incursion into the TPZ of the Southern Mahogany. The driveway is identified as having a 19.8% incursion into the TPZ. The driveway would also extend into the Structural Root Zone (SRZ).

Council’s Arborist has reviewed the application and advises the location of the driveway should be reduced as far as practical to minimise the impact on the Southern Mahogany. Council’s Arborist supports the use of permeable paving for the driveway as detailed in the landscape plan; however has requested this is installed above ground level of minimise root disturbance. A condition of approval is recommended to reflect this.

Council’s Arborist advises that generic tree protection measures have been recommended and the locations of these tree protection measures have not been shown on a plan. A condition of approval is recommended that would require a specific Tree Management Report and Tree Protection Plan that spatially identifies specific tree protection measures to ensure the continued health and longevity of the tree.

6.6. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Overlooking**

An assessment of the application against Standard A15 of Clause 54 is contained in appendix 4 to this report. It is noted the front balconies to both dwellings would be in excess of 18 metres from the rear private open space at No.27 Bolton Street and 67 Haydens Road. This significantly exceeds the 9 metre standard contained in Standard A15.

**No landscape plan**

The applicant has provided a landscape plan prepared by a suitably qualified person, pursuant to condition 7(d) of the subdivision permit for the overall Beaumaris RSL site (2014/516/2).

**No subdivision plan**

The two dwellings are proposed on separate sites. The existing site plan clearly identifies the site boundaries and dimensions.

**Glare**

The proposal does not utilise a level of glazing or reflective materials over and above that commonly seen in contemporary properties. A condition of approval is recommended to require details of materials, which will provide the Responsible Authority the ability to ensure the development is constructed in muted colour tones appropriate to the character of the area.
Visual bulk
As discussed in appendix three to this report, the proposal incorporates a number of recessed elements, changes in materials, finishes/textures and design features that break up the mass of the dwellings into smaller components. The proposal is not considered to present an unreasonable level of visual bulk.

Dust and wind impacts
Construction effects are not a consideration under the Planning & Environment Act 1987 or Bayside Planning Scheme.

Elevations incorrectly labelled
The north and south elevations have been amended to be correctly labelled.

Living spaces not oriented to sunlight
The primary secluded outdoor living spaces and the ground floor living rooms are located to the rear of the dwellings and would receive good levels of natural light and sun. The first floor balconies are located south of the dwellings and would not receive the same levels of sunlight; however they are not considered to be primary outdoor spaces. The first floor internal living spaces are afforded natural light through side and forward facing windows and internal light courts.

Exceeds maximum building height
The proposal extends to a maximum height of 7.75 metres. This accords with the maximum height limit in the Neighbourhood Residential Zone and the maximum height for the two sites specified in the endorsed subdivision plans. The modified ground levels across the former Beaumaris RSL site was addressed by the VCAT members in the order that directed the issue of the subdivision permit. The members directed a plan with contours be adjusted to better reflect the natural ground level of the site to establish a base contour plan for the site. The maximum building height has been calculated against the endorsed base contour plan.

Limited useable open space
As detailed in appendix four to this report, both dwellings would significantly exceed the amount of private open space required by Standard B17 of Clause 54 (ResCode).

Neighbouring trees and retaining walls
The impact of the proposal on neighbouring trees in considered in the Vegetation and Landscape section of this report.

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

Flooding
The subject site is not within the Special Building Overlay which identifies areas susceptible to overland flooding in Melbourne Water’s catchment modelling. In addition
the proposal comfortably exceeds the minimum permeability standards and a condition of approval is recommended to require a water sensitive urban design response for the site supported by an industry accepted performance measurement tool.

Support Attachments

1. Development Plans
2. Site Surrounds and Imagery
3. Neighbourhood Character (Precinct H3) Assessment
4. Clause 54 (ResCode) Assessment
PROPOSED NEW RESIDENCES
at 256 & 25H BOLTON STREET
(LOT 17 & 18)
BEUMARIS VICTORIA
for A MACLACHLAN
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🔴</td>
</tr>
</tbody>
</table>
Figure 2 View across 25G Bolton Street towards North West

Figure 3 View across 25G and 25H Bolton Street towards North East
Figure 4 View towards interface with No.73 Haydens Road

Figure 5 View from subject site across Bolton Street to 67 Haydens Road
Figure 6 View from subject site across Bolton Street to No.27 Bolton Street
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H3)

Preferred Future Character

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  
A landscape plan has been submitted in support of the application. The trees to be retained and the level of planting across the site is informed by the original VCAT decision and endorsed landscape concept plan. Subject to the recommended conditions of approval the proposal would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area. This is discussed in greater depth in the report. |

| To maintain the rhythm of spacious visual separation between buildings and ensure | • Buildings should be sited to allow space for a garden, including trees and shrubs. |                                | Responds  
The footprint of both dwellings would be located wholly within the building envelope |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>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>established by the endorsed subdivision plans (Ref: 2014/516/2). The envelopes for all former Beaumaris RSL properties which front Bolton Street would ensure the rhythm of the street scene and visual separation envisaged by the subdivision permit would be achieved. Given the comparatively narrow and adjoining building envelopes provided for the development of No.25G and 25H Bolton Street, it is clear that two adjoining dwellings set in from the No.25F and 25I Bolton Street was envisaged by the subdivision permit. Sufficient space is retained around the proposed dwellings to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects.</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.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking structures that dominate the façade or view of the dwelling. | The proposed double garages for each dwelling do project forward of the first floor of the dwellings, with the exception of the first floor balconies. The dwelling entries are setback from the garages; although are clearly identifiable from the street with small porches. Both properties retain a significant amount of front garden space. The landscape plan submitted in support of the application demonstrates a meaningful level of vegetation consistent with the anticipated |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</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 battering of slopes.  
• Design new buildings and extensions so as not to exceed the predominant tree canopy height. | Major excavation works and site levelling. | The proposal incorporates a number of recessed elements, changes in materials, finishes/textures and design features that break up the mass of the dwellings into smaller components. The dwellings are similar in form; however No.25H Bolton Street is set rearward and lower than the adjoining dwelling. The first floor level would be recessed from the ground floor level for both dwellings. The proposal is considered to contribute an |
| **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. | |

Character of the development can be achieved in the front setbacks, in particular No.25G Bolton Street. While not an ideal outcome, the location and placement of the garages in the context of the dwellings are not considered to dominate the presentation of the dwellings to the street.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>To use building materials and finishes that complement the natural setting.</strong></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>The dwelling would utilise timber, render and aluminium cladding. The balustrades would be glazed and the window and door joinery would be aluminium. A condition of approval is recommended to require details and samples of the proposed materials be submitted to the satisfaction of the Responsible Authority.</td>
</tr>
<tr>
<td><strong>To maintain the openness of the front garden to the street.</strong></td>
<td>• Provide open style front fences, other than along heavily trafficked roads. • Use vegetation as an alternative where possible.</td>
<td>High or solid front fences.</td>
<td><strong>Responds</strong> No front fence is proposed for either property. The proposal would enhance the openness of front gardens in the street.</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Requirement and Proposed</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>-------------------------</td>
<td>--------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
<td></td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>Both dwellings would be oriented toward Bolton Street and the front entrances would be clearly delineated with walkway and porches. While the ground floor frontage would be primarily garages the first floor living spaces would front the dwellings. The development would integrate appropriately with the street.</td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Refer to report</td>
<td>Required: 6m</td>
<td></td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</td>
<td></td>
<td>25G Bolton: 6.2m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>25H Bolton: 7.2m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Refer to Section 6.3 of report</td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 8m</td>
<td></td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td>Proposed: 7.75m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Note: The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2)</td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
<td></td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td>25G Bolton: 35.4%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>25H Bolton: 41.3%</td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td>Minimum: 20%</td>
<td></td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td>25G Bolton: 42.4%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>25H Bolton: 26.7%</td>
<td></td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site.</td>
<td></td>
</tr>
</tbody>
</table>
and makes appropriate use of daylight and solar energy.

<table>
<thead>
<tr>
<th>A8 Significant Trees</th>
<th>Yes</th>
<th>Refer to report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development respects the landscape character of the neighbourhood and retains significant trees on site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A10 Side and Rear Setbacks</th>
<th>No</th>
<th>Refer to table below and report. Non-compliances are underlined below.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 25G Bolton Street

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>West (Side)</td>
<td>0m</td>
<td>1.7m</td>
<td>2.81m – 3.59m</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m</td>
<td>0m</td>
<td>3.23m – 3.89</td>
</tr>
<tr>
<td>North (rear)</td>
<td>4m</td>
<td>8m</td>
<td>2.81m – 4.86m</td>
</tr>
</tbody>
</table>

### 25H Bolton Street

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>West (Side)</td>
<td>0m</td>
<td>0m</td>
<td>3.23m – 3.89</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m</td>
<td>1.7m</td>
<td>3.296m – 3.62m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>4m</td>
<td>7m</td>
<td>4.296m – 4.65m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A11 Walls on Boundaries</th>
<th>Yes</th>
<th>Refer to report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Recommendation</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------------</td>
</tr>
<tr>
<td>A12</td>
<td>Daylight to existing windows</td>
<td>Yes</td>
</tr>
<tr>
<td>A13</td>
<td>North Facing Windows</td>
<td>Yes</td>
</tr>
<tr>
<td>A14</td>
<td>Overshadowing Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>A15</td>
<td>Overlooking</td>
<td>No</td>
</tr>
<tr>
<td>A16</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail</td>
<td>Yes</td>
</tr>
<tr>
<td>A20 Front Fences</td>
<td>N/A</td>
<td>No front fencing proposed</td>
</tr>
<tr>
<td>------------------</td>
<td>-----</td>
<td>--------------------------</td>
</tr>
<tr>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.9  8 RUXTON RISE, BEAUMARIS
(FORMERLY LOT 10 - 489 BALCOMBE ROAD)
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO:2016/334/1 WARD: SOUTHERN

This matter has been reported to the Planning and Amenity Committee for a
decision as a result of Councillor call-in.

1. Purpose and background
To report a planning permit application for the construction of a dwelling on a lot with an
area of 416 square metres (refer Attachment 1) at 8 Ruxton Rise, Beaumaris (refer
Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Oksio Designs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>9 February 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>25 May 2016</td>
</tr>
</tbody>
</table>

Site History
Planning permit 2014/516 was granted on the 17 March 2015 at the direction of the
Victorian Civil and Administrative Tribunal (VCAT) for the subdivision of the former
Beaumaris RSL site at 489 Balcombe Road into 20 lots, removal of vegetation, alteration
of access to a Category 1 Road Zone and variation and removal of easements.

The permit was amended via Section 72 of the Planning and Environment Act 1987 on
the 13 October 2015 for minor amendments to the conditions. The permit was amended
again via Section 71 of the Planning and Environment Act 1987 on the 5 November 2015
to correct a minor clerical error in the original drafting of the conditions.

Individual titles for the 20 lots have been issued. A number of the conditions of the
subdivision permit, the endorsed plans and a Section 173 agreement lodged on all titles
across the site place restrictions on the development of each site. These are discussed
later in the report.

Subdivision plans have been endorsed that direct a number of aspects of the
development of individual sites, including the provision of building envelopes and
maximum building heights.

A landscape concept plan has also been endorsed for the larger site. All landscape plans
for individual lots must be consistent with the landscape concept plan.

The section 173 agreement on each title imparts obligations on the owner in relation to
the building envelope, height of development and tree protection fencing, and requires
landscape plans to be prepared for each site and arborist reports where trees are to be
retained.

It is noted the original Section 173 agreement did not allow works outside of the building
envelope. This prohibited all works that would normally be associated with a dwelling
including site cuts, driveways and letterboxes from occurring outside the building
envelope. It is acknowledged this was over and above the intent of the building
envelopes as decided by the VCAT decision and an amended Section 173 agreement
was re-drafted that reflects the intent of the VCAT decision and community expectations
for the development of the site, while enabling landowners to reasonably develop each
site. The amended section 173 was signed by all owners and Council and registered on all titles on the 21 June 2017 (Dealing No. AN936521R).

2. **Policy implications**

   **Planning permit requirements**

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

3. **Stakeholder Consultation**

   **External referrals**

   There were 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</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

4. **Public notification**

   The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and two objections were received. The application was formerly amended and re-advertised. One objection was subsequently withdrawn; however the remaining objection was re-affirmed and a new objection was received. The outstanding two objections raise the following concerns:

   - Overlooking
   - Neighbourhood character
   - Landscape plan

5. **Consultation meeting**

   The applicant declined a consultation meeting. It is understood the applicant has approached objectors directly and has amended plans in response to some of the concerns raised. This resulted in the withdrawal of one objection; however two objections remain.

4. **Recommendation**

   That Council:

   Issues a **Notice of Decision to Grant a Planning Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/334/1** for the land known and described as **8 Ruxton Rise, Beaumaris**, for the **construction of a dwelling on a lot less than 500 square metres** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

   1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies...
must be provided. The plans must be generally in accordance with the amended plans (Drawing No: 5 – 10 (all Rev A) dated 7/12/2016 and the Landscape Planting and Layout Plan dated June 2017) but modified to show:

a) Measures required to treat overlooking of No.6 and 8 Ruxton Rise from the roof deck to comply with Standard A15 of the Bayside Planning Scheme.

b) Sightlines where the driveway meets the crossover in accordance with Clause 52.06-9 of the Bayside Planning Scheme.

c) The use of the word “should” replaced with “must” in Appendix one of the Arboricultural Assessment Report, prepared by Glenn Waters Arboriculture and dated 13 April 2016.

d) A Water Sensitive Urban Design response in accordance with Condition 7 of this permit.

e) A Landscape Plan in accordance with Condition 10 of this permit.

2. The development as shown on the endorsed plans must not be altered 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 occupation, screening of windows and roof decks including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

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

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

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

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

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

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

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 plan, prepared by Ric Day & Co Pty Ltd and dated June 2017, and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) The two Crepe Myrtle to be replaced with native canopy trees.

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.

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

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

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

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

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

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

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

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

Permit notes

- 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.

- Construction of any fence/wall/letterbox structures may necessitate removal/damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
• A 'Road Opening / Stormwater Tapping Permit' is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

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

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

5. Council Policy

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

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

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

• Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy (Precinct H3)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 42.03 Vegetation Protection Overlay (Scheduled 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 52.06 Car Parking
• Clause 54 Single dwelling on a lot
• Clause 65 Decision Guidelines

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

6.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal retains sufficient space around the dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects. The proposal, subject to the conditions of approval, would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area.

The proposed double garage does extend forward of the remainder of the ground and first floor of the dwelling. Despite this the garage does not present as a dominant element in the front façade of the dwelling. The dwelling is broken down into a number of forms and the garage would appear as one of these forms. The front door of the property would be set rearward of the garage; however it would be clearly delineated with a walkway, stairs and a timber pergola. While not the ideal outcome, the proposal is considered to represent an alternative design approach that is appropriate in this instance.

The proposal incorporates a number of recessed/ projecting elements, materials and changes in form that break up the mass of the dwelling into smaller forms. The proposal is considered to contribute an acceptable level of visual interest to the streetscape. The proposal includes a variety of materials including white painted render, grey timber composite cladding, natural timber and white window/ door joinery. The proposal would maintain an openness of the front garden.

Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to establish a useable area of private open space for each dwelling is also acknowledged. The proposed site cuts for the dwelling is not considered excessive in this context.

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

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

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
<th>Roof deck</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>West (Side)</td>
<td>2m</td>
<td>3.614m</td>
</tr>
<tr>
<td></td>
<td>2m</td>
<td>3.614m</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m</td>
<td>3.654m</td>
</tr>
</tbody>
</table>
The proposal would vary the side and rear setbacks as detailed above. The objective of Standard A10 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 proposal would vary the eastern first floor setback to a maximum of 54mm. The adjacent property, No.10 Ruxton Rise, is currently vacant; however a concurrent application has been submitted for the development of the site (2017/383/1). Given the small size of the site and the building envelope established through the subdivision permit, it can reasonably be assumed No.6 Ruxton Rise will be developed with a number of western facing ground floor windows setback two metres from the boundary with the subject site and with the primary private open space at the rear of the property. Given the minor nature of this variation, the development would not unreasonably impact on the amenity of the future development of No.10 Ruxton Rise or the neighbourhood character of the precinct.

The proposal would vary the western first floor setback to a maximum of 14mm and the setback to the stair enclosure to the roof deck by 214mm. The adjacent property, No.6 Ruxton Rise, is current vacant; however a concurrent application has been submitted for the development of the site (2017/227/1). Given the small size of the site and the building envelope established through the subdivision permit, it can reasonably be assumed No.6 Ruxton Rise will be developed with a number of western facing ground floor windows setback two metres from the boundary with the subject site and with the primary private open space at the rear of the property. Given the minor nature of these variations, the development would not unreasonably impact on the amenity of the future development of No.6 Ruxton Rise or the neighbourhood character of the precinct.

The proposal would vary the rear first floor setback by 104mm. The adjacent properties to the rear, No.25B and 25C Bolton Street are vacant; however concurrent applications have been received for both properties. Given the building envelope provided for the development of these site, it is reasonable to assume regardless of the application submitted that the rear of these two properties will be developed as secluded private open space. Due to the minor nature of the non-compliance, it is not considered to have an unreasonable impact on the amenity of the future development of these two sites. The variation would be to the rear of the property and would be indiscernible from Bolton Street. As such there would be no impact on the neighbourhood character of the precinct.

Given all the above, the proposal is considered to comply with the objective of this standard.

**Overlooking (Standard A15)**

The ground floor level of the proposal would not exceed 800mm above natural ground level and all ground floor windows would face a boundary fence to 1.8 metres in height. The ground floor level of the proposal meets the requirements of this standard.

The first floor of the proposal includes a number of first floor eastern and western facing windows. These windows either serve non-habitable rooms or have sill heights raised to 2.1 metres above finished floor height. This exceeds the overlooking requirement by 400mm; however all habitable rooms are served by other windows with the exception of...
the rumpus room. The proposal is considered to provide an acceptable standard of accommodation.

The rear facing window at first floor serving the master bedroom would be within 9 metres of the rear of No.25B and 25C Bolton Street. Despite the concurrent applications for these two properties, given the building envelope provided for the development of these sites, it is reasonable to assume regardless of the application submitted that the rear of these two properties will be developed as secluded private open space. The master bedroom window would overlook these areas of private open space. The applicant has amended the plans to include a rear boundary fence to three metres in height and has provided sections that demonstrate the fencing does effectively screen any overlooking within 9 metres.

A roof deck above the first floor level is proposed that would be within 9 metres of No.6 and 8 Ruxton Rise and No.25B and 25C Bolton Street. Detailed sections have been provided that demonstrate the setback of the terrace from the first floor parapet would ensure any person on the roof terrace could not see to the ground level of the neighbouring properties within 9 metres. However the sections demonstrate the roof terrace would allow a clear view of any person standing at ground level of No.6 and 8 Ruxton Rise within the 9 metre radius. The three metre rear boundary fence does effectively screen any overlooking to properties to the rear within 9 metres in accordance with this standard.

Concurrent applications have been submitted for the four surrounding vacant lots; however given the building envelope provided for the development of these sites, it is reasonable to assume regardless of the applications submitted that the roof terrace would overlook private open space of No.6 and 8 Ruxton Rise. A condition of approval is recommended to address this. The overlooking could be treated in a number of ways, including raising the screening height, lowering the floor level, setting the terrace in further from the elevations of the storey below or an increase in the height of boundary fencing. The recommended condition of approval is left open to the applicant to elect which measure to use to comply with Standard A15.

6.3. **Car parking and traffic**

The dwelling is provided with a double car garage in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding internal dimensions of the garage, driveway finish and sightlines. The double garage meets the internal dimension standards and the driveway is proposed as exposed aggregate concrete. A condition of approval in relation to the sightlines is included in the recommendation.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

6.4. **Vegetation & Landscaping**

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 Agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies the Canary Island Pine (*Pinus canariensis*) for retention and provides a planting palette with shrubs, groundcovers, grasses and climbers. No canopy trees are identified to be planted on the site.

A landscape plan for the site, prepared by Ric Day & Co Pty Ltd and dated June 2017, has been submitted in support of the application. Council’s Arborist has reviewed the application and advises that the proposed planting is not consistent with the endorsed
landscape plan. The wording “consistent with” is considered to be a higher test than the commonly used “generally in accordance with”.

In this context it is considered appropriate for the proposed canopy tree planting for the site to be in accordance with the landscape concept plan; however the shrubs, groundcovers, grasses and climbers may deviate from the planting palette in the endorsed landscape concept plan provided the alternative design achieves a sufficient bushy garden character with the use of a high level of native species.

The proposed landscape plan provides one (1) Coast Banksia, one (1) Red Flowering Gum, two (2) White Flowering Crepe Myrtle and seven (7) Silver Banksia. The use of two Crepe Myrtle is considered to be inconsistent with the intention of the endorsed landscape plan. A condition of approval is recommended to replace these two trees with native canopy trees.

A number of small trees are also proposed. The proposed landscape plan also details a wide variety of shrubs and smaller planting that while not entirely in accordance with the planting palette in the endorsed landscape concept plan contain a significant number of native and indigenous species.

The proposed landscape plan is considered to appropriately respond to the preferred bushy garden character sought for the area and subject to the recommended conditions is consistent with the endorsed landscape concept plan.

An Arborist report for the former 489 Balcombe Road, prepared by Greenwood Consulting dated 29 September 2015, was submitted to satisfy condition 6 of the original subdivision permit. The Section 173 Agreement lodged on the title requires that an Arborist Report is submitted to Council prior to the commencement of any works where a tree protection zone extents into a site.

A Canary Island Pine (Pinus canariensis) on site is identified for retention in the endorsed subdivision plans. An arborist report, prepared by Glenn Waters Arboriculture and dated 13 April 2017, has been submitted in support of the application. The report identifies the built form footprint as proposed would have a 1% incursion into the Canary Island Pine tree protection zone (TPZ). The dwelling entrance footpath and any front fence would also represent incursions into the TPZ. The arborist report recommends fencing and restricting access to the TPZ, mulching and irrigating the TPZ dependant on weather and whether the area needs to be accessed at any point during construction and for root excavation to be carried out by hand or with air-excavation techniques.

Council’s Arborists have reviewed the report and advise the use of the word “should” in the tree protection measures identified in appendix one raised issues with enforcement of the implementation of the tree protection measures. A condition of approval is recommended to require the word “must” in place of “should” in appendix one of the Arboricultural Report.

There are no trees on neighbouring properties that will be impacted by the development.

6.5. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Landscape Plan

Concerns were raised by an objector that the advertised landscape plan had not been prepared by a suitably qualified person. The applicant has subsequently provided a landscape plan which has been prepared by Ric Day & Co Pty Ltd, specialising in landscape design. The merits of the landscape plan are assessed in the Vegetation and Landscaping section of this report; however they are considered to be suitably qualified in this instance.
Condition 7(d) of the subdivision permit (2014/516) requires that applications for the construction of a dwelling on a lot less than 500sqm are accompanied by a landscape plan prepared by a suitably qualified person and form part of the planning permit application material. The requirement is therefore for a landscape plan to be provided prior to a permit being granted; however the condition does not require the advertisement of the landscape plan.

Support Attachments
1. Development Plans
2. Site Surrounds and Imagery
3. Neighbourhood Character (Precinct H3) Assessment
4. Clause 54 (ResCode) Assessment
Figure 1 Aerial overview of the site and surrounds
Note: Objection from 6 Silvercrest Court, Keysborough not shown above.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🔴</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>🔴</td>
</tr>
</tbody>
</table>
Figure 2 View from Ruxton Rise across the site looking south

Figure 3 View of Tree to be retained on subject site
Figure 4 View across the site facing south west

Figure 4 View of across site towards No.25 Balcombe Road
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H3)

Preferred Future Character

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  
A landscape plan has been submitted in support of the application. The trees to be retained and the level of planting across the site is informed by the original VCAT decision and endorsed landscape concept plan. Subject to the recommended conditions of approval the proposal would achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area. This is discussed in greater depth in the report. |
| To maintain the rhythm of spacious visual separation between buildings and ensure | • Buildings should be sited to allow space for a garden, including trees and shrubs. |                                                                                                                                 | Responds  
The footprint of the proposal would be located wholly within the building envelope |

Item 4.9 – 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>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>established by the endorsed subdivision plans (Ref: 2014/516/2). This envelope ensures space is retained between the proposal and the development proposed on No.6 and 10 Ruxton Rise. Sufficient space is retained around the proposed dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects.</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. &lt;br&gt;• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>Responds &lt;br&gt;The proposed double garage does extend forward of the remainder of the ground and first floor of the dwelling. Despite this the garage does not present as a dominant element in the front façade of the dwelling. The dwelling is broken down into a number of forms and the garage would appear as one of these forms. &lt;br&gt;The front door of the property would be set rearward of the garage; however it would be clearly delineated with a walkway, stairs and a timber pergola. While not the ideal outcome, the proposal is considered to represent an alternative design approach that is appropriate in this instance.</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. &lt;br&gt;• Minimise the use of retaining walls and battering of slopes.</td>
<td>Major excavation works and site levelling.</td>
<td>Responds &lt;br&gt;Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre</td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
<td>------------------</td>
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<td>----------------------------</td>
</tr>
</tbody>
</table>
| **To ensure that new buildings provide an articulated and interesting façade to the street.** | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Recess upper levels from the front façade. | Large, bulky buildings  
Poorly articulated front and side wall surfaces. | Responds  
The proposal incorporates a number of recessed/projecting elements, materials and changes in form that break up the mass of the dwelling into smaller forms. The first floor level would be recessed behind the garage; however the feature above the front door would cantilever over the ground floor level. The roof deck would be set well back from the front façade. The proposal is considered to contribute an acceptable level of visual interest to the streetscape. |
| **To use building materials and finishes that complement the natural setting.** | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | The proposal includes a variety of materials including white painted render, grey timber composite cladding, natural timber and white window/door joinery. Samples of these materials have been provided. The variety and choice of materials is considered appropriate. |
### Objectives

To maintain the openness of the front garden to the street.

### Design Responses

- Provide open style front fences, other than along heavily trafficked roads.
- Use vegetation as an alternative where possible.

### Avoid

High or solid front fences.

### Planning Officer Assessment

A fence to 1.2 metres in height is proposed running adjacent to the pavers to the front door. A hedge to 1.4 metres is proposed to the frontage of the property. The proposal would maintain an openness of the front garden.
## ATTACHMENT 4
### ResCode (Clause 54) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwelling would be oriented toward Ruxton Rise. While the pedestrian entrance would be behind the building line of the garage, it would be clearly delineated with a walkway and timber pergola. The development will integrate appropriately with the street.</td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Yes</td>
<td><strong>Required:</strong> 6m <strong>Proposed:</strong> 6m Note: The street setback is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2). This control enables eaves to encroach by not more than 2.5 metres.</td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td><strong>Maximum:</strong> 8m <strong>Proposed:</strong> 8m Note: The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2)</td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td><strong>Maximum:</strong> 50% <strong>Proposed:</strong> 42%</td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td><strong>Minimum:</strong> 20% <strong>Proposed:</strong> 40%</td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site.</td>
</tr>
</tbody>
</table>
and makes appropriate use of daylight and solar energy.

<table>
<thead>
<tr>
<th>A8 Significant Trees</th>
<th>Yes</th>
<th>Refer to report.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development respects the landscape character of the neighbourhood and retains significant trees on site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A10 Side and Rear Setbacks</th>
<th>No</th>
<th>Refer to table below and report. Non-compliances are underlined below.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td></td>
<td></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>West (Side)</td>
<td>2m</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>4m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Roof deck</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
</tr>
<tr>
<td>West (Side)</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>East (side)</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>South (rear)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A11 Walls on Boundaries</th>
<th>Yes</th>
<th>Maximum Height: 3.6m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td></td>
<td>Proposed: 3.15m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 12.875m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum Length: 14.75m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 7.38m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>--------</td>
<td>-----------------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>2.</td>
<td><strong>A12 Daylight to existing windows</strong></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>To allow adequate daylight into existing habitable room windows.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>A13 North Facing Windows</strong></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>A14 Overshadowing Open Space</strong></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>A15 Overlooking</strong></td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>A16 Daylight to New Windows</strong></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Allows adequate daylight into new habitable room windows.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>A17 Private Open Space</strong></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>A18 Solar Access to Open Space</strong></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>A19 Design Detail</strong></td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
</tr>
</tbody>
</table>
### A20 Front Fences

Encourage front fence design that respects the exiting or preferred neighbourhood character.

| Yes | **Maximum:** 1.2 metres  
**Proposed:** 1.2 metres  
It is noted a 1.4 metre high hedge is proposed fronting the site. This is not considered to be a fence, as per the control; however the hedge would meet the objective of this control. |
4.10  4 BOLTON STREET, BEAUMARIS  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2016/825/1  WARD: SOUTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/17/151775

1. Purpose and background  
To report a planning permit application for the construction of two, three storey dwellings  
and the removal of native vegetation on a lot with an area of 740 square metres (refer  
Attachment 1) at 4 Bolton Street Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Agart Studio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>19 December 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>17 April 2017</td>
</tr>
</tbody>
</table>

2. Policy implications  
Planning permit requirements  
Clause 32.09-5 (Neighbourhood Residential Zone) - Construction of two or more  
dwellings on a lot.
Clause 42.02-2 (Vegetation Protection Overlay) - Removal of vegetation native to  
Australia.

Planning scheme amendments  
Amendment VC110 was gazetted on the 27 March 2017. The amendment implemented  
the State Government’s response to the recommendations of the Managing Residential  
Development Advisory Committee by introducing a minimum garden area for lots  
400sqm and above, amending the mandatory height controls and the deleting the  
minimum number of dwellings allowed per lot in the Neighbourhood Residential Zone.  
Transitional provisions at clause 32.09-14 state that planning applications received prior  
to the introduction of VC110 are not required to meet the minimum garden area  
requirement, the maximum building height or the number of storey requirements. As such  
this application is not affected by VC110.

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

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

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

Public notification  
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and
Environment Act 1987 and 14 objections were received.

The application was subsequently readvertised with letters sent to the same owners and occupiers and all objectors to correct the description of the development which was described as two-storeys instead of three storeys.

One additional objection was received and one existing objector resubmitted their objection to the proposal.

The total number of objectors to the application is 15.

The objections raised the following issues:

- Removal of vegetation does not respect the neighbourhood or landscape character;
- Built form does not respect the neighbourhood character;
- Visual bulk;
- Insufficient street setback;
- Overlooking;
- Overshadowing;
- Front fence is too high;
- Lack of permeability;
- Traffic and parking impacts;
- Potential noise impacts (pool equipment);
- Asbestos; and
- Loss of views

Consultation meeting

A consultation meeting was held on 5 June 2016 attended by the permit applicant and 6 objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2016/825/1 for the land known and described as 4 Bolton Street BEAUMARIS, for the construction of two double storey dwellings on a lot and the removal of native vegetation in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Agart Studios and Council date stamped 8 February 2017 submitted with the application but modified to show:

   a) Deletion of the sunrooms (third level) of each dwelling with no further built form or changes to built form (except for those changes associated with the deletion of these works).

   b) The existing eastern crossover to be removed and reconstructed in
accordance with Council standards.

c) The garage of dwelling 1 to be converted to a single garage, with an external tandem car space;

d) Adequate sightlines where the driveway intersects with the front footpath in accordance with AS2890.1 and clause 52.06 of the Bayside Planning Scheme (this will likely require changes to front and/or side fencing).

e) The remaining built form of the garage to be converted to a new dwelling entrance facing Bolton Street.

f) Deletion of the side gate prior to the entrance of dwelling 2.

g) Reduction in the swimming pool length(s) such that it does not project beyond the rear most point of the pergola. The area gained by this reduction is to be utilised for landscaping and to allow canopy trees to prosper.

h) Two canopy trees (one each) to be planted within the rear setbacks of each dwelling. The trees must reach a mature height of 10m and a spread of 6m, the trees must be indigenous.

i) The location of metres to be shown on the plans.

j) An amended landscape plan in accordance with Condition 9.

k) A Tree Management Plan in accordance with Condition 12.

l) Water sensitive urban design measures in accordance with Condition 15.

All to the satisfaction of the Responsible Authority.

2. The development as shown on the endorsed plans must not be altered 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. Prior to endorsement of the plans required under Condition 1 of this permit, the permit holder must pay a drainage levy in accordance with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

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

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

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

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

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

2. Landscaping
9. Prior to the endorsement of plans pursuant to Condition 1, an amended
Landscape Plan to the satisfaction of the Responsible Authority must be
submitted to and be endorsed by the Responsible Authority. The plan must be
generally in accordance with the landscape concept plan drawn by Species
Landscape Architects, reference L1, Council date stamped 19 December 2016,
and be drawn to scale with dimensions and three copies must be provided. The
plan must show:
   a) Any consequential changes associated with condition 1.
   b) Deletion of the Bower Wattle within the front setback and replacement with
      a mulched garden bed with a variety of indigenous plants.
   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 areas of the site not covered by
      buildings or hard surfaces.
   g) Details of the 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 and 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.

3. 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.

4. The Tree Protection Plan must be in accordance with AS 4970-2009, be
drawn to scale and provide details of:
   a) The Tree Protection Zone and Structural Root Zone for all trees to be
      retained on the site and for all trees on neighbouring properties where any
      part of the Tree Protection Zone falls within the subject site.
   b) The location of tree protection measures to be utilised.

13. All protection measures identified in the Tree Management and Protection Plans
    must be implemented, and development works undertaken on the land must be
    undertaken in accordance with the Tree Management and Protection Plans, to
    the satisfaction of the Responsible Authority.
14. Before the development starts, including demolition or removal of vegetation, the
name and contact details of the project arborist responsible for implementing the
Tree Management Plan must be submitted to the Responsible Authority.

Water Sensitive Urban Design

15. 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.

5. 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

16. 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.

Drainage

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

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

19. Council records indicate that there is a 1.22m wide drainage and sewerage
easement along the southern property boundary as indicated on the drawings
provided. The plans indicate no proposals to encroach into the easement with any
buildings or structures of note. Proposals to be built over the easement will require
Build over Easement consent from the Responsible Authorities.

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.

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

Permit Notes

- This permit does not constitute any authority to carry out any building works or
  occupy the building or part of the building unless all relevant building permits are
  obtained.
• A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.

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

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

• Before the vehicle crossing application will be approved, the applicant must pay $7,885.39 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible authority.

5. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

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

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

• Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 13 Environmental Risks
• Clause 14 Natural Resource Environment
• 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
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 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal to construct two new dwellings is generally consistent with the Neighbourhood Character Precinct for the following reasons:

- The siting of the dwellings in relation to street and side setbacks are consistent with the adjoining dual occupancy developments within the area (subject to conditions);
- The on-boundary construction has been sited to limit amenity impacts on adjoining dwellings by located the walls opposite or adjoining built form;
- The on-boundary construction is setback sufficiently from Bolton Street so as not to be clearly visible from the public realm;
- Generous landscaping within the front setback will be provided, similar to adjoining sites whilst retaining the existing canopy tree and planting additional trees;
- The front fence is 1.2m high which will allow views of the new dwellings;
- The addition of two canopy trees within the rear setback (by condition) will continue the pattern of canopy vegetation to maintain a ‘bushy feel’ to the Beaumaris neighbourhood;
- Materials and finishes are consistent with the other new dwellings within the streetscape and the provision of timber works to enhance the natural setting of the area.

Whilst the majority of the proposal is considered to be acceptable, the scale of the development at three-stories is not characteristic of the surrounding area which is single and double storey. The third-storey (sun rooms) will be required to be deleted by condition to reduce off-site amenity impacts on the adjoining sites and result in two new dwellings that scale the same as the adjoining sites.

Increased soil area will also be required to allow for the required plantings to respect the established (and preferred) character patterns.

The dominance of garages will be addressed through condition of permit, requiring one garage to be reduced to single width with entrance door (and ideally fenestration) directly beside.
6.2 **Compliance with Clause 55 (ResCode)**

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

**Integration with the Street (Standard B5) and Dwelling Entry (Standard B26)**

The dwellings appropriately front Bolton Street. Pedestrian links are not clearly defined as the front doors to both dwellings are on the side and are not clearly visible from Bolton Street. To provide better pedestrian links for dwelling 1 (west) the conversion of one of the double garages to a single will allow the remaining built form to be transferred into dwelling entry, this will be required by condition.

As a result of the condition, the dwelling will have a front door facing the street providing clear pedestrian links with the street whilst providing an easily identifiable dwelling entry.

In relation to dwelling 2 (east), a 2m high fence and gate is proposed within the side setback preventing clear access to the front door. Whilst there is a footpath which leads from the front gate to the front door, the side gate is unnecessarily blocking off the front door from the street. As such the deletion of the side gate will be required by condition. The removal of the fence will create clearer pedestrian links between the front door of the dwelling and Bolton Street.

**Building height (Standard B7)**

The proposed height of 8.5m is more than the 8m maximum of the zone. The standard allows for dwellings to have a maximum height of 9m should there be a natural slope of the land at a cross section wider than 8m is 2.5 degrees or more. The natural slope of the land is 2.59 degrees therefore the allowable height of the dwelling is 9m which the proposal complies with.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Sun rooms</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>0m-2m</td>
<td>2m – 3.07m</td>
<td>3.14m – 3.56m</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m-2m</td>
<td>2m – 3.07m</td>
<td>3.14m – 3.42m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0m-3m</td>
<td>9.2m</td>
<td>4.5m</td>
</tr>
</tbody>
</table>

The non-compliance of the side setbacks at first floor from the east and west boundaries can be supported because the non-compliance is minor (0.14m or 14cm) and the walls are opposite built form thus having a limited amenity impact on the adjoining sites due to the ground floor walls preventing clear views of the upper floor walls.

There is also non-compliance of the side setbacks to the sun rooms at second floor leading to the roof decks. This non-compliance is not supported for the following reasons:

- The proposed sun rooms result in three-storey dwellings within an area where the pattern of development is two-storey dwellings. Whilst the application was received prior to the change in the zone (no limit on number of storeys) there is now a limit of two storeys, therefore the proposal would be out of character with the built form character of the area going forward;

- There will be views of the sun rooms from the north side of Bolton Street due to this side being higher than the southern side of the street; and
The adjoining SPOS to the west will have some views of the proposed third level resulting in visual bulk from what is typically a smaller than average area of SPOS for this area.

To address the non-compliance of the sunrooms a condition will require that the second floor be deleted.

**Site services (Standard B34)**

A condition will require the location of the metres to be shown on the plans to ensure easy and clear access from the site.

**6.3 Car parking and traffic**

7. Each dwelling is provided with two car spaces (one will be in tandem as required by a condition) in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions which are included as part of the recommended permit conditions.

8. The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

**6.4 Street tree removal**

Council’s Street Tree Arborist has stated that the *Melaleuca linariifolia* can be removed to allow for the new vehicle crossover. A note is included to ensure payment is made prior to the vehicle crossover being constructed the applicant must pay $7,885.39 to the Responsible Authority for the removal and replacement of the street tree.

**6.5 Vegetation & 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 native tree species from the front setback of site that are protected by the VPO3. 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 ‘*’.

<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>Tree 3, 5, 6, 7, 9, 10, 11 &amp; 16</td>
<td>Tree 12</td>
<td>-</td>
</tr>
</tbody>
</table>

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that the trees to be removed (see the table above) which are protected under the VPO can be removed because they are either of low amenity and habitat value or are of poor structure. Further detail of each tree is provided at Attachment 5.

The trees which are not protected by the VPO can also be removed due to them being of low amenity value or exotic species.

Importantly, 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 applicant has nominated a Coast Banksia to be planted within the front setback.

In addition to the above assessment, Council’s Arborist has reviewed the proposed replacement planting and advised that it is considered acceptable. It is noted however that greater soil areas are required for the planting of trees, and also to respect the natural aesthetics of the area. This will be achieved through condition.

Finally, the statement of significance and objectives of Clause 42.02 - Vegetation Protection Overlay (Schedule 3) identify the need to retain the amenity and aesthetic character of native vegetation in the area. Given the Arborist’s support for the tree removal and replacement planting, it is considered that removal of the trees would not adversely affect these objectives with replacement plantings ensuring the amenity of streetscape is enhanced into the future.

6.6 Objections received

Issues raised by objectors that have not been addressed in the assessment above or in the assessment at attachments 3, 4 and 5 are discussed below.

Potential noise impacts (pool equipment)

The pool equipment has been located away from habitable room windows and other sensitive areas and are not considered to be unreasonable in a residential context such as this.

Asbestos

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

Loss of views

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

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

Support Attachments

1. Development Plans
2. Site and Surrounds Imagey
3. Neighbourhood Character (Precinct H3)
4. Clause 55 (Rescode) assessment
5. VPO3 assessment
Attachment 3 Aerial Surrounds and Imagery

Figure 1: Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⬜</td>
</tr>
</tbody>
</table>

One objector is located outside the map location within First Street.

Two objectors recorded PO Boxes, thus their location on the map cannot be determined.
Figure 2: View towards the site from the northwest
Figure 2: View towards the site from the northeast
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 |

Comments: The Coast Banksia (Banksia intergrifolia) which is located within the front setback along the western boundary will be retained. The remaining trees on the site are to be removed. Whilst there is a number of native trees to be removed Council’s Arborist is supportive of their removal as long as replacement planting is of indigenous plantings. A standard condition of the landscape plan requires that replacement planting is at least 80% indigenous (condition 9d).

The proposed landscaping of the site after development is generally supported by Council’s Arborist. The use of Bower Wattle underneath the Coast Banksia is not supported, thus a condition will require a mulched garden bed with a variety of indigenous plantings.

The proposed ground floor plan shows the driveways to be permeable which is consistent with the design guidelines. This is also supported by the Arborist who has stated for the health of the new Coast
<table>
<thead>
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<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
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</table>
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • 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.                                                               | Responds  
Comments: the front setback will remain generously landscaped to continue the bushy garden surrounds of the precinct.  
The front landscaping will be plentiful and will soften the appearance |
| 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.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking structures that dominate the façade or view of the dwelling. | Responds  
Comments: The dominance of the two double garages will be reduced as one will be converted via condition to a single garage with the remaining built form to be converted to the front entry. In addition to this the permeable driveway will help to integrate the new dwellings with the landscaped surrounds while limiting the amount of hard surfaces within the front setback. |
| 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 battering 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  
Comments: The land has a fall of approximately 2.07m from the front of the site to the rear. The proposed dwellings respect the fall of the land. Retaining walls have been used, but these are located only along the boundary opposite the laundries.  
The existing canopy tree and those to be planted on site (including via condition) will be taller than the new dwellings.  
In addition to the trees within the front setback it is recommended that two canopy trees be planted within the rear setback. To allow for the canopy trees the pool length |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Recess upper levels from the front façade. | Large, bulky buildings  
Poorly articulated front and side wall surfaces. | **Responds**  
Comments: The front façade has been articulated through the use of different materials, windows proportions, a balcony to one dwelling and hipped roof forms. These elements all create visual interest to the public realm. It should be noted that the dwelling appears similar to one located one site to the east. |
| To use building materials and finishes that complement the natural setting. | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | **Responds**  
Comments: The front façade will incorporate timber cladding to both dwellings which is reminiscent of the natural environment. The use of render and tiles for the roof are consistent with some of the newer dwellings which have been constructed in Bolton Street. |
| 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**  
Comments: The proposed front fence is rendered piers with horizontal metal panels to a height of 1.2m. Whilst the fence may be solid in appearance given the fence has a maximum height of 1.2m the fence is considered to appropriately allow views to and from the site. |
### ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>It is expected that the addition of one dwelling to the area will not have an undue impact on the utility infrastructure.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street. Pedestrian links are not clearly defined as the front doors to both dwellings are on the side. To provide better pedestrian links for at least one dwelling due to the conversion of one of the double garages to a single the remaining built form will be required by condition to provide the dwelling access. As such the dwelling will have a front door facing the street. In relation to the second dwelling, a 2m high fence and gate is proposed before the front door. This will be required by condition to be deleted so that there is clear access to the front door.</td>
</tr>
</tbody>
</table>
because the fence will appear as a side gate thus confusing visitors to the location of the front door. The removal of the fence will also create clearer pedestrian links.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B6 B6 Street Setback</td>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Yes</td>
<td>Minimum: 8.3m</td>
</tr>
<tr>
<td>B7 B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
<td>Required: 8m</td>
</tr>
<tr>
<td>B8 B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>B9 B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>B10 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>Habitable room windows are north, east and west facing to allow for direct sunlight. This will assist in reducing the need to artificially light the dwelling. Operable windows and doors will allow for natural cooling and ventilation of the dwelling. Light courts have also been centrally located behind the garages. The light courts will provide light into the centre of the dwelling and to the guest bedrooms</td>
</tr>
<tr>
<td>B11 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 B12 Safety</td>
<td>Layout to provide safety and</td>
<td>Yes</td>
<td>No safety issues are considered to be likely to arise.</td>
</tr>
</tbody>
</table>
security for residents and property.

**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.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Status</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
<td>Refer report.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Status</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
<td>Appropriate vehicular access is provided.</td>
</tr>
<tr>
<td>Maximum: 40% of street frontage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 32.8% of street frontage</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
- The proposal is consistent with other dual occupancies within the street where there are separate crossovers.

**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.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Status</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
<td>The proposed car parking areas are appropriately located to allow for easy and safe access for the occupants.</td>
</tr>
</tbody>
</table>
- It is noted that one of the garages will be required by condition to be converted to a single garage to enable better pedestrian links for the dwelling.

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Status</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td></td>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Sun rooms</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>East (side)</strong></td>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>0m-2m</td>
<td>2m – 3.07m</td>
<td>3.14m – 3.56m</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>0m-2m</td>
<td>2m – 3.07m</td>
<td>3.14m – 3.42m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>0m-3m</td>
<td>9.2m</td>
<td>4.5m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td><strong>B18 Walls on Boundaries</strong></td>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
| **B19 Daylight to Existing Windows** | Allow adequate daylight into existing habitable room windows. | East | The windows on the adjoining site will have access to a light court in excess of 3sqm with 1m clear to the sky. The walls have been setback between 2.18m and 7.8m for wall heights ranging between 3.39m and 8.55m therefore the walls have been setback at least 50% of the height of the wall from the windows.  
**West**  
The windows on the adjoining site will have access to a light court in excess of 3sqm with 1m clear to the sky. The walls have been setback between 4.21m and 8.34m for wall heights between 3.3m and 8.41m therefore the walls have been setback at least 50% of the height of the wall from the windows. |
| **B20 North Facing Windows** | Allow adequate solar access to existing north-facing habitable room windows. | No | No north facing windows on adjoining properties are affected. |
| **B21 Overshadowing Open Space** | Ensure buildings do not significantly overshadow existing secluded private open space. | Yes | Shadow diagrams show that the secluded private open space (SPOS) to the west will have approximately 50% shadow at 9am. This reduces at 10m to approximately one quarter being in shadow of which is cast by the existing fence. As a result of the shadow diagrams it shows that approximately 40sqm of the SPOS will receive sunlight from 10am to 3pm in line with the standard.  
**Overshadowing to the SPOS to the east shows that more than 40sqm will receive sunlight between 9am and 3pm complying with the standard.** |
<p>| <strong>B22 Overlooking</strong> | Limit views into existing secluded private open space and habitable room windows. | Yes | The first floor habitable room windows have either sill heights of 1.7m above finished floor levels (FFL) or obscure glazing to windows below 1.7m FFL. The roof decks have obscure glazing up to 1.7m above FFL in line with the standard to prevent overlooking. |
| <strong>B23 Internal Views</strong> | Limit views into existing | Yes | Overlooking between the two dwellings is prevented through screening measures |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Answer</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.10</td>
<td>secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>implemented to prevent views in to adjoining sites.</td>
<td></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 easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>As previously discussed in integration to the street (B5), the pedestrian entries are not clearly defined and will be improved via conditions. The</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>
</tbody>
</table>
| B28 Private Open Space | Provide reasonable recreation and service needs of residents by adequate pos. | Yes | Minimum: 25m² secluded, 40m² overall. 
Proposed: 85sqm secluded, 157sqm each, both dwellings have approximately the same area of POS and SPOS. |
<p>| B29 Solar Access to Open Space | Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Appropriate solar access has been provided to the SPOS with the ground and first floor walls setback between 9m and 9.2m which is in excess of the standard's requirement of 7.13m. |
| B30 Storage | Provide adequate storage facilities for each dwelling. | Yes | Storage is provided to each dwelling, this meets the required 6m³. Storage is located within the garages. |
| B31 Design Detail | Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer Attachment 1. |
| B32 Front Fences | Encourage front fence design that respects the existing or preferred neighbourhood character. | Yes | A front fence of 1.2m high is proposed. The fence will be rendered piers with horizontal metal panels. Whilst the fence will appear mostly solid given the height does not exceed 1.2m the proposal complies with the provision and the schedule to the zone for front fence height. |
| B33 Common Property | | N/A | |</p>
<table>
<thead>
<tr>
<th>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</th>
<th></th>
</tr>
</thead>
</table>
| **B34 Site Services**  
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. | Yes  
Plans show clotheslines, mailboxes and storage areas as required. A condition requiring the location of metres will be required by condition. |
### Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The impact the vegetation removal would have on the character of the area</strong></td>
<td>The removal of the trees that are triggered under the VPO can be removed from the site and are supported by Council’s Arborist as long as the trees are replaced with indigenous vegetation. The trees to be removed are all natives with the majority of the trees 3, 5, 6 and 11 having low amenity and habitat values. Trees 7, 9 and 10 have poor structure and tree 16 although with moderate retention value can be removed given the replacement tree is to be an indigenous species. Given the replacement trees are to be indigenous trees there will not be a detrimental impact on the character of the area.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the presence of indigenous species in the locality</strong></td>
<td>The trees being removed are native and not indigenous species. As they are required to replace the trees with indigenous species there will not be a negative impact on the area.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the appearance of development.</strong></td>
<td>The development will see the retention of the Coast Banksia and the planting of another Coast Banksia within the front setback. Substantial landscaping of shrubs and ground covers will continue the bushy landscaped appearance of the subject site. It is not expected that the removal of the existing vegetation will be detrimental to the development because of the replacement plantings.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</strong></td>
<td>It is considered that the loss of the existing trees will not have a detrimental impact on the fauna of the area. It is also noted that Council’s Arborist has stated that trees 3, 5, 6 and 11 provide for low habitat amenity. The replacement trees will offer quality habitat for fauna and will not detrimentally impact on the wildlife corridors given indigenous trees provide food and shelter for wildlife.</td>
</tr>
<tr>
<td><strong>Any proposal to regenerate or plant indigenous vegetation on the site.</strong></td>
<td>Replacement canopy trees are to be indigenous trees, either already shown on the landscape plan or by condition. To ensure that the remaining replacement plantings meet the minimum 80% requirement a condition will be placed on the recommendation.</td>
</tr>
</tbody>
</table>

### Tree profile for trees to be removed pursuant to the VPO3

The following tree information has been taken from the tree assessment report provided by Joe Kellett Arboriculture.

<table>
<thead>
<tr>
<th>Tree no.:</th>
<th>3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name/species:</td>
<td><em>Agonis flexuosa</em> Willow Myrtle</td>
</tr>
<tr>
<td>Origin:</td>
<td>Native</td>
</tr>
<tr>
<td>Height:</td>
<td>4.8m</td>
</tr>
<tr>
<td>Canopy Spread:</td>
<td>5m</td>
</tr>
<tr>
<td>Retention value:</td>
<td>Low</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tree no.:</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name/species:</td>
<td><em>Agonis flexuosa</em> Willow Myrtle</td>
</tr>
<tr>
<td>Tree no.</td>
<td>Name/species</td>
</tr>
<tr>
<td>---------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>6</td>
<td><em>Agonis flexuosa</em> Willow Myrtle</td>
</tr>
<tr>
<td>7</td>
<td><em>Agonis flexuosa</em> Willow Myrtle</td>
</tr>
<tr>
<td>8</td>
<td><em>Agonis flexuosa</em> Willow Myrtle</td>
</tr>
<tr>
<td>10</td>
<td><em>Melaleuca lanceolata</em> Moonah</td>
</tr>
<tr>
<td>11</td>
<td><em>Casuarina toruloas</em> Forest She-oak</td>
</tr>
</tbody>
</table>
Tree no.: 16
Name/species: Grevillea robusta Silky oak
Origin: Native
Height: 12m
Canopy Spread: 8m
Retention value: Low

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
The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.
1. **Purpose and background**

   To report a planning permit application for, alterations and additions including the construction of a first floor and a 1.8m front fence to a dwelling on a lot less than 500sqm (refer application plans) at 1/5 Trentham Street Sandringham (refer Attachment 1).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>E St Clair &amp; PD St Clair</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>13 January 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>30 August 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

   **Planning permit requirements**

   Clause 32.08-5 (General Residential Zone) – Construction and extension to one dwelling on a lot and construction of a front fence within 3m of the street.

   **Planning scheme amendments**

   Amendment VC110 was gazetted on the 27 March 2017. The amendment implemented the State Government’s response to the recommendations of the Managing Residential Development Advisory Committee by introducing a minimum garden area for lots 400sqm and above, amending the mandatory height controls and the deleting the minimum number of dwellings allowed per lot in the Neighbourhood Residential Zone. Transitional provisions at clause 32.09-14 state that planning applications lodged prior to the introduction of VC110 are not required to meet the minimum garden area requirement, the maximum building height or the number of storey requirements. As such this application is not affected by VC110. The submission of plans pursuant to Section 57A of the Planning and Environment Act 1987 does not alter the lodged date of the application thus the application is subject to the transitional provisions of clause 32.08-14 of the Bayside Planning Scheme.

3. **Stakeholder Consultation**

   **External referrals**

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

   **Internal referrals**

   The application was referred to the following Council departments for comment

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage</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 six (6) objections were received. The objections raised the following:

- Two-storey development will result in visual bulk and an overdevelopment of the site;
• The extension is not in keeping with the adjoining dwellings;
• Overshadowing of adjoining site;
• Notice period was not long enough for size of development, did not accurately describe the proposal and was carried out over Easter;
• Construction on common property;
• Owners Corporation was not consulted on the proposal;
• Loss of monetary value to adjoining units; and
• Protection of party wall during construction and noise impacts.

Consultation meeting
A consultation meeting was held on 24 May 2017 attended by the permit applicant, 2 objectors and one Councillor. As a result of this meeting no objections were withdrawn.

Section 57A Amended Plans
The applicant submitted a declaration to amend the application pursuant to Section 57A of the Planning and Environment Act 1987 on 29 June 2017. The amended plans made the following changes:
• Retention of the existing ground floor northern façade including the portico and windows;
• Increase of the northern first floor wall setback from 5.95m to 6.07m resulting in no development on or over common property;
• The first floor cladding changed from timber cladding to white compressed sheet cladding; and
• Location of air conditioning unit shown next to rear wall of the garage.

The amended plans were sent to the objectors. No objections were withdrawn as a result of the amended plans.

4. Recommendation
That Council:
Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/15/1 for the land known and described as 1/5 Trentham Street Sandringham, for alterations and additions including the construction of a first floor and a 1.8m fence to a dwelling on a lot less than 500sqm in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the 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 Council date stamped 29 June 2017 but modified to show:
   a) The sliding gates to be a minimum of 50% transparent 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. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

5. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

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

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

Permit Expiry

9. 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 buildings works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council's Policy for "Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

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

Relevant strategies of the Council plan include:
• Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme
• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy
• Clause 32.08 General Residential Zone (Schedule 2)
• Clause 54 One dwelling on a lot

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
Details of the proposal are as follows:
• Construction of a first floor addition to the existing dwelling. The first floor consists of three bedrooms, a bathroom and lounge. The first floor is constructed to the same footprint as the ground floor excluding the garage.
• Construction of 1.8m timber sliding gates to the driveway and a timber gate pedestrian gate to the existing front fence.

The site is located within Neighbourhood Character Precinct F1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal is generally consistent with the Neighbourhood Character Precinct guidelines for the following reasons:
• It will continue the pattern of single and double storey dwellings of varying development era.
• The double storey construction has a similar scale of development to other two-storey dwellings within the street with a small first floor setback from the front of the dwelling.
• The height of the proposal is consistent with other two-storey dwellings within the street.
• The dwelling will be articulated to the street through building recession and varying materials and fenestration.
• The first floor glazing will offer passive surveillance of the street in addition to breaking up the mass of the front façade.
• The verandah and eaves to the ground and first floor break up the front façade and provides further articulation of the dwelling.

• The white bagged bricks and white compressed sheeting to the first floor is respectful of the existing ground floor façade materials by using white to relate the ground and first floors.

• The proposal will not have an adverse impact on the existing landscaped conditions of the subject site because are limited to first floor and the existing fence.

Whilst the majority of the proposal is considered acceptable under the Neighbourhood Character Precinct, the proposed sliding gates to the driveway are not considered acceptable within the streetscape given their height and level of solidity. The sliding gates will close off the entire front of the site from the street. The existing front fence is 1.8m high thus for continuity of height between the new and the old the 1.8m height of the gates can be supported. However, given the openness of the site to the car space and the existing front fence typology within Trentham Street the proposed sliding gates by way of condition will be required to be at least 50% transparent instead of the 25% depicted on the plans.

6.2. Compliance with Clause 54 (ResCode)

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

**Street Setback (Standard A3)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>9m</td>
<td>4.6m</td>
<td>4.4m</td>
</tr>
<tr>
<td></td>
<td>6.13m</td>
<td>2.87m</td>
</tr>
</tbody>
</table>

The non-compliance with the required 9m street setback can be supported for the following reasons:

• The encroachment of the verandah at ground floor will assist in articulating the dwelling to the street as opposed to the sheer wall that currently presents to the street;

• The first floor will align with the existing front wall of the dwelling;

• The length of the site does not reasonably afford a development on the site to meet the 9m setback because it is a unit development with four dwelling sitting behind the subject site; and

• The setback is consistent with the pattern of development in the street and would not look out of keeping with the existing streetscape character.

**Walls on Boundaries (Standard A11)**

<table>
<thead>
<tr>
<th></th>
<th>Allowed</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Height</strong></td>
<td>3.6m</td>
<td>6m</td>
</tr>
<tr>
<td><strong>Maximum Average Height</strong></td>
<td>3.2</td>
<td>6m</td>
</tr>
<tr>
<td><strong>Maximum Length</strong></td>
<td>11m</td>
<td>10.6m</td>
</tr>
</tbody>
</table>

The non-compliance of the wall height can be supported because the first floor wall will abut a simultaneously constructed wall and will therefore not have a detrimental amenity impact on the adjoining site.

**Overshadowing Open Space (Standard A14)**

Overshadowing of the adjoining private open space to the east increases at 3pm an
addition 2sqm. Any increase would not comply with Standard A14 as the neighbouring secluded private open space already receives non-compliant shadowing as a result of its orientation (due south). In this instance, the outcome can be supported as the increased shadow affects the area adjacent the rear fence rather than the main entertaining area of the open space.

Front fences (Standard A20)

As previously discussed in the neighbourhood character assessment at Section 6.1 of this report, the proposed gates are to be 1.8m high and 75% solid. For consistency with the existing front fence the gates can remain at the proposed height of 1.8m but will be required to increase the level of transparency to 50%. The condition will provide some level of visual permeability into the front of the site which was previously opened to the street.

6.3. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Notice period was not long enough for size of development, did not accurately describe the proposal and was carried out over Easter.

The notice period was for the required 14 days pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act 1987 (The Act). There is no requirement under The Act to advertise applications for longer periods over Easter. The description of the proposal on the notice provided a brief description of the approval being sought. Council makes plans and supporting documents available to interested parties via Council’s website and within their Corporate Centre allowing interested parties to view the proposal in full.

Construction on common property.

The applicant amended the plan to ensure that works were not proposed on common property. The Certificate of Title and Title Plan provided with the application shows that the works to the front fence are within the title boundaries of the subject site.

Owners Corporation was not consulted on the proposal.

There is no requirement under the Bayside Planning Scheme or The Act for a proposal to have body corporate approval. This is a separate approval that the applicant would seek outside of the planning permit process.

Loss of monetary value to adjoining units.

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

Protection of party wall during construction and noise impacts.

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

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

1. Development Plans
2. Site Surrounds and Imagery
3. Neighbourhood Character (Precinct F1)
4. Clause 54 (Rescode) Assessment
PROPOSED ALTERATIONS AND ADDITIONS

Peter, Eliza, Nick & Josh St.Clair
1/5 Trentham Street, Sandringham

CONTENTS:

TP-01 SITE DISTRICT PLAN
TP-02 EXISTING FLOOR PLAN
TP-03 EXISTING ELEVATIONS, SECTION PLAN
TP-04 DESIGN RESPONSE CONCEPT PLAN
TP-05 PROPOSED FLOOR PLAN
TP-06 PROPOSED ELEVATIONS, FLOOR PLANS & ELEVATIONS & SECTION
TP-07 CRASHERS EDU SEPT 2017

ADVERTISED PLAN

Received
6 MAR 2017
Planning Department
Site and Surrounds Imagery

*Figure 1 Aerial overview of the site and surrounds*

Three objectors have provided addresses external to the Bayside Council area.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the southwest
Figure 3 View towards the site from the northwest
Neighbourhood Character Precinct F1

Preferred Future Character Statement

The dwellings, including a continued frequent presence of pre WW2 dwellings, sit within garden settings. Buildings are occasionally built to the side boundary, however the impression of the streetscape is of informality and openness due to the open front fencing, and well articulated building designs. Buildings and gardens are clearly visible from the street despite the presence of front fences, and these are appropriate to the building era. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Partially Responds |
|                                                                           |                                                                                 |                                                                      |                           |
|                                                                           |                                                                                 |                                                                      |                           |
|                                                                           |                                                                                 |                                                                      |                           |
| To maintain and enhance the garden settings of the site                   | • Retain established trees and vegetation.                                      | Lack of landscaping and substantial vegetation.                     | Responds                  |
|                                                                           |                                                                                 |                                                                      |                           |

Comments: The existing dwelling will be retained with a first floor extension. The predominant development era of dwellings within the street are of the Edwardian era, of which the subject site is not consistent with. Other dwellings are of simple brick rectangular construction, like the subject site and the adjoining site to the north has been developed with four, two-storey dwellings and one single-storey dwelling in a more contemporary form and finish. The proposed extension to the dwelling will result in a new contemporary dwelling that does not look the same as the other dwellings on site. However, given the limited views from the street of the dwellings behind the subject site it is considered that the proposal will not adversely affect the preferred neighbourhood character which has a mix of development eras and single and double storey dwellings.

Comments: landscaping of the site will not be altered by the proposal.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>dwellings, and enhance the bayside vegetation character.</strong></td>
<td>• Replace any trees removed with species that will grow to a similar height.</td>
<td>Removal of trees.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Encourage replanting of indigenous sandbelt vegetation.</td>
<td>Planting of environmental weeds.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting.</strong></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>Comments: The proposed first floor will be setback from the southern boundary creating a visual separation between the subject site and the adjoining site. The existing driveway will also provide separation between the new first floor and the adjoining two-storey dwellings. The boundary construction along the east will only be visible from a north-west oblique view and this construction is consistent with the existing pattern of built form on the site. The first floor will not impact on the existing landscaping of the subject site.</td>
</tr>
<tr>
<td><strong>To minimise the loss of front garden spaces and the dominance of car parking structures.</strong></td>
<td>• Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td></td>
<td>Comments: The existing garage and car parking arrangements on site will remain unchanged. The new sliding gate will obscure views of the car space and garage.</td>
</tr>
<tr>
<td><strong>To ensure that new buildings and extensions do not dominate the streetscape.</strong></td>
<td>• Recess second storey elements from the front façade.</td>
<td>High pitched or mansard roof forms with dormer windows.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Comments: The first floor will be recessed behind the line of the verandah, otherwise</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</td>
<td>Large bulky buildings with flat, poorly articulated front wall surfaces.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>forms, siting and materials, in the new building design.</td>
<td>Responds</td>
<td>Comments: Within Trentham Street there are no heritage buildings identified by a heritage overlay.</td>
</tr>
<tr>
<td>To reflect the lightness of the streetscape created through the use of a</td>
<td>• Incorporate a variety of timber or other non-masonry wall materials where</td>
<td>Heavy materials and design detailing (eg. Large masonry columns and piers).</td>
<td></td>
</tr>
<tr>
<td>mix of appropriate building materials and finishes.</td>
<td>possible.</td>
<td>Responds</td>
<td>Comments: The large windows of the first floor mostly in a horizontal form create an openness of the first floor. The square window at the southern end of the front façade provides articulation to the mostly horizontal appearance of the first floor. In response to objections the applicant has changed the material of the first floor so that it blends in more with the existing dwelling and those behind.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
<td>------------------</td>
<td>-------</td>
<td>-----------------------------</td>
</tr>
</tbody>
</table>
| To maintain the openness of the streetscape and views to the dwellings. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid front fencing. | Does not respond  
Comments: the proposed sliding gates will be constructed to a height of 1.8m and will be quite solid in appearance compared to the completely open existing site conditions and those of front fences within the street.  
Detailing on the plans state the gates will be one third open, however, due to the fence typology within the street, the openness of the subject site to the car space and the height and solid nature of the existing front fence the proposed gates to the car space will be required to be at least 50% permeable to allow for visual permeability, this will be required by condition. |
| To create a visually interesting and attractive built form interface with the foreshore reserve. | • Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.  
• Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.  
• Provide articulated roof forms to create an interesting skyline when viewed from the beach. | Buildings that have no relationship to the foreshore setting.  
Poorly articulated roof and building forms.  
Highly reflective materials or glazing. | Responds  
Comments: The location of the subject site from the foreshore is over 450m thus the proposal will not impact on the views to and from the foreshore.  
Design guidelines for roof forms are only considered in relation to views of the skyline from the beach. Given the distance between the two there will be no impact.  
In relation to the flat roof form and it not being consistent with the street, raised in an objection, the policy does not seek to protect or continue the existing roof forms at a neighbourhood level. Therefore the flat roof (which is more skillion due to the small fall from east to west) is acceptable. |
ResCode Clause 54 (One Dwelling on a Lot)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to features</td>
<td></td>
<td></td>
</tr>
<tr>
<td>of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The orientation of the dwelling remains unchanged.</td>
</tr>
<tr>
<td>Integrate the layout of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 9m</td>
</tr>
<tr>
<td>Setbacks of buildings from a</td>
<td></td>
<td>Proposed: 4.6m (ground)</td>
</tr>
<tr>
<td>street respect the existing or</td>
<td></td>
<td>6.13m (first)</td>
</tr>
<tr>
<td>preferred neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>character and make efficient use</td>
<td></td>
<td></td>
</tr>
<tr>
<td>of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Required: 8m</td>
</tr>
<tr>
<td>Building height respects the</td>
<td></td>
<td>Proposed: 6m</td>
</tr>
<tr>
<td>existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>NA</td>
<td>Remains unchanged due to first floor extension.</td>
</tr>
<tr>
<td>Site coverage should respect</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>respond to the features of the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>NA</td>
<td>Remains unchanged due to first floor extension.</td>
</tr>
<tr>
<td>Reduce the impact of stormwater</td>
<td></td>
<td></td>
</tr>
<tr>
<td>run-off on the drainage system and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>facilitate on-site stormwater</td>
<td></td>
<td></td>
</tr>
<tr>
<td>infiltration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>All habitable room windows have access to natural light and ventilation to allow for natural lighting and cooling of the dwelling.</td>
</tr>
</tbody>
</table>
makes appropriate use of daylight and solar energy.

### A8 Significant Trees
Development respects the landscape character of the neighbourhood and retains significant trees on site.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NA</td>
<td></td>
</tr>
</tbody>
</table>

### A10 Side and Rear Setbacks
Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NA</td>
<td></td>
</tr>
</tbody>
</table>

### First Floor

<table>
<thead>
<tr>
<th>First Floor</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>0m – 3m</td>
<td>6.07m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m – 3m</td>
<td>3.16m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m – 4m</td>
<td>0m</td>
</tr>
</tbody>
</table>

### A11 Walls on Boundaries
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Maximum Height: 3.6m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 6m</td>
</tr>
<tr>
<td></td>
<td>Maximum Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 6m</td>
</tr>
<tr>
<td></td>
<td>Maximum Length: 11m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 10.6m</td>
</tr>
</tbody>
</table>

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NA</td>
<td>The plans do not show any existing windows opposite the subject site.</td>
</tr>
</tbody>
</table>

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NA</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
</tbody>
</table>

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Overshadowing of the adjoining private open space to the east increases at 3pm an addition 2sqm. Any increase would not comply with Standard A14 as the neighbouring secluded private open space already receives non-compliant shadowing as a result of its orientation (due south). In</td>
</tr>
</tbody>
</table>
this instance, the outcome can be supported as the increased shadow affects the area adjacent the rear fence rather than the main entertaining area of the open space.

<table>
<thead>
<tr>
<th>A15 Overlooking</th>
<th>Yes</th>
<th>There is no private open space within 9m of the site that is overlooked due to the orientation of the windows and adjoining built form.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A16 Daylight to New Windows</th>
<th>Yes</th>
<th>All habitable windows have direct access to daylight.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allows adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A17 Private Open Space</th>
<th>NA</th>
<th>Not changed by the proposal.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td></td>
<td>The private open space requirement pursuant to this provision is not based on the number of bedrooms. Therefore there is no requirement to provide more private open space because of the extension.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A18 Solar Access to Open Space</th>
<th>NA</th>
<th>Not applicable to extensions to existing dwellings.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A19 Design Detail</th>
<th>Yes</th>
<th>Refer Attachment 2.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A20 Front Fences</th>
<th>No</th>
<th>Maximum height: 1.5m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td></td>
<td>Proposed height: 1.8m</td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report a planning permit application for the construction of two double storey dwellings on a lot (refer Attachment 1) at 111 Weatherall Road Cheltenham (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>The North Planning Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>23 September 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>25 February 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

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

3. **Stakeholder Consultation**

**External referrals**

There were 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>Street Trees</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and five (5) objections were received. The following concerns were raised:

- Overshadowing
- Overlooking
- Lack of permeability
- Setbacks
- Excessive height
- Noise (air conditioning)
• Location of rubbish bins
• Obstructing views of gold course
• Visual bulk to street scape
• Setback of garage from boundary to enable access and maintenance
• Asbestos
• Drainage

It is noted the application was advertised with the “removal of native vegetation in the Vegetation Protection Overlay” in the preamble. Council’s Arborist has advised there is no native vegetation on site that triggers a planning permit requirement and as such the preamble has been adjusted to reflect this.

Consultation meeting
A consultation meeting was held on 20 March 2017 attended by the permit applicant and three (3) objectors. As a result of this meeting no objections were withdrawn. The applicant provided a written response following the meeting stating they would not oppose relocating site services away from the western site boundary in response to concerns raised by objectors.

4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **111 Weatherall Road, Cheltenham**, for the **construction of two double storey dwellings on a lot** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans (Drawing No.TP-04 – TP-06 All Rev A (dated March 2016) and the Landscape Plan prepared by Zenith Concepts (dated November 2016)) but modified to show:
   a) Brick banding, pavers or similar along the boundaries of the both driveways.
   b) A greater mix of materials, tones and/or finishes to the southern and eastern elevations of dwelling one.
   c) No soil excavation to occur within 2.6 metres of the stem of the White Cedar (Melia azedarach) fronting the site.
   d) All site services, including bins and air conditioning to be located sensitivity in relation to neighbouring private open space or habitable room windows, or suitably screened to the satisfaction of the Responsible Authority.
   e) The crossover to dwelling one where it meets the footpath to be 3 metres in width and setback from the western boundary by 1 metre.
   f) An internal radius of a minimum of 4 metres to enable vehicles parked in
the garage of dwelling two to turn around and exit the driveway in a forward
direction.

g) Sightlines where the driveway meets the crossover in accordance with
Clause 52.06-9 of the Bayside Planning Scheme.

h) A schedule of construction materials, external finishes and colours.

i) A Water Sensitive Urban Design response in accordance with Condition 7
of this permit.

j) A Landscape Plan in accordance with Condition 10 of this permit.

2. The development as shown on the endorsed plans must not be altered 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 occupation, screening of windows and roof decks including fixed privacy
screens be designed to limit overlooking as required by Standard A15 and be
installed and maintained to the satisfaction of the Responsible Authority
thereafter for the life of the building.

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

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

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

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

These plans must be accompanied by a report from an industry accepted
performance measurement tool which details the treatment performance
achieved and demonstrates the level of compliance with the Urban Stormwater

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

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

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 plan, prepared by Zenith Concepts and dated
November 2016, and be drawn to scale with dimensions and three copies must
be provided. The plan must show:

a) 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.

b) One indigenous canopy tree capable of reaching a height at maturity of 10
metres located in the front setback of the property.

c) One indigenous canopy tree capable of reaching a height at maturity of 6
metres in the private open space of each dwelling.

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.

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

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

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

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

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

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

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

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

b) The development is not completed within four years of the date of this
permit.
In accordance with Section 69 of the *Planning and Environment Act 1987*, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

Permit notes
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- 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 strategic objectives of the Council plan include:
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:
- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct H3)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.03 Vegetation Protection Overlay (Scheduled 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 H2 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The existing character includes space between buildings with dwellings generally setback from at least one boundary. The driveway to dwelling two would provide a fixed area of separation between dwelling one and the eastern property boundary. This would maintain the rhythm of visual separation of the street scene. The garage associated with dwelling one would be set behind the line of the dwelling. Sufficient space remains between the two driveways for a meaningful level of planting consistent with the vegetated character of the area.

The proposal utilises a combination of recessed and projecting portions, materials, pitched roofs and parapets to articulate and separate the mass of the dwellings into smaller components. The proposal would provide an acceptable level of visual interest to the streetscape. The upper levels of both dwellings are recessed from the ground floor frontage and would appear subordinate in the appearance of the dwellings from the street.

The existing area can be characterised by a predominance of brick, weatherboard, render and roof tiles. The proposal would be constructed in concrete roof tiles, cedar cladding, white and dark grey render with aluminium window and door joinery. While taking a contemporary approach, the proposed materials would complement the existing character.

It is noted the southern and eastern elevation of dwelling one rely heavily on the use of render. The eastern elevation in particular, which is adjacent to the shared driveway and is visible from the street, is exclusively a single tone of render. The contribution of the proposal to the streetscape would be substantially improved with a greater mix of materials to the southern and eastern elevation of dwelling one. A condition of approval is recommended to require a greater mix of materials for these two elevations.

No front fence is proposed; however the landscape plan submitted in support of the application provides a vegetated hedge at the front of the property. The proposal would enhance the openness of the Weatherall Road streetscape.

6.2. Compliance with Clause 55 (ResCode)

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

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.62m</td>
<td>7m</td>
<td>620mm</td>
</tr>
</tbody>
</table>

The proposal would vary the street setback standard as modified by schedule three of the Neighbourhood Residential Zone. The objective of the standard is to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood
character and make efficient use of the site.

No.1/109 Weatherall Road and 113 Weatherall Road are setback 7.62 and 7.005 metres respectively from the street. The street setback character of the area is varied with setbacks ranging from approximately 6 metres at No.1/121 Weatherall Road up to 15 metres at No.117 Weatherall Road. The proximity to the golf course adds to the vegetated character of the streetscape.

The porch and guest bedroom of dwelling one would be setback 7 metres from the street; however the adjacent double garage and the first floor would be setback 7.915 metres and 8.535 metres from the street. The proposed double garage would be setback further from the street than the directly adjacent property, No.1/109 Weatherall Road.

The porch and guest bedroom of dwelling one would be sit forward of No.113 Weatherall Road by an imperceptible 5mm. As noted above, the remainder of the dwelling, including the garage and first floor would be further setback from this point. In this context, the proposal is considered to comfortably sit within the existing streetscape. The proposal would achieve the objective of this standard.

**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>4m – Dwelling 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2.005m – Dwelling 2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>145mm, <strong>1.375m</strong>, 2.015m – Dwelling 1</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
<td>3.005m</td>
</tr>
</tbody>
</table>

The proposal would vary the side setbacks in relation to the eastern and western boundaries as detailed in the table above. The objective of the standard is to ensure that 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.

A double storey detached dwelling is located at No.113 Weatherall Road directly to the east of the subject site. This neighbouring dwelling has a number of habitable room windows at ground and first floor facing the subject site. The primary private open space is located to the rear of the site.

Bedroom three on the first floor of dwelling two would vary the side setback standard in relation to the eastern boundary by a maximum of 12mm. The variation would be adjacent to a roofed gazebo at No.113 Weatherall Road. Given the minor scale of the variation, any amenity impacts on this neighbouring property would be limited. In addition, the minor scale of the variation would not impact on the character of the area.
Four single storey attached units are located at No.109 Weatherall Road directly to the west of the subject site. A number of habitable room windows at this property face the subject site. The primary private open space for these units is also adjacent to the subject site. The areas of private open space are limited in size and are reasonably constrained.

The ground floor laundry of dwelling one would be setback 1.375 metres from the western boundary for a length of 1.8 metres. This would vary the standard which allows the ground floor level to be constructed on or within 200mm of the boundary, or setback two metres. The variation would be adjacent to the private open space of the unit at No.109 Weatherall Road that fronts the street. Given the height and setback of this wall, the proposal would not impact on the amenity of this neighbouring property. It is noted if the proposal was amended for this wall to extend out to the boundary, it would comply with the side setback standard and with the walls on boundaries standard. The variation would be located behind the double garage associated with the dwelling which screens views from the street. The variation would not impact on the character of the area.

Given all of the above, the proposal is considered to achieve the objective of the standard.

**Overlooking (Standard B22)**

All habitable room first floor side and rear facing windows are treated with either fixed and obscure glazing or sills raised to 1.7 metres above finished floor level in accordance with this standard. The ground floor levels of both dwellings are less than 800mm above natural ground level and all windows face paling boundary fencing to a minimum of 2.2 metres in height. The proposal complies with Standard B22.

### 6.3. Car parking and traffic

Each dwelling is provided with a double car garage in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and advises they have no objection subject to conditions regarding the turning radius for dwelling two, crossings locations (subject to Arborist approval) and sightlines. Council’s Open Space Arborist has requested a setback of 2.6 metres from the White Cedar that fronts the subject site. The Traffic Engineers request in relation to the crossover of dwelling two cannot be met if the 2.6 metre setback is achieved. Conditions of approval in relation to the turning radius, the crossover for dwelling one and sightlines are included in the recommendation.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.

### 6.4. Street tree removal

A White Cedar (*Melia azedarach*) fronts the subject site. Council’s Open Space Arborist advises the proposal will not impact on the trees health and stability, provided soil excavation does not occur within 2.6 metres from the trees stem at ground level. The crossing would be setback 2.88 metres from the street tree. A condition of approval is recommended for an annotated to be added to the site plan stipulating that no soil excavation will occur within 2.6 metres of the trees stem at ground level. The standard street tree protection condition is also recommended.

### 6.5. Vegetation & Landscaping

All trees on site are proposed for removal. Council’s Arborist advises there is no Australian native vegetation on site that is protected by the Vegetation Protection Overlay (VPO). The only tree on site considered to have a moderate amenity value is a Mulberry (*Morus alba*) in the front setback. All other vegetation is considered to have a low amenity value. Subject to suitable replacement planting, the removal of all existing vegetation is
considered acceptable.

Council’s Arborist has requested one indigenous canopy tree in the front setback capable of reaching 10 metres in height at maturity and one canopy tree in the private open space of reach dwelling capable of reaching 6 metres in height at maturity. This is consistent with the Bayside Landscape Guidelines. A condition of approval is recommended to reflect this.

In addition, the Arborist has requested the landscape plan include 80% indigenous plantings by species count and quantity. This is consistent with the Bayside Landscape Guidelines and accords with the sites location in the VPO. A condition of approval is recommended to reflect this. Council’s Arborist advises there are two semi-mature Queen Palms (*Syagrus romanzoffiana*) located at No.109 Weatherall Road; however no trees on surrounding properties will be adversely impacted by the proposal.

6.6. Objections received

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

Overshadowing/ overlooking/ permeability

The proposal complies with the overshadowing standard (B21), the overlooking standard (B22) and the permeability standard (B8).

Excessive height

At 7.31 metres in height, the proposal comfortably complies with the 9 metre maximum height limit (Standard B6).

Setbacks

An assessment of the application against the side and rear setback standards is included in Section 6.2 of the report above.

Location of rubbish bins and air conditioning

Objectors have raised concerns with the location of the bins and air-conditioning systems adjacent to neighbouring properties. The applicant has advised they would not oppose a condition that requires the relocation of bins and air-conditioning away from the eastern boundary.

A condition of approval is recommended to locate all site services sensitivity in relation to neighbouring private open space and habitable room windows or to provide suitable screening to the satisfaction of the responsible authority.

Obstructing views of golf course

The Victorian Civil and Administrative Tribunal has consistently found that although impact upon views can be considered amongst the amenity impacts of a proposal, there cannot be considered a right to any particular view. This is especially the case where a view is obtained across adjoining land and the views are not afforded any special consideration in a planning control. In this case the development is not considered to unreasonably reduce the amenity of neighbours outlook or access to daylight.

Visual bulk to street scape

Dwelling one utilises a combination of recessed and projecting portions, materials, pitched roofs and parapets to articulate and break up the mass of the dwelling into smaller components. The upper levels of dwelling one is recessed from the ground floor frontage and would appear subordinate in the appearance of the dwelling from the street. In this context the proposal is considered to present an acceptable level of visual bulk to the street scape that accords with the preferred future character statement.
Setback of garage from boundary to enable access and maintenance

The garage associated with dwelling two complies with the side setback and walls on boundaries controls. There is no requirement under the planning scheme for walls to be set off the boundary to enable maintenance of a neighbouring property nor is there scope for Council to require this.

Asbestos

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

Drainage

The application was referred to Council’s Drainage Engineers who have requested standard drainage conditions. These conditions require the applicant to apply to Council for a legal point of discharge and provide detailed plans indicating the method of storm-water discharge to the legal point of discharge.

Support Attachments

1. Development plans
2. Site surrounds and imagery
3. Neighbourhood character (Precinct H2) assessment
4. Clause 55 (ResCode) assessment
**Objections received from 3/109, 4/109, 5/109, 6/109 Weatherall Road**

**Legend**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>★</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site from Weatherall Road

Figure 3 View of No.109 Weatherall Road from Street
Figure 4 View of interface between subject site and No.113 Weatherall Road

Figure 5 Street tree fronting the subject site
ATTACHMENT 3
Neighbourhood Character Policy (Precinct D4)

Preferred Future Character

The low scale dwelling styles sit within established gardens that contain some substantial vegetation including trees. Front setbacks are large, and sometimes variable, and dwellings usually include a pitched roof form of some type. The streetscapes have an open feel due to buildings being offset from at least one side boundary and a lack of intrusive front fencing, complemented by wide roads and nature strips. Linkages with the remainder of the Beaumaris area are strengthened through the use of more indigenous planting in the private and public domains.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications that includes substantial trees and shrubs, preferably indigenous species.  
• Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds  
A landscape plan has been submitted in support of the application which provides vegetation across the site, including two small canopy trees. The proposal would remove all vegetation across the site. Refer to the Vegetation and Landscaping section of the report for further discussion in relation to existing vegetation. |
| To maintain the rhythm of spacious visual separation between buildings and allow space for trees and other planting. | • Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.  
• Buildings should be sited to allow space for a garden including trees and shrubs. | Responds  
The existing character includes space between buildings with dwellings generally setback from at least one boundary. The driveway to dwelling two would provide a fixed area of separation between dwelling one and the eastern property boundary. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
|            |                  |       | **This would maintain the rhythm of visual separation of the street scene.**  
|            |                  |       | The landscape plan submitted in support of the application demonstrates sufficient space is retained unencumbered by built form for trees and shrubs. |
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Minimise impervious surfaces, particularly in the front garden. | Car parking structures that dominate the façade or view of the dwelling. | **Responds**  
|            |                  |       | The garage associated with dwelling one would be set behind the line of the dwelling. Sufficient space remains between the two driveways for a meaningful level of planting consistent with the vegetated character of the area. |
| To ensure that new buildings reflect the low scale forms of the area, and provide an articulated and interesting façade to the street. | • Locate garages and carports at or behind the line of the dwelling. | Large, bulky buildings Poorly articulated roof, front and side wall surfaces | **Responds**  
|            |                  |       | The proposal utilises a combination of recessed and projecting portions, materials, pitched roofs and parapets to articulate and break up the mass of the dwellings into smaller components. The proposal would provide an acceptable level of visual interest to the streetscape.  
|            |                  |       | The upper levels of both dwellings are recessed from the ground floor frontage and would appear subordinate in the appearance of the dwellings from the street. |
| To use building materials and finishes that complement the natural setting. | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | **Responds**  
<p>|            |                  |       | The existing area can be characterised by a predominance of brick, weatherboard, render and roof tiles. The proposal would be constructed in concrete roof tiles, cedar cladding, white and dark grey render with |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To enhance the openness and informality of the streetscape and maintain views into front gardens. | • Provide open style front fencing, other than along heavily trafficked roads.  
• Use vegetation as an alternative where possible. | High or solid front fencing. | aluminium window and door joinery. While taking a contemporary approach, the proposed materials would complement the existing character.  
It is noted the southern and eastern elevation of dwelling one rely heavily on the use of render. The eastern elevation in particular, which is adjacent to the shared driveway and is visible from the street, is exclusively a single tone of render. A condition of approval is recommended to require a greater mix of materials for these two elevations.  
Limited detail has been provided regarding the finish and hue of the materials. A condition of approval is recommended to secure this detail.  

Responds  
No front fence is proposed; however the landscape plan submitted in support of the application provides a vegetated hedge at the front of the property. The proposal would enhance the openness of the Weatherall Road streetscape. |
**ATTACHMENT 4**

**ResCode (Clause 55) Assessment**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>Dwelling one would be appropriately orientated to Weatherall Road. The entrance to dwelling two would not be visible from the street; however would be clearly delineated by a front porch. The development will integrate appropriately with the street.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Required: 7.62m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Proposed: 7m</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Refer to report</td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 9m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Dwelling 1: 7.115m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2: 7.31m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
</tr>
<tr>
<td>------</td>
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<td>--------</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>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</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>
</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>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</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>
</tr>
<tr>
<td>B14 Access</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>Provide resident and visitor vehicles with convenient parking.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Avoid parking and traffic difficulties in the development and the neighbourhood.
Protect residents from vehicular noise within developments.

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

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>Dwelling 1 – 145mm, <strong>1.375m</strong>, 2.015m</td>
<td>3.38m – 3.83m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2 – 2.045m</td>
<td>3.278m – 3.512m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>Dwelling 1 – 4m</td>
<td>3.185m – 3.317m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2 – <strong>205mm</strong>, 2005m</td>
<td>3.197m – 3.392</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
<td>3.005m</td>
<td>3.197m – 3.278</td>
</tr>
</tbody>
</table>

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

- **Yes**
  - **Maximum Height**: 3.6m
  - **Proposed**: 3.35m
  - **Maximum Average Height**: 3.2m
  - **Proposed**: 3.2m
  - **Maximum Length**: 19.85m
  - **Proposed**: 6.41m

Refer to report
Note that the garage associated with dwelling two is set off the boundary 205mm and as such control does not apply.

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

- **Yes**
  - All setbacks are consistent with the requirements of Standard B19.

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

- **Yes**
  - No windows surrounding the site are applicable to the standard.
<table>
<thead>
<tr>
<th>Standard</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</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 adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</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>Yes</td>
<td>All habitable room windows have been sited and screened appropriately to avoid overlooking of the other dwellings private open space in accordance with this Standard.</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 level of noise associated with the two dwellings is not anticipated to exceed that expected of a residential use.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Both dwelling entries are accessible for people with limited mobility and both dwellings accommodate ground floor bedrooms.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Yes</td>
<td>The entrance to dwelling one would oriented towards and visible from the street. The entrance to dwelling two would not be visible from the street; however would be clearly delineated by a porch. Both entries provide a sense of identity to the dwellings.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall&lt;br&gt;<strong>Dwelling 1:</strong> 55m² secluded&lt;br&gt;<strong>Dwelling 2:</strong> 74m² secluded</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>Both private open space areas comply with this standard.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>Designated 6m³ storage areas are provided in the private open space for both dwellings.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Yes</td>
<td>No front fence proposed</td>
<td></td>
</tr>
<tr>
<td>----------------------</td>
<td>-----</td>
<td>-------------------------</td>
<td></td>
</tr>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B33 Common Property</strong></th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.</td>
<td></td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
</tr>
<tr>
<td>Avoid future management difficulties in common ownership areas.</td>
<td></td>
</tr>
<tr>
<td>Plans show locations for bins, hot water systems, mail boxes and storage areas as required. There is sufficient space in the rear private open space of either dwellings for clotheslines.</td>
<td></td>
</tr>
</tbody>
</table>
4.13  18 IONA STREET, BLACK ROCK  
NOTICE OF DECISION TO GRANT A PERMIT  
APPLICATION NO: 2016/0524  WARD: SOUTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/17/163515

1. **Purpose and background**  
To report a planning permit application for the construction of two double storey side by side dwellings (refer application plans) at 18 Iona Street, Black Rock (refer Attachment 1).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>John Ernest Stirling</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>15 August 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>4 February 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**  
Planning permit requirements  
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.

3. **Stakeholder Consultation**  
External referrals  
There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.

<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>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 Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and 4 objections were received. The main issues raised by the objectors can be summarised as follows:  
- Overlooking;  
- Overshadowing;  
- Removal of Asbestos as part of proposed works;  
- Loss of Bay views;  
- Property devaluation;
- Traffic and car parking; and
- Construction of a multi-unit development and inappropriate density.

Consultation meeting

A consultation meeting was held on 12 April 2017 attended by the permit applicant and 2 objectors. No objections have been withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of the land known and described as 18 Iona Street, Black Rock, for the Construction of two double storey side-by-side dwellings 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 Council date stamped 13 April 2017 but modified to show:

   a) Demonstration of compliance with Standard B22 and B23 of the Bayside Planning Scheme.

   b) Water sensitive urban design measures in accordance with condition 8 of this permit.

   c) A landscape plan showing a minimum percentage of 80% indigenous plantings in accordance with Condition 11 of this permit.

   d) The gradient of each driveway not to exceed 1 in 16 complying with AS2890.1 for car parking.

   e) The access way for Dwelling 2 must be 3 metres wide and offset 1 metre from the eastern property boundary with a 1 metre wide separator. The existing crossover must be removed.

   f) The access way and crossover for Dwelling 1 must be 3 metres wide and have a 0.8 metre offset away from the western property boundary.

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, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
6. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.

7. Before occupation, screening of nominated windows as required by Standard B22 must be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

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

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.

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

11. 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 Zenith Concepts Landscape Plan, November 2016, Rev A 11/16 Design 1 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including botanical names, of all existing trees to be retained on the site.
   b) A survey, including botanical names, of all existing vegetation to be removed from the site.
   c) A survey, including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   e) Plantings must be 80% indigenous by species type and count.
f) Plantings must be 40% coastal by species type and count

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

i) The planting of one indigenous tree capable of reaching 14 m at maturity in the front set back.

j) The planting of one indigenous tree capable of reaching 12 m at maturity in the rear set back.

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

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

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

15. No soil excavation must occur within 2 metres of the *Photinia robusta* (nature street tree) asset when measured from the edge of the trunk.

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 Infrastructure Assets Department.

18. Prior to endorsement of the plan/s required under Condition x 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.

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

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.

Notes:

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

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

5. Council Policy

Council Plan 2017 - 2021

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection 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 H1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2.

The streetscape and general area presents with a diverse range of architectural responses, informed by older detached housing forms being replaced by larger, contemporary architectural forms. The streetscape is characterised by single dwellings as well as numerous multi-unit developments as seen within the immediate vicinity at 26 Iona Street and 25 Iona Street and is of a predominantly semi-detached formation. On balance, the area exhibits a diverse range of architectural styles with the unifying elements extending to prominent front garden areas and setbacks which promote the appearance of spaces between buildings through recessed built forms being located away from at least one boundary.

The proposed construction of the side-by-side dual occupancy is considered to be respectful of both the existing and the preferred neighbourhood character through the use of traditional suburban housing forms which includes a pitched roof, appropriate level of fenestration detailing and recessed first floor level which creates further articulation to the overall mass of the building.

Landscaping opportunities are available both within the front and the rear setbacks to accommodate an arrangement of small to large planting, which includes trees, to reinforce the valued garden characteristics.

On balance, it is considered that the proposal is both respectful of the existing and the preferred neighbourhood character and will sit comfortably within the streetscape.

6.2. Compliance with Clause 55 (ResCode)

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

Side setbacks

The proposed 3.0 metre first floor side setback to the east does not comply with the setback requirements prescribed under Schedule 3 to the Neighbourhood Residential Zone (which requires a setback of 3.2 metres). Furthermore, setback reductions are proposed along the west boundary whereby the front parapet is setback 3.5m (in lieu of 3.7m) and middle section setback 3.0m (in lieu of 3.6m).
The shortfalls are considered acceptable as the proposal will not generate adverse off site impacts to the adjoining neighbours with regard to overlooking (subject to a condition), overshadowing or visual bulk.

It is noted that the majority of windows (with the exception of the wrap around window of Bedroom 3 on the west elevation) located along the east and the west elevations incorporate the use of highlight or fixed and obscure glazing to any part of the window located within a range of 1.7 metres when measured from the finished floor level. Similarly, the shadow diagrams demonstrate that shadows will fall in the morning period towards 16 Iona Street, Black Rock and then in the later afternoon period upon 20 Iona Street which complies with the prescribed requirements pursuant to Clause B21.

The modest overall building height coupled with the modulated walls, fenestration detailing, adequately negate any visual bulk issues which can be associated with side-by-side developments.

On balance, it is considered that the proposal will not generate any unreasonable off site impacts and is respectful of the prevailing neighbourhood character offering a sufficient level of visual separation between buildings.

**Overlooking**

Extensive use of either highlight windows or the use of fixed and obscure glazing are used along the side (east and west) elevations. Windows on the front elevation are all open to the streetscape, which assists with surveillance to the streetscape.

The first floor balcony proposed for both Dwelling 1 and Dwelling 2 on the south elevation may cause overlooking primarily into the private open spaces located to the east, west and to the south of the site. A balustrade detail has been provided, however, demonstration of compliance is required to show that the proposal will not generate an unreasonable view into any adjoining private open space area or habitable room window. As such, a condition has been included as part of the recommendation which requires compliance with Standard B22 (Overlooking).

**Internal Views**

An analysis of the plans has revealed that it may be possible to gain a direct view into the private open space areas from the first floor balconies proposed on the south elevation. A condition has been recommended to be included, should a permit be issued, requiring compliance with Standard B23 (Internal views).

**6.3. Car parking and traffic**

Each dwelling has been provided with a single car garage with tandem parking in accordance with the requirements set out under Clause 52.06. Council’s Traffic Engineer has reviewed the proposal and has not raised any concerns subject to the inclusion of conditions which have been included as part of the recommendation.
6.4. **Street tree**

It is not proposed to remove the existing *Photinia robusta* from the site. Council’s Open Space Arborist has assessed the proposal and has advised that the proposal will not have an adverse impact on the street tree provided that a tree protection fence is erected around the tree and there is no excavation within 2 metres of the edge of the trunk. Permit conditions have been included in accordance with the recommendation made by the Open Space Arborist.

6.5. **Vegetation & Landscaping**

The subject site does not contain any vegetation which is worthwhile of retention and no vegetation which would otherwise be encouraged for retention under the objections of the VPO3 and the neighbourhood Character Precinct, H1.

There is no vegetation located on adjacent properties which is likely to be impacted on by the construction process.

Council’s Arborist has included conditions requiring the planting of a minimum of two large indigenous trees and a landscape plan which includes a minimum 80% indigenous vegetation which will ensure the (continued) presence of indigenous species in the area.

6.6. **Objections received**

Issues raised by objectors that have not been addressed in the assessment above, are discussed below.

**Removal of Asbestos as part of proposed works**

Removal of asbestos sits outside of the ambit of consideration for the purposes of processing this planning application. It should be noted that it is legal for a householder to remove asbestos. Further, under the nuisance provisions of the *Public Health and Wellbeing Act 2008*, any nuisance which is liable to be dangerous (amongst other things) can be investigated by Council. The Victorian Government’s Department of Health has issued a guide for householders and the general public entitled ‘*Asbestos: A guide for householders and the general public*’ to provide information regarding identification, handling and management of materials made from asbestos.

**Loss of Bay views**

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

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

**Property devaluation**

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

The Victorian State Government has provided a clear policy imperative of urban consolidation which is heavily dependent on medium density housing development. Density of the development is determined from a quantitative assessment of a development’s compliance with a series of criteria set out in the Bayside Planning Scheme. Each planning application is assessed on its merits and in principle, there are no planning restrictions which prohibit the development of the subject site for the purposes of a dual occupancy development.

Support Attachments

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

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td></td>
</tr>
</tbody>
</table>

Figure 2 View of subject site as seen from Iona Street.
Figure 3 View looking at 11, 13 and 15 Iona Street which demonstrates the eclectic styles of built form which can be evidenced in the street. Of note, is the open nature of the dwellings to the streetscape.
ATTACHMENT 3

NEIGHBOURHOOD CHARACTER ASSESSMENT – PRECINCT H1

Neighbourhood Character Precinct H1

Preferred Future Character Statement

The diverse dwelling styles are set within well-vegetated streetscapes dominated by large native and exotic canopy trees within the public and private domains. Tree and other vegetation species reflect the coastal location of the area. The dwellings are set within spacious gardens to accommodate the trees. Streetscapes appear as a mixture of single and double storey dwellings, however individual buildings respect adjoining dwellings and do not dominate the streetscape. Low or open style front fences are usually provided, in order to retain the openness of the front garden to the street.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate traditional coastal and native species.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposal presents with opportunity to plant vegetation both within the front and the rear yard areas to ensure that the valued garden characteristics are maintained and to assist in providing a garden setting to the proposed dual occupancy development.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The subject site does not contain any vegetation worthy of retention.</td>
</tr>
<tr>
<td>To enhance the bayside vegetation character of the area through the retention and planting of appropriate coastal species.</td>
<td>• Retain established large trees and native and traditional coastal vegetation and provide for the planting of new native coastal trees (locate footings outside root zone).</td>
<td>Removal of large trees. Planting of environmental weeds.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>It is proposed to remove all trees and vegetation from the subject site. Council’s Arborist supports the removal of the trees and conditions have been included requiring the planting of indigenous vegetation at the site.</td>
</tr>
<tr>
<td>To retain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the</td>
<td>• Buildings should be sited to allow space for the planting of significant trees and shrubs. • Buildings should be sited to create the appearance of space between buildings</td>
<td>Loss of front garden space.</td>
<td>The front setback is considered to be adequate and will allow the planting of substantial vegetation which will assist in reinforcing the valued garden characteristics at the site.</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>retention and planting of vegetation.</td>
<td>and accommodate substantial vegetation.</td>
<td>Avoid</td>
<td>The development proposes to be offset from the east boundary which is consistent with the character of streetscape. The built form character of Iona Street is typified by buildings being located against one of the title boundaries.</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>A single and a double car garage is proposed at the subject site which are slightly recessed behind the front of the porch/entry areas. The setback of the garages is consistent with the streetscape and will assist in reducing the dominance of the garages, in keeping with the preferred neighbourhood character.</td>
</tr>
<tr>
<td>To ensure that new dwellings and extensions do not dominate the streetscape.</td>
<td>Recess upper level elements from the front façade.</td>
<td></td>
<td>The use of a pitched roof form and adequate setbacks at both the ground floor level and the first floor level will minimise the visual bulk associated with a double storey form and also side-by-side multi-unit developments. The proposal is also adequately setback away from the front title boundary to ensure that it will not dominate the streetscape.</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>The choice of a render finish is proposed to the walled areas with the usual aluminium/metal finishes proposed to the windows, gutters and fascias. The pitched roof is proposed to be finished off with concrete tiles which are all found within the streetscape and will be complementary to the natural setting.</td>
</tr>
<tr>
<td>To maintain the openness of the front garden to the street.</td>
<td>Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fences.</td>
<td>No front fence is proposed resulting in an open setting which will enhance the integration of the dwelling within the public realm.</td>
</tr>
</tbody>
</table>

Item 4.13 – Matters of Decision

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## ATTACHMENT 4

### CLAUSE 55 ASSESSMENT

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located in an established suburban area and is able to take advantage of public transport and community infrastructure services.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly when viewed from the streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 9m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td>Proposed: 9m for Dwelling 1 and 9.51 metres for Dwelling 2.</td>
</tr>
<tr>
<td>Item</td>
<td>Condition</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-----------</td>
<td>-------------</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Yes</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
</tr>
<tr>
<td></td>
<td>Required: 9m</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Proposed: 7.775m</td>
<td></td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Yes</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
</tr>
<tr>
<td></td>
<td>Maximum: 50%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Proposed: 49.86%</td>
<td></td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Yes</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
</tr>
<tr>
<td></td>
<td>Minimum: 20%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Proposed: 39.31%</td>
<td></td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Yes</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
</tr>
<tr>
<td></td>
<td>The proposal provides appropriate solar access to the dwellings.</td>
<td></td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Yes</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
</tr>
<tr>
<td></td>
<td>The northern elevations provide a suitable level of passive surveillance of the public open space to the north.</td>
<td></td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Yes</td>
<td>Layout to provide safety and security for residents and property.</td>
</tr>
<tr>
<td></td>
<td>No safety issues are considered to be likely to arise.</td>
<td></td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>Yes</td>
<td>To provide appropriate landscaping. To encourage:</td>
</tr>
<tr>
<td></td>
<td>Development that respects the landscape character of the neighbourhood.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The retention of mature vegetation on the site.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Refer to report.</td>
<td></td>
</tr>
</tbody>
</table>
**B14 Access**
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

Yes

Appropriate vehicular access is provided.

**Maximum:** 40% of street frontage
**Proposed:** 37.19% of street frontage

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

Yes

The proposed car parking areas are appropriately located.

---

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

No

Refer report and table below. Areas of non-compliance are underlined. Refer report.

---

### Ground Floor

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th></th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>East (side)</strong></td>
<td>0m or 2m</td>
<td>0m and 2m</td>
<td></td>
<td>3.2m</td>
<td>3m – 3.5m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0m or 3m</td>
<td>5.55m and 6.98m</td>
<td></td>
<td>4.7m</td>
<td>9.1m and 9.9m</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2m</td>
<td>0m and 2m</td>
<td></td>
<td><strong>3.6m – 3.7m</strong></td>
<td><strong>3m – 3.5m</strong></td>
</tr>
</tbody>
</table>

---

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

Yes

**Maximum Height:** 3.6m
**Proposed:** 2.64m for garage wall and 3.01m for parapet

**Maximum Average Height:** 2.64m
**Proposed:** 2.93m

**Maximum Length:** 18.22m
**Proposed:** 6.41m

---

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

Yes

There are no habitable room windows which face the wall proposed on the western boundary which are located within the prescribed distance.

---

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

Yes

No north facing windows on adjoining properties are affected.
<table>
<thead>
<tr>
<th>Standard</th>
<th>Description</th>
<th>Yes/No</th>
<th>Condition/Detail</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></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%/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><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>Addressed by condition included which requires compliance with Standard B22.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></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>Addressed by condition. The building design appropriately limits internal overlooking at the ground floor level however there may be views achieved into the private open space areas from the first floor balcony areas.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></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><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
<td><strong>Minimum:</strong> 25m² secluded, 40m² overall. <strong>Proposed:</strong> 45m² and 56m² SPOS for Dwelling 2 and Dwelling 1 respectively plus additional areas of POS.</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>Appropriate storage areas are located in the rear yard areas.</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Encourage design detail that</td>
<td>Yes</td>
<td>Appropriate levels of design detail provided that respects both the existing and the preferred</td>
</tr>
</tbody>
</table>
| B32 Front Fences | Yes | Required: 1.2m  
Proposed: None. |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B33 Common Property</th>
<th>Yes</th>
<th>The common property is consists of the driveway and front garden and should be capable of effective management through the subdivision process.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B34 Site Services</th>
<th>Yes</th>
<th>Plans show clotheslines, mailboxes and storage areas as required. Space for meters has been provided alongside the entries of each dwelling.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
5. Confidential Business

Nil

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

Adrian Robb

Chief Executive Officer