Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 13 February, 2018 at 7:00pm

Chairperson: Cr Rob Grinter

Councillors: Cr Alex del Porto
            Cr Laurence Evans (Mayor)
            Cr Michael Heffernan
            Cr James Long BM JP
            Cr Clarke Martin
            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

3. Adoption and Confirmation of the minutes of previous meeting

4. Matters of Decision
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5. Confidential Business
   Nil
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<th>Next Meetings 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuesday 27 February 2018</td>
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<tr>
<td>Tuesday 13 March 2018</td>
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<td>Tuesday 27 March 2018</td>
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<td>Tuesday 13 November 2018</td>
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<td>Monday 10 December 2018</td>
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<td>Thursday 20 December 2018</td>
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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 23 January 2018.
4. Matters of Decision

4.1 73 NORTH ROAD, BRIGHTON (ST. JAMES PRIMARY SCHOOL)
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/532/1 WARD: NORTHERN

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
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<tr>
<td>Applicant</td>
<td>Ratio Consultants Pty Ltd</td>
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<tr>
<td>Title/Covenant</td>
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<td>Current statutory days</td>
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<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
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<tr>
<td>Overlays</td>
<td>Heritage Overlay (Schedule 81)</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
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</tbody>
</table>

Proposal

The application seeks buildings and works associated with the development of a sky-bridge (over a laneway), including partial demolition, for an education centre. Key details of the proposal are as follows:

- Buildings and works associated with a sky-bridge over a Council laneway
- Use of airspace above public land for an education centre
- Partial demolition and construction in a Heritage Overlay
- Buildings and works with a height of greater than 8 metres in a Design and Development Overlay Schedule 3
- Temporary closure of the laneway to allow for construction

The application plans are provided at Attachment 1.

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

History

At the 21 October 2014 Ordinary Council Meeting, Council resolved to support the granting of access rights via a Section 173 Agreement to the airspace in accordance with detailed survey plans over the road abutting St. James Primary School off Osbourne Close, Brighton. This support was contingent on the school obtaining town planning approval and any other permits required to building the structure and agreeing to compensate Council for the loss in value to the road by granting such access based on a current market valuation.
This planning permit application gives effect to the requirement, under the Planning and Environment Act 1987, to obtain use and development permission from the responsible authority.

2. **Planning controls**

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-2 (Neighbourhood Residential Zone Schedule 3) – Use of land for an Education Centre (Section 2 – Permit required)
- Clause 32.09-8 (Neighbourhood Residential Zone Schedule 3) – Buildings and works associated with a Section 2 use
- Clause 43.01-1 (Heritage Overlay Schedule 81) – A permit is required to construct a building or construct or carry out works
- Clause 43.02-2 (Design and Development Overlay Schedule 3) – A permit is required to construct a building or construct or carry out works

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. **Stakeholder consultation**

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heritage</td>
<td>No objection.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Comments.</td>
</tr>
<tr>
<td>Drainage</td>
<td>Standard conditions.</td>
</tr>
<tr>
<td>Property</td>
<td>Section 173 Agreement required.</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 remain registered after four were received. The following concerns were raised:

- Closure of laneway;
- Development will not increase student safety;

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

Consultation meeting

The applicant declined a consultation meeting, preferring to undertake their own consultation. After informal consultation with objectors, one objection was withdrawn and three remain.
4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/532/1** for the land known and described as **73 North Road, Brighton** for the **buildings and works associated with the development of a sky-bridge (over a laneway), including partial demolition for an education centre** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted on 19 October 2017 prepared by Baldasso Cortese P/L dated 18.08.2017 and revision number 00 but modified to show:
   a) A minimum height clearance of 4.3 metres above the finished level of the laneway to the underside of the sky-bridge with any consequential changes to the satisfaction of the Responsible Authority.
   b) The installation of two signs reading ‘Low Clearance 4.3 metres’ on the north and south elevations, clearly visible from either approach.
   c) A revised Construction and Traffic Management Plan in accordance with Condition 9 below.

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 commencement of the use 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.

**Drainage**

6. 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.

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

**Section 173 Agreement**

8. Prior to the commencement of the development on the land, all relevant parties must enter into an agreement pursuant to Section 173 of the **Planning and Environment Act 1987**. The agreement must ensure the following:
a) The bridge to be designed, constructed, kept and maintained to the satisfaction of the responsible authority;

b) The bridge to be structurally sound and safe and not become visually unsightly or have visual amenity impacts to the satisfaction of the responsible authority;

c) The owner to present Council with a copy of a structural engineers report at least once every two years regarding the structural integrity of the bridge and immediate repair any item requiring repair;

d) At the expiration of the licence remove the bridge and remediate all portions of the road to the satisfaction of the responsible authority.

The permit holder must pay all of Bayside City Council’s reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

Construction and Traffic Management Plan

9. Before commencement of development, a revised Construction Management & Traffic Plan (CTMP), 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 CTMP must specify and deal with, but not be limited to the following as applicable:

a) Construction times, noise and vibration controls;

b) A detailed schedule of works including a full project timing;

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

d) The location for the parking of all construction vehicles and construction works vehicles during construction;

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

f) Proposed traffic management signage indicating any inconvenience generated by construction;

g) Fully detailed plan indicating where construction hoardings would be located;

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

i) Containment of dust, dirt and mud within the vicinity and methods and frequency of clean up procedures in the event of build-up of matter outside the site;

j) Public safety measures;

k) Restoration of any Council assets impacted and/or damaged during construction;

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

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

o) Traffic management measure to comply with the provisions of AS1742.3-2009 Manual of uniform traffic control devices – Part 3: Traffic control devices for works on roads;

p) All contractors associated with the construction of the development must be made aware of the requirements of the Construction & Traffic Management Plan;

q) Details of crane activities, if any.

10. Access to the western parts of the laneway must not be closed for a period of greater than four weeks consecutively except without the written consent of all affected land-owners and the Responsible Authority.

Permit Expiry

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

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

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

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

Permit Notes:

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

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

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

Bayside Planning Scheme

- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport
- Clause 19 Infrastructure
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.09 Transport and Access
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 Residential Zone Schedule 3 (NRZ3)

The proposal is for buildings and works associated with a sky-bridge over a Council laneway. The sky-bridge is proposed for St. James Primary School located along North Road in Brighton. The structure is proposed to project over a Council owned laneway extending from the conclusion of Osbourne Close. The laneway is a gazetted road with a width of 2.92 metres that provides rear access to 12 properties. The laneway extends for approximately 160 metres in a U shape with duel access to Osbourne Close.

The use of land for an education centre is a Section 2 – Permit required use in the NRZ3. The sky-bridge over the laneway is proposed to be used in association with the existing primary school. It will be used to connect separate portions of the school campus with the intent of increasing safety for students, staff and visitors. The extension of the use is considered compatible with the surrounding residential character and will not result in long-term adverse amenity impacts.

Buildings and works in the NRZ3 associated with a Section 2 use require planning permission. The proposed construction will lead to an extension of the existing school that will only be partially visible from the Osbourne Close streetscape. Raised portions of the secluded private open space at 93 North Road may be able to view the development. With that said, the materials proposed by the applicant are in keeping with the existing buildings and will not result in a visually jarring addition to the neighbourhood. Overall, it is considered that the decision guidelines of the NRZ3 are supportive of the proposal.

6.2. Heritage Overlay Schedule 81 (HO81)

Buildings and works associated with the proposal, including partial demolition, are a planning permit trigger under the heritage overlay. The western portion of the school site under assessment is covered by HO81 which is relevant to the Star of the Sea Catholic College. The significant heritage buildings lie further west on the opposite side of Presentation Street. The buildings under assessment do not contain any additional buildings of historic value.

The application was referred to Council’s Heritage advisor. They indicated that due to the building’s distance from the significant portions of the site, this addition to a non-contributory building will not result in adverse heritage impacts. No objections to the grant of the permit were raised on heritage grounds.
6.3. **Design and Development Overlay Schedule 3 (DDO3)**

The buildings and works proposed as a part of this application require assessment under the DDO3 as the proposal is greater than 8 metres high and not associated with residential land use. The highest portion of the proposal above natural ground level is 8.15 metres. The objective of the DDO3 is to achieve built form outcomes that contribute positively to local urban character and preserve existing low rise character and amenity.

As outlined in section 6.1 of the report, officers consider that the development is compatible with surrounding residential character. The maximum height of the development is proposed to sit below the eaves of the school buildings. As such, the proposal will present an unobtrusive addition to the area due primarily to its position central to the existing school campus and its setback from the Osbourne Close streetscape. The objectives and decision guidelines of the DDO3 support the proposal.

6.4. **Traffic Management impacts**

The application proposes a structure to be built permanently over a Council owned road and the closure of that road during construction. At the request of Council’s Traffic Engineer, the applicant submitted a proposed construction & traffic management plan (CTMP). That plan outlined that the western portion of the laneway could be closed for approximately 6 months during construction. A number of objections were lodged opposing the closure of the laneway for this length of time. Council’s Traffic department has viewed both the application plans and proposed CTMP and have indicated conditional support for the application.

The applicant has requested a minimum clearance above the laneway of 4.08 metres. Two key Standards are used for minimum height clearance for structures over roads. Table 8.1 in the AustRoads *Guide to Road Design* indicates that a clearance of 4.6 metres is typically required for ‘Other Roads’. This allows clearance for large reticulated vehicles including transport semi-trailers. The MFB’s *Planning Guidelines for Emergency Vehicle Access and Minimum Water Supplies within the Metropolitan Fire District* requires a vertical clearance free from encumbrances of a minimum of 4.2 metres.

In this instance, Council’s Traffic Management Coordinator considers a clearance of 4.3 metres an acceptable compromise between the two standards. Officers concur with this. 4.3 metres exceeds the minimum standards required for emergency access while not seeking a level of clearance that will obtrusively project above the eaves of the existing school buildings. A condition of permit will require revised plans to this effect. Signs alerting traffic to the low clearance will be required to be constructed on either approach.

As discussed, the CTMP projects that the western access to the laneway may be closed for up to 6 months. The laneway provides rear access to a number of properties several of which have no existing front access. Council’s Traffic Engineer has indicated that a number of these access points are reliant on through laneway access. To this end, the closure of laneway access will temporarily impact these properties and their residents. All three remaining objections have objected to the application on this ground.

In order to reduce inconvenience to residents, Condition 10 of the recommendation above limits the closure of the western portion of the laneway to a maximum of four weeks consecutively. A caveat is added to this condition allowing an extension provided that landowners and Council consent. While the laneway must be closed during construction, Officers consider that any impacts to residents should be reduced as much as possible.

6.5. **Objector issues not already addressed**

**Development will not increase student safety**

This application is the outcome of years of consultation across a variety of stakeholders including the school, Council and local residents. Previous reports presented to Council
have demonstrated that vehicle traffic numbers are low within the laneway. Despite this, the laneway’s position within the school campus presents potential safety issues for students, staff and other stakeholders while transitioning across the campus. The construction of the sky-bridge is proposed in response to these long-term safety issues.

Whether or not this proposal is the best solution to address on-site safety is outside the scope of consideration for an application made under the Planning and Environment Act 1987. The height and design of the sky-bridge will all achieve the appropriate Australian Standards through conditions of permit. As such, no further officer commentary is considered relevant or necessary.

Support Attachments
1. Development Plans ↓
2. Site Surrounds and Imagery ↓
CATHOLIC EDUCATION MELBOURNE
ST. JAMES PRIMARY SCHOOL
TOWN PLANNING - NOT FOR CONSTRUCTION
AUGUST 2017

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<td>03</td>
<td>EXISTING CONDITIONS GROUND FLOOR PLAN</td>
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<td>06</td>
<td>PROPOSED ELEVATIONS</td>
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SCALE
- 1:100
- 1:200
- 1:500
- 1:1000

Item 4.1 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

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<td>Subject site</td>
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<tr>
<td>Objectors</td>
<td>●</td>
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<tr>
<td>Withdrawn</td>
<td>▲</td>
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Figure 2. Aerial image of immediate development surrounds
Figure 3. View to St. James Primary looking south west from Osbourne Close

Figure 4. View down the laneway looking south to location of development
Figure 5. Looking north along the laneway back to Osbourne Close – proposed sky-bridge is past school building on the right

Figure 6. Laneway perspective to heritage protected school building
Figure 7. View looking east further along the Council lane – laneway is sought to be temporarily closed
4.2 5 ROODING STREET, BRIGHTON
NOTICE OF DECISION TO AMEND A PLANNING PERMIT
APPLICATION NO: 2010/83/3 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/286536

1. Application details

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<th>Recommendation</th>
<th>Notice of Decision to Grant an Amended Planning Permit</th>
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<tr>
<td>Applicant</td>
<td>JDA Architects</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
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<td>Date application received</td>
<td>5 July 2017</td>
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<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
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<td>Overlays</td>
<td>Design and Development Overlay (Schedule 10)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
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</table>

Proposal
The application involves a Section 72 Amendment to Planning Permit 2010/83/2 (refer Attachment 1) which allows alterations and additions to a dwelling on a lot less than 500 square metres.

Key details of the proposed amendment are as follows:

- Alterations to the width to the existing verandah at the rear garden on the west elevation from 7.7m to 5m;
- Construction of a solid wall to the eastern boundary adjacent to the verandah;
- Construction of a domestic swimming pool in the rear setback;
- Removal of the existing Stopped Gum (Corymbisa Macalate) tree in the north western (rear) corner of the site;
- Construction of a first floor addition comprising of 2 bedrooms, a sitting room and a bathroom with a separate toilet; and
- The proposed maximum height of the development is 7.87m

The application plans are provided at Attachment 2.

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

History
Planning Permit 2010/83/1 was issued 31 May 2010 to allow alterations and additions to a dwelling on the lot less than 500 square metres. The approved development included a single storey comprising a new living area, dining area, kitchen, wine room and bathroom. Plans were endorsed on 1 June 2010.

The permit was amended on 26 July 2010 pursuant to the secondary consent provisions and allowed the following:

- Retaining existing windows and canopy to the façade.
- Altered size of proposed bathroom window.
- Removal of two windows both side of the living room, and replaced with single double awning window to the left of the fire place.
- Bi-fold doors to the rear changed to stacking sliding doors.
- Solar panels added to the rear roof structure.
- Chimney to be lightweight rendered wall in lieu of weatherboard.

The permit was amended pursuant to Section 72 of the Planning and Environment Act 1987 on 29 April 2011 to include an open pergola to the rear of the dwelling. The plans were endorsed on 29 April 2011.

2. **Planning controls**

Original permit requirements

A planning permit is required pursuant to:

- Clause 32.01 (Residential 1 Zone) – Alterations and additions on a lot less than 500 square metres.

Primary consent was obtained through this permit trigger, now amended.

Planning permit requirements

Pursuant to Section 72 and 73(1) of the Planning and Environment Act 1987, the ambit of discretion is limited to the proposed changes sought by the applicant. Consideration cannot be given to elements approved as part of the original application but not sought to be amended.

The proposed amendments fall under the primary consent of the permit.

Planning Scheme Amendments

There are no planning scheme amendments relevant to this application.

3. **Stakeholder consultation**

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Objection. Retention of the existing tree required.</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 objections were received. The following concerns were raised:

- Overlooking;
- Loss of tree;
- Noise;
- Overshadowing; and
- Non-compliant with side setback to the first floor (west elevation).
The number of objections received for this application is consistent across Council’s record management systems.

Consultation meeting

A consultation meeting was held on 10 November 2017 attended by the permit applicant and two objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant an Amended Permit under the provisions of the Bayside Planning Scheme in respect of Planning Permit Application 2010/83/3 for the land known and described as 5 Rooding Street, Brighton, for the alterations and additions on a lot less than 500 square metres in accordance with the endorsed plans and subject to the following conditions from the standard conditions (amended conditions in bold) and the following table inserted as a record of amendments:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans advertised prepared by JDA Architects dated 5 July 2017 but modified to show:

   a) Sightlines to demonstrate that the first floor windows associated with the window seat of Bedroom 2 comply with Clause 54.04-6. Alternatively these windows must be screened in accordance with Standard A15 (Overlooking) of Clause 54 of the Bayside Planning Scheme. All plans be consistently and clearly annotated.

   b) Plans to show consistently and clearly annotated the proposed site coverage, permeability and private open space.

   c) Retention of the existing Stopped Gum (Corymbisa Macalate) tree in the rear garden to the northern boundary and the subsequent deletion or redesign of the proposed swimming pool to show minimum impact to the Stopped Gum (Corymbisa Macalate) tree;

   d) A Tree Management and Protection Plan to show that the tree will remain viable post construction of the pool in accordance with Condition 6

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

   f) Water sensitive urban design measures is required in accordance with Condition 6 of this permit.

   All to the satisfaction of the Responsible Authority.

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

3. The walls on the boundary of the adjoining properties shall be cleaned and finished 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.

Tree Management and Protection Plan

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 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.

7. 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.

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

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

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

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

9. 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.

10. 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.

Permit Expiry

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

- The development is not started within two years of the date of this permit.
- 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:
- Building approval must be obtained prior to the commencement of the above approved works.
- 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>26 July 2010</td>
<td>Secondary Consent to amend the plans:</td>
</tr>
<tr>
<td></td>
<td>Retaining existing windows and canopy to the façade.</td>
</tr>
<tr>
<td></td>
<td>Altered size of proposed bathroom window.</td>
</tr>
<tr>
<td></td>
<td>Removal of two windows either side of the living room and replaced with single double awning window to the left of the fire place.</td>
</tr>
<tr>
<td></td>
<td>Bi-fold doors to the rear changed to stacking sliding doors.</td>
</tr>
<tr>
<td></td>
<td>Solar panels added to the rear roof structure.</td>
</tr>
<tr>
<td></td>
<td>Chimney to be lightweight rendered wall in lieu of weatherboard.</td>
</tr>
<tr>
<td>29 April 2011</td>
<td>Amended Permit, Section 72, amendments as follows:</td>
</tr>
<tr>
<td></td>
<td>An open sided pergola to the rear of the site.</td>
</tr>
<tr>
<td>January 2018</td>
<td>Section 72 amendment to the endorsed plans to show the following:</td>
</tr>
<tr>
<td></td>
<td>Alterations to the width from 7.7m to 5m to the existing verandah at the rear garden on the west elevation;</td>
</tr>
<tr>
<td></td>
<td>Construction of a solid wall to the eastern boundary adjacent to the verandah;</td>
</tr>
<tr>
<td></td>
<td>Construction of a domestic swimming pool in the rear garden;</td>
</tr>
<tr>
<td></td>
<td>Construction of a first floor addition comprising of 2 bedrooms, a sitting room and a bathroom with a separate toilet.</td>
</tr>
<tr>
<td></td>
<td>Section 72 amendment to the permit conditions as follows:</td>
</tr>
<tr>
<td></td>
<td>Addition of Condition 1(a – f)</td>
</tr>
<tr>
<td></td>
<td>Rewording of Condition 2</td>
</tr>
<tr>
<td></td>
<td>Addition of Conditions 4 – 10</td>
</tr>
<tr>
<td></td>
<td>Remaining conditions renumbered</td>
</tr>
</tbody>
</table>

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.
- 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 B1
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 10)
- 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

The site is located within Neighbourhood Character Precinct B1 and the proposal is considered to demonstrate an appropriate level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 4.

The application seeks approval to remove a large gum tree in the rear setback of the site, construct a swimming pool and shed in the rear setback with subsequent minor alterations to the existing landscaping conditions, and alter the width of the existing verandah in the rear garden.

From a neighbourhood character consideration, the proposed ground floor alterations are generally appropriate as they are sited within the rear setback of the site and will not be visible from the street. The application however seeks to remove the existing gum tree within the north western corner of the site to accommodate the proposed swimming pool. Council’s Arborist has objected to the removal of the tree noting that the tree has a high amenity value, is in good health and has a high retention value. In light of its contribution to the character of the area, a condition to retain the tree is included as Condition 1c) of the recommendation.
The proposed first floor extension is acceptable as the built form is well recessed from the front façade which works to minimise any visual impact to the streetscape. The proposed extension is consistent in scale and form having regard to other dwellings within the immediate area. The proposed design detail complements the host dwelling and will sit comfortably within its context.

6.2. **Compliance with Clause 54 (Rescode)**

An assessment against the requirements of Clause 54 is provided at Attachment 5. Those non-compliant standards are discussed below:

**Overlooking (Standard A15)**

The proposed first floor windows associated with the window seat of Bedroom 2 have not been screened. These windows have a view towards the secluded private open space of 6 Budd Street (west of the site) within 9 metres. Condition 1a) of the recommendation requires the applicant to demonstrate no reasonable overlooking can occur towards the adjoining properties or the provision of screening in accordance with the requirements of Standards A15.

6.3. **Landscaping**

The application proposes the removal of the native Spotted Gum tree located in the rear setback of the site. The table below identifies 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>Spotted Gum tree <em>Corymbisa maculata</em></td>
<td>-</td>
</tr>
</tbody>
</table>

Having assessed the application it appears that the proposal for the removal of the Spotted Gum (*Corymbisa maculata*) tree located in the corner of the rear garden is to allow the construction of the proposed swimming pool.

The application has been referred with the development plans to Council’s Arborist for review. Council’s Arborist has advised that the large tree proposed for removal should be retained because the tree is visible from both Rooding Street and Budd Street and offers a high level of amenity for the area. It was also advised that the tree is in good health, has a high retention value and a life expectancy of 20+ years.

Although the Spotted Gum (*Corymbisa maculata*) tree has been found to have poor structure, Council’s Arborist considered the poor structure of the tree can be maintained using modern arboricultural management strategies such as the use of dynamic cable in the upper canopy.

Accordingly, the Neighbourhood character Precinct B1 guideline states that the removal of large canopy trees is to be avoided. The Spotted Gum (*Corymbisa maculata*) is a large canopy tree that maintains and enhances the preferred future character of garden setting of dwellings and should be protected.

To ensure that the tree is retained, it is considered that redesigning the swimming pool is possible and reasonable in order to protect and retain the tree. A condition is included as part of the recommendation to this effect.
6.4. **Other Matters**

**Title realignment**

The site boundaries have been altered since the issue of the original permit. The applicant has confirmed that the land owners purchased some of the adjoining land from the neighbour to enlarge their garden. The new title submitted with the application indicates the current boundary alignment which was extended to the north and partially to the east.

**Water sensitive Urban Design**

Pursuant to Clause 22.08 of the Bayside Planning Scheme, and assessment against the policy is required for an extension of an existing building that is greater than 50 square metres of floor area.

The application proposes a first floor extension to the existing with a floor area of 85.52 square metres. A water sensitive urban design assessment will be required demonstrating that the proposal complies with the best practice performance objectives set out in the *Urban Stormwater Best Practise Environmental Management Guideline, CSIRO 1999*. A permit condition will be imposed requesting a water sensitive urban design report.

6.5. **Objector issues not already addressed**

**Noise**

Residential noise associated with a dwelling is considered normal and reasonable in an urban setting.

**Overdevelopment**

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 and the provisions of Clause 54 can often demonstrate that a proposal is not an overdevelopment despite being more intensive than what existed before.

**Support Attachments**

1. Permit and Endorsed Plans
2. Development Plans
3. Site and Surrounds Imagery
4. Neighbourhood Character Policy (Precinct B1)
5. ResCode (Clause 54) Assessment
PLANNING PERMIT
2010/83/2

Address Of The Land: No. 5 Rooding Street BRIGHTON

The Permit Allows: Alterations and additions to a dwelling on a lot less than 500 square metres in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

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

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

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

4. 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 if a request is made in writing before the permit expires, or within three months afterwards.

Permit Notes

- Building approval must be obtained prior to the commencement of the above approved works.

- 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.

Date issued: 31 May 2010
Date Amended: 29 April 2011

Planning and Environment Regulations 2005 Form 4

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
## PLANNING PERMIT

2010/83/2

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
</table>
| 26 July 2010 | Secondary Consent to amend the plans:  
- Retaining existing windows and canopy to the façade.  
- Altered size of proposed bathroom window.  
- Removal of two windows either side of the living room and replaced with single double awning window to the left of the fireplace.  
- Bi-fold doors to the rear changed to stacking sliding doors.  
- Solar panels added to the rear roof structure.  
- Chimney to be lightweight rendered wall in lieu of weatherboard. |
| 29 April 2011| Amended Permit, Section 72, amendments as follows:  
- An open sided pergola to the rear of the site. |

**THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED**

Date issued: 31 May 2010

Date Amended: 29 April 2011

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
Item 4.2 – Matters of Decision
**ATTACHMENT 3**

Aerial Surrounds and Imagery

Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>

*One objector is located further afield beyond the map boundary.*
Figure 2 View towards the site southern elevation.

Figure 3 View towards the site from southwest.
Figure 4 View towards the site from southeast.

Figure 5 View towards the site from the east at 4 Budd Street.
ATTACHMENT 4
Neighbourhood Character Policy (Precinct B1)

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions to should retain the front of these dwellings.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Retain large trees wherever possible. • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation. Removal of large canopy trees.</td>
<td>Does not respond</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs. • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>Lack of front garden space</td>
<td>Responds</td>
</tr>
</tbody>
</table>

The addition and alterations contribute to the valued character of the Precinct has it has retained the existing ground floor front of dwelling and the first floor upper addition is consistent with the existing neighbourhood character.

The application proposes the removal of a large canopy trees in the rear garden. This is considered unacceptable because the proposed swimming pool can be redesigned in such a way that the tree is retained. A permit condition for the retention of the tree is imposed.

The existing visual separation between buildings and space for front gardens have been maintained.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To minimise the dominance of car parking facilities, driveways and crossovers.</td>
<td>• Locate garages and car ports behind the line of the dwelling.</td>
<td>Car parking facilities that dominate the facade or view of the dwelling.</td>
<td>Responds No change</td>
</tr>
<tr>
<td></td>
<td>• Provide vehicular access from a rear laneway where possible, while maintaining pedestrian access from the street frontage.</td>
<td>Dominance of crossovers and driveways.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Provide a maximum of one single-width crossover per typical property frontage, where no alternative is available.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses.</td>
<td>• Recess upper storey elements from the front façade.</td>
<td>Large bulky buildings with flat, poorly articulated wall surfaces.</td>
<td>Responds The upper first floor addition is consistent with the existing dwellings in form and scale. Appropriately well recessed to the front façade with well-articulated elevations.</td>
</tr>
<tr>
<td></td>
<td>• Articulate the form of buildings and elevations, particularly front facades.</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, reflect the dominant building form, height, materials and massing of the heritage building/s, of the heritage building/s in the new building design.</td>
<td>Imitation or reproduction of historic building styles and detailing.</td>
<td>N/A</td>
</tr>
<tr>
<td>To reflect the building materials in locations where there is particular consistency.</td>
<td>• Where consistent materials are used in the streetscape, use similar tonings in the colours of new buildings.</td>
<td>Excessive use of render on external walls.</td>
<td>Responds The proposed materials of the building are consistent with what is present in the area by the introduction of timber and render.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fences appropriate to the building era.</td>
<td>High, solid front fencing.</td>
<td>Responds No change</td>
</tr>
</tbody>
</table>

Item 4.2 – Matters of Decision
### ATTACHMENT 5

**ResCode Clause 54 (One Dwelling on a Lot) Assessment**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1 Neighbourhood Character</td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A2 Integration with Street</td>
<td>Yes</td>
<td>The dwelling appropriately address the street and entries are clearly identifiable from either the streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A3 Street Setback</td>
<td>Yes</td>
<td>Minimum: 9m</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></td>
</tr>
<tr>
<td><strong>Proposed ground floor</strong>: no change</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Proposed first floor</strong>: 6.1m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A4 Building Height</td>
<td>Yes</td>
<td>Required: 11m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Proposed</strong>: 7.8m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A5 Site Coverage</td>
<td>Yes</td>
<td>Maximum: 60%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Proposed</strong>: 47%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A6 Permeability</td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Proposed</strong>: 47%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**A7 Energy Efficiency**
Achieve and protect energy efficient dwellings.
Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.

| Yes | The proposal provides appropriate solar access to the dwelling. |

**A8 Significant Trees**
Development respects the landscape character of the neighbourhood and retains significant trees on site.

| No | Refer to report.
The proposed tree to be removed provides a high level of amenity to the area and the development is not hindered if the tree is retained. The tree is considered significant and should be retained. |

**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.

| Yes | Refer to table below. |

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

| Yes | **Maximum Height**: 3.2m  
**Proposed**: 3.4m  
**Maximum Average Height**: 3.3m  
**Maximum Length**: 11.6m  
**Proposed**: 4.22m |

**A12 Daylight to existing windows**
To allow adequate daylight into existing habitable room windows.

<p>| Yes | The proposal solid wall on the ground floor on the eastern elevation of the verandah is well setback from property boundaries to ensure daylight to existing windows is maintained. |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>A13</td>
<td>North Facing Windows</td>
<td>Yes</td>
<td>There are no north facing windows on adjoining properties.</td>
</tr>
<tr>
<td>A14</td>
<td>Overshadowing Open Space</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td>A15</td>
<td>Overlooking</td>
<td>No</td>
<td>Refer to report. The first floor windows associated with Bedroom 2 may have a view towards the secluded private open space of the adjoining properties within 9 metres. A condition is included to require the applicant to demonstrate compliance with the objective.</td>
</tr>
<tr>
<td>A16</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 190m² secluded, 225m² overall</td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Refer section 6.1v of the report.</td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences</td>
<td>Yes</td>
<td>Required: 1.2m Proposed: No change</td>
</tr>
</tbody>
</table>
preferred neighbourhood character.
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Mark Ceddia</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant as to part 2058593 variation of Covenant G996840 Variation of Covenant U976124V (24/09/1997). The site is also subject to restrictive covenant as to part 2113461 variation of covenant G996840, variation of covenant U976124V (24/09/1997). The covenant does not restrict the proposal.</td>
</tr>
<tr>
<td>Date application received</td>
<td>20 November 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>82</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>0</td>
</tr>
</tbody>
</table>

Proposal

The application seeks a planning permit for the removal of four native trees on a lot with an area of 1874.52 square metres. Key details of the proposal are as follows:

- Removal of four native trees described as:
  - Tree 1, Ficus macrophylla (Moreton Bay fig), 10 metres in height and a canopy spread of 7 metres, life expectancy of 20 plus years and a low retention value.
  - Tree 2, Ficus rubiginosa (Port Jackson fig), 8 metres in height and a canopy spread of 6 metres, life expectancy of 20 plus years and a low retention value.
  - Tree 3, Pittosporum undulatum (Sweet pittosporum), 7 metres in height, a canopy spread of 5 metres, life expectancy of 20 plus years and a low retention value.
  - Tree 4, Pittosporum undulatum (Sweet pittosporum), 7 metres in height, a canopy spread of 5 metres, life expectancy of 20 plus years and a low retention value.

The application plans are provided at Attachment 1.

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

History

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

   **Planning Permit requirements**

   A planning permit is required pursuant to:
   - Clause 42.02-2 (Vegetation Protection Overlay) – Removal of vegetation native to Australia.

   **Planning Scheme Amendments**

   There are no Planning Scheme Amendments relevant to this application.

3. **Stakeholder consultation**

   **External referrals**

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

   **Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions:</td>
</tr>
<tr>
<td></td>
<td>Replacement trees to be planted</td>
</tr>
</tbody>
</table>

4. **Recommendation**

   That Council resolve to:

   Issue a **Planning Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/776** for the land known and described as **407 Beach Road, Beaumaris**, for **the removal of four native trees in a Vegetation Protection Overlay** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

   1. Before the development starts, a detailed landscape plan 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 Council dated 20 November 2017 but modified to show:
      a) Replacement planting of four indigenous trees capable of reaching 10 metres tall and 7 metres wide.
      b) The genus, species and common name of the replacement trees.
      All to the satisfaction of the Responsible Authority.

   2. No additional trees as shown on the endorsed plans are to be removed without the prior written consent of the Responsible Authority.

   3. Unless with the further consent of the Responsible Authority the replacement planting as shown on the endorsed plan must be undertaken within 6 months of the trees being removed.

   **Public notification**

   The application was advertised pursuant to Sections 52(1)(a) and (d) of the **Planning and Environment Act 1987** and no objections were received.
4. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority.

**Permit Expiry**

5. This permit will expire if the vegetation removal is not completed within two years of the date of this permit.

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

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 12 Environmental and Landscape Values
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.04 Environmental and Landscape Values
- Clause 22.06 Neighbourhood Character Policy (Precinct H4)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 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. **Vegetation Protection Overlay (Schedule 3)**

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 eight trees from the site including four trees protected by the VPO3. Two large exotic trees are to be retained at the front of the site. 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 a “*“.
VPO3 protected trees | Local Law protected trees | Trees not protected
---|---|---
Proposed for removal | Proposed for removal | Proposed for removal
Proposed for retention | Proposed for retention | Proposed for retention

<table>
<thead>
<tr>
<th>Tree 1, 2, 3 and 4</th>
<th>-</th>
<th>Tree TE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tree 1</td>
<td></td>
<td>Tree TA, TB, TC, TD,</td>
</tr>
<tr>
<td>Tree TF</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that Tree 1 is a *Ficus macrophylla* (Moreton Bay fig) and is of good health and structure and have a life expectancy of 20 plus years. However the amenity value and retention of this tree is low due its size and limited contribution to the landscape character. Removal and replanting will provide a superior outcome over time.

Tree 2 is a *Ficus rubiginosa* (Port Jackson fig) and is semi mature, of good health and structure and have a life expectancy of 20 plus years. However the amenity value and retention of this tree is low as it contributes little to the landscape character due its species, size and unsightly nature.

Council’s arborist also advises that Trees 3 and 4 are *Pittosporum undulatum* (Sweet pittosporum). Both trees are of good health and structure with long life expectancy of 20 plus years. However the amenity and retention value of these trees is low, as both are designated weed species. Over time, removal and replacement of these trees would provide a superior landscape outcome.

Further detail of each tree is provided in Attachment 3 and 4.

Council’s arborist is therefore supportive of the removal of the four native trees however also advises that the native trees to be removed should each be replaced with indigenous trees capable of reaching 10 metres tall and 7 metres wide. This has been included as a condition on the planning permit.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 4.

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

Therefore the proposed vegetation removal is considered to comply with the objectives of the VPO3 subject to the replanting of four replacement indigenous trees capable of reaching 10 metres tall and 7 metres wide.

It must also be noted that the most prominent trees on the site, being a 15 metre high Canadian Poplar and 11 metre high Chinese Elm are being retained in the front setback. These trees provide the greatest amenity value.

**Support Attachments**

1. Proposed Site Plan ↓
2. Site and Surrounds Imagery ↓
3. Applicant’s Arborist report, including photos of trees to be removed ↓
4. VPO Decision Guidelines ↓
**Figure 1: Aerial image of the subject site**

**Figure 2: View to the site from the east**
20/11/2017

Dear Mr Ceddia

Please find attached a Preliminary Tree Condition & Assessment Report as requested.

This includes: *Digitally Adjusted Site Plans *Including photographic archive of surveyed trees and digitally enhanced tree samples to identify each tree. *Tree Terminologies. *Arboricultural Consultancy Assumptions and Limiting Conditions for:

**Preliminary Tree Assessments** No.407 Beach Rd – Beaumaris

**Bayside City Council: Planning Application No.**

"Proposed New Single Residential Development"

This report should be read in conjunction with Schematic Hand-drawn Survey Plan, Photos & Tree Data.

**SCOPE of WORKS:**

- Undertake and document a Preliminary Tree Assessment & Condition Report regarding x10 trees within the property for a proposed new single residential development close to works.
- Includes tree numbering, Schematic Map/Plan adjustments and descriptive digital photography including many for archive.
- The site is covered by Bayside VPO 3 and Neighborhood Residential Zone Sched’ 3.
- X4 Native Trees require a permit to remove. X2 Exotics don’t. X2 Exotics will be pruned for retention.

Andrew J Patrick - Principal
(Adv Cert Hort, Dipl Hort/Arb. WTA Cert 4)
OPEN SPACE MANAGEMENT

No.407 Beach Rd. Beaumaris: OPEN SPACE MANAGEMENT. November 2017
Tree Assessments: 407 Beach Rd – Beaumaris

DISCUSSION:

- The site was inspected in detail on Thursday 16th November 2017 PM. Mr Ceddia was present.
- Inspect x10 trees within the site: Refer Schematic hand-drawn site-survey plan supplied.
- All numbering corresponds to relevant Field Nominated Trees T1-T4 and Trees TA–TF.
- Trees in field are tagged and easily determined by plan & photos. Others small are apparent.
- All trees have been assessed for their Condition & Merit based upon viability within relative proximity to proposed and existing residential infrastructure.
- Provide an assessment of the overall health & structure of the x10 subject trees as observed on the day including trees likely to be affected by the proposal close to existing driveway.
- Visual observations were taken of subject tree/s from ground level.
- Note: A private electricity LV Service-wire Pole CAMM No.9868811 is relevant to the site.
- Identify Genus and Species of subject tree; some species may need further identification.
- Information in this report reflects the condition of those items that were examined at the time of the inspection and must be read in conjunction with the attached Plan, Photos & Rpt.
- The Australian Standard for the Protection of Trees on Development Sites – AS 4970 2009 is untenable in this case relative to the topography and the VPO 3 classification upon the site.
- It would appear that there are no viable nominated trees on-site and T1-4 & TA-D should be removed to allow the project to proceed. No nominated trees are considered to be a genuine material constraint because of their respective age, condition, size and weed or VPO 3 status although Mr Ceddia proposes to retain x2 Exotic trees TE & TF for ongoing garden amenity.
- Most trees & shrubs are past their respective SULE and for some very poor form & structure; including some weed-trees & exotics. There are no trees from No.406 Beach Rd adjoining.
- Various other decrepit small trees & shrubs & vines exist within the front yard as shown.
- The site itself appears eminently suitable for a proposed single residential dwelling.
- T1. T2. TA & TB are poorly situated in a limited garden bed beneath an electrical power-line and this represents an unacceptable hazard with high risk and ongoing maintenance.
- There are no instructions from Bayside Council at this stage.
- A draft design concept has not been created at this stage.

No.407 Beach Rd, Beaumaris: OPEN SPACE MANAGEMENT. November 2017
# Tree Assessments: 407 Beach Rd – Beaumaris Tree Data Table:

**Trees requiring a permit for removal under the VPO3 for the site:**

<table>
<thead>
<tr>
<th>No.</th>
<th>Species</th>
<th>Age</th>
<th>Height (m)</th>
<th>Canopy Diam (m)</th>
<th>DBH (mm)</th>
<th>Condition</th>
<th>Comments</th>
</tr>
</thead>
</table>

**Trees that do not require a permit for removal or pruning under the VPO3 for the site:**

- **TA** Monterey Cypress: Cupressus macrocarpa
  - Mature: 7, 2.5, 260, Very Poor

- **TB** Maritime Pine: Pinus pinaster
  - Semi Mature: 15, 9, 380, Poor

- **TC** Box Elder: Acer negundo
  - Senescent: 8, 6, 320, Decrepit
  - Vagrant Weed Tree. Multiple failures. Remove.

- **TD** Common Holly: Ilex aquifolium
  - Mature Plus: 6, 2, 200, Decrepit
  - Vagrant Weed Tree. Poor Form. Remove.

- **TE** Canadian Peplar: Populus x canadensis
  - Mature Plus: 18, 12, 825, Poor-Fair
  - Large Tree, Good Bole. Prune to promote + retain.

- **TF** Chinese Elm: Ulmus parvifolia
  - Semi Mature: 11, 11, 300, Fair
  - Growing on toe of steep batter. Prune off x1 Limb.

Note: Trees nominated for removal are reflected in the AS4970-2009 SULE Categories 3+4 and Barrett Tree AS/NZ 2 as Z or ZZ.
Tree Assessments: 407 Beach Rd – Beaumaris

OBSERVATIONS:

- The site is extremely variable in topography with multiple significant grade & level changes.
- This application relates to trees along the existing Nth North West driveway access and a derelict dwelling at rear; a permit is required under VPO 3 to remove T1, T2, T3 & T4.
- The site is a poly-culture & mature mix of contrived plantings exotic/native trees & shrubs.
- There are no native endemic indigenous trees that are relative to this application - none.
- x6 exotic trees do not require permits; x4 will be removed and x2 pruned for retention.
- Trees T1 & T2 are considered to be a material constraint to the site redevelopment.
- The VPO 3 triggers a permit for the removal of x4 Australian Native Trees even if some are designated weeds T3 & T4. Many photographs are archived for specific tree descriptions.
- Trees T1 & T2 are contrived or possibly vagrant plantings, both semi-mature Moreton Bay & Port Jackson Fig Trees respectively growing on an eroded sand bank at less than 2Mtrs from an adjoining dwelling & boundary; they are technically a civil liability but also decrepit and only just functioning in a very awkward position and affecting surrounding infrastructure.
- T3 & T4 are Designated Weed-trees; both are Sweet Pittosporums but require a permit; they are classified in Victoria as a Weed-tree and appear on Bayside CC’s top-ten weeds.
- All the other surveyed trees are purely exotic in provenance and past their respective SULEs but also causing problems with infrastructure, access and boundary issues; Mr Ceddia intends to retain a large Poplar-tree E and a Chinese Elm TF by undertaking remedial tree pruning applications to promote & make safe these two trees. The site is split by significant grade & level changes with TE & TF growing within the steep batter-bank.

CONCLUSIONS:

Refer Schematic Plan, Tree Data Table & Detailed Photos for explanation. No design presented.

- The site appears eminently feasible for the development in relation to the neighbourhood.
- Other small shrubs within the site-area to be removed to allow for new landscape plantings.
- There are no trees on adjoining properties adversely affected by this proposal along the drive.

<table>
<thead>
<tr>
<th>407 Beach Rd – Beaumaris</th>
<th>Removal x8 Permits for T1-T4 only</th>
<th>Retain x2</th>
</tr>
</thead>
<tbody>
<tr>
<td>X10 trees surveyed. T1-T4 and TA-F.</td>
<td>T1, T2, T3, T4 and TA. TB. TC. TD.</td>
<td>TE &amp; TF - No permits required.</td>
</tr>
</tbody>
</table>

RECOMMENDATIONS:

- **REMOVE**: T1, T2, T3, T4; (Permits Required). And TA. TB. TC. TD; (No Permits Required)
- **RETAIN**: Tree TE & Tree TF: No permit is required to prune these trees as they are exotics.
- Replanting along the boundary with No.406 Beach Rd could be *Tristaniopsis laurina* in a peeled-row.

No.407 Beach Rd, Beaumaris: OPEN SPACE MANAGEMENT. November 2017
SCHEMATIC Site Plan: Generally to scale. Refer clearer separate print-off as an attachment.

- **REMOVE**
  - Tree 4: Pittosporum Undulatum

- **PRUNE**
  - Chinese Elm Tree F
  - Tree E

- **REMOVE**
  - Tree 2: Ficus Macrophylla
  - Tree 1: Ficus Rubiginosa
  - Monterey Cypress Tree A
  - Maritime Pine Tree B
  - Box Elder Tree C
  - Holly Tree D

- **Remove x4 Trees** Permit Required
  - T1, T2, T3 & T4

- **Remove x4 Trees** No Permit Required
  - Trees A, B, C & D

- **Prune x2 Trees** No Permit Required
  - Trees E & F

---

**SITE PLAN**

Scale ~ 1:50

Plan adjusted by Andrew Patrick - Open Space Management. November 2017

No.407 Beach Rd, Beaumaris: OPEN SPACE MANAGEMENT. November 2017
**Tree Assessments:** 407 Beach Rd – Beaumaris

Existing Conditions: T1+T2 and TA+TB. Note diminished boundary set-backs & aerial service-wire. Remove all.

No.407 Beach Rd, Beaumaris: OPEN SPACE MANAGEMENT, November 2017
Photo Samples:

Less than 3Mtrs to adjoining build.

Significant grade level changes

Existing Conditions: T1 & T2.

No.407 Beach Rd, Beaumaris: OPEN SPACE MANAGEMENT. November 2017
Photo Samples:

Existing Conditions: Trunks & Levels. T1+2 and T1+B.

T1+2 & TA: Boundary Setbacks - measured. Private Pole CAMM 9868811
No.407 Beach Rd. Beaumaris: OPEN SPACE MANAGEMENT. November 2017
Photo Samples:

T1 Ref.  T2 Ref.  TA Ref.  TB Ref.

T1 & T2 and T& B: General Description of utterly inhospitable cultural & civil perspectives.

No.407 Beach Rd, Beaumaris: OPEN SPACE MANAGEMENT, November 2017
Photo Samples:

Canopy Over Adjoining

Tree B: Maritime Pine. Asymmetrical over adjoining property, 800mm from boundary. Note Service wire. Remove tree.

No.407 Beach Rd. Beaumaris: OPEN SPACE MANAGEMENT, November 2017
Photo Samples:

Tree C: Reference.

Tree C: Box Elder: Remove.

Tree D: Reference.

Tree D: Holly: Remove.

No. 407 Beach Rd Beaumaris: OPEN SPACE MANAGEMENT. November 2017
Photo Samples:

Tree E.  
16/11/2017

Tree E: Poplar - Prune.  
16/11/2017

T3 Ref.  
16/11/2017

Tree T3: Sweet Pittosporum - Remove.  
16/11/2017

No.407 Beach Rd. Beaumaris: OPEN SPACE MANAGEMENT, November 2017
Photo Samples:

Prune this limb off.


T4: Reference.

T4: Sweet Pittosporum – Remove.

No.407 Beach Rd. Beaumaris: OPEN SPACE MANAGEMENT. November 2017
Remedial Tree Pruning Works Descriptions

"All Remedial Pruning Works recommendations are not essentially aesthetic; they are necessary for reinvigorating or preserving older trees and reducing the potential for further immediate failure. These perspectives are effective when extending the Safe Useful Life Expectancy (SULE) of older trees. The natural role of Plant Growth Regulators (AKA Hormones) can be enhanced by appropriate pruning to promote the specimen, including the simple removal of deadwood.

Due to the age, size, condition, history and proximity to public access it is necessary to apply Remedial Works to minimise the typical large limb failure potential for which some Mature Trees are known.

Crown Reductions (CR), for example, reduce the potential wind influence upon a tree and consequently encourage new growth lower down within the canopy. This in-turn promotes new root growth, which is of the utmost importance for older trees thereby allowing the tree to feed more effectively and also improving root anchorage. Dead Wood (DW) Removal reduces Pest & Disease infestation and eliminates current potential for public liability. Limb Reduction (LR) and Weight Reduction (WR) serve to enhance a truer Tree Form whilst focusing new growth in a desired direction by the influence of inherent natural Plant Growth Regulators; this may be absolutely necessary in an altered or contrived environment or to maintain Tree Form whilst reducing the potential for Branch Drop. Crown Thinning (CT) is the selective removal of branches to increase light penetration and air movement through the canopy, it may also serve to reduce the weight of certain branches or Branch Fork Unions; this technique is also known as Drop-Crotchning. Under Pruning (UP) serves to allow public egress, sight distance, security, light spill or to achieve vehicular access. Removal of Suckering-growth helps to redirect essential growth processes towards the Upper Canopy for enhanced leaf-production & photosynthesis.

Formative Pruning directs, changes & rectifies a truer form to newly planted or damaged trees, regardless of their age or species; it is most appropriate for new or younger trees."

These descriptions are drawn from industry perspectives quoted or based upon the following:
• AS 4373 1996/-7 – Australian Standard for the Pruning of Amenity Trees
• Urban Landscape Management. Dr James Hitchmough.

ANDREW J. PATRICK
(Adv Cert Hort. Diploma Hort-Arb. WTA Cert 4)

No.407 Beach Rd. Beaumaris: OPEN SPACE MANAGEMENT. November 2017
**Tree Assessments:** 407 Beach Rd – Beaumaris

**REFERENCES:**


* CSIRO Publication Sheet BTF18 'Foundation Maintenance and Footing Performance – A Home Owners Guide'.


- Schematic Site Plan (Scaled) with x10 Trees by Mr Mark Caddy & Andrew Patrick - Dated 16/11/2017


- The Australian Standard for Protection of Trees on Development Sites - AS 4970 2009


- Council Arborists of Victoria (CAV) - Tree Protection Calculator & Algorithm

- Australian Standard for the Pruning of Amenity Trees - AS 4373 1996/07

- The Bayside Neighbourhood Character Policy (NCP) 2014 - C106 etc

- Environmental Weeds – Field Guide SE Australia: Kate Blood. 2001


- Ornamental Flowering Trees in Australia - Raymond Rowell 1994


- BAYSIDE Local Law 2: Neighbourhood Amenity - Clause 36.

- BAYSIDE: Street and Park Tree Management Policy 2011

- Draft: City of Bayside Street Tree Strategy Plan - 2008

- Trees for South Eastern Australia - Ken Simpfendorfer

- Building Code Australia 3.1.2-5: 1996 & Amendments

- Urban Landscape Management – Hitchmough 1994

- AS 4687-2007 Temp. Fencing & Hoarding

- BARRELL TREE - AZ AS/NZ

- BAYSIDE Council: VPO 3.
Tree Assessments: 407 Beach Rd – Beaumaris

Appendix 3
Safe Useful Life Expectancy Categories (Updated 04/01)
This reference sheet should be included as supplementary information with all reports where a SULE assessment is an element. Additionally, it can be copied and covered with a laminated plastic protective sheet and used as a field sheet to help with data collection.

Safe Useful Life Expectancy Categories (Updated 04/04/01)

1. Long SULE: Trees that appeared to be reasonable at the time of assessment for more than 40 years with an acceptable level of risk.
   (a) Situational trees located in positions that can accommodate future growth.
   (b) Trees that could be made suitable for retention in the long term by remedial tree care.
   (c) Trees of special significance for historical, commemorative or artistic reasons that would warrant extraordinary efforts to ensure their long term retention.

2. Medium SULE: Trees that appeared to be reasonable at the time of assessment for 15–40 years with an acceptable level of risk.
   (a) Trees that may only live between 15 and 40 more years.
   (b) Trees that could live for more than 40 years but may be removed for safety or nuisance reasons.
   (c) Trees that could live for more than 40 years but may be removed to prevent interference with more suitable individuals or to provide space for new planting.
   (d) Trees that could be made suitable for retention in the medium term by remedial tree care.

3. Short SULE: Trees that appeared to be reasonable at the time of assessment for 5–15 years with an acceptable level of risk.
   (a) Trees that may only live between 5 and 15 more years.
   (b) Trees that could live for more than 15 years but may be removed for safety or nuisance reasons.
   (c) Trees that could live for more than 15 years but may be removed to prevent interference with more suitable individuals or to provide space for new planting.
   (d) Trees that require substantial remedial tree care and are only suitable for retention in the short-term.

4. Remove: Trees that should be removed within the next 5 years.
   (a) Dead, dying, suppressed or declining trees because of disease or intolerable conditions.
   (b) Dangero trees because of instability or recent loss of adjacent trees.
   (c) Dangerous trees because of structural defects including canopies, decay, included roots, wounds or poor form.
   (d) Damaged trees that are clearly not safe to retain.
   (e) Trees that could live for more than 5 years but may be removed to prevent interference with more suitable individuals or to provide space for new planting.
   (f) Trees that are damaging or may cause damage to existing structures within 5 years.
   (g) Trees that will become dangerous after removal of other trees for the reasons given in (f).
   (h) Trees in categories (a) to (g) that have a high wildlife habitat value and, with appropriate treatment, could be retained subject to regular review.

5. Small, young or regularly pruned: Trees that can be reliably moved or replaced.
   (a) Small trees less than 6m in height.
   (b) Young trees less than 15 years old but over 6m in height.
   (c) Trees pruned for regular pruning to artificially control growth.

Figure 1: TREE - AZ Categories (Version 7.05.ANZ)

CAUTION: TRUE-AZ assessments must be carried out by a competent person qualified and experienced in arboriculture, the following category descriptions are designed to be a brief field reference and are not intended to be self-explanatory. They must be read in conjunction with the most current explanations published at www.treecr.com.au.

Category Z: Unimportant trees not worthy of being a material constraint

Legend, exceptions: Trees that are unimportant for legal reasons, i.e. protected species, importance, and species

Z1 Young or insignificant small trees: trees below the local size threshold for legal protection, etc.
Z2 Too close to a building, i.e. except from legal protection because of proximity, etc.
Z3 Species that cannot be protected for other reasons, i.e. scheduled non-native species, etc.
Z4 Dead, dying, diseased or declining: trees or parks because of catastrophic damage, etc.
Z5 Severe damage and/or structural defects where a high risk of failure cannot be satisfactorily reduced by reasonable remedial care, i.e. cavities, decay, included bark, wounds, excessive imbalance, overgrown and vulnerable to adverse weather conditions, etc.
Z6 Instability, i.e. poor anchorage, increased exposure, etc.
Z7 Excessive, severe and intolerable disadvantage to the extent that a court or tribunal would likely be likely to authorise tree removal, i.e. dominance, defacement, etc.
Z8 Excessive, severe and intolerable damage to property, to the extent that a court or tribunal would likely be likely to authorise tree removal, i.e. severe structural damage to surface and buildings, etc.
Z9 Good management: trees that are likely to be removed within 2 years because of unacceptable impact on people.
Z10 Poor condition or location with a low potential for recovery or improvement, i.e. dominated by adjacent trees or buildings, poor architectural framework, etc.
Z11 Removal would benefit better adjacent trees, i.e. relieve physical interference, shading, etc.
Z12 Unsuitably expensive to retain, i.e. severe defects requiring high levels of maintenance, etc.

NOTE: Trees with a high risk of death failure (Z1 & Z5) or causing severe inconvenience (Z7 & Z8) at the time of assessment and need an urgent risk assessment can be designated as Z2. Z2 trees are likely to be unstable for retention and at the bottom of the categorisation hierarchy. In contrast, although Z trees are not worthy of influencing new designs, urgent removal is not essential and they could be retained in the short term, if appropriate.

Category A: Important trees suitable for retention for more than 10 years and worthy of being a material constraint

A1 No significant defects and could be retained with minimal remedial care.
A2 Minor defects that could be addressed by remedial care and/or work to adjacent trees.
A3 Special significance for historical, cultural, commemorative or rarity reasons that would warrant extraordinary efforts to retain for more than 10 years.
A4 Trees that may be worthy of legal protection for ecological reasons (Advisory requiring specialist assessment).

NOTE: Category A trees that are large and exceptional, or have the potential to become so, with minimal maintenance, can be designated as AA at the discretion of the assessors. Although all A and AA trees are sufficiently important to influence constraints, AA trees are, at the top of the categorisation hierarchy and should be given the highest weight in any selection process.

TREEXZ is designed by Barrell Tree Consultants www.barreltree.com.au and is reproduced with their permission.
## TREE DESCRIPTORS & TERMINOLOGY - OPEN SPACE MANAGEMENT

### AGE:
- **Young**
  - Juvenile tree recently planted. Last 1-5 yrs
- **Semi-mature**
  - Tree still growing
- **Mature**
  - Specimen has reached expected size in current situation.
- **Senescent**
  - Tree is over mature and in decline.

### FORM:
- **Good**
  - Canopy full and symmetrical.
- **Fair**
  - Minor asymmetry or suppression; considered typical for species in situation.
- **Poor**
  - Canopy suppressed, major asymmetry. Stump re-growth.

### HEALTH:
- **Good**
  - Crown full, with good density. Foliage entire with good colour with minimal or no pathogen damage. Good growth indicators, e.g. extension growth. No or minimal canopy dieback. Good wound-wood development.
- **Fair**
  - Tree is exhibiting one or more of the following symptoms:
    - Tree has <30% dead wood, or can have minor canopy dieback. Foliage generally with good colour, some discoloration may be present, minor pathogen damage present. Typical growth indicators, e.g. extension growth, leaf size, canopy density for species in location may be slightly abnormal.
- **Poor**
  - Tree has >30% dead wood. Canopy Dieback present. Discoloured or distorted leaves and or excessive Epicormic Regrowth. Pathogen is present and or stress symptoms that could lead to or are leading to decline of tree.
- **Dead**
  - Tree is dead.

### STRUCTURE:
- **Good**
  - Good branch attachment and or no minor structural defects. Trunk and scaffold branches sound or only minor damage. Good trunk and scaffold branch taper. No branch over extension. No damage to structural roots and or good buttressing present. No obvious root pests or diseases.
- **Fair**
  - Some minor structural defects and or minor damage to trunk. Bark missing. Cavities could be present. Minimal or no damage to structural-roots.
- **Poor**
  - Major structural defects and or trunk damaged and or missing bark.
- **Hazardous**
  - Large cavities, and or girdling or damaged roots that are problematical.

### VIGOUR:
- Good, Fair or Poor. This describes the ability of a tree to promote extension growth and wound-callsus effectively; this is directly related to the annual progress of tree growth, including root systems, which are dependant on in-situ and environmental conditions.

### GENERAL CONDITION:
- Describes a tree or group of trees in a broad term of convenient précis that considers all of these Tree Descriptors as mentioned in Documents & Tree Data Tables & Photos.

### SAFE USEFUL LIFE EXPECTANCY (SULE):
- Safe Useless Life Expectancy (SULE) means that in a planning context the length of time a tree can be maintained as a useful amenity and not a liability is by far the most important long-term consideration. SULE is contingent on a number of obvious management assumptions and the fundamental principles of public safety and usefulness in the landscape. Trees are a renewable resource.
Arboricultural Consultancy Assumptions and Limiting Conditions - OSM

1. Any legal description provided to the consultant is assumed to be correct. Any titles and ownerships to any property are assumed to be good. No responsibility is assumed for matters legal in character.

2. It is assumed that any property/project is not in violation of any applicable codes, ordinances, statutes or other government regulations.

3. Care has been taken to obtain all information from reliable sources. All data has been verified in so far as possible; however the consultant can neither guarantee nor be responsible for the accuracy of the information provided by others.

4. The consultant shall not be required to give testimony or to attend court by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services.

5. Loss or alteration of any part of this report invalidates the entire report.

6. Possession of this report or a copy thereof does not imply right of publication or use for any purpose by anyone but the person to whom it is addressed, without the prior written consent of the consultant.

7. Neither all nor any part of the contents of this report, nor any copy thereof, shall be used for any purpose by anyone but the person to whom it is addressed, without the written consent of the consultant; nor shall it be conveyed by anyone, including the client, to the public through advertising, public relations, news, sales or other media, without the written consent of the consultant.

8. This report and any values expressed herein represent the opinion of the consultant and the consultant’s fee is in no way contingent upon the reporting of the specified value, a stipulated result, the occurrence of a subsequent event, nor upon any finding to be reported.

9. Sketches diagrams, graphs and photographs in this report, being intended as visual aids, are not necessarily to scale and should not be construed as engineering or architectural reports or surveys.

10. Unless expressed otherwise: Information contained in this report covers only those items that were examined and reflect the condition of those items at inspection time.

11. The inspection is limited to visual examination accessible components without dissection, excavation or probing unless otherwise indicated within the report.

12. There is no warranty or guarantee, expressed or implied that the problems or deficiencies of the plants property in question may not arise in the future.

No.407 Beach Rd. Beaumaris: OPEN SPACE MANAGEMENT. November 2017
### 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>There will be no foreseeable impact of the proposed removal of trees 1, 2, 3 and 4 on the character of the area. Council’s arborist recognises the four trees proposed to be removed as having a low retention value and the replacement planting of these trees will offer superior landscaping outcome over time. This is due to the low retention value of Tree 1, the unsightly nature of Tree 2, and the fact that Trees 3 and 4 are designated weed species.</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 proposed removal of trees 1, 2, 3 and 4 will have no foreseeable impact on the presence of indigenous species in the locality. The replacement planting of four indigenous trees will provide a superior outcome, over time, given the insignificance of the native trees being removed.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the appearance of development.</strong></td>
<td>The proposal is only for the removal of four native trees and therefore this decision guideline is not relevant to this proposal.</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>There is no evidence to suggest the proposed tree removal would impact on local fauna.</td>
</tr>
<tr>
<td><strong>Any proposal to regenerate or plant indigenous vegetation on the site.</strong></td>
<td>Four replacement trees have been requested: 4 indigenous trees capable of reaching 10 metres tall and 7 metres wide</td>
</tr>
</tbody>
</table>

### Tree profile

- **Tree no.:** 1  
  **Name/species:** Moreton Bay fig (*Ficus macrophylla*)  
  **Origin:** Victoria  
  **Height:** 10 metres  
  **Canopy Spread:** 7 metres  
  **Useful Life Expectancy:** 20+ years  
  **Retention value:** Low

- **Tree no.:** 2  
  **Name/species:** Port Jackson fig (*Ficus rubiginosa*)  
  **Origin:** Victoria  
  **Height:** 8 Metres
Canopy Spread: 6 Metres
Useful Life Expectancy: 20+ years
Retention value: Low

Tree no.: 3
Name/species: *Sweet pittosporum/Pittosporum undulatum*
Origin: Victoria
Height: 7 metres
Canopy Spread: 5 metres
Useful Life Expectancy: 20+ years
Retention value: Low

Tree no.: 4
Name/species: *Sweet pittosporum/Pittosporum undulatum*
Origin: Victoria
Height: 7 metres
Canopy Spread: 5 metres
Useful Life Expectancy: 20+ years
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.
4.4 117 OAK STREET, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/393/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/19317

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Lowe Construction (Design and Build)</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>23 June 2017</td>
</tr>
<tr>
<td></td>
<td>(Application amended: 12 December 2017)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>49 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the construction of two double-storey dwellings on a lot and the removal of native vegetation with an area of 709 square metres. Key details of the proposal are as follows:

- 2 x double-storey dwellings (1 x 3 bedroom and 1 x 4 bedroom)
- Building height – 7.7m
- Site coverage - 49.8%
- Car spaces - 2 per dwelling

The application plans are provided at Attachment 1.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-6 (Neighbourhood Residential Zone, Schedule 3) – Construction of two or more dwellings on a lot.
- Clause 42.02-2 (Vegetation Protection Overlay, Schedule 3) – Removal of vegetation native to Australia.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.
3. Stakeholder consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Addressing</td>
<td>Eastern dwelling - 117 Oak Street BEAUMARIS VIC 3193</td>
</tr>
<tr>
<td></td>
<td>Western dwelling - 11 Charlotte Road BEAUMARIS VIC 3193</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification

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

- Tree removal;
- Vegetation and Landscaping;
- Fauna;
- Heritage;
- Over-development;
- Building mass, scale and bulk;
- Amenity;
- Precedent; and,
- Inconsistent with 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 15 November 2017 attended by the permit applicant and five objectors. As a result of this meeting one objection was withdrawn.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2017/393/1 for the land known and described as 117 Oak 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 Lowe Construction and Council date stamped 12 December 2017 but modified to show:

   a) The vehicle crossovers to access each dwelling (including to the existing crossover) to have a width of 3.6 metres and align centrally with the garage opening.

   b) Provision of pedestrian sight triangles adjacent each accessway in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.

   c) Site permeability in accordance with Standard B9 (Permeability).

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

   All to the satisfaction of the Responsible Authority.

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

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

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

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

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

7. 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.

Water Sensitive Urban Design

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

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

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

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

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

Landscaping

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

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

Tree Management and Protection Plan

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

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

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

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

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

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

Drainage

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

15. Before the development, detailed plans indicating, but not limited to, the method of stormwater discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s City Assets and Projects Department.
16. Council records indicate that there is a 1.83m 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.

Developer Contributions Levy

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

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

Permit Expiry

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

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

Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- The existing street tree/s must not be removed or damaged.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:
• Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Bayside Planning Scheme

• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 16 Housing
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 22.06 Neighbourhood Character Policy (Precinct H3)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 42.02 Vegetation Protection Overlay (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
• Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal remains in keeping with the existing and preferred future character of the precinct. The siting and setbacks of the development allows for considerable amounts of private open space to both dwellings for the planting of trees and shrubs. A number of exotic, native and indigenous trees are proposed for removal. Council’s Arborist is supportive of their removal subject to the proposed indigenous replacement planting. There will be no amenity impacts as a result of the vegetation removal.

The siting of the development allows for the units to present as one dwelling when viewed from Oak Street. Garages are located behind the line of the dwellings to ensure that they do not dominate the view of the dwellings from the street. The proposal will be constructed of a variety of materials including brickwork, render and timber cladding to complement the site’s natural setting. The height of the proposed front fences are appropriate to the area and their open-style design will allow for views into the site from 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:

Permeability (Standard B9)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>20%</td>
<td>Not specified</td>
<td>Not specified</td>
</tr>
</tbody>
</table>
Whilst seemingly compliant, the proposed site permeability has not been included on the application plans. A condition has been included on the permit to demonstrate compliance with Standard B9.

Side and rear setbacks (Standard B17)

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North (side)</strong></td>
<td><strong>North (side)</strong></td>
</tr>
<tr>
<td>0m or 2m</td>
<td><strong>2.0m</strong></td>
</tr>
<tr>
<td><strong>West (rear)</strong></td>
<td><strong>1.9m</strong></td>
</tr>
</tbody>
</table>

Due to the corner location and the orientation of the proposed dwellings, there are two relevant side and rear boundary setbacks to assess.

The western boundary interface (rear) with 2 Coreen Avenue proposes a 1.9 metre setback in lieu of the required 3.0 metres. This is considered an acceptable outcome having regard to the non-sensitive interface with the adjoining property (which includes the vehicle access and garage of 2 Coreen Avenue).

Further to this, it is considered that the proposed 1.9 metre setback allows for an acceptable level of visual permeability through the site to ensure that the neighbourhood character is maintained. As such, the variation is supported.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th>Oak Street</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2m</td>
<td>1.7m</td>
<td>500 mm</td>
</tr>
</tbody>
</table>

A vertical timber front fence of 1.7 metres in height is proposed to the east boundary of the site on Oak Street. A vertical timber and render front fence of 1.6 metres in height is proposed to the south boundary of the site on Charlotte Road.

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

Whilst not compliant with the standard, the proposed front fences are in keeping with the character of the surrounding area. The north neighbouring property at 119 Oak Street has a 1.9m timber paling fence and the west neighbouring property has a 1.8m vertical timber fence. The proposed fence will minimise noise intrusion from vehicles travelling around the corner of Oak Street and Charlotte Road, especially during school drop-off times. Given the sites corner location, the proposed front fences are unlikely to cause amenity impacts to nearby dwellings. The variation is supported.

6.3. Landscaping

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

The application plans show the removal of 8 trees from the site including 2 trees 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 a *.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North (side)</strong></td>
<td><strong>North (side)</strong></td>
</tr>
<tr>
<td>0m or 2m</td>
<td><strong>2.0m</strong></td>
</tr>
<tr>
<td><strong>West (rear)</strong></td>
<td><strong>1.9m</strong></td>
</tr>
<tr>
<td>VPO3 protected trees</td>
<td>Local Law protected trees</td>
</tr>
<tr>
<td>----------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>Prop. for removal</td>
<td>11 and 20</td>
</tr>
<tr>
<td></td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td>Tree 6, 7, 8, 15*, 16, 19, 4</td>
</tr>
</tbody>
</table>

Council’s arborist reviewed the application prior to the application being amended and advised that trees 9 and 13 required retention.

Trees 9 and 13 are considered to be of good health and good/fair structure with moderate and high protection values. Further detail of each tree is provided in Attachment 5. The amended landscape plan Council date stamped 12 December 2017 shows the retention of trees 9 and 13 in addition to trees 4, 10, 12, 14 and 21.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 5. 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 remaining native vegetation, will be maintained once suitable replacement plantings are undertaken. The proposed vegetation removal will also have a nominal negative impacts on the overall quality of habitat within the broader area. The extent of removal is justified if trees 9 and 13 are retained, and when considered against the level of development proposed. Therefore the proposed vegetation removal is considered to comply with the objectives of the VPO3.

Council’s Arborist has advised that to ensure that Trees 9 and 13 remain viable post-construction, a Tree Management Plan and Tree Protection Plan will be required. These are included as recommended conditions.

Council’s Arborist supports the removal of trees 11 and 20. Tree 11 is a native Agonis flexuosa (Willow Myrtle) of fair health and structure and low arboricultural value. It is located in the front setback of the site, fronting Oak Street. Tree 20 is a native Eucalyptus robusta (Swamp Mahogany) also of fair health and structure and medium arboricultural value. Tree 20 is located in the rear setback and protrudes through the outdoor covered area between the dwelling and garage. Council’s arborist has advised that the removal of these trees is considered acceptable given the level of development proposed and the proposed replacement plantings. The retained trees and replacement plantings will provide significant character and amenity to the front setback and private open space of the dwellings.

Several trees and nature strip trees are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such, consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. A condition to this effect is included in the recommendation.

In addition to the above assessment, Council has reviewed the submitted landscape plan and advised that it is considered acceptable. The landscape plan includes the planting of 6 canopy trees (trees with mature heights of 8m or greater) in the front and rear setbacks and provides for at least 80% native vegetation.

6.4. Car parking and traffic

Pursuant to the car parking requirements at Clause 52.06, a dwelling requires car parking to be provided at a rate of 1 car space per one or two bedroom dwellings and 2 car spaces per three or more bedroom dwellings.
Dwelling 1 comprises four bedrooms and is afforded two car parking spaces in the form of a double garage. Dwelling 2 comprises three bedrooms and also has a double garage. The proposed on site car parking meets the requirements of Clause 52.06-5.

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

6.5. **Objector issues not already addressed**

**Precedent**

Future planning permit applications on this site or neighbouring and nearby land will be assessed against relevant planning policy and site conditions, based on their own merits at the time of assessment. The possibility of setting an undesirable precedent cannot be substantiated and is not a relevant planning consideration.

**Heritage**

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

**Overdevelopment**

State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this. Clause 11 State Planning Framework of the Bayside Planning Scheme encourages higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport. The increase in population and density at this site is considered an appropriate response to the underutilised state of the site and the proximity of the site to public transport, shops and other services. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

The proposal satisfies the substantive requirements of Clause 55 in respect to site coverage, setbacks, permeability, car parking, and open space provision and therefore the proposal is not considered to be an over development of the site. State Government Policy, as well as Council Policy supports higher densities in areas that are within areas with good access to public transport and other services.

**Support Attachments**

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment
4. Clause 55 Assessment
5. VPO Assessment
117 Oak St, Beaumaris
DUPLEX
Brad and Llami Coppens
TOWN PLANNING

DRAWING NO. | DRAWING
TF-01 | COVER PAGE
TF-02 | EXISTING CONDITIONS
TF-03 | DESIGN RESPONSE
TF-04 | GROUND FLOOR PLAN
TF-05 | FIRST FLOOR PLAN
TF-06 | ROOF PLAN & STREETCATE
TF-07 | ELEVATIONS
TF-08 | SHADOW DIAGRAM
TF-09 | SHADOW DIAGRAM
TF-10 | 3D ELEVATION
TF-11 | 3D VIEWS
Figure 1. Aerial Overview of subject site and objector map.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⊙</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>△</td>
</tr>
</tbody>
</table>
Figure 2: View towards the site from the southeast.

Figure 3: View towards the site from the east.
Figure 4: View towards the site from the south.

Figure 5: View towards the site from the southwest.
### 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 number of exotic, native and indigenous trees are proposed for removal, including two trees protected by the Vegetation Protection Overlay. Council’s Arborist is supportive of their removal subject to the indigenous replacement planting shown on the submitted landscape plan.  
The proposed landscaping at the site is supported by Council’s Arborist. Conditions are recommended to protect the retained trees and trees on neighbouring sites.  
The landscape plan shows adequate permeability in front and rear garden spaces. |
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided | • Buildings should be sited to allow space for a garden, including trees and shrubs. | Loss of front garden space. | Responds  
The east front setback to Oak Street will remain generously landscaped with the |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>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>retention of trees 9, 10, 12, 13 and 14. The front setback of dwelling 2 will contain 3 indigenous replacement trees as well as the retention of tree 4. The development has been setback from the western and northern side boundaries to allow the planting of indigenous trees and shrubs. The proposed landscaping in the front setbacks will soften the appearance of the new dwellings from the street.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>• Locate garages and carports behind the 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.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>Responds Garages to both dwellings are located behind the line of the dwelling. There will be no visible garages or parking structures when viewed from Oak Street. This is considered to be a suitable design response to ensure that the garages do not dominate the view of the dwelling from the street.</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. • 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.</td>
<td>Major excavation works and site levelling. Buildings that protrude above the tree canopy height.</td>
<td>Responds The site has a fall of approximately 0.8m from the front of the site towards the rear. The proposed dwellings respect the minor fall of the land. Retaining walls of 200mm in height have been located along the northern side boundary and will not be visible from the street. The existing canopy trees and those to be planted in the front and rear setbacks will be taller than the new dwellings.</td>
</tr>
<tr>
<td>To ensure that new buildings provide an articulated and interesting façade to the street.</td>
<td>• Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials.</td>
<td>Large, bulky buildings</td>
<td>Responds The front façade of the development is well articulated with the inclusion of a projecting...</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 use building materials and finishes that complement the natural setting</td>
<td>textures or colours or other elements providing appropriate articulation.</td>
<td>Poorly articulated front and side wall surfaces.</td>
<td>porch canopy to dwelling 2. This element creates visual interest to the development when viewed from the public realm. A combination of brick, render and timber cladding to the front façade further articulates the appearance of the dwellings.</td>
</tr>
<tr>
<td></td>
<td>• Recess upper levels from the front façade.</td>
<td>Period reproduction styles and detailing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td></td>
<td>The proposed new dwellings will be constructed of a variety of materials including brickwork, render and timber cladding which will complement the natural setting. These materials are considered to be appropriate in this location given that there are properties of a similar nature in the area.</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 or solid front fences.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use vegetation as an alternative where possible.</td>
<td></td>
<td>The proposed vertical timber and render front fences are 1.6m - 1.7m in height and will allow views into the site from the street. There are many high front fences located in the area including the existing front fence on the subject site.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer Attachment 3. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Yes | The subject site is appropriately located with regard to services and facilities to support two dwellings. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Yes | Any upgrades required will be the responsibility of the developer. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street. | Yes | The dwellings appropriately address the street. Dwelling 1 fronts and has pedestrian access from Oak Street. Vehicle access to the dwelling 1 garage is from Charlotte Road. Dwelling 2 fronts Charlotte Road and has pedestrian and vehicle access from Charlotte Road. |
| **B6 Street Setback**  
The setbacks of buildings from a street respect the existing or preferred neighbourhood | Yes | Minimum:  
Dwelling 1 – 7.5m  
Dwelling 2 – 3.0m |
| Character and make efficient use of the site. | Porches of less than 3.6m in height may encroach up to 2.5m into the street setback. **Proposed:**
Dwelling 1 – 7.5m
Dwelling 2 – 3.0m
The proposed porches encroach approximately 2.0m (dwelling 1) and 1.1m (dwelling 2) into the front setback and have maximum heights of approximately 3.2m in compliance with the standard. |
|---|---|
| **B7 Building Height**
Building height should respect the existing or preferred neighbourhood character | Yes | **Required:** 9m
**Proposed:**
Dwelling 1 – 7.7m
Dwelling 2 – 6.6m |
| **B8 Site Coverage**
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Yes | **Maximum:** 50%
**Proposed:** 49.8% |
| **B9 Permeability**
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Variation required | Refer to report. |
| **B10 Energy Efficiency**
Achieve and protect energy efficient dwellings and residential buildings.
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | The proposal provides appropriate solar access to the dwellings. Living areas, bedrooms and private open space are orientated to the north side of the development. |
| **B11 Open Space**
Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A | |
| **B12 Safety**
Layout to provide safety and security for residents and property. | Yes | No safety issues are considered to be likely to arise as a result of the development. |
| **B13 Landscaping**
To provide appropriate landscaping. To encourage: | Yes | Refer report. |
### 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>B14 Access</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development.</td>
<td>Yes</td>
<td>Appropriate vehicular access is provided.</td>
</tr>
<tr>
<td>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></th>
<th></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>Yes</td>
<td>The proposed car parking areas are appropriately located.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
<th></th>
<th></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>Yes</td>
<td>Refer report and table below.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th></th>
<th>First Floor</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>2.0m</td>
<td>3.6m</td>
<td>4.1m, 5.1m and 6.1m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m or 3m</td>
<td>1.9 m</td>
<td>4.5m</td>
<td>4.8</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th></th>
<th></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 amenity impacts on existing dwellings.</td>
<td>N/A</td>
<td>No walls are proposed on boundaries as part of this application.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B19 Daylight to Existing Windows</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into</td>
<td>Yes</td>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</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>
</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>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</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**:
Dwelling 1: 65.8m² secluded  Dwelling 2: 31.4m² secluded, 50m² overall |
<p>| B29 Solar Access to Open | | Yes | Appropriate solar access to the private open space. |</p>
<table>
<thead>
<tr>
<th><strong>Space</strong></th>
<th>Allow solar access into the secluded private open space of new dwellings/buildings.</th>
<th>space areas is provided.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</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>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Variation required</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>N/A</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>Yes</td>
</tr>
</tbody>
</table>
**ATTACHMENT 5**

**Vegetation Protection Overlay (VPO) Assessment**

**Tree 9**

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>9</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Botanical Name:</strong></td>
<td><em>Eucalyptus sideroxylon</em></td>
</tr>
<tr>
<td><strong>Common Name:</strong></td>
<td>Red Ironbark</td>
</tr>
<tr>
<td><strong>Height / Canopy:</strong></td>
<td>13 m x 12 m</td>
</tr>
<tr>
<td><strong>Trunk Circ.@1m:</strong></td>
<td>235 cm</td>
</tr>
<tr>
<td><strong>Location 1</strong></td>
<td>S0</td>
</tr>
<tr>
<td><strong>Location 2</strong></td>
<td>E0</td>
</tr>
<tr>
<td><strong>Origin:</strong></td>
<td>Indigenous, Victorian, Australian, Exotic</td>
</tr>
<tr>
<td><strong>Age:</strong></td>
<td>Young, Semi-mature, Mature, Over-mature</td>
</tr>
<tr>
<td><strong>Health:</strong></td>
<td>Good, Fair, Poor, Dead</td>
</tr>
<tr>
<td><strong>Structure:</strong></td>
<td>Good, Fair, Poor, Hazardous</td>
</tr>
<tr>
<td><strong>Amenity Value:</strong></td>
<td>High, Moderate, Low, None</td>
</tr>
<tr>
<td><strong>Life Expectancy:</strong></td>
<td>20 years +, 10-19 years, 4-9 years, 0-3 years</td>
</tr>
<tr>
<td><strong>Retention Value:</strong></td>
<td>High, Medium, Low, None</td>
</tr>
<tr>
<td><strong>Habitat value:</strong></td>
<td>High, Moderate, Low</td>
</tr>
</tbody>
</table>

**Habitat assessment:**

<table>
<thead>
<tr>
<th><strong>Criteria</strong></th>
<th><strong>Category</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Origin</strong></td>
<td>Indigenous 3 points, Victorian 2 points, Australian/Exotic 0 points</td>
</tr>
<tr>
<td><strong>Occupation by native forest</strong></td>
<td>Occupied by native forest 5 points, Signs of use by forest 2 points, No signs of use by forest 9 points</td>
</tr>
<tr>
<td><strong>Diameter of tree trunk</strong></td>
<td>Hollow 3 points, Living canopy 3 points, Dead canopy 2 points</td>
</tr>
<tr>
<td><strong>Hollow bearing tree</strong></td>
<td>Tree bearing a natural hollow, Low to moderate level of maintenance 5 points, No natural hollow, artificial hollow following be installed, Low to moderate level of maintenance 2 points, No natural hollow and unsuitable for installation of artificial hollow, high level of maintenance 8 points</td>
</tr>
<tr>
<td><strong>Useful life expectancy</strong></td>
<td>&gt;10 years 7 points, 4-9 years 3 points, 0-3 years 9 points</td>
</tr>
<tr>
<td><strong>Wildlife corridors</strong></td>
<td>Within 50 m of a green space, park or reserve 5 points, Within 250 m of a green space, park or reserve 3 points, Greater than 0.5 km from a green space, park or reserve 6 points</td>
</tr>
<tr>
<td><strong>Impacts on adjacent flora</strong></td>
<td>Removal will have negative impacts on indigenous flora 5 points, Removal will have negative impacts on native flora 2 points, Removal will have no negative impacts on indigenous or native flora 9 points</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>17 points</td>
</tr>
</tbody>
</table>
## Tree 13

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>13</th>
</tr>
</thead>
<tbody>
<tr>
<td>Botanical Name:</td>
<td><em>Grevillea robusta</em></td>
</tr>
<tr>
<td>Common Name:</td>
<td>Silky oak</td>
</tr>
<tr>
<td>Height / Canopy:</td>
<td>12 m x 10 m</td>
</tr>
<tr>
<td>Trunk Circ.@1m:</td>
<td>285 cm</td>
</tr>
</tbody>
</table>

### Location
- Location 1: E0
- Location 2: N1

### Origin
- Indigenous
- Victorian
- Australian
- Exotic

### Age
- Young
- Semi-mature
- Mature
- Over-mature

### Health
- Good
- Fair
- Poor
- Dead

### Structure
- Good
- Fair
- Poor
- Hazardous

### Amenity Value
- High
- Moderate
- Low
- None

### Life Expectancy
- 20 years +
- 10-19 years
- 4-9 years
- 0 - 3 years

### Retention Value
- High
- Medium
- Low
- None

### Habitat Value
- High
- Moderate
- Low

### Habitat assessment:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Indigenous</strong></td>
<td>3 points</td>
</tr>
<tr>
<td><strong>Victorian</strong></td>
<td>2 points</td>
</tr>
<tr>
<td><strong>Australian/Exotic</strong></td>
<td>0 points</td>
</tr>
<tr>
<td><strong>Occupied by native fauna</strong></td>
<td>Signs of use by fauna (5 points)</td>
</tr>
<tr>
<td><strong>No signs of use by fauna</strong></td>
<td>0 points</td>
</tr>
<tr>
<td><strong>Diameter of tree trunk</strong></td>
<td>Living canopy (2 points)</td>
</tr>
<tr>
<td>&gt; 90cm</td>
<td>3 points</td>
</tr>
<tr>
<td>60 - 90cm</td>
<td>2 points</td>
</tr>
<tr>
<td>&lt; 60cm</td>
<td>1 point</td>
</tr>
<tr>
<td><strong>Dead canopy</strong></td>
<td>1 point</td>
</tr>
<tr>
<td><strong>Hollow bearing tree</strong></td>
<td>Tree bearing a natural hollow (5 points)</td>
</tr>
<tr>
<td>No natural hollow, artificial habitat hollow can be installed (4 points)</td>
<td></td>
</tr>
<tr>
<td>No natural hollow and unsuitable for installation of artificial habitat hollow (3 points)</td>
<td></td>
</tr>
<tr>
<td><strong>Useful life expectancy</strong></td>
<td>6 - 2 years (2 points)</td>
</tr>
<tr>
<td>&gt; 10 years</td>
<td>3 points</td>
</tr>
<tr>
<td>0 - 2 years</td>
<td>0 points</td>
</tr>
<tr>
<td><strong>Wildlife corridors</strong></td>
<td>Within 0.5 km of a green space, park or reserve (3 points)</td>
</tr>
<tr>
<td>Within 50 m of a green space, park or reserve</td>
<td>2 points</td>
</tr>
<tr>
<td>Greater than 0.5 km from a green space, park or reserve</td>
<td>0 points</td>
</tr>
<tr>
<td><strong>Impacts on adjacent flora</strong></td>
<td>Removal will have negative impacts on indigenous flora (2 points)</td>
</tr>
<tr>
<td>Removal will have negative impacts on native flora</td>
<td>3 points</td>
</tr>
<tr>
<td>Removal will have no negative impacts on indigenous or native flora</td>
<td>0 points</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>15 points</td>
</tr>
</tbody>
</table>
### Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact the vegetation removal would have on the character of the area</td>
<td>The application plans show the removal of two VPO protected trees from the site following from Council’s Arborist requirement that trees 9 and 13 be retained. The removal of the remaining trees is supported by Council’s Arborist subject to these trees being replaced by indigenous vegetation. The proposed trees to be removed are a mix of species with the majority of the trees having low-medium amenity and habitat values. The proposed landscape plan shows native and indigenous species to be planted. Therefore the removal of the remaining trees would not be detrimental to the character of the area.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the presence of indigenous species in the locality</td>
<td>The trees being removed will be replaced indigenous canopy trees in the front and rear setbacks of the dwellings. The proposed shrubs and plants to be located in the front side and rear setbacks comprise 80% indigenous species which are considered to be suitable in accordance with the Bayside Landscape Guidelines (2016).</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the appearance of development.</td>
<td>The development will see the retention of trees 4, 9, 10, 12, 13, 14 and 21 to aid in the softening of the built form. 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>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</td>
<td>The proposal is not considered to have a detrimental impact on the fauna of the area. The trees to be removed will be suitably replaced with indigenous trees offering quality habitats for fauna. The proposed trees and shrubs will provide food and shelter for wildlife. Thus, the development will not have an undue adverse impact on wildlife corridors.</td>
</tr>
<tr>
<td>Any proposal to regenerate or plant indigenous vegetation on the site.</td>
<td>The proposed replacement canopy trees are to be indigenous trees, as shown on the landscape plan. The Council’s Arborist has commented that the remaining replacement plantings meets the minimum 80% requirement for indigenous species.</td>
</tr>
</tbody>
</table>

### 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.
4.5 4 BOLTON STREET, BEAUMARIS
GRANT A PLANNING PERMIT
APPLICATION NO: 2017/692/1  WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/14825

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Grant of a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Mr M Sivinski</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>30 October 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>3 March 2018</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>0</td>
</tr>
</tbody>
</table>

Proposal
The application seeks a planning permit for Construction of two double-storey, attached dwellings and the removal of native vegetation (8 trees) on land affected by the Vegetation Protection Overlay (VPO) on a lot with an area of 740 square metres.

The application plans are provided at Attachment 1.

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

This application is presented to Councillors in accordance with the recent change to statutory planning delegations. Since 19th December 2017, permit applications for the removal of two or more trees protected by the Vegetation Protection Overlay (VPO) must be reported to the Planning and Amenity Committee. This application seeks to remove 8 trees triggered by the VPO.

History
Planning Permit application 2016/825/1 for Construction of two, three-storey dwellings and the removal of native vegetation was reported to the Planning and Amenity Committee on 12 September 2017. The Officer recommendation was for Council to issue a Notice of Decision to Grant a Permit subject to a number of conditions.

At the meeting of 12 September 2017, the officer recommendation was carried and a Notice of Decision to Grant a Permit was issued 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 conditions.

Importantly and relevant to this application, the current application plans show the same level of vegetation removal as that previously approved by Council under the previous application.

On 6th November 2017, an objector appeal was lodged against Council’s decision and at the present time, the hearing is scheduled for 21 March 2018.

The reasoning behind this subsequent application revolves around discussions that have
since occurred between the applicant and the objectors, with the revised plans that are portrayed in this current application reflecting the agreements made between the relevant parties.

Whilst the differences between the two plan sets are varied, each change would be described as ‘a reduction’ rather than intensifying any element of the previously approved design.

Subject to the approval of this application, the applicant advises that they will formally withdraw from the VCAT proceeding currently under review.

2. **Planning controls**

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 42.02-2 (Vegetation Protection Overlay) – Removal of vegetation native to Australia.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. **Stakeholder consultation**

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td></td>
<td>Trees to be removed: 13 as per Arborist referral</td>
</tr>
<tr>
<td></td>
<td>Trees to be retained: Tree No. 12</td>
</tr>
<tr>
<td></td>
<td>Trees to be planted: 80% indigenous species</td>
</tr>
<tr>
<td></td>
<td>Tree protection measures as per condition</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Street Tree Arborist</td>
<td>No objection, subject to conditions</td>
</tr>
</tbody>
</table>

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and no objections were received.

4. **Recommendation**

That Council resolve to:

Issue a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application No. 2017/692/1 for the land known and described as 4 Bolton Street BEAUMARIS, for the Construction of two double-storey, attached dwellings and removal of native vegetation on land affected by the Vegetation Protection Overlay 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 (advertised) Council date stamped 30 October 2017 but modified to show:
   
   a) An elevation of the proposed pedestrian entrance fence to Dwelling 1, which should not exceed 1200mm high to occur the satisfaction of the Responsible Authority.
   
   b) Location of all plant and equipment, including hot water services and air conditioners etc.
   
   c) Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   
   d) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   
   e) Water sensitive urban design measures in accordance with condition 8.

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 the development starts, a schedule of construction materials, external finishes and colours (incorporating for example paint samples) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.

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. 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.

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

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

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

19. 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.

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

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

Permit Notes

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

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

- 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 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.

  **Amenity value of street tree asset**

<table>
<thead>
<tr>
<th>Asset ID</th>
<th>Valuation</th>
</tr>
</thead>
<tbody>
<tr>
<td>429765</td>
<td>$6,177.48</td>
</tr>
</tbody>
</table>

  **Removal of subject tree:** $517.00
Replanting of 2 trees @ $236.85 each: $ 473.70
(as replacement trees for the removal of the subject tree)

Subtotal: $7,168.54
GST: $ 716.85
TOTAL: $7,885.39

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport
- 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 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines
6. **Considerations**

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

6.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a satisfactory level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The siting of the dwellings is such that the setbacks are broadly consistent with those of nearby sites. Space will be maintained around the buildings for landscaping. The existing Coast Banksia will be retained in the front setback and proposed new canopy tree will be planted in addition to generous landscaping of the areas not covered by driveway. The front fence is low allowing views into and out of the site and maintaining the openness of the streetscape. The proposed materials and finishes and consistent with other new dwellings within the streetscape and the provision of timber cladding will complement the natural setting of the area.

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:

Integration with the Street (Standard B5) and Dwelling Entry (Standard B26)

The Dwellings appropriately address Bolton Street. The pedestrian entry to Dwelling 2 is located on the front elevation and is clearly identifiable from the street. The entry to Dwelling 1 is located on the side elevation of the building. Whilst it is noted that there is a footpath leading to the front fence/ gate and intercom which provides access to the front door of Dwelling 1, the entry should be visible from the street. A condition is recommended requiring elevations of the fence/ gate at the entrance to Dwelling 1 to be submitted to the satisfaction of the Council. This fence/ gate should have a maximum height of 1.2m to ensure that the pedestrian entry is identifiable from the street.

Side and Rear Setbacks (Standard B17)

The proposed rear setbacks are compliant with the standard. The side setbacks encroach into the prescribed standard as shown in the table below.

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m, 1m, 2m</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>1m – 2.4m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>0m or 3m</td>
<td>8.47m</td>
</tr>
</tbody>
</table>

At ground floor level, the proposed side walls of the development encroach into the prescribed setbacks at both dwellings.

The western wall of the living area at Dwelling 1 and the eastern wall of the living area at Dwelling 2 encroach up to 1m into the prescribed setbacks towards the rear of the site.

On the eastern side, the living area will be behind the double garage at Dwelling 1 and will not be visible from the street. On the western side, the living area will be setback 22m from the front of the site and thus will not be clearly visible from the street. There are no habitable windows to the west and the proposed boundary fence and vegetation will screen this part of the development from neighbouring habitable windows to the east.
The proposed rear pergolas encroach into the setbacks, however, these will be open on three sides and will not appear dominant when viewed from neighbouring properties.

With respect to these ground floor encroachments, it must be acknowledged that the previously approved design proposed these walls right along the boundary, and this 1.0m was a compromise between the applicant, the neighbours and Council.

At first floor level, the prescribed side setbacks are encroached by up to 0.2m. The central portion of the first floor at both dwellings comprises en-suites, bathrooms and living areas and encroaches into the prescribed setbacks by up to 0.2m. This is considered to be a minor encroachment which would not be unduly detrimental to the amenity of neighbours.

The variations are acceptable in this instance.

6.3. **Landscaping**

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

The objectives of the VPO3 must be considered in association with the other statutory controls governing the site and relevant State and Local Planning Policies. This includes the overarching purposes of the relevant zone and overlays and the need to ensure decisions reflect broader strategic policy objectives. Such strategic policy objectives include encouraging urban consolidation and the efficient use of established residential land to reduce the outward expansion of the metropolitan area.

The application plans show the removal of 11 trees from the site including 8 trees 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 a ‘*’.

<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 No’s 3, 4, 6, 7, 9, 10, 11, 16</td>
<td>Tree No 12</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed for retention</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Tree No’s 5, 8, 13, 14, 15</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed for retention</td>
</tr>
</tbody>
</table>

From an arboriculture perspective Council’s Arborist has reviewed the application and advises that Tree No’s 3, 5 and 6 are semi-mature Native Willow Myrtles (*Agonis flexuosa*) with low amenity values. Tree No 11 is a semi-mature Forest Oak (*Allocasuarina torulosa*) which has low amenity and habitat values. Removal of these trees is supported subject to replacement indigenous canopy trees in accordance with Bayside City Council landscape Guidelines (2016). Tree No’s 7, 9 and 10 have poor structure and their removal is acceptable. The remaining vegetation on site proposed to be removed is not protected by the Vegetation Protection Overlay and as such, there is no objection to its removal subject to replacement canopy tree planting.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 5. The proposed extent of vegetation removal is considered to be acceptable when assessed against the decision guidelines of the VPO3. The character of the area, including the extent of indigenous vegetation present, will be maintained once replacement plantings are undertaken. The proposed vegetation removal will not impact on the overall quality of habitat within the broader area and the extent of removal is...
justified when considered against the level of development proposed. Therefore the proposed vegetation removal is considered to comply with the objectives of the VPO3.

Tree No. 12 is a mature Coast Banksia (Banksia integrifolia), of indigenous origin located on the north-western corner of the site at the boundary with No. 2 Bolton Street and is proposed for removal. Council's Arborist has carried out a site inspection and notes that landscaping works carried out at the neighbouring property have adversely impacted the root system of this tree and as a result it is in poor health. With the health of the tree in mind and given that a further minor encroachment is possible as a result of the development, Council's Arborist has recommended that mulch and drip integration is installed within the TPZ of the tree to ensure that Tree No. 12 remains viable post-construction. A Tree Management Plan and Tree Protection Plan will be required. These are included as recommended conditions.

There are no significant trees on neighbouring properties which will be negatively impacted by the proposal.

In addition to the above assessment, Council's Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable as two large canopy trees are proposed to be located in the rear setbacks of the new dwellings. And one new canopy tree is proposed to be located in the front setback of Dwelling 1. Furthermore, the replacement trees being planted and the species selection consists of at least 80% native vegetation.

6.4. **Street trees**

Tree No's 1 (callistemon salignus) and 2 (Melaleuca linariifolia) are located within the nature strip and Tree No. 2 is proposed for removal. Council's Street Tree Arborist has advised that as the proposed vehicle crossing conflicts with the location of Tree 2, this tree can be removed under the clause 6.5 of the *Street and Park Tree Management Policy* (2016) to facilitate development. The applicant will be responsible for paying the cost of the removal of this street tree as stated in the Permit notes.

6.5. **Car parking and traffic**

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

Dwelling 1 comprises four bedrooms and is afforded two car parking spaces in the double garage. Dwelling 2 comprises four bedrooms and is afforded to car parking spaces and also benefits from a double garage. The proposed on site car parking meets the requirements of Clause 52.06-5. Minor conditions are recommended in relation to the proposed new vehicle access.

The level of increased traffic generated by the proposed development will not adversely impact the local road network.

**Support Attachments**

1. Attachment 1 - Development Plans
2. Attachment 2 - Site and Surrounds Imagery
3. Attachment 3 - Neighbourhood Character Assessment
4. Attachment 4 - Clause 55
5. Attachment 5 - VPO Assessment
Figure 1. Aerial Overview of subject site and objector map.

Legend

| Subject site | ⭐ |
Figure 2: View towards the site from the northwest.

Figure 3: View towards the site from the northeast
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  
The Coast Banksia located within the front setback of the site will be retained. The remaining trees on the site are to be removed. Whilst there are a number of native trees to be removed, Council’s Arborist is supportive of their removal subject to indigenous replacement planting. A condition of the landscape plan requires replacement planting to comprise at least 80% indigenous species.  
The proposed landscaping at the site is supported by Council’s Arborist. Conditions are recommended to protect the existing Coast Banksia.  
The landscape plan shows the driveways to be permeable. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain the rhythm of spacious visual separation between buildings and 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                   |
|                                                                           |                                                                                  |                                                                      | The front setback will remain generously landscaped with the retention of the Coast Banksia at Unit 1 and a new canopy tree to be planted at Unit 2. The development has been setback from the western side boundary and beams with greenery are proposed to be provided in this area. The front landscaping will also soften the appearance of the new dwellings. |
| 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                   |
|                                                                           |                                                                                  |                                                                      | The landscape plan shows that areas of vegetation will remain around the proposed new permeable driveways. The pedestrian entrance to Dwelling 2 is located on the front elevation of the building and the proposed porch extends across the width of the front façade of the development, detracting from the garage doors. This is considered to be a suitable design response to ensure that the garages do not dominate the view of the dwelling from the street. |
| 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                   |
<p>|                                                                           |                                                                                  |                                                                      | The site 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 located along the side boundaries of the site opposite the proposed laundries to Dwellings 1 and 2. The existing canopy tree and that to be planted in the front setback as well as those to be planted in the rear gardens will be taller than the new dwellings. |</p>
<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  
The front façade of the development has been articulated with the inclusion of a projecting porch canopy stretching the width of the first floor of the dwellings. This element creates visual interest to the development when viewed from the public realm. A combination of render and timber cladding to the front façade further articulates the appearance of the dwellings. |
| 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  
The proposed new dwellings will be constructed in a variety of materials including timber cladding which will complement the natural setting. The use of render is considered to be appropriate in this location given that there are properties of a similar nature on this stretch of the 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  
The proposed front fence is rendered with a height of approximately 0.5m allowing views into and out of the site from the street. |
## ATTACHMENT 4
### ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
<td></td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
<td></td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
<td></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes, subject to condition.</td>
<td>The dwellings appropriately address the street. The entry to Dwelling 2 is located on the front elevation of the building and is clearly identifiable from the streetscape. The entry to Dwelling 1 is located on the side elevation of the building and is somewhat identifiable by the proposed footpath and intercom. A condition is recommended requiring an elevation of the fence at the entrance to Dwelling 1 to be submitted to the satisfaction of Council. This fence should have a maximum height of 1.2m to ensure that the pedestrian entry is identifiable from the street.</td>
<td></td>
</tr>
</tbody>
</table>
### B6 Street Setback
The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Minimum:</th>
<th>Proposed:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>9m or the greater of the setback of the two abutting allotments: In this instance the greater of the setbacks of the two abutting allotments is 7.32m. Porches of less than 3.6m in height may encroach up to 2.5m into the street setback.</td>
<td>7.32m</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Minimum:</th>
<th>Proposed:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>8m</td>
<td>7.21m</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Minimum:</th>
<th>Proposed:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>50%</td>
<td>49.9%</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Minimum:</th>
<th>Proposed:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>20%</td>
<td>36.4%</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Minimum:</th>
<th>Proposed:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td></td>
<td>The proposal provides appropriate solar access to the dwellings. Living areas are dual aspect with Dwelling 1 having south and west facing windows and Dwelling 2 having south and east facing windows.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Minimum:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Minimum:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

### B13 Landscaping
To provide appropriate landscaping. To encourage: Development that respects the landscape character of the

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Minimum:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

Refer report.
neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.

B14 Access
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:** 32.8% of street frontage

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

Yes

The proposed car parking areas are appropriately located.

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

No

Refer report and table below. Areas of non-compliance are underlined.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td></td>
</tr>
<tr>
<td>0m or 2m</td>
<td>0m, 1m, 2m</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td></td>
</tr>
<tr>
<td>0m or 2m</td>
<td>1m – 2.4m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td></td>
</tr>
<tr>
<td>0m or 3m</td>
<td>8.47m</td>
</tr>
</tbody>
</table>

| **South (rear)**      |                 |
| 0m or 3m              | 8.47m          |

| **Required**          | **Proposed**    |
| **East (side)**       |                 |
| 0m or 2m              | 3.26m – 4.4m   |
| **West (side)**       |                 |
| 1m – 2.4m             | 3.38m – 4.68m  |
| **South (rear)**      |                 |
| 8.47m                 | 6.98m – 7.34m  |

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:** 3.2m

**Maximum Average Height:** 3.2m

**Proposed:** 3.05m

**Maximum Length:** 21.43m

**Proposed:** 6.64m

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

Yes

The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Yes/No</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
<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%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>The first floor habitable room windows either have sill heights of 1.7m above finished floor level (FFL) or obscure glazing to windows below 1.7m FFL to prevent overlooking. At ground floor level, fencing between the site and neighbouring properties to a height of approximately 2m restricts views to these neighbouring dwellings and secluded private open space.</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>At ground level, fencing to a height of 1.8m at the secluded private open space and screens to a height of 1.7m at the al fresco areas of the dwellings will prevent internal overlooking whilst windows at first floor level have been adequately located and screened to limit internal overlooking to less than 50%.</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 residential buildings.</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, subject to condition.</td>
<td>The entries to Dwelling 2 is easily identifiable from the street. The entry to Dwelling 1 is located on the side elevation of the building and is somewhat identifiable by the proposed footpath and intercom. A condition is recommended requiring elevations of the fence/gate at the entrance to Dwelling 1 to be submitted to the satisfaction of the Council. This fence/gate should have a maximum height of 1.2m to ensure that the pedestrian entry is identifiable from the street.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
<td>Minimum</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
<td>---------</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall</td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
<td>Yes</td>
<td>Storage space of 6m² in size is provided in the garage of each dwelling.</td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
<tr>
<td>B32</td>
<td>Front Fences</td>
<td>Yes</td>
<td>Required: 1.2m Proposed: The proposed front fence has a height of less than 1.2m adjacent to No. 2 Bolton Street.</td>
</tr>
<tr>
<td>B33</td>
<td>Common Property</td>
<td>N/A</td>
<td>No decision required.</td>
</tr>
<tr>
<td>B34</td>
<td>Site Services</td>
<td>Yes</td>
<td>Plans show space for meters, storage and clotheslines alongside the entries of each dwelling. Mailboxes have been provided at the front entry to each dwelling.</td>
</tr>
</tbody>
</table>
ATTACHMENT 5
Vegetation Protection Overlay (VPO) Assessment

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>8 of the trees proposed to be removed trigger the VPO. Their removal is supported by the Council’s Arborist subject to these trees being replaced by 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. Tree 16 although with moderate retention value is overcome given the replacement tree is to be an indigenous species. The landscape plan shows native and indigenous species to be planted on the site and therefore the removal of the proposed 8 trees would not be detrimental to 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 will be replaced by two (2) native <em>Eucalyptus cephalocarpa</em> in the rear setbacks of the dwellings. The proposed shrubs and plants to be located in the front side and rear setbacks comprise 80% indigenous species which are considered to be suitable in accordance with the Bayside Landscape Guidelines (2016).</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 existing <em>Coast Banksia</em> and the planting of another <em>Coast Banksia</em> 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>The proposal is not considered to have a detrimental impact on the fauna of the area. The 13 trees to be removed will be suitably replaced with indigenous trees offering quality habitats for fauna. The proposed trees and shrubs will provide food and shelter for wildlife. Thus, the development will not have an undue adverse impact on wildlife corridors.</td>
</tr>
<tr>
<td><strong>Any proposal to regenerate or plant indigenous vegetation on the site.</strong></td>
<td>The proposed replacement canopy trees are to be indigenous trees, as shown on the landscape plan. The Council’s Arborist has commented that the remaining replacement plantings meets the minimum 80% requirement for indigenous species.</td>
</tr>
</tbody>
</table>

**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.
4.6  2 CHARLES STREET, HAMPTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/0169/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/7815

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>The North Planning Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant 1914974. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>23 March 2017 (Amended 15 August 2017)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>161 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal
The application seeks the construction of two dwellings on a lot and in a Special Building Overlay with an area of 651.69 square metres. Key details of the proposal are as follows:

- 2 dwellings;
- 2 storeys measuring a maximum 7.66 metres in height;
- Site coverage 50.61%;
- Permeability 39.45%; and
- 2 car parking spaces for each dwelling.

The application plans are provided at Attachment 1.

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

It is noted the Planning Department is currently processing Planning Permit Application 2017/0167/1 which seeks approval for the construction of two double storey dwellings on the adjoining site of 92 Willis Street to the north. That application stands to be determined on its own merits and is pending a decision at this time. The development plans for this development are included at Attachment 5 for information.

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

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:
• Clause 32.09-6 (Neighbourhood Residential Zone) (Schedule 3) – Construction of two or more dwellings on a lot.

• Clause 44.05-5 (Special Building Overlay) – Construct a building or to carry out works.

Planning Scheme Amendments

Planning Scheme Amendment C153 has been initiated by Council and Melbourne Water and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay (LSIO) from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and a report considering submissions was presented to Council in April 2017. A planning panel is yet to be appointed to consider the amendment. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153.

Amendment C153 proposes to modify the overlay and will no longer be applicable to the site.

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.

3. Stakeholder consultation

External referrals

The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne Water</td>
<td>No objection. No conditions required.</td>
</tr>
</tbody>
</table>

Internal referrals

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

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

Public notification

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

• Neighbourhood character;
• Density of development;
- Visual bulk and impact on neighbouring amenity;
- Building setbacks;
- Overshadowing;
- Parking / Traffic and;
- Property values.

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

Consultation meeting

A consultation meeting was held on 8 November 2017 attended by the permit applicant and one objecting party. As a result of this meeting no objections were withdrawn.

The applicant agreed to consider a partial increase in first floor setback to the interface with the neighbouring residential property of 94 Willis Street to the north and additional hedge planting along the mutual boundary with that neighbouring residential property.

No formal amendment to the application has been made following the consultation meeting however, the applicant has confirmed in writing they are content to set back the first floor sitting room of Dwelling 1 a further 0.5 metres from the mutual boundary with 94 Willis Street. Furthermore, to incorporate screen planting/ hedging along the mutual north boundary as appropriate. These matters can be controlled as part of the recommended permit conditions.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/0169/1 for the land known and described as 2 Charles Street, Hampton, for the construction of two dwellings on a lot and in a Special Building Overlay 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 received 15 August 2017 prepared by Finlay Roberts Design referenced 17-015, dated July 2017 but modified to show:

   a) An increase in the setback of the first floor sitting room of Dwelling 1 by 0.5 metres to a setback of 3.98m from the mutual boundary with the neighbouring property of 94 Willis Street.

   b) The driveway of each dwelling hardsurfaced such that no loose material enters the public road.

   c) Driveway grades not in excess of 1 in 16 in accordance with Clause 52.06 of the Bayside Planning Scheme.

   d) Sight-line visibility from each access in accordance with Clause 52.06 of the Bayside Planning Scheme including a reduction of the first 2.5 metres of north boundary paling fence, measured from the front (west) property boundary reduced to 750mm to provide adequate sightlines to the access to Dwelling 1.
e) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

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

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

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

Water Sensitive Urban Design

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

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

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

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

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

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

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

Drainage

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

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

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

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

Landscaping

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

a) An adjustment to the planting position of the proposed Jacaranda Mimosifolia within the front setback of Dwelling 1 to allow it to grow to maturity without hindrance from the canopy of the Camphor Laurel (Cinnamomum Camphora) growing within the adjacent road reserve.

b) Screen planting/hedging, where practicable, along parts of the mutual boundary with the neighbouring property of 94 Willis Street to the north.

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.

f) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
g) Details of surface finishes of pathways and driveways

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.

**Street tree protection**

17. Soil excavation must not occur within 3 metres from the edge of the Camphor Laurel (*Cinnamomum Camphora*) street tree asset’s stem at ground level.

18. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:
   a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
   b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.
   f) Prior to soil excavation for a Council approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root sensitive non-destructive techniques. All roots that will be affected by must correctly pruned.
   g) Any installation of services and drainage within the TPZ must be undertaken using root sensitive non-destructive techniques.

**Permit Expiry**

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

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

**Permit Notes:**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
• A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

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

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

• Council records indicate there is a 1.83m wide drainage and sewerage easement along the eastern property boundary. There is no proposal to encroach into the easement with any buildings and structures of note. Proposals to build over the easement will require Build Over Easement Consent from the Responsible Authority.

• The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

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

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

Relevant strategies of the Council plan include:

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

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

Bayside Planning Scheme

• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.02 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
Item 4.6 – Matters of Decision

6. **Considerations**

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

6.1 **Neighbourhood character**

The site is located within Neighbourhood Character Precinct E3. The proposal is considered to demonstrate an appropriate level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The streetscape of which 2 Charles Street is a part is characterised by a variety of built form comprising single storey and one and a half storey Californian bungalow style dwellings dispersed by two storey dwellings. They predominantly have traditional pitched roofs with the exception of 90 Willis Street to the northwest of the application site, which displays a contemporary flatted roofed form. Dwellings are set within established gardens and are united in their complementary use of finishing materials such as brick, timber and render.

The development that is the subject of this application would not be considered a departure from this established character. Boundary setbacks would be reflective of the pattern of built form in the area whilst allowing adequate visual separation between dwellings.

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

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

6.2 **Clause 44.05 (Special Building Overlay)**

Melbourne Water raises no objection to the application advising that preliminary land and flood level information available to them indicates the subject site is not subject to flooding from a Melbourne Water drain or waterway. Accordingly, they do not recommend controls to ensure the redirection or obstruction of floodwater, stormwater or drainage water is prevented as an effect of the development.

6.3 **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:
A first floor street setback of 8.07 metres is proposed from Charles Street, when a setback of 9 metres or more is required to achieve this standard. The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

A ground floor street setback in excess of 9 metres is to be achieved for each dwelling. Whilst the first floor street setback of each dwelling would be cantilevered above its ground floor, within only the first floor of Dwelling 1 being in out-with the minimum street setback prescribed by the Standard, such a design response would better articulate the front façade of the development adding visual interest and definition between the two dwellings.

The proposal would for the most part be respectful of the established street setback in the area and would be an appropriate design outcome that would not appear incongruous within its streetscape setting or conflict with the existing or preferred neighbourhood character of the area.

The street setback of each dwelling would not conflict with the side setbacks of the development that is the subject of Planning Permit Application 2017/167/1 for the construction of 2 dwellings on the lot at 92 Willis Street to the north but would instead be complementary to them.

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

The following variation is sought relative to Dwelling 1 of the development:

- 0.91m at a part of its north elevation at first floor.

The following variation is sought relative to Dwelling 2 of the development:

- 0.15m – 0.63m along parts of its south side elevation at first floor.

The variations sought to north elevation of Dwelling 1 and south elevation of Dwelling 2, whilst not complaint with Schedule 3 of the Neighbourhood Residential Zone variation to
Standard B17 are responsive to the site and retain a sufficient level of visual separation with the adjoining properties of 92 Willis Street to the north and 4 Charles Street to the south respectively.

The greater of the incursions into the required side setback do not have a sensitive interface with those neighbouring properties and are sufficiently distant from the habitable room windows and are appropriately located relative to the private open space associated with them so as not give rise to detrimental amenity impacts as result of overlooking or overshadowing.

The proposed variations are appropriate as the setbacks do not negatively impact the neighbouring properties to the east and south, are consistent with the positional relationship of built form to plot ratio within the immediate area and overall, the proposal has a level of compliance with ResCode.

Notwithstanding the variations sought are considered acceptable, the applicant has agreed in writing to increase the north side setback of Dwelling 1 of the development by 0.5 metres to satisfy the concerns of the residents of 94 Willis Street to the north. This further setback will aid in reducing the perception of visual bulk of the development when viewed from that neighbouring residential property. This matter can reasonably be controlled by a condition of the permit and is included in the recommended permit conditions (Condition 1a).

The proposed variation sought at the first floor level of Dwelling 1 would not negatively impact on the private open space associated with 92 Willis Street to the north as a result of overlooking or overshadowing. Nor would it compromise or prejudice the development that is the subject of Planning Permit Application 2017/167/1 for the development of 2 dwellings on the lot at 92 Willis Street. The variation would not have a sensitive interface with that proposed development being opposite the single garage component of its “Dwelling 2”.

Site coverage (Standard B8)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>50.51%</td>
<td>0.51%</td>
</tr>
</tbody>
</table>

A variation of 0.51% is sought of the site area covered by the development.

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

6.4 Landscaping

It is proposed to remove a total of eight (8) trees from the site to facilitate the proposed development. The Council’s Arborist advises that those trees are of low amenity value and raises no objection to their removal being satisfied that the landscaping scheme submitted in support of the application will sufficiently mitigate for their loss.

The Council’s Arborist also advises that the small apple trees proposed for retention within the front setback will not be adversely affected by the formation of the driveway to Dwelling 2 and that overall, the development will not adversely impact trees neighbouring site due to the permeable surfaces proposed in the private open space of each dwelling.

A recommendation is however made to reposition the Jacaranda (Jacaranda mimosifolia) proposed for planting within the front setback of Dwelling 1 as it is considered its growth may be compromised given its location under the canopy of a mature street tree asset within the adjacent road reserve. This matter can reasonably be
controlled by a condition of the permit and is included in the recommendation of this report (Condition 14a).

6.5 **Street tree(s)**

The Council’s Open Space Arborist confirms that a Camphor Laurel (*Cinnamomum camphora*) street tree asset exists within the road reserve to the front of the property and the development would not impact upon it subject to measures being put in place to ensure no soil excavation within 3 metres from the trunk of the street tree asset and the protection of it during construction. These matters can be reasonably be controlled as a condition of the permit and are included in the recommendation of this report (Conditions 17 and 18).

6.6 **Car parking and traffic**

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

Dwelling 1 and 2 each comprise four bedrooms and are afforded two car parking spaces in the form of single garages and tandem outdoor parking. The proposed on site car parking meets the requirements of Clause 52.06-5.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to vehicle access, driveway gradients and sightlines. These matters can be controlled by conditions of the permit and are included in the recommendation of this report.

The Council’s Traffic Engineer recommended controls specifying internal parking dimensions, access widths and that pedestrian access doors open out from the garage of each dwelling. These specifications are already detailed on the development plans submitted in support of this application. On this basis it would be unreasonable to seek to control them through a condition of permit.

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

6.7 **Objector issues not already addressed**

**Density of Development**

Amendment VC110 gazetted on the 27 March 2017 introduced a minimum garden area for lots 400sqm and above and amended the mandatory height controls in the Neighbourhood Residential Zone. It also deleted the minimum number of dwellings allowed per lot in the Neighbourhood Residential Zone.

In this, there is provision within the Bayside Planning Scheme for the Responsible Authority to consider whether it is appropriate to site more than one dwelling on a lot within a Neighbourhood Residential Zone in accordance with Local and State Planning Policy and the other provisions of the Bayside Planning Scheme.

Whilst the development would result in one additional dwelling on the lot and thus an increase in density it is considered the development would by its form, level of articulation through setbacks, finishing materials and means of access, be appropriate to its location and be well integrated into its surroundings without detriment to the existing or preferred neighbourhood character of the area. Furthermore that the development would not negatively impact the amenity of neighbouring residential properties. There are therefore no other considerations that would outweigh these to justify Council’s refusal of the proposal on the grounds of development density.
Visual Bulk and Impact on Neighbouring Amenity

The full extent of rear garden boundary of the neighbouring property of 94 Willis Street is shared with the north boundary of the subject site and a section of the first floor of Dwelling 1 of the development would be visible from rear elevation windows and the rear garden of that neighbouring residential property. As discussed above, the applicant, following consultation with the occupier of 94 Willis Street, agreed in writing their willingness to increase the setback of the first floor sitting room of Dwelling 1 by 0.5 metres and this matter is controlled in the recommended permit conditions (Condition 1a). Notwithstanding this control, the development is appropriately setback at both ground and first floor from the mutual boundary so as not to cause material detriment to that neighbouring property. The development would therefore not have a harmfully overbearing effect on 94 Willis Street or any other neighbouring residential property.

Overshadowing

The shadow diagrams submitted in support of the application demonstrate that between 9am and 12 noon on 22 September equinox the first floor of Dwelling 2 would overshadow a part of the driveway, garage and side garden of the neighbouring residential property of 4 Charles Street to the south. However the degree of overshadowing would be to a decreasing extent and would not be significantly greater than shadows cast by the existing boundary fencing on the mutual south property boundary. Moreover, at least 75%/40m² of the secluded private open space of that neighbouring property would receive at least five hours of sunlight between 9am and 3pm on 22 September. In all of this, the proposed development would not allow for harmful overshadowing of the neighbouring residential property of 4 Charles Street to the south or any other neighbouring residential property.

Property values

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

Support Attachments

1. Development Plans ↓
2. Site & Surrounds Imagery ↓
3. Neighbourhood Character Precinct - E3 ↓
4. Clause 55 Assessment ↓
5. Development Plans - 92 Willis Street, Hampton ↓
PROPOSED DEVELOPMENT
for CARTER GRANGE
No. 2 CHARLES STREET, HAMPTON
TOWN PLANNING DOCUMENTATION

- TITLE & STREET SCAPE ELEVATION
- NEIGHBOURHOOD & SITE DESCRIPTION PLAN
- DESIGN RESPONSE PLAN
- PROPOSED GROUND FLOOR PLAN
- PROPOSED FIRST FLOOR PLAN
- PROPOSED ELEVATIONS
- 9AM SHADOW DIAGRAM
- 12PM SHADOW DIAGRAM
- 3PM SHADOW DIAGRAM

Received
15 Aug 2017
Planning Department
Figure 1 Aerial overview of the site and surrounds.

Legend

<p>| | |</p>
<table>
<thead>
<tr>
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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 of subject site from the northwest

Figure 3 View of subject site from the west
Figure 4 View from the west towards 92 Willis Street, Hampton to the north of subject site

Figure 5 View towards the site from the southwest
Figure 6 90 Willis Street on the Corner of Willis Street and Charles Street to the northwest

Figure 7 92 Willis Street on the Corner of Willis Street and Charles Street to the north
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 Inter-War Californian Bungalow style dwellings that are united through similar building forms, use of materials and front and side setbacks. New buildings will 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>Comments</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  
It is proposed to demolish the existing dwelling on the site. Charles Street has a varied composition of dwelling types and styles on the street, with differing roof types and styles. It is considered that the dwellings would contribute to the character of the area, whilst it does not form a heritage overlay and therefore demolition is not restricted. |
| 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  
A landscape plan was submitted in support of the application. |
| 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  
Appropriate setbacks have been provided to enable vegetation within the front setback. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td><strong>Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</strong></td>
<td></td>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Locate garages and carports behind the line of the dwelling.</strong></td>
<td></td>
<td>Notwithstanding the variations being sought to the north and south first floor side setbacks of the development they, combined with the ground floor north side setback of Dwelling 1 provide sufficient visual separation between buildings so as not to appear incongruous within the streetscape.</td>
</tr>
<tr>
<td></td>
<td><strong>Minimise paving in front garden areas including driveways and crossovers.</strong></td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Front setbacks dominated by impervious surfaces.</td>
<td>Whilst single garage and tandem parking is proposed landscaping would minimise the visual dominance of hard landscaping on the site and the driveway accesses.</td>
</tr>
<tr>
<td></td>
<td><strong>Recess upper storey elements from the front façade.</strong></td>
<td><strong>Responds</strong></td>
<td>The first floor component of each dwelling cantilevers above their ground floors however, this combined with the window fenestration proposed, provides visual interest and articulation to the development.</td>
</tr>
<tr>
<td></td>
<td><strong>Incorporate pitched roof forms with eaves.</strong></td>
<td><strong>Responds</strong></td>
<td>The surrounding area has a strong presence of brick dwelling and render, with few in the immediate area being weatherboard. The use of a rendered finish is considered appropriate for the site context.</td>
</tr>
<tr>
<td></td>
<td><strong>Incorporate timber or other non-masonry wall materials where possible.</strong></td>
<td><strong>Responds</strong></td>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Heavy materials and design detailing where weatherboard predominates (eg. Large masonry columns and piers)</strong></td>
<td><strong>Responds</strong></td>
<td>The surrounding area has a strong presence of brick dwelling and render, with few in the immediate area being weatherboard. The use of a rendered finish is considered appropriate for the site context.</td>
</tr>
</tbody>
</table>

Item 4.6 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing</td>
<td>No front fence is proposed.</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
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<td></td>
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</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>The subject site is appropriately located with regard to services and facilities to support the development.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>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>No</td>
<td>The entrance to each dwelling would be located to the front of each dwelling which would be clearly legible from the street.</td>
</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>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>Dwelling 1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed ground floor: 9.45m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed first floor: 8.07m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling 2</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed ground floor: 9.775m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed first floor: 9.02m</td>
</tr>
<tr>
<td>Item</td>
<td>Decision</td>
<td>Required</td>
</tr>
<tr>
<td>--------------</td>
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<td>----------</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>9m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>No</td>
<td>50%</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></td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Yes</td>
<td>20%</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></td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings</td>
<td></td>
<td></td>
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<tr>
<td>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy</td>
<td></td>
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<tr>
<td><strong>B11 Open Space</strong></td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Layout to provide safety and security for residents and property</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>To provide appropriate landscaping. To encourage:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development that respects the landscape character of the neighbourhood</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development that maintains and enhances habitat for plants and animals in locations of habitat importance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The retention of mature vegetation on the site</td>
<td></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.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
</table>
| B14 Access | Yes | Appropriate vehicular access is provided.  
Maximum: 40% of street frontage  
Proposed: 39.29% |

### 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>Item</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B15 Parking Location</td>
<td>Yes</td>
<td>Proposed car parking for each dwelling is appropriately located and in this instance, takes the form of a single garage for each dwelling with one tandem parking space.</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>Item</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>No</td>
<td>Refer report and table below. Areas of non-compliance are underlined.</td>
</tr>
</tbody>
</table>

### Table: Ground Floor vs First Floor Setbacks

<table>
<thead>
<tr>
<th>Location</th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
</table>
| **North (side)** | Required: 0m-2.075m (D1)  
Proposed: 0.2 m-2m (D1) | Required: 3.79m-3.41m-3.46m (D1)  
Proposed: 2.88m-3.48m-4.02m (D1) |
| **South (side)** | Required: 0m or 2m  
Proposed: 2.025m-2.68m (D2) | Required: 3.67m-3.67m-3.419m (D2)  
Proposed: 3.52m-3.04m-3.55m (D2) |
| **East (rear)** | Required: 3.093m (D1)  
Proposed: 5.5m (D1)  
Proposed: 4.46m (D1)  
Proposed: 5.52m (D1) | Required: 3.072m (D2)  
Proposed: 5.05m (D2)  
Proposed: 4.42m (D2)  
Proposed: 5.91m (D2) |

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
</table>
| B18 Walls on Boundaries | Yes | Maximum Height: 3.6m  
Proposed: 3.125m (D1)  
Maximum Average Height: 3.2m  
Proposed: 2.74m (D1)  
North boundary  
Maximum Length: 17.06m (D1)  
Proposed: 7.1m (D1) |

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>Yes</td>
<td>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B20 North Facing Windows</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
<tr>
<td>------</td>
<td>-------------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td></td>
<td>Ensure buildings do not</td>
<td></td>
</tr>
<tr>
<td></td>
<td>significantly overshadow</td>
<td></td>
</tr>
<tr>
<td></td>
<td>existing secluded private open</td>
<td></td>
</tr>
<tr>
<td></td>
<td>space.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>secluded private open space</td>
<td></td>
</tr>
<tr>
<td></td>
<td>and habitable room windows.</td>
<td></td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing</td>
<td></td>
</tr>
<tr>
<td></td>
<td>secluded private open space</td>
<td></td>
</tr>
<tr>
<td></td>
<td>and habitable room windows of</td>
<td></td>
</tr>
<tr>
<td></td>
<td>dwellings and residential</td>
<td></td>
</tr>
<tr>
<td></td>
<td>buildings within the same</td>
<td></td>
</tr>
<tr>
<td></td>
<td>development.</td>
<td></td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td></td>
</tr>
<tr>
<td>B25</td>
<td>Accessibility</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Provide a sense of identity to each dwelling.</td>
<td></td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Allow adequate daylight into</td>
<td></td>
</tr>
<tr>
<td></td>
<td>new habitable room windows.</td>
<td></td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td></td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Allow solar access into the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>secluded private open space</td>
<td></td>
</tr>
<tr>
<td></td>
<td>of new dwellings/buildings.</td>
<td></td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Provide adequate storage</td>
<td></td>
</tr>
<tr>
<td></td>
<td>facilities for each dwelling.</td>
<td></td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Encourage design detail that</td>
<td></td>
</tr>
</tbody>
</table>

Item 4.6 – Matters of Decision
respects the existing or preferred neighbourhood character.

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

<table>
<thead>
<tr>
<th>B33 Common Property</th>
<th>N/A</th>
<th>N/A.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B34 Site Services</th>
<th>Yes</th>
<th>Refer report. There is sufficient space within each dwelling and their associated private open space to provide the required services and facilities.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street address</td>
<td>301 St. Kilda Street, Brighton</td>
</tr>
<tr>
<td>Application No.</td>
<td>2010/407/1</td>
</tr>
<tr>
<td>Applicant</td>
<td>Harry Tan</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>11 December, 2017</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
</tbody>
</table>
| Application plans and documents TRIM Ref Nos | DOC/17/274861  
|                | DOC/18/13612                                 |

#### Proposal

Planning Permit 5/2010/407/1 allows:

*Multi-unit development including attic and basement in a Design and Development Overlay 1*

The application seeks approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 5/2010/407/1 on a lot with an area of 1,188.31 square metres.

The proposed amendments relate to Dwelling 3 of the development and are as follows:

- The reconfiguration of bedroom 1 and its associated walk-in-robe.
- The substitution of the two re-entrant window openings in its east elevation with bipartite sliding doors.

An aerial image of the site and surrounds are provided at Attachment 1.

#### History

Planning Permit 5/2010/407/1 was issued on 1 June 2012 at the direction of the Victorian Civil and Administrative Tribunal (VCAT).

Plans were endorsed by Council on 9 October 2012.

On 10 June 2014 the permit was extended to allow development to commence by 1 January 2015 and finish by 1 January 2017.

On 16 June 2014 an application to amend plans under secondary consent was approved to:

- Increase basement area and corresponding reconfiguration of the parking arrangement, rainwater tanks and waste and storage facilities;
- Internal dwelling reconfigurations that include alteration of room sizes and locations;
- Revised elevations in respect to door and window sizes and placements on all dwellings permitted. The revised elevations are related to the internal dwelling reconfigurations;
- Revised schedule of external materials and finishes. The streetscape appearance of the development will change from a combination of face brickwork, blockwork, fixed aluminium feature louvres and render, to a combination of render and zinc metal cladding;
- Revised front fencing style and length from a 2 metre high brick fence extending for 6 metre from the northern boundary to a 2 metre high rendered block fence extending for 7 metre from the northern boundary.
- Reduced first floor balcony areas;
- Reduced overall development height from 14.15 metres AHD to 14.01 metres AHD;
- Associated amendments to the landscaping plan; and
- Revised WSUD measures and STORM report.
- Three nominated locations for plant equipment on roof measuring in total 9.2m² with a maximum height of 300mm.

On the 17 February 2017 the permit was further extended to allow development to commence by 1 June 2015 and finish by 1 June 2017.

In the officer report approving the previous request for the further extension of time, it is noted that a twelve month extension was sought and the recommendation was that the permit be extended for a period of twelve months. The permit was however only extended for six months. There is no correspondence on record indicating that Council determined that only a 6 month extension was appropriate. It is therefore considered that this was a typographical error and on this basis the permit was further extended to allow construction to commence by 1 June 2015 and finish by 1 June 2017 as per this initial request.

On the 9 June 2017 the permit was further extended to allow the development to be completed by 1 June 2018.

2. **Planning controls**

   **Planning Permit requirements**

   There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 5/2010/407/1.

3. **Stakeholder consultation**

   **External referrals**

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

   **Internal referrals**

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

   **Public notification**

   Applications made in accordance with the secondary consent provisions are not subject to the notice requirements of Section 52 of the *Planning and Environment Act 1987*. 
Therefore, the amended plans have not been advertised.

4. **Recommendation**

   That Council resolves to:


2. Plans identified as TP3 of 9 and TP 6 of 9 prepared by Crowhurst Building Design and Council date stamped 12 December 2017 and Drawing No. L-TP01 VCAT prepared by John Patrick PTY LTD Council date stamped 4 January 2018 be endorsed. These plans are to be read in conjunction with plans TP2, TP4, TP5, TP7, “external finishes schedule” Issue P1 Rev and “Storm Rating Report” endorsed on 2 July 2014.

3. Plans TP3, TP6 and L-TP01 VCAT endorsed on 2 July 2014 be superseded.

5. **Council Policy**

   There are no primary Council policy matters to consider as part of the request to amend plans pursuant to the secondary consent provisions.

6. **Considerations**

   The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (e.g. Westpoint Corporation P/L v Moreland CC {2005} and Oz Property Group P/L v Moonee Valley CC {2014}).

   The tests include the following:

   **Does the proposed amendment result in a transformation of the proposal?**

   The proposed change is considered to be minor in nature and will have no impact to the amenity of adjoining properties and will not cause material detriment to any third parties. The proposed changes do not conflict with any permit conditions, objections raised in the application for which primary consent was granted for; and, does not result in a transformation of the proposal.

   **Does the proposed amendment authorise something for which primary consent is required under the planning scheme?**

   The primary consent was issued at the direction of VCAT for the construction of a multi-unit development including attic and basement in a Design and Development Overlay 1. The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

   **Is the proposed amendment of consequence having regard to the purpose of a planning control under which the permit was granted?**

   Having regard to the development and the purpose of the planning controls under which the permit was granted, the proposed amendment is considered inconsequential as there has been no material change to the nature of the planning controls and policies affecting the land. It is considered that the changes are appropriate, will not detrimentally impact on the amenity of adjoining properties nor cause material detriment to any third parties.

   **Is the proposed amendment contrary to a specific requirement or condition of the permit?**

   The proposed amendments to the endorsed plans will not contravene any specific requirement or condition of the permit and remains compliant with the relevant objectives and standards of the Bayside Planning Scheme.
Support Attachments

1. Proposed Development Plans ↓
2. Site & Surrounds Imagery ↓
3. Planning Permit 2010/0407/1 ↓
4. Endorsed Plans Part 1 ↓
5. Endorsed Plans Part 2 ↓
Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>⭐</td>
</tr>
</tbody>
</table>
PLANNING PERMIT
2010/407/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land: No. 301 St Kilda Street BRIGHTON
The Permit Allows: Multi-unit development including attic and basement in a Design and Development Overlay 1 in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

1 Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to an 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 Plan by Neil Fletcher Design Pty Ltd, Revision C, dated 23 March 2012 but modified to show:
   a A schedule of all external materials and finishes to be provided to the buildings and works on the land. The schedule must show the materials, colour and finish of all external walls, roof, fascias, window frames and paving (including car park surfacing).
   b Water Sensitive Urban Design Stormwater Treatment Measures in accordance with Condition 10 of this permit to achieve a minimum 100% STORM rating.
   c The provision of obscure glazing to a height of not less than 1.7 metres above first floor level to the studies to Units 5, 6, 7 and 8.
   d The height of the north boundary fence reduced to a height of 1 metre for a distance of 2 metres commencing from the front boundary;
   e The northern side of walls on, or almost on, the northern boundary finished in a light grey coloured render;
   f All car spaces should be clearly signed and/or line marked with unit numbers.
   g The visitor car spaces are also to be clearly signed and/or line marked.

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

Date issued: 1 June 2012
Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
3 All pipes with the exception of 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.

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 Before the development starts, a Landscape Plan (generally in accordance with the Landscape Plan – John Patrick dated May 2012) 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 boundary.

c details of surface finishes of pathways and driveways.

d Details of water sensitive urban design elements to be incorporated and the plant species to be used.

e 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.

f landscaping and planting within all open areas of the site.

g provision of an in-ground irrigation system to all landscaped areas.

All species selected must be to the satisfaction of the Responsible Authority.

6 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.

7 The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority.

Date issued: 1 June 2012

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
8 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.

9 **Construction Management Plan**

Prior to the commencement of any works, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The Construction Management Plan must address, but is not limited to:

- **a** Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints.
- **b** Provision of a truck wheel-wash so that vehicles leaving the site do not deposit mud or other materials on roadways.
- **c** The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises.
- **d** The prohibition of delivery/tradesmen's vehicles from obstructing the laneway during the construction period.
- **e** All works must accord with the approved construction management plan to the satisfaction of the Responsible Authority.

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

10 Prior to the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be 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 guidelines outlined in Clause 22.08 of the Bayside Planning Scheme and 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 landscaping areas;

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

d. These plans must be accompanied by a report from an industry accepted performance measurement tool, which details the treatment performance achieved, to be a minimum of 100%, and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

The Water Sensitive Urban Design Stormwater Treatment System as shown on the endorsed plan 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.

11 Waste Management Plan

Before the occupation of the development starts, a Waste Management Plan with the intention of the development having its own waste collection service carried out by a Commercial Waste Collector to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted. The plan must include but is not limited to:

a. Provision on the land for the storage and collection of garbage and other solid waste. This area must be graded and drained and screened from public view to the satisfaction of the Responsible Authority.

b. Waste Collection Service must be carried out within the basement.

c. Garbage receptacles are not to be stored in the road reserve at any time.

d. The use of commercial waste and recycling bins is subject to compliance with the guidelines in Schedule 1 of Local Law No. 2 Environment Section 15.

e. The collection of commercial waste and recycling bins is subject to compliance with EPA Noise Control Guidelines; Industrial Waste Collection Section 6.
All waste material must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created.

The Waste Management Plan must be implemented to the satisfaction of the Responsible Authority. The Waste Management Plan must not be modified unless with the written consent of the Responsible Authority.

Tree Protection Fences must be established around the street tree, a Callistemon salignus (in front of the subject land) and the northernmost street tree in front of 299 St Kilda Street prior to demolition and commencement of any works and maintained until all works on site are complete. The fences are to be constructed and secured so its position cannot be modified by site workers. The fences are to encompass the entire nature strip adjacent to the works site with the exception of the crossovers. The Tree Protection Zone is to be established and maintained in accordance with Australian Standards 4970 Protection of trees on development sites. There should be no excavation within 2 m of the edge of this tree.

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

- the development is not started within two years of the issued date of this permit.
- the development is not completed within four years of the issued date of this permit.

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.

### Permit Notes

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 June 2014</td>
<td>Extension of time granted to allow development to commence by 1 January 2015 and finish by 1 January 2017.</td>
</tr>
</tbody>
</table>
| 16 June 2014 | Secondary consent to amend plans:
  - Increased basement area and corresponding reconfiguration of the parking arrangement, rainwater tanks and waste and storage facilities;
  - Internal dwelling reconfigurations that include alteration of room sizes and locations;
  - Revised elevations in respect to door and window sizes and placements |

Date issued: 1 June 2012

Please check with the responsible authority that this permit is the current permit and can be acted upon.

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended.
on all dwellings permitted. The revised elevations are related to the internal dwelling reconfigurations;

- Revised schedule of external materials and finishes. The streetscape appearance of the development will change from a combination of face brickwork, blockwork, fixed aluminium feature louvres and render, to a combination of render and zinc metal cladding;
- Revised front fencing style and length from a 2 metre high brick fence extending for 6 metre from the northern boundary to a 2 metre high rendered block fence extending for 7 metre from the northern boundary.
- Reduced first floor balcony areas;
- Reduced overall development height from 14.16 metres AHD to 14.01 metres AHD;
- Associated amendments to the landscaping plan; and
- Revised WSUD measures and STORM report.
- Three nominated locations for plant equipment on roof measuring in total 9.2m² with a maximum height of 300mm.

17 February 2015 Extension of time granted to allow development to commenced by 1 June 2015 and finish by 1 June 2017.

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.
# EXTERNAL FINISHES SCHEDULE

**Project:** Brighton Apartments  
**Address:** 301 St Kilda St, Brighton  
**Job Number:** 13021  
**Date:** 02/10/13  
**Issue:** P1  
**Rev:** Rev

## PLANNING AND ENVIRONMENT ACT 1987  
**BAYSIDE PLANNING SCHEME**  
This amended plan complies with Permit: 2010/0371  
**Sheet:** 3 of 12  
**Issued:** 1 June 2012  
**Amended:** 2 July 2014

<table>
<thead>
<tr>
<th>CODE</th>
<th>ITEM</th>
<th>PRODUCT</th>
<th>LOCATION</th>
<th>NOTES</th>
<th>IMAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td><strong>PAINT &amp; RENDER FINISHES</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| P1   | External Paint & Render Finish | **Manufacturer:** Dulux  
**Description:** Tranquil Retreat  
**Code:** PG111 (needs to be changed to Taubans colour)  
**Render Texture:** Taubans Armawall Mediterranean Trowel  
**Contact:** Terry Ward 0414 181 179 | To upper section of external | | |
| P2   | External Paint & Render Finish | **Manufacturer:** Taubans  
**Description:** Foxtail – T161 - 5W – Range Taubans 1400  
**Render Texture:** Taubans Armawall Mediterranean Trowel  
**Contact:** Terry Ward 0414 181 179 | To lower section of external & front fence | | |

## CLADDING

1

---

Adole Design ABN 76 615 368 633  
T 0422 226 624  
E info@adoledesign.com.au  
W adoledesign.com.au  
Note: Schedule must be read in conjunction with all architectural drawings. Job site tolerances of any discrepancies for claddings. All decisions to be approved by client prior to installation of any item.
## EXTERNAL FINISHES SCHEDULE

<table>
<thead>
<tr>
<th>CODE</th>
<th>Item</th>
<th>Description</th>
<th>System</th>
<th>Manufacturer</th>
<th>Contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>ZC</td>
<td>External Cladding</td>
<td>VM Zinc</td>
<td>Single Lock standing seam</td>
<td>Louise Chen 0438 462 543</td>
<td></td>
</tr>
<tr>
<td>TP1</td>
<td>Timber Paneling</td>
<td>INNO WOOD</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GT1</td>
<td>External Entrance Gate</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### STONE FINISHES

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*Note: Schedule must be read in conjunction with all architectural drawings. Consult with architect prior to installation of any item.*
## EXTERNAL FINISHES SCHEDULE

**Project:** Brighton Apartments  
**Address:** 301 St Kilda St, Brighton  
**Job Number:** 13021  
**Date:** 02/10/13  
**Issue:** P1  
**Rev:** Rev

<table>
<thead>
<tr>
<th>CODE</th>
<th>ITEM</th>
<th>PRODUCT</th>
<th>LOCATION</th>
<th>NOTES</th>
<th>IMAGE</th>
</tr>
</thead>
</table>
| ST1  | External Pathing | Manufacturer: Signorino  
**Description:** Belgium 87 – 43  
Sandblasted with veins  
Size: 300 x 600 – Balcony  
Size: 600 x 600 – External Areas  
Contact: Emanuela  
Giroto 0452 531 963 | Responsible Authority | To balconies and external entrance  
Size: 300 x 600 – Balcony  
Size: 600 x 600 – External Areas |

### PAVING

| RP   | Carpark ramp finish | Manufacturer: Pebblemix  
**Concrete**  
**Description:** Non-slip  
Pebblemix paving  
**Colour:** Schmidt  
Contact: 03 9511 4452 |

| CP   | Carpark floor finish | Manufacturer:  
**Description:** Natural concrete with float finish  
Contact: |

### WINDOWS
## EXTERNAL FINISHES SCHEDULE

**Project:** Brighton Apartments  
**Address:** 301 St Kilda St, Brighton  
**Job Number:** 13021  
**Date:** 02/10/13  
**Issue:** PI  
**Rev:** Rev

<table>
<thead>
<tr>
<th>CODE</th>
<th>ITEM</th>
<th>MANUFACTURER</th>
<th>DESCRIPTION</th>
<th>LOCATION</th>
<th>NOTES</th>
<th>IMAGE</th>
</tr>
</thead>
</table>
| PC1  | Powder coat to window frames, screening and features | Manufacturer: Dulux  
**Description:** Duralloy® FG - Matt Black Sky  
**Code:** 95984702  
**Contact:** 13 23 77 | | Responsible Authority | |

**RAINHEADS & DOWNPIPES**

| DP   | Rainheads and Downpipes | Manufacturer: Colorbond  
**Description:** Colorbond Steel products  
**Colours:** Monument  
**Contact:** |

**GARAGE DOOR**

| GD   | Garage door | Manufacturer:  
**Description:** Sectional Garage door  
**Colours:** Shale Grey  
**Contact:** |

**FENCING**

| FNC  | Boundary fence | Manufacturer:  
**Description:** Treated pine paling fence with paint finish  
**Colours:** Dulux Razorback  
**Contact:** |
### STORM Rating Report

TransactionID: 147972  
Municipality: BAYSIDE  
Rainfall Station: BAYSIDE  
Address: 301 St.Kilda Street  
Assessor: A. Sutherland  
Development Type: Residential - Multi Unit  
Allocated Site (m²): 1,191.50  
STORM Rating %: 116

<table>
<thead>
<tr>
<th>Description</th>
<th>Impervious Area (m²)</th>
<th>Treatment Type</th>
<th>Treatment Area/Volume (m² or L)</th>
<th>Occupants/Number Of Bedrooms</th>
<th>Treatment %</th>
<th>Tank Water Supply Reliability (%)</th>
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</thead>
<tbody>
<tr>
<td>Basement</td>
<td>712.33</td>
<td>Rainwater Tank</td>
<td>15,000.00</td>
<td>20</td>
<td>123.20</td>
<td>91.00</td>
</tr>
<tr>
<td>Ground over Basement</td>
<td>41.93</td>
<td>None</td>
<td>0.00</td>
<td>0</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Ramp Paving</td>
<td>83.28</td>
<td>Rain Garden 100mm</td>
<td>1.00</td>
<td>0</td>
<td>117.20</td>
<td>0.00</td>
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**PLANNING AND ENVIRONMENT ACT 1987**  
**BAYSIDE PLANNING SCHEME**

This amended plan complies with Permit: 2010/407/1  
Sheet: 2 of 12  
Issued: 1 June 2012  
Amended: 2 July 2014  
Date Generated: 21-May-2014  
Program Version 1.0.0  
Responsible Authority

---

Item 4.7 – Matters of Decision
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
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<tbody>
<tr>
<td>Street address</td>
<td>42 Bay Road, Sandringham</td>
</tr>
<tr>
<td>Application No.</td>
<td>2013/571/1</td>
</tr>
<tr>
<td>Applicant</td>
<td>Grundella Constructions Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>Lot 4 on Plan of Subdivision 011945</td>
</tr>
<tr>
<td></td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>19 September 2017</td>
</tr>
<tr>
<td>Zoning</td>
<td>Commercial Zone (Schedule 1)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 8)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Application plans and documents TRIM Ref No</td>
<td>DOC/17/204941</td>
</tr>
<tr>
<td></td>
<td>DOC/17/192946</td>
</tr>
</tbody>
</table>

Proposal

Planning Permit 5/2013/571/1 allows:

Construction of a three storey building for a retail premises and three dwellings with roof top decks, a reduction in the required car parking and a waiver of the required loading and unloading facility.

The application seeks approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 2013/571/1 on a lot with an area of 201.56 square metres.

The proposed amendments (refer Attachment 1) are as follows:

Ground floor:

- Increased width of the access/entry way and subsequent decrease in width of the retail outlet.
- Internal reconfiguration of the retail outlet
- Internal changes to the ground floor common area including apartment storage lockers, bin storage and bathrooms
- Addition of water, electric and MFD meters in the main entryway
- Changes to the location of the stairwell
- Addition of a concealed down pipe on the eastern wall of the retail outlet
- Addition of 3 service shafts

First floor:

- Internal reconfiguration of apartment 1
• Internal reconfiguration of apartment 2
• Addition of 3 service shafts
• Addition of concealed down pipes in the south-eastern and south-western corners of apartment 2

Second floor:
• Internal reconfiguration of apartment 3
• Removal of the sky light to apartment 3
• Addition of concealed down pipes in the south-eastern and south-western corners of apartment 3
• Addition of 3 service shafts

Roof decks:
• Removal of the sky light to apartment 3
• Reconfiguration of the rooftop common area around the lift/stairs

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

History
Planning Permit 2013/571/1 was issued on 20 January 2015 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) (refer Attachment 3).

Plans were endorsed by Council on 16 March 2015 (refer Attachment 4).

This is the first request to amend the endorsed plans.

2. Planning controls

Planning Permit requirements
There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2013/571/1.

3. Stakeholder consultation

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

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

Public notification
Applications made in accordance with the secondary consent provisions are not subject to the notice requirements of Section 52 of the Planning and Environment Act 1987. Therefore, the amended plans have not been advertised.

4. Recommendation

That Council resolve to:

1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 2013/571/1.
2. Plans identified as 1 – 4 (inclusive), prepared by Phillip Crouch Architects and dated 12/04/17 be endorsed. These plans are to be read in conjunction with sheets 5 – 9 of the previously endorsed plans endorsed on 16/03/15.

3. Sheets 1 – 4 (inclusive) of the previously endorsed plans dated 16/03/15 be superseded.

5. Council Policy

There are no primary Council policy matters to consider as part of the request to amend plans pursuant to the secondary consent provisions.

6. Considerations

The Victorian Civil and Administrative Tribunal have set out, on a number of occasions, the principles, or tests, of Secondary Consent (e.g. Westpoint Corporation P/L v Moreland CC (2005) and Oz Property Group P/L v Moonee Valley CC (2014)).

The tests include the following:

Does the proposed amendment result in a transformation of the proposal?

The amendment does not result in a transformation of the proposal. The scale of the overall building fabric will not change. The proposal does not alter the outcome related to site coverage, permeability, overlooking or overshadowing. From a neighbourhood character perspective, the proposal will still be an appropriate outcome.

The proposed changes are considered to be minor in nature and will have no impact to the amenity of adjoining properties and will not cause material detriment to any third parties. The proposed changes are internal and primarily relate to internal configurations and site services.

The proposed changes do not conflict with any permit conditions, objections raised in the application for which primary consent was granted for; and, does not result in a transformation of the proposal.

Does the proposed amendment authorise something for which primary consent is required under the planning scheme?

The primary consent was issued at the direction of VCAT for the construction of a three storey building for a retail premises and three dwellings with rooftop decks, a reduction in car requirements and a waiver of the requirement for loading and unloading facilities. The proposed changes are completely internal and involve interior reconfigurations and changes/additions to site services.

The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

Is the proposed amendment of consequence having regard to the purpose of a planning control under which the permit was granted?

Having regard to the development and the purpose of the planning controls under which the permit was granted, the proposed amendment is considered inconsequential as there has been no material change to the nature of the planning controls and policies affecting the land. It is considered that the changes are appropriate, will not detrimentally impact on the amenity of adjoining properties nor cause material detriment to any third parties.

Is the proposed amendment contrary to a specific requirement or condition of the permit?

The proposed amendments to the endorsed plans will not contravene any specific requirement or condition of the permit and remains compliant with the relevant objectives and standards of the Bayside Planning Scheme.
Support Attachments

1. Secondary Consent Application Plans
2. Site Surrounds and Imagery
3. Planning Permit 5/2013/571/1
4. Endorsed Plans
ATTACHMENT 1
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2. View to 42 Bay Road and western neighbouring building

Figure 3. View to 42 Bay Road and eastern neighbouring buildings
Figure 4. View to 42 Bay Road demonstrating the vacant site
PLANNING PERMIT 2013/571/1

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

Address Of The Land: No. 42 Bay Road SANDRINGHAM

Construction of a three storey building for a retail premises and three dwellings with roof top decks, a reduction in the required car parking and a waiver of the required loading and unloading facility in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted on 4 December 2013 and 13 March 2014 but modified to show:
   
   (a) The provision of 4 car parking spaces and associated changes to bin storage and storage cupboards for apartments in accordance with the recommendation of Mr Gnanakone in his witness statement for VCAT in application P1225/2014 dated to December 2014.
   
   (b) The southern balustrade of the proposed roof deck being setback a further 0.5 m from the rear boundary of the land.
   
   (c) The provision of a customer entry point to the retail premises independent of the resident entry.
   
   (d) A notation on plan that the western and eastern side of the roof deck is to have screening to 1.7m above finished deck level with a minimum of 700mm of this screening consisting of treated glass or timber with a maximum 25% openings.
   
   (e) All south facing balconies to have screening above rendered walls to a height of 1.7m above finished balcony level constructed of glass, timber or similar with a maximum 25% openings.
   
   (f) The provision of acoustic soundproofing to the internal walls of the garage, around the car stackers.
   
   (g) A waste management plan in accordance with conditions 5 of this permit.
   
   (h) The application of a variety of materials along the Bay Road frontage (e.g. timber, weatherboard or rendered masonry).
   
   (i) All balconies fully located within title boundaries.

Date issued: 20 January 2015

Signature for the Responsible Authority

Heath Gerrard

Planning and Environment Regulations 2005 Form 4

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
FORM 4

PLANNING PERMIT

Sections 63 and 86

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?
The Responsible Authority has issued a permit.
(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987.)

WHEN DOES A PERMIT BEGIN?
A permit operates:
* from the date specified in the permit; or
* if no date is specified, from:
  (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the
direction of the Tribunal;
  or
  (ii) the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?
1. A permit for the development of land expires if:
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act
     1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a
different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified,
     within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of
     the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if:
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the
     issue of the permit; or
   * the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if:
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is
     specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the
     completion of the development; or
   * the use is discontinued for a period of two years.

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:
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?
* The person who applied for the permit may apply for a review of any condition in the permit unless it was granted
  at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
* An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to
  grant a permit has been issued previously, in which case the application for review must be lodged within 60 days
  after the giving of that notice.
* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on an Application for Review form which can be obtained from the
  Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
* An application for review must state the grounds upon which it is based.
* An application for review must also be served on the Responsible Authority.
* Details about applications for review and the fees payable can be obtained from the Victorian Civil and
  Administrative Tribunal.
2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

3. All pipes (excluding down pipes), fixtures, fittings and vents servicing the building must be concealed in service ducts or otherwise hidden from view 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 without the written consent of the Responsible Authority.

5. Prior to the commencement of the development hereby approved, the applicant must submit to the Responsible Authority, a Waste Management Plan (WMP). This WMP must be to the satisfaction of the Responsible Authority and specify that all waste will be collected by private contractors from within the site. The WMP must also detail the waste collection vehicle(s) to be used.

6. No garbage bins or waste may be left within the rear laneway at any time unless otherwise agreed in writing by the responsible authority.

7. Loading or unloading and waste collection at the rear of the site may occur between 7am-6pm on weekdays only and should not block rights of access to other users of the laneway. No loading or unloading is to occur on weekends. Loading and unloading may occur on Bay Road within designated street bays.

8. Prior to the commencement of any works, a Construction Management Plan must be submitted to and approved by the Responsible Authority. The construction management plan must address, but is not limited to:
   
   (a) Construction methodology.
   
   (b) Site access establishment, adjoining properties, use of the rear laneway and the public footpath along Bay Road.
   
   (c) Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints.
   
   (d) The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises.

All works must accord with the approved construction management plan to the satisfaction of the Responsible Authority.

Date issued: 20 January 2015

Signature for the Responsible Authority

Page 2 of 3

Planning and Environment Regulations 2005 Form 4

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
## Item 4.8 – Matters of Decision

### FORM 4

#### PLANNING PERMIT

**IMPORTANT INFORMATION ABOUT THIS PERMIT**

**WHAT HAS BEEN DECIDED?**

The Responsible Authority has issued a permit.

(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987.)

**WHEN DOES A PERMIT BEGIN?**

A permit operates:
- from the date specified in the permit; or
- if no date is specified, from:
  1. the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or
  2. the date on which it was issued, in any other case.

**WHEN DOES A PERMIT EXPIRE?**

1. A permit for the development of land expires if:
   - the development or any stage of it does not start within the time specified in the permit; or
   - the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the date it is submitted, unless the permit contains a different provision; or
   - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

2. A permit for the use of land expires if:
   - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   - the use is discontinued for a period of two years.

3. A permit for the development and use of land expires if:
   - the development or any stage of it does not start within the time specified in the permit; or
   - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   - the use does not start within the time specified in the permit, or if no time is specified, within two years after the completion of the development; or
   - the use is discontinued for a period of two years.

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 50A(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:
   - the use or development of any stage is to be taken to have started when the plan is certified; and
   - the permit expires if the plan is not certified within two years of the issue of the permit.

5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

**WHAT ABOUT APPEALS?**

- The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
- An application for review must be lodged within 30 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 30 days after the giving of that notice.
- An application for review is lodged with the Victorian Civil and Administrative Tribunal.
- An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
- An application for review must state the grounds upon which it is based.
- An application for review must also be served on the Responsible Authority.
- Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.
9 The mechanical car stackers must be routinely serviced and maintained to the satisfaction of the Responsible Authority to ensure satisfactory access to all car spaces and to prevent any adverse effect on adjoining land by the emission of noise.

10 Prior to development commencing a stormwater drainage system shall be designed and approved by the responsible authority and prior to occupation of the building the stormwater drainage system must constructed to the satisfaction of the Responsible Authority. (Where required the design must have regard to Urban Stormwater Best Practice Environmental Management Guidelines (CSIRO) 1999 and the retardation of stormwater flows)

11 In the event that there are Council drainage assets that will become redundant as a consequence of the development the developer must cover any costs associated with the removal, sealing and backfilling of these assets to the satisfaction of the Responsible Authority.

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

(a) The development has not commenced 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**

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>26 July 2016</td>
<td>Extension of time granted to allow the development to commence by 22 July 2017 and be completed by 20 January 2019.</td>
</tr>
</tbody>
</table>

**THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.**

Date issued: 20 January 2015
Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 4

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
FORM 4

PLANNING PERMIT

Sections 63 and 86

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?
The Responsible Authority has issued a permit.
(Note: This is not a permit granted under Division 5 or 6 of Part 4 of the Planning and Environment Act 1987.)

WHEN DOES A PERMIT BEGIN?
A permit operates:
* from the date specified in the permit; or
* if no date is specified, from:
  (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal;
or
  (ii) the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?
1. A permit for the development of land expires if:
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.
2. A permit for the use of land expires if:
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if:
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.
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 8A(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:
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?
* The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
* An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
* An application for review must state the grounds upon which it is based.
* An application for review must also be served on the Responsible Authority.
* Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.
Waste Management Plan

This form may be used for residential planning applications, with less than 6 individually rateable apartments or townhouses, larger scale developments require a more detailed WMP.

Planning application number: TP-5/2013/571/1
Address: 42 Bay Road Sandringham 3191
Land use type: Residential / Mixed

Waste generation:

<table>
<thead>
<tr>
<th>No of dwellings</th>
<th>Garbage (120L bin)</th>
<th>Recycling (120L or 240L bin)</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>1 per dwelling</td>
<td>1 per dwelling</td>
</tr>
<tr>
<td>Total bins required</td>
<td>3 x 120L bins</td>
<td>3 x 120L bins</td>
</tr>
</tbody>
</table>

*Recycling bin size is optional

Collection frequency: Once per week

Bin storage location: Designated storage area to the rear of the proposed development...

Waste collection location: Within in the site at the Rear of property, Loading or unloading and waste collection at the rear of the site may occur between 7am-6pm on weekdays only and should not block rights of access to other users of the Lane way. No loading or unloading is to occur on weekends. Loading and unloading may occur on Bay Road within in designated street bays.

Waste collection contractor: JJ Richards & Sons

Waste management drawings: (over the page)

Waste Collection Vehicles to be used
The waste trucks are medium rigid vehicles (MRV). The truck dimensions are:

- minimum height 4.0 metres
- minimum width 2.6 metres
- minimum length 8.8 metres
- maximum weight loading 24 tonne.

**Signage**

Signs will be required within the bin area to encourage correct recycling and reduce contamination.

**Green waste**

Green waste collections are not required.

Please note that sufficient space has been allocated for bin storage for the proposed retail outlet, at this stage the waste generation is unknown as the type of use for this space has not been determined.
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