Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 13 June, 2017 at 7.00pm

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

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

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3. Adoption and Confirmation of the minutes of previous meeting
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4.12 11 Olinda Avenue, Beaumaris (formerly part of 9 Olinda) Secondary Consent - Approve Application No: 2006/867/1 Ward: Southern................................................................. 323

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Nil

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<th>Next Meetings 2017</th>
</tr>
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<tr>
<td>Thursday 22 June 2017</td>
</tr>
<tr>
<td>Thursday 6 July 2017</td>
</tr>
<tr>
<td>Tuesday 18 July 2017</td>
</tr>
<tr>
<td>Thursday 3 August 2017</td>
</tr>
<tr>
<td>Tuesday 15 August 2017</td>
</tr>
<tr>
<td>Tuesday 12 September 2017</td>
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<tr>
<td>Thursday 28 September 2017</td>
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<tr>
<td>Tuesday 17 October 2017</td>
</tr>
<tr>
<td>Thursday 2 November 2017</td>
</tr>
<tr>
<td>Tuesday 14 November 2017</td>
</tr>
<tr>
<td>Thursday 30 November 2017</td>
</tr>
<tr>
<td>Monday 11 December 2017</td>
</tr>
<tr>
<td>Thursday 21 December 2017</td>
</tr>
</tbody>
</table>
1. **Apologies**

2. **Declarations of Interest**

3. **Adoption and Confirmation of the minutes of previous meeting**

   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 18 May 2017.
4. Matters of Decision

4.1 SIGNIFICANT TREE NOMINATION - 18 SUSAN STREET, SANDRINGHAM

City Planning & Community Services - Amenity Protection
File No: PSF/17/76 – Doc No: DOC/17/60342

Executive summary

Purpose and background

To consider a nomination for two Schinus Ariera (Peppercorn) trees at 18 Susan Street, Sandringham to be included within Council’s Significant tree register. The nomination was lodged by the owner of the property.

In 1996 Council established a Significant Tree Register that is maintained in accordance with the Bayside Significant Trees Management Policy 2013. There are currently seventy (70) tree sites recorded as Significant on the Bayside Significant Tree Register, including four (4) Schinus Ariera (Peppercorn) trees on the basis of size and contribution to the landscape.

An arboricultural assessment and report written by Mark Reynolds of arboriculture consultancy, Arbor Survey dated 15 November 2016 is attached to this report. The report includes digital images of the tree, tree location and recommendations.

Arbor Survey’s independent assessment and written report of the tree’s significance is based on the criteria as in Council’s Significant Trees Management Policy 2013. This assessment together with the assessment undertaken by Council’s Arborist support the inclusion of the trees on the Significant Tree Register.

Key issues

Property Owner’s reason for trees significant listing

On 21 April 2016 Council received a Significant Tree nomination from the owners of 18 Susan Street, Sandringham to place the two Schinus Ariera (Peppercorn) trees located at the front south east corner of their property on Council’s Significant Tree Register.

The applicant believes that the original owners of the house known as “Caniambo” circa 1892, bought the young trees from Trentham and planted them on the site circa 1892.

Independent Arboriculture Assessment

The assessment of the trees was undertaken on 7 October 2016 by Arbor Survey. The assessment of the trees considered the overall arboriculture characteristics, the growing environment and overall site conditions surrounding the trees.

- The subject trees are an exotic species, being Schinus ariera (Peppercorn) which are potentially 80-120 years old. The overall condition of the trees is considered to be good, however, there are a number of old hollows within the trees and decay in a number of branches.

- The assessment of the trees for significance found that the trees meet the Bayside Council’s Policy criteria 5 and 6:
  5. ‘Outstanding Size’ for their combined canopy dimensions; and
6. ‘Aesthetic Value’ for their aesthetic significance to the site and immediate local area.

- The rating is aligned to the National Heritage Trust is ‘Social’ criteria for its contribution to the landscape and the ‘Aesthetic’ criteria for their outstanding combined canopy size. It must be noted that this assessment is based on a local context within the City of Bayside and these trees only meet the Local and Neighbourhood Significance ratings within Council’s Significant Tree Management Policy 2013. There is some evidence that the trees are relatively old with 1945 aerial photography showing the trees with a reasonably large canopy spread.

- The combination of these two trees is seen as being a better example than some of the existing Peppercorn Trees that are already noted on the register (49 Bay Street, Brighton, 7 Grosvenor Street, Brighton, 709-723 Hawthorn Road, Brighton East and 237-243 New Street, Brighton. The significance of these trees in question are based on the combined canopy. As individual trees, each tree may not be worthy of inclusion on the Significant Tree Register. The assessment focused on the ten criteria in the Significant Trees Management Policy 2013 which is based upon the National Heritage Trust agreed criteria for assessing significant trees (Refer attachment 2 ‘Significant Tree Criteria Assessment’). These criterion were used to assess the tree for significance in the local context within the City of Bayside, needing to meet at least one of the ten criteria to be considered significant.

The independent assessment concluded that the trees meet criteria 5 ‘Outstanding Size’ for their combined canopy dimensions and size, and criteria 6 ‘Aesthetic Value’, for their aesthetic significance to the site and the immediate local area.

As the trees meet two of the Significant Tree Criteria it is recommended that the trees as a group be included in the City of Bayside Register of Significant Trees. The tree is in a healthy condition, and provides a high amenity value to the area for many years.

Council’s Arborist’s Assessment:
Council’s Senior Investigations Arborist has inspected the tree and reviewed the report by Arbor Survey. The findings and recommendations in the independent report are supported.

Recommendation
That Council:
1. Grants significant status for two Schinus Ariera (Peppercorn) trees located at 18 Susan Street Sandringham and lists them on Council’s Significant Tree register; and
2. Thanks the applicants for nominating their two Schinus Ariera (Peppercorn) trees for Significant Tree status.

Support Attachments
Nil
Attachment 1 - Photos of tree and location
Attachment 2 - Significant Tree Criteria Assessment
Attachment 3 - Significant Tree Policy 2013
Attachment 4 - Independent Arborist Report
Considerations and implications of recommendation

Liveable community

Social
Protecting and expanding the tree canopy of the entire municipality is an integral part of neighbourhood amenity, natural beauty and a sustainable environment and is recognised in Council’s Management of Tree Protection on Private Property Policy 2015 Council’s Significant Tree Management Policy Tree Protection Policy 2013.

Natural Environment
Council is committed to protecting, promoting and improving its highly valued tree canopy. The existing vegetation is one of the primary features of Bayside, contributing to the amenity of the residential environment and established landscape and tree canopy.

Built Environment
Council’s objective is to provide for the balance between considerations relating to dwellings, damage to structures or unacceptable risk of harm to occupants; and the retention and replacement of the tree canopy to enhance local amenity and urban character.

Customer Service and Community Engagement
Council has engaged with the owner of the tree and the application has been considered against Council’s adopted policies and assessment criteria.

Human Rights
The implications of this report have been assessed and are not considered likely to breach or infringe upon the human rights contained in the Victorian Charter of Human Rights and Responsibilities Act 2006.

Legal
Trees meeting specific criteria as defined in Council’s Local Law No.2 Neighbourhood Amenity are protected and require a Local Law permit be removed or pruned in some circumstances.

Finance
Administering Significant Tree nomination applications is within Council’s approved budget. Significant tree status may result in costs to the owner for maintenance.

Links to Council policy and strategy
Protecting and expanding the tree canopy of the entire municipality is an integral part of neighbourhood amenity, natural beauty and a sustainable environment and is recognised in Council’s Community Plan 2015, the current Draft Council Plan 2017, Management of Tree Protection on Private Policy 2015, Significant Trees Management Policy 2013 and the Local Law No.2 Neighbourhood Amenity.

Vegetation that has been identified as significant is one of the primary features of Bayside, contributing to the amenity of the residential environment and established land values. The benefit of the Significant Trees Management Policy 2013 is that trees that are included on the register can only be added or removed from it by a Council resolution.
Photograph taken from the street showing the two *Schinus Ariera* (Peppercorn) trees located at 18 Susan Street Sandringham.

Photograph taken from inside the property showing one of the *Schinus Ariera* (Peppercorn) trees located at 18 Susan Street Sandringham
Aerial photographing showing location of the two *Schinus Ariera* (Peppercorn) trees at 18 Susan Street, Sandringham.

Map view showing street location of the two *Schinus Ariera* (Peppercorn) trees are located.
## Significant Tree Criteria Assessment

### Quantified Tree Risk Assessment (QTRA)

<table>
<thead>
<tr>
<th>Target Range</th>
<th>Size Range</th>
<th>Prob. Failure Range</th>
<th>Reduced Mass</th>
<th>Risk Index</th>
<th>Review Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Property</td>
<td>5</td>
<td>N/A</td>
<td>&gt;1/1,000,000</td>
<td>Annually</td>
</tr>
</tbody>
</table>

**Comments:** No signs of any major defects. Assessment made on non-specific small branch failure, target is property due to the location of the buildings and neighbouring driveway within the failure zone.

**Management Recommendations:** Monitor only.

### History

**Planting Date:** Unknown – suspected to be around 1900 – 1910.

**Planted for an occasion or event:** Unknown

**Covered by any other Heritage Control or Trust Tree:** None

**Tree Protection Local Law at present as trunk circumference over 155 cm:** None

**Describe history of the tree where known:** No significant event associated with this tree.

**Any other historic information known:** None related to tree – old Property sales history observed.

**How does this tree compare to other trees in the area (where known):** The combination of these two trees is seen as being a better example than some of the existing Peppercorn Trees that are already noted on the register (49 Bay Street, Brighton, 7 Grosvenor Street, Brighton, 709-723 Hawthorn Road, Brighton East and 237-243 New Street, Brighton.

### Significance Categories (National Trust Criteria)

<table>
<thead>
<tr>
<th>Scientific</th>
<th>Yes/No</th>
<th>Reasoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Horticultural or genetic value</td>
<td>No</td>
<td>The trees do not have any particular features or characteristics that would classify this tree as being of any scientific significance.</td>
</tr>
<tr>
<td>Important source of seed or propagating stock</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Particularly resistant to disease or exposure</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Species or variety that is rare or of a very localised distribution</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Remnant native vegetation</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Outstanding for its size</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>An outstanding example of the species</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Social</th>
<th>Yes/No</th>
<th>Reasoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unique location or context</td>
<td>No</td>
<td>The trees do play a role in the contribution to the local landscape and tree canopy of the area.</td>
</tr>
<tr>
<td>Contribution to landscape</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Associated with Aboriginal activities</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Important landmark</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Spiritual and religious associations</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Contemporary association with the community</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Historic</th>
<th>Yes/No</th>
<th>Reasoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forms part of an historic park, garden or town</td>
<td>No</td>
<td>The trees do not have any historic significance other than for the owner of the property.</td>
</tr>
<tr>
<td>Commemorative plantings</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Associated with an important event</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Associated with an important person, group or institution</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Aesthetic</th>
<th>Yes/No</th>
<th>Reasoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outstanding size (height or spread) or form for species within local area</td>
<td>Yes</td>
<td>The trees do have an outstanding size for the age of the trees (both in trunk circumference, height and spread) within the</td>
</tr>
<tr>
<td>Exhibits curious growth form or unusual physical features</td>
<td>No</td>
<td>local area. The outstanding size category is based on the combined canopy of each tree.</td>
</tr>
<tr>
<td>-----------------------------------------------------------</td>
<td>----</td>
<td>-----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Is a better than an average example of: its species, it location in the urban environment and in the local context</td>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

**Statement of Significance**

<table>
<thead>
<tr>
<th>Explanation for chosen category</th>
<th>The trees meet the Bayside Council’s Significant Tree Management Policy 2013 - Criteria 5: ‘Outstanding Size’ for their combined canopy dimensions and size and Criteria 6: ‘Aesthetic Value’ for their aesthetic significance to the site and immediate local area.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brief Statement of Significance:</td>
<td>The significance of these trees is based on the combined canopy. As individual trees, each tree may not be worthy of inclusion on the Significant Tree Register.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Photos Taken</th>
<th>Yes</th>
<th>Checked History?</th>
<th>Yes – none found</th>
<th>Check Tree Controls:</th>
<th>No planning Controls. Local Law Protects tree from being removed without a permit.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommended for Inclusion on Significant Tree Register?</td>
<td>Yes – tree is worthy of inclusion on the Register.</td>
<td>Recommended for inclusion/ Reporting to Trust Trees?</td>
<td>No</td>
<td>Significance Grading:</td>
<td>Local Significance (L) Neighbourhood Significance (N)</td>
</tr>
<tr>
<td>Comments:</td>
<td>Possible habitat value from old decayed areas / hollows within some branches. Tree Support system/ Prop recommended for lower branches to reduce likelihood of failure.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Council Policy

Council policy ref no: C/POL/INF
Council policy owner: Director Infrastructure Services
Adopted by: Bayside City Council
Date adopted: Ordinary Meeting of Council Monday 2 September 2013
Scheduled review: 2016

1. Policy intent

To apply a consistent and equitable approach to the management of significant trees on private and public land in Bayside.

To protect, promote and improve the highly valued tree canopy in the municipality.

2. Purpose/Objective

The purpose of the Significant Trees Management Policy is to effectively administer the nomination of a tree, the listing of a significant tree onto, and the delisting of a significant tree from the Significant Trees Register. The removal of a significant tree from the Significant Trees Register can only be endorsed by Council at an Ordinary Meeting of Council.

The Bayside Planning Scheme (VPS) and Local Law No. 2 “Neighbourhood Amenity” assist Council to protect and expand the tree canopy of the entire municipality. Clause 36 (1) (a) and (b) of Council’s Local Law No. 2 “Neighbourhood Amenity” protects significant trees and a Local Law permit is required to destroy, damage, remove, cut, trim, top, prune any tree listed on the significant tree register.

It is recognised that trees are an integral part of neighbourhood amenity, provide natural beauty and a sustainable environment.

3. Scope

The Significant Trees Management Policy 2013 is limited in its application to trees that:

- are located on private property and public land that are protected under Bayside City Council’s Local Law No. 2 – ‘Neighbourhood Amenity’;
• are currently listed on Council’s Significant Tree Register, and
• in exceptional circumstances do not meet the protection criteria under the Local Law.

This policy does not apply to exemptions and determinations made by the responsible authority regarding trees protected by the Bayside Planning Scheme. This includes but is not limited to:
• Heritage Overlay,
• Native vegetation (Clause 52.17 Planning Scheme)
• Vegetation Protection Overlay
• Property specific planning permits.

Roles and Responsibilities

Implementing and providing advice on the policy and resolution of disputes or differences that may arise in interpretation of this Policy will be the role of the responsible Manager.

4. Policy statement

Bayside City Council has committed to providing high-quality living environments for residents, ratepayers and visitors. The significance of trees in the Bayside community is reflected in the existing planning policy and local law controls covering Bayside. Some trees, through age, size, and rarity of planting or association with historical events achieve a higher level of importance than others on private land, and Council is committed to acknowledging their existence:

6.1 Nominating trees to the register

Who can nominate?

Any person can nominate trees located on any public or private property anywhere in the municipality.

Nomination form

Nominations must be made on the approved nomination form (see Appendix 1) and should include the written support of the tree owner. It is the nominator’s responsibility to obtain the tree owner’s written support.

Nomination forms received without written owner’s consent will delay the assessment process and may limit the accuracy of the assessment of the tree.

Further nominations

Council will not accept a further nomination to list a tree on Council’s Significant Tree Register within two years of an unsuccessful nomination. An unsuccessful nomination is where the assessment did not consider the tree to be significant.
Nomination fee
There is currently no nomination fee. Fees are set by Council each financial year.

6.2 Assessing nominated trees

Criteria for assessment
As part of the original study in 1996, a set of criteria for assessing trees was created. The criteria used by Bayside City Council replicate those used by the National Trust of Australia (Victoria) for their Significant Tree Register (see Appendix 2).

Process for assessment of nominated trees
When a nomination is received a Council Officer will inspect the tree to determine if it has characteristics of a significant tree. If the inspection identifies the tree as potentially significant, a consulting arborist will be engaged at Council’s cost to conduct an assessment.

The consulting arborist will forward a report detailing the assessment and the criteria met to Council Officers. If the report concludes that the tree is significant, the delegated officer prepares a report for Council recommending listing the tree on the Significant Tree Register.

Council notifies the nominator and the property owner of the outcome.

6.3 Process for deleting trees from the register

Requesting deletion from the register
Requests to delete trees from the register will only be accepted from the owner/s of the tree. The owner/s of the tree should make a written submission including the reasons why the tree should be deleted from the register with an accompanying independent arborist report. All owners of the tree must support the application.

Processing requests for deletion
Council will arrange for a consulting arborist to undertake an inspection of the tree at council’s cost. If the consulting arborist determines that the tree is no longer significant the Delegated Officer prepares a report for full Council recommending the tree be deleted from the register.

The report to Council is to include a copy of the consulting arborist’s report.

The owner is notified of Council’s decision.

If the consulting arborist recommends that the tree is retained on the register, the arborist’s report is to detail the reasons that lead to this conclusion. The report is then to be forwarded to the appropriate Council officer to prepare a formal response to the owner.
Council will not process a further request to delete a tree from the register within two years of a failed request, unless there are exceptional circumstances relating specifically to the condition of the tree.

6.4 Appeals

In accordance with Council’s meeting procedure and Local Law, any person has a right to be heard at a Council meeting.

6.5 Removal of trees included in the Council’s Significant Tree Register

A tree listed on the Significant Tree Register cannot be removed until it has been deleted from the Register and an appropriate Local Law permit issued. This does not apply if a tree is removed under the exemption provisions in the Local Law.

7. Related documents


<table>
<thead>
<tr>
<th>Policies</th>
<th>Management of Tree Protection on Private Property Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strategies</td>
<td>Bayside Tree Strategy 2011 (revised)</td>
</tr>
<tr>
<td>Procedures</td>
<td></td>
</tr>
<tr>
<td>Guidelines</td>
<td></td>
</tr>
</tbody>
</table>

8. Definitions & Abbreviations

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible Authority</td>
<td>Bayside City Council</td>
</tr>
<tr>
<td></td>
<td>VCAT</td>
</tr>
<tr>
<td></td>
<td>Planning Minister</td>
</tr>
<tr>
<td>Private Land</td>
<td>Any land not under the control of Council, State or federal Government.</td>
</tr>
<tr>
<td>Delegated Officer</td>
<td>Has the same meaning as a Senior Officer in the Local Government Act 1989.</td>
</tr>
<tr>
<td>Exceptional circumstances</td>
<td>A tree that merits either National or State significance.</td>
</tr>
</tbody>
</table>

Please note: This policy is current as at the date of approval. Refer to Council’s website (www.bayside.vic.gov.au) or staff intranet to ensure this is the latest version.
Appendix 1: Council's *Significant Tree Register* - nomination form

**Nomination form**

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Botanical name</td>
<td></td>
</tr>
<tr>
<td>Common name</td>
<td></td>
</tr>
<tr>
<td>Address of tree</td>
<td></td>
</tr>
<tr>
<td>Position on property</td>
<td></td>
</tr>
<tr>
<td>Height</td>
<td></td>
</tr>
<tr>
<td>Canopy spread</td>
<td></td>
</tr>
<tr>
<td>east-west</td>
<td></td>
</tr>
<tr>
<td>north-south</td>
<td></td>
</tr>
<tr>
<td>Reason for tree nomination</td>
<td></td>
</tr>
<tr>
<td>History of the tree</td>
<td></td>
</tr>
<tr>
<td><em>(please attach a separate sheet if required)</em></td>
<td></td>
</tr>
<tr>
<td>Nominator name</td>
<td></td>
</tr>
<tr>
<td>Nominator address</td>
<td></td>
</tr>
<tr>
<td>Contact phone number</td>
<td></td>
</tr>
<tr>
<td>Owner's name</td>
<td></td>
</tr>
<tr>
<td>Owner's Signature – (consent for nomination)</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td></td>
</tr>
</tbody>
</table>

For further information see *Management of Significant Trees Policy 2013* or telephone Council on 9599 4444.
Appendix 2: Registration criteria and significance ratings

The categories used to define significant trees are:

Criteria 1: Horticultural value
Any tree that is of horticultural or genetic value and could be an important source of propagating stock, including specimens that are particularly resistant to disease or exposure.

Criteria 2: Location or context
Any tree that is in a unique location or context and so provides a contribution to the landscape, including remnant indigenous vegetation, important landmarks, and trees that form part of a historic garden, park or town.
Sub-criteria:  
1. Historic garden or park  
2. Historic cemetery  
3. Important landmark  
4. Remnant indigenous vegetation  
5. End of natural range  
6. Contribution to landscape  
7. Historic town  
8. Historic planting style.

Criteria 3: Rare or localised
Any tree of a species or variety that is rare or of very localised distribution.
Sub-criteria:  
1. Only known specimen  
2. 1 to 10 known specimens  
3. 10 to 50 known specimens  
4. In the wild  
5. End of natural range  
6. Disjunct community.

Criteria 4: Particularly old
Any tree that is particularly old or venerable.

Criteria 5: Outstanding size
Any tree outstanding for its large height, trunk circumference, or canopy spread.
Sub-criteria:  
1. Height  
2. Circumference  
3. Canopy spread  
4. Height x circumference  
5. Spread x circumference  
6. Height x circumference x spread.

Criteria 6: Aesthetic value
Any tree of outstanding aesthetic significance.

Criteria 7: Curious growth form
Any tree that exhibits a curious growth form or physical feature such as abnormal outgrowths, natural fusion of branches, severe lightning damage, or unusually pruned forms.
Sub-criteria:  
1. Abnormal outgrowths  
2. Fusion of branches  
3. Unusually pruned  
4. Unusually damaged.
Criteria 8: Historical value
Any tree commemorating a particular occasion (including plantings by royalty) or with association to an important historical event.

Sub-criteria:
1. Cultural group
2. Public feature
3. World War I
4. World War II
5. British royalty
6. Non-British royalty
7. Visiting dignitary
8. Australian public figure
9. Victorian public figure

Criteria 9: Aboriginal culture
Any tree associated with Aboriginal activities.

Sub-criteria:
1. Scarred tree
2. Corroboree tree

Criteria 10: Outstanding example of species
Any tree that is an outstanding example of the species.

Grading of significance
As well as identifying significant trees and the nature of their significance, Council’s Significant Tree Register documents the level of significance of the trees. Five grades are used to classify the level of significance. The grades are consistent with those used for the classification of heritage buildings and places. The definition of ‘cultural significance’ is consistent with the Burra Charter (article 1.2). The grades are:

1. National significance (N) - Any tree of major significance and essential to the national heritage.
2. State significance (S) - Any tree of major significance and essential to the state heritage.
3. Regional significance (R) - Any tree of significance and contributing to the Melbourne metropolitan region’s heritage.
4. Local significance (L) - Any tree of significance and contributing to the municipality of Bayside City Council.
5. Neighbourhood significance (Nb) - Any tree of significance and contributing to the streetscape or neighbourhood landscape in the municipality of Bayside City Council.
SIGNIFICANT TREE ASSESSMENT

SCHINUS ARIERA (PEPPER TREE)

Site Address:
18 Susan Street, Sandringham

Report Prepared for:
Bayside City Council

Prepared by:
Mark Reynolds
Arboricultural Consultant

Prepared 15 November 2016
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1. SUMMARY

The scope of the arboricultural assessment is to undertake a Significant Tree Assessment of two *Schinus acaira* (Peppercorn Trees) located in the south-east corner of 18 Susan Street, Sandringham. This assessment has been undertaken at the request of Bayside City Council.

The assessment of the trees was undertaken on 7 October 2016. The assessment of the trees considered the overall arboricultural characteristics, the growing environment and overall site conditions surrounding the trees. The assessment also identified the tree protection zones (as based upon the Australian Standard AS4970–2009–Protection of Trees on Development Sites) and an assessment of the risk using the Quantified Tree Risk Assessment methodology (QTRA).

The assessment also focused on the ‘significance’ of the trees based upon Bayside Council’s Significant Tree Management Policy 2013 and the National Heritage Trust agreed criteria for assessing significant trees. The significance of the trees is assessed based on 10 individual categories within the Council Policy which are based on the old National Heritage Trust criteria. Recently, the National Heritage Trust has redefined or rearranged the ten individual categories into four broad categories being ‘Scientific’, ‘Social’, ‘Historic’ and ‘Aesthetic’. Although both the Bayside Council Significant Tree Management Policy 2013 and the National Trust Criteria are the same, comment is made regarding the exact categories and weight each assessment system. The categories were used to assess the trees for significance in a local context within the City of Bayside. For the purposes of this assessment, it is considered that if the tree or trees meets at least one of the criteria (based on the Significant Tree Management Policy 2013 of the City of Bayside), then consideration should be given to including the trees on the Bayside Significant Tree Register.

The subject trees are an arctic species, being *Schinus acaira* (Peppercorn) which are potentially 80-120 years old. The overall condition of the trees is considered to be good, however, there are a number of old hollows within the trees and decay in a number of branches.

The assessment of the trees for significance found that the trees meet the Bayside Council’s Policy criteria 5: ‘Outstanding Site’ for their combined canopy dimensions and criteria 6: ‘Aesthetic Value’ for their aesthetic significance to the site and immediate local area. This rating is aligned to the National Heritage Trust criteria being the ‘Social’ criteria for its contribution to the landscape and the ‘Aesthetic’ criteria for their outstanding combined canopy size. It must be noted that this assessment is based on a local context within the City of Bayside and these trees are located only in the Local and Neighbourhood Significance ratings within Council’s Significant Tree Management Policy 2013. There is some evidence that the trees are relatively old with 1945 aerial photography showing the trees with a reasonably large canopy spread.

As the trees meet at least one of the Significant Tree Criteria it is recommended that the trees as a group be included in the City of Bayside Register of Significant Trees.

2. SCOPE AND OBJECTIVES

Arbor Survey Pty Ltd was engaged by Bayside Council to prepare a Significant Tree Assessment (in line with the Guidelines of the National Heritage Trust for the assessment of Significant Trees) for two (2) trees located towards the south east corner of 18 Susan Street, Sandringham. The objectives of the assessment are:

- Provide an assessment of the site conditions surrounding the subject tree.
• Undertake an assessment of the health, structure and overall condition of the subject tree
• Determine the tree protection zone of the tree based upon the Australian Standard AS4970–2009–Protection of Trees on Development Sites
• Undertake a Quantified Tree Risk Assessment of the subject tree
• Investigate any historic significance of the subject tree (where possible)
• Undertake an assessment of the significance of the tree based upon the Bayside Council Significant Tree Management Policy 2013 and the National Heritage Trust agreed categories of significance.

3. SITE LOCATION AND SURVEY METHODOLOGY

3.1. SITE LOCATION

The subject trees are located towards the south east corner of 18 Susan Street, Sandringham. The site is a relatively flat parcel of land with a minor change in grade across the site. The recent aerial photograph below shows the location of the trees and the approximate outline of the property boundaries.

3.2. SURVEY METHODOLOGY

The collection of data was undertaken by Mark Reynolds on Friday 7 October 2016. The data was captured on site of the characteristics of the subject trees and is recorded in this report in a detailed table, located in Section 4.

The trees were assessed and the Genus/species, origin, estimated height and canopy width, calculated diameter at breast height (DBH) and the characters of health and structure were recorded. Additionally, age class and arboricultural value of the trees was assessed using the descriptors as set out in the explanation of terms in Appendix 8.3. Physical tree dimensions were used to assess the tree protection and structural root zones based upon the Australian Standard AS4970:2009 – Protection of Trees on Development Sites.
4.2 125-127 CENTRE ROAD, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NUMBER 2014/633/3  WARD: NORTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/96003

1. Purpose

To report a planning permit application for a Section 72 Amendment to Planning Permit 2014/633/3 which allows the use and development of a childcare centre, associated signage, alterations to an existing crossover, creation of a new crossover onto a Road Zone Category 1 (refer application plans) at 125-127 Centre Road, Brighton (refer Attachment 1).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Perkins Architects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>13 January 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>28 April 2017</td>
</tr>
</tbody>
</table>

The submitted amendment seeks to vary the amount of staff permitted on site at any one time.

Condition 5 currently states that:

‘No more than 24 staff members are permitted on site at any time.’

This amendment seeks to increase the number of staff to 32.

2. Background

Planning permit 2014/633/1 was issued under delegation on 18 June 2015 for the use and development of a childcare centre, associated signage, alterations to an existing crossover, creation of a new crossover onto a Road Zone Category 1. The approved childcare centre is currently under construction.

An appeal to VCAT against conditions of the permit pertaining to waste management was lodged by the permit applicant. The Tribunal varied Council’s conditions relating to waste management.

3. Policy implications

There are no planning permit triggers associated with the proposed amendment.

Original planning permit requirements

Clause 32.09-1 (Neighbourhood Residential Zone) – Use of land for a childcare centre (section 2 use).

Clause 32.09-7 (Neighbourhood Residential Zone) – Buildings and works associated with a section 2 use.

Clause 52.05 - Advertising Signs.

Clause 52.29 – Land Adjacent to a Road Zone Category 1
Planning scheme amendments

4. Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

5. Stakeholder Consultation

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic Engineer</td>
<td>No objection</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and six objections were received. The following concerns were raised:
- No additional parking is provided
- Traffic safety issues

Consultation meeting
The applicant declined a consultation meeting.

Recommendation
That Council:

Issues a Notice of Decision to Grant an Amended Planning Permit under the provisions of the Bayside Planning Scheme in respect of the land known and described as 125-127 Centre Road, Brighton, for the use and development of a childcare centre, associated signage, alterations to an existing crossover, creation of a new crossover onto a Road Zone Category 1 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application but modified to show:
   a) A landscape plan in accordance with Condition 19 of this planning permit;
   b) Deleted
   c) The vehicle ramps providing access/egress from the basement car park widened to 4.0 metres where the ramps meet the basement finished floor level;
   d) The 0.3 metre kerbs on either side of the vehicle ramps deleted ensuring a minimum width of 3.6 metres; and
e) The tandem car spaces (1-4 and 19-27) allocated as staff only parking and car spaces 6-9 and 10-18 allocated and clearly signed and line marked as ‘drop/off/pick up only.

f) Deleted

g) Sixty degree splays along both sides of the crossovers.

h) Adequate signage and line marking must be installed at the top of each ramp to ensure and regulate traffic to/from the street and within the basement.

i) The sight distance at the top of the ramps complying with AS2890.1 requirements. Clear splays must be provided on both sides of the ramps.

j) A longitudinal section of each ramp that shows all grades, length of grades, AHD levels and headroom clearances in accordance with AS2890.

k) ** Provision of five additional bicycle spaces (total of 10 bicycle spaces). All bicycle spaces are to be designed in accordance with Clause 52.34 of the Bayside Planning Scheme (bicycle facilities), or otherwise to the satisfaction of the Responsible Authority. **

l) ** A car park management plan in accordance with Condition 30. **

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

3. The use may operate only between the hours of 7:30am to 6:30pm Monday to Friday.

4. No more than 112 children may be present on the premises at any one time.

5. ** No more than 32 staff members are permitted on site at any one time. **

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

7. All 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.

8. 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.

9. Prior to the commencement of development, a Construction Management Plan (CMP) must be submitted to the Responsible Authority for approval. When approved, the plan will be endorsed and will then form part of this permit. The CMP must include (but is not limited to):

   a) Pedestrian access will be maintained at all times along the Centre Road footpath adjacent to the site;

   b) All site facilities will be located on site during the construction period;

   c) All waste material not required for further on-site processing will 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 to the satisfaction of the Responsible Authority.

   d) All storage areas/external stockpiles/vacant areas must be covered and maintained to avoid dust nuisance to any residential area to the satisfaction of the Responsible Authority.
e) A truck wheel-wash must be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways to the satisfaction of the Responsible Authority.

The CMP must be implemented to the satisfaction of the Responsible Authority with all works completed in compliance with environmental health requirements.

10. The amenity of the area must not be detrimentally affected by the use or development, by the:
   a) transport of materials, goods or commodities to or from the land;
   b) appearance of any building, works or materials;
   c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
   d) Presence of vermin;
   e) By any other circumstances.

11. All operations of the site (internally and externally) must comply with SEPP N-1 and/or SEPP N-2 policies and/or Environment Protection Authority Technical Guidelines.

   The Responsible Authority may direct the owner and/or occupier to undertake noise measurements by a suitably qualified acoustic consultant and a report must be submitted to Council for compliance in relation to the SEPP N-1 and/or SEPP N-2 policies and/or Environment Protection Authority Technical Guidelines.

VicRoads Conditions

12. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Roads Corporation prior to the occupation of the buildings hereby approved.

13. The crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Roads Corporation prior to the occupation of the works hereby approved.

14. Prior to the occupation of the buildings hereby approved, the access lanes, driveways, crossovers and associated works must be provided and available for use and be:
   a) Formed to such levels and drained so that they can be used in accordance with the plan.
   b) Treated with an all-weather seal or some other durable surface.

15. Driveways must be maintained in a fit and proper state so as not to compromise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (e.g. by spilling gravel onto the roadway).

Public Transport Victoria Conditions

16. The existing bus stop and associated infrastructure on Centre Road must not be altered without the prior consent of Public Transport Victoria. Any alterations including temporary works or damage during construction must be rectified to the satisfaction of Public Transport Victoria and at the cost of the permit holder.

17. The permit holder must take all reasonable steps to ensure that disruption to bus operation along Centre Road is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen days (14) prior.

18. Before the commencement of the use starts, a Waste Management Plan must be submitted and approved by the Responsible Authority. The Waste Management Plan
must include (but is not limited to) the provision of a private Commercial Waste collector to supplement the council’s waste collection service.

a) Refer to above paragraph
b) Deleted
c) Deleted
d) Deleted

19. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must show:

a) a survey (including botanical names) of all existing vegetation to be retained and/or removed
b) buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary
c) details of surface finishes of pathways and driveways
d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant
e) landscaping and planting within all open areas of the site

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

The landscape plan must also indicate that an in-ground irrigation system is to be provided to all landscaped areas.

20. Before the use/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.

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

22. Before the development starts a fee of $2259.70 must be paid to Council for the removal of the existing street tree. The cost associated with the removal and replacement of the existing street tree has been determined in accordance with Council’s current policy for the removal of street tree(s). The 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(s) 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(s). Any replacement planting will be at the discretion of the Responsible Authority.

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

24. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.35. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.
25. Any subsurface water captured on the site must be treated in accordance with Council’s Policy for "Discharge of pumped Subterranean Water Associated with Basement or Below Ground Structures".

26. Any seepage/agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain/Pit and not be discharged to the kerb and channel unless directed otherwise.

27. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:
   i) A trench grate (150mm minimum internal width) located within the property and/or
   ii) Shaping the driveway so that water is collected in a grated pit on the property and/or
   iii) Another Council approved equivalent.

28. 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 and approved by Council’s Engineering Services department.

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

30. Prior to the commencement of the use hereby permitted, a comprehensive Car Parking Management Plan shall be submitted to, and approved by the Responsible Authority. The Parking Management Plan must include (but no be limited to) the following:
   a) How on-site parking will be managed and allocated for staff
   b) How on-site parking will be allocated between staff and parents throughout the day; with specific attention to afternoon peaks
   c) On-going management and allocation of the bicycle parking facilities.

The Parking Management Plan must be complied with to the satisfaction of the Responsible Authority.

Permit expiry

31. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.
   c) The use does not start within four years of the date of this permit.
   d) The use is discontinued for a period of two years.

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 the development/use has not commenced; or
   ➢ Within 12 months afterwards if the development has lawfully commenced.
Permit Notes:

- The proposed development requires the construction of a crossover, and the reinstatement of disused crossovers. Separate approval under the Road Management Act for this activity may be required from VicRoads. Please contact VicRoads prior to commencing any works.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
- Building approval must be obtained prior to the commencement of the above approved works.
- Premises used for prescribed accommodation, hairdressing, beauty therapy and skin penetration including ear piercing, electrolysis, tattooing and body piercing in any manner whatsoever are to be registered under the Health Act, 1958 and require Council approval via the Environmental Health Co-ordinator before occupation.
- Consultation should take place with Council respect of the removal of the vehicular crossing and reinstatement works.
- Reticulated sewerage must be provided to the requirements of the Sewerage Authority.
- 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>
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<tbody>
<tr>
<td>13 June 2017</td>
<td>Amendment to the permit under Section 72 of the Planning and Environment Act 1987 to:</td>
</tr>
<tr>
<td></td>
<td>• Amend condition 5 to state ‘No more than 32 staff members are permitted on site at any one time.’</td>
</tr>
<tr>
<td></td>
<td>• Include condition 1(k) to require an amended plan to show the additional cycle parking.</td>
</tr>
<tr>
<td></td>
<td>• Include condition 1 (j) and 30 requiring the provision of a car parking management plan and re-number subsequent conditions accordingly.</td>
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</table>

Permit Notes

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 January 2016</td>
<td>The Tribunal directs that Permit no. 2014/633/1 must contain the conditions in the permit issued by the Responsible Authority on 18 June 2015 with the following modifications.</td>
</tr>
<tr>
<td></td>
<td>a. Condition 1(b) is deleted.</td>
</tr>
<tr>
<td></td>
<td>b. Condition 1(f) is deleted.</td>
</tr>
<tr>
<td></td>
<td>c. Condition 1(a) is expanded to include the words “to supplement the council’s waste collection service” after the words “private Commercial Waste collector”. (Incorrect number used)</td>
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<tr>
<td></td>
<td>d. Conditions 18(b), (c) and (d) are deleted.</td>
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</tbody>
</table>
Paragraph (a) of Condition 18 is merged with the first part of Condition 18.

The Responsible Authority is directed to issue a modified permit in accordance with this order.

27 January 2016

Pursuant to section 119 Victorian Civil and Administrative Tribunal Act 1998 the Tribunal’s Order in application number P1668/2015 dated 20 January 2016 is corrected as follows.

Order 2(c) is amended to substitute “Condition 18(a)” for “Condition 1(a)”.

6. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme

- Clause 17 Economic Development
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.07 Economic Development
- Clause 21.09 Transport and Access
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.07 Discretionary Uses in Residential Areas
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 52.29 Land Adjacent to a Road Zone Category 1
- Clause 52.36 Integrated Public Transport Planning
- Clause 65 Decision Guidelines

7. Considerations

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

7.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct D2. The physical form and design of the building has not changed under this amendment application from what has previously been approved and found to be compliant. As such a new assessment against the impact on neighbourhood character is not considered to be necessary.

7.2. Car parking and traffic

Clause 52.06 (car parking) details the applicable rate for a childcare centre as 0.22 car parking spaces per child. The centre will have a maximum capacity of 112 children, thereby equating to a car park requirement of 24 car spaces.
Clause 22.07 (Discretionary Uses in a Residential Area) outlines alternative parking rates as a guide for discretionary uses. For a childcare centre, the applicable rate is 0.7 spaces per full-time staff member and 0.1 space per child. This equates to a provision of 29 car spaces for the already approved scheme and 33 car spaces for the proposed amendment.

The application (as already approved) includes a total of 27 basement parking spaces, therefore exceeding the statutory provision for car parking associated with a child care centre pursuant to clause 52.06.

The car park layout and provision is not proposed to be amended as part of this application.

Condition 1(e) on the permit requires a certain number of car spaces be allocated for staff (13) and parent pick up/drop off (14).

Clause 22.07 states that a reduction of the car parking provisions may be considered if the responsible authority is satisfied that there is adequate on-street car parking, or public transport conveniently available, or the nature of the use has particular characteristics that warrant special consideration.

Within the immediate vicinity of the site, there is unrestricted on-street parking on both sides of Centre Road. In addition, bus stops are located directly outside the subject site on both sides of the road. The applicant has advised that the proposed increase in the number of staff members is to meet the legislative requirements stipulated by the Department of Education and Training. These changes were introduced in January 2016, after the original planning permit was granted.

The applicant has advised that additional bicycle parking facilities can be accommodated on-site to help mitigate traffic and car parking concerns. This is recommended as a condition of permit.

In order to ensure that the parking within the basement is managed appropriately between parents and staff, a condition requiring the provision of a car parking management plan is recommended to ensure efficient management of the basement parking.

Objections received

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

Traffic safety issues

Council’s Traffic Engineer has raised no concerns in relation to traffic safety. The proposed amendment relates to allowing an additional 8 full-time members of staff on the site. Centre Road is a Road Zone Category 1, with good public transport networks and on-street parking. It is not considered that this proposed amendment will have any adverse impacts in terms of traffic safety measures.

Support Attachments

1. Planning Permit ↓
2. Endorsed Plans ↓
27 January 2016

Perkins Architects Pty Ltd
153 High Street
PRAHRAN VIC 3181

Dear Sir or Madam,

Application Number: 5/2014/633/1
Address: 125 - 127 Centre Road BRIGHTON EAST
Proposal: Use and development of a childcare centre, associated signage, alterations to an existing crossover, creation of a new crossover onto a Road Zone Category 1

Further to the Tribunal’s decision the above planning permit has been varied and is now issued subject to the conditions set out.

Please note conditions 1, 9, 11, 17, 18, 19, 22 and 28 of the planning permit and request that you submit the required information as soon as possible.

The use and development must be carried out in accordance with this permit. Failure to do so would breach the Planning Scheme provisions and this permit. Any changes to your plans or permit must be approved by Council. Council looks forward to your cooperation in this matter.

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

Sanela Kabas
Email: enquiries@bayside.vic.gov.au
Telephone: 9599 4644

Please quote planning application 5/2014/633/1 – 125 - 127 Centre Road BRIGHTON EAST in all correspondence / emails.

Yours faithfully

P.P. S.K.

STATUTORY PLANNING DEPARTMENT

Enc.
PLANNING PERMIT
5/2014/633/1
(Amended)

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land: No. 125 - 127 Centre Road BRIGHTON EAST
Use and development of a childcare centre, associated signage, alterations to an existing crossover, creation of a new crossover onto a Road Zone Category 1 in accordance with the endorsed plans and subject to the following conditions.

The Permit Allows:

The Following Conditions Apply To This Permit:

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

a) A landscape plan in accordance with Condition 19 of this planning permit;

b) Deleted

c) The vehicle ramps providing access/egress from the basement car park widened to 4.0 metres where the ramps meet the basement finished floor level;

d) The 0.3 metre kerbs on either side of the vehicle ramps deleted ensuring a minimum width of 3.6 metres; and

e) The tandem car spaces (1-4 and 19-27) allocated as staff only parking and car spaces 6-9 and 10-18 allocated and clearly signed and line marked as 'drop/off/pick up only.

f) Deleted

g) Sixty degree splay along both sides of the crossovers.

h) Adequate signage and line marking must be installed at the top of each ramp to ensure and regulate traffic to/from the street and within the basement.

i) The sight distance at the top of the ramps complying with AS2890.1 requirements. Clear splay must be provided on both sides of the ramps.

j) A longitudinal section of each ramp that shows all grades, length of grades, AHD levels and headroom clearances in accordance with AS2890.

Date issued: 18 June 2015
Date Amended: 27 January 2016

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.
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—
  (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 use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. The use may operate only between the hours of 7:30am to 6:30pm Monday to Friday.

4. No more than 112 children may be present on the premises at any one time.

5. No more than 24 staff members are permitted on site at any one time.

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

7. All 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.

8. 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.

9. Prior to the commencement of development, a Construction Management Plan (CMP) must be submitted to the Responsible Authority for approval. When approved, the plan will be endorsed and will then form part of this permit. The CMP must include (but is not limited to):
   a) Pedestrian access will be maintained at all times along the Centre Road footpath adjacent to the site;
   b) All site facilities will be located on site during the construction period;
   c) All waste material not required for further on-site processing will 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 to the satisfaction of the Responsible Authority.
   d) All storage areas/external stockpiles/vacant areas must be covered and maintained to avoid dust nuisance to any residential area to the satisfaction of the Responsible Authority.
   e) A truck wheel-wash must be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways to the satisfaction of the Responsible Authority.

The CMP must be implemented to the satisfaction of the Responsible Authority with all works completed in compliance with environmental health requirements.
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:
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* 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
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     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
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* 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.
PLANNING PERMIT
5/2014/633/1
(Amended)

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

10. The amenity of the area must not be detrimentally affected by the use or development, by the:
   a) transport of materials, goods or commodities to or from the land;
   b) appearance of any building, works or materials;
   c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
   d) Presence of vermin;
   e) By any other circumstances.

11. All operations of the site (internally and externally) must comply with SEPP N-1 and/or SEPP N-2 policies and/or Environment Protection Authority Technical Guidelines.

   The Responsible Authority may direct the owner and/or occupier to undertake noise measurements by a suitably qualified acoustic consultant and a report must be submitted to Council for compliance in relation to the SEPP N-1 and/or SEPP N-2 policies and/or Environment Protection Authority Technical Guidelines.

VicRoads Conditions

12. All disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Roads Corporation prior to the occupation of the buildings hereby approved.

13. The crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Roads Corporation prior to the occupation of the works hereby approved.

14. Prior to the occupation of the buildings hereby approved, the access lanes, driveways, crossovers and associated works must be provided and available for use and be:
   i) Formed to such levels and drained so that they can be used in accordance with the plan.
   ii) Treated with an all-weather seal or some other durable surface.

15. Driveways must be maintained in a fit and proper state so as not to comprise the ability of vehicles to enter and exit the site in a safe manner or compromise operational efficiency of the road or public safety (e.g. by spilling gravel onto the roadway).

Date issued: 18 June 2015
Date Amended: 27 January 2016

Planning and Environment Regulations 2006 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.
### 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—*
  1. the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal;
  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 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.
### PLANNING PERMIT

<table>
<thead>
<tr>
<th>5/2014/633/1 (Amended)</th>
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<tbody>
<tr>
<td>Responsible Authority: Bayside City Council</td>
</tr>
<tr>
<td>Planning Scheme: Bayside</td>
</tr>
</tbody>
</table>

#### Public Transport Victoria Conditions

16. The existing bus stop and associated infrastructure on Centre Road must not be altered without the prior consent of Public Transport Victoria. Any alterations including temporary works or damage during construction must be rectified to the satisfaction of Public Transport Victoria and at the cost of the permit holder.

17. The permit holder must take all reasonable steps to ensure that disruption to bus operation along Centre Road is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen days (14) prior.

18. Before the commencement of the use starts, a Waste Management Plan must be submitted and approved by the Responsible Authority. **The Waste Management Plan must include (but is not limited to) the provision of a private Commercial Waste collector to supplement the council's waste collection service.**

   a) Refer to above paragraph
   b) Deleted
   c) Deleted
   d) Deleted

19. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must show:

   a) a survey (including botanical names) of all existing vegetation to be retained and/or removed
   b) buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary
   c) details of surface finishes of pathways and driveways
   d) a planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant
   e) landscaping and planting within all open areas of the site

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

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**Date issued:** 18 June 2015  
**Date Amended:** 27 January 2016

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Note: Under Part 4, Division 1A of the Planning and Environment Act 1997, 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

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.
20. Before the use/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.

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

22. Before the development starts a fee of $2259.70 must be paid to Council for the removal of the existing street tree. The cost associated with the removal and replacement of the existing street tree has been determined in accordance with Councils current policy for the removal of street tree(s). The 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(s) 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(s). Any replacement planting will be at the discretion of the Responsible Authority.

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

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

25. Any subsurface water captured on the site must be treated in accordance with Council's Policy for "Discharge of pumped Subterranean Water Associated with Basement or Below Ground Structures".

26. Any seepage/agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain/Pit and not be discharged to the kerb and channel unless directed otherwise.

27. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:
   i) A trench grate (150mm minimum internal width) located within the property and/or
   ii) Shaping the driveway so that water is collected in a grated pit on the property and/or
   iii) Another Council approved equivalent.

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Date issued: 18 June 2015
Date Amended: 27 January 2016

Planning and Environment Regulations 2006 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.
FORM 4
PLANNING PERMIT
Sections 83 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
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  (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
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WHEN DOES A PERMIT EXPIRE?
1. A permit for the development of land expires if—
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     1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a
different provision; or
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     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
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     completion of the development; or
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4. If a permit for the use of land or the development and use of land or relating to any of the circumstances
   mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use,
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WHAT ABOUT APPEALS?
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* 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.
28. 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 and approved by Council’s Engineering Services department.

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

30. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.
   c) The use does not start within four years of the date of this permit.
   d) The use is discontinued for a period of two years.

   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 the development/use has not commenced; or
   ➢ Within 12 months afterwards if the development has lawfully commenced.

**Permit Notes**

- The proposed development requires the construction of a crossover, and the reinstatement of disused crossovers. Separate approval under the Road Management Act for this activity may be required from VicRoads. Please contact VicRoads prior to commencing any works.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
- Building approval must be obtained prior to the commencement of the above approved works.
- Premises used for prescribed accommodation, hairdressing, beauty therapy and skin penetration including ear piercing, electrolysis, tattooing and body piercing in any manner whatsoever are to be registered under the Health Act, 1958 and require Council approval via the Environmental Health Co-ordinator before occupation.

**Date issued:** 18 June 2015

**Date Amended:** 27 January 2016

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.
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?
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or
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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.
PLANNING PERMIT
5/2014/633/1 (Amended)

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

- Consultation should take place with Council respect of the removal of the vehicular crossing and reinstatement works.
- Reticulated sewerage must be provided to the requirements of the Sewerage Authority.
- 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 9999 4638.

Permit Notes

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 January 2016</td>
<td>2. The Tribunal directs that Permit no. 2014/633/1 must contain the conditions in the permit issued by the Responsible Authority on 18 June 2015 with the following modifications.</td>
</tr>
<tr>
<td></td>
<td>a Condition 1(b) is deleted.</td>
</tr>
<tr>
<td></td>
<td>b Condition 1(f) is deleted.</td>
</tr>
<tr>
<td></td>
<td>c Condition 1(a) is expanded to include the words “to supplement the council’s waste collection service” after the words “private Commercial Waste collector”. (Incorrect number used)</td>
</tr>
<tr>
<td></td>
<td>d Conditions 18(b), (c) and (d) are deleted.</td>
</tr>
<tr>
<td></td>
<td>Paragraph (a) of Condition 18 is merged with the first part of Condition 18. The Responsible Authority is directed to issue a modified permit in accordance with this order.</td>
</tr>
<tr>
<td>27 January 2016</td>
<td>Pursuant to section 119 Victorian Civil and Administrative Tribunal Act 1998 the Tribunal’s Order in application number P1668/2015 dated 20 January 2016 is corrected as follows.</td>
</tr>
<tr>
<td></td>
<td>Order 2(c) is amended to substitute “Condition 18(a)” for “Condition 1(a)”</td>
</tr>
</tbody>
</table>

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.

Date issued: 18 June 2015
Date Amended: 27 January 2016

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

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.
4.3 18-20 MONTCLAIR AVENUE, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NUMBER: 2016/371/2  WARD:NORTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/90432

1. Purpose

To report a planning permit application for a Section 72 Amendment to Planning Permit 2016/371/2 which allows the construction and three storey building extension of the existing Montclair aged care facility at 18-20 Montclair Avenue, Brighton (refer Attachment 1).

The submitted amendment seeks to reword the requirements of condition 1(b) of the planning permit. Condition 1(b) requires the follows:

‘The side setback of the new building from the north boundary increased to 3.49 metres. The balconies at ground and first floor must not project more than 1 metre from the building, except the Juliette balconies which must remain at 600mm.’

The amended application lodged with Council proposes to reword condition 1 (b) as follows:

‘The side setback of the new building from the north boundary to be consistent with Standard B17 of Clause 55 of the Bayside Planning Scheme being 2.7m for a 7.6m high wall, other than a façade parapet return that extends 2m opposite the north boundary which shall also be at a 2.7m setback. The balconies at ground and first floor must not project more than 1metre from the building.’

The existing condition requires the entire wall to be set back 3.49 metres from the northern boundary. The northern wall has a height that varies from 7.6 – 8.4 metres.

A 7.6 metre wall height requires a setback of 2.7 metres, while an 8.4 metre wall height requires a setback of 3.49 metres in accordance with Standard B17.

The portion of wall with an 8.4 metre height is associated with a parapet element that extends a length of 2.0 metres from the façade. The remainder of the wall height is 7.6 metres.

The plans submitted with the amended application show that the entire wall of the new building will be setback 2.7 metres from the northern boundary.

2. Background

Planning permit 2016/371/1 was issued on 1 February 2017 for the construction and three storey building extension of the existing Montclair aged care facility.

The application was determined at the Planning and Amenity Committee meeting of 12
December 2016. Plans are yet to be endorsed as part of this application.

3. **Policy implications**

There are no planning permit triggers associated with the proposed amendment.

**Original planning permit requirements**

Clause 32.08-4 (General Residential Zone) – Construct or extend a residential building

Clause 43.01-1 (Heritage Overlay) – Demolish or remove a building and construct a building or construct or carry out works

Clause 43.02-2 (Design and Development Overlay) – Construct a building or construct or carry out works for a building that exceeds 9 metres in height.

**Planning scheme amendments**

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

4. **Stakeholder Consultation**

**External referrals**

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

**Internal referrals**

The application was not referred to any internal Council department for comment, and can be adequately assessed with existing planning policy and consideration of existing permit conditions.

**Public notification**

The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act p1987 and five objections were received. The following concerns were raised:

- Dominant proposal, which is out of character with the streetscape
- Proximity to northern boundary
- Loss of privacy
- Impact on landscaping along the northern boundary
- Front setback will result in overlooking
- Parking
- Vehicular access to site
- Loading and unloading

**Consultation meeting**

The applicant declined a consultation meeting.
5. Recommendation
That Council:

Issues a Notice of Decision to Grant an Amended Planning Permit under the provisions of the Bayside Planning Scheme in respect of the land known and described as 18-20 Montclair Avenue, Brighton, for the construction and three storey building extension of the existing Montclair aged care facility 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 Smith+Tracey Architects, reference Job No: 13064, dated 18/11/2016 with Dwg No: DA1101-DA1103 Rev/C, DA2000-DA2001 Rev/C, DA3001-DA3003 Rev/C and DA4100 Rev/C, submitted with the application but modified to show:

a) The front setback of the new building on 20 Montclair Avenue increased to 9 metres, with balconies only projecting by 1 metre from the building.

b) The side setback of the new building from the northern boundary to be consistent with Standard B17 of Clause 55 of the Bayside Planning Scheme, other than a 1.2 metre section along the westernmost part of the wall which shall taper down in height from 8.4 metres to 7.6 metres. The balconies at ground and first floor must not project more than 1 metre from the building, except the Juliette balconies which must remain at 600mm.

c) The ground level west facing wall of bedroom 1 setback to match that of the bedroom 5 west facing wall setback on the first floor. The material used for the ground level west facing wall of bedroom 1 must match that used on the first floor of bedroom 5.

d) All ground, first and second floor windows with an outlook to an adjoining property habitable room window or secluded private open space must be screened in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme.

e) The new metal handrail on the first floor balcony on the heritage building known as “Bendurb” is to be of stainless steel construction.

f) Details, including floor plans and elevations of the front fence and gate on Montclair Avenue. Such fence must not exceed 1.4 metres in height and must be at least 25% transparent, with major posts expressed only at ends, corners and gates and of a design to the satisfaction of the Responsible Authority.

g) The widening of the existing vehicle crossing to accommodate the widening of the widened on site driveway.

h) Adequate sight lines must be provided where the proposed driveway intersects with the footpath as per the diagram shown in the AS2890.1.

i) 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 and south of the ridge line of the second floor of the new additions on 20 Montclair Avenue, but must not exceed the height of the 11m ridge line.
j) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).

k) Water sensitive urban design measures in accordance with Condition 9 of this permit.

l) An Annotated Photographic Study in accordance with Condition 10 of this permit.

m) An amended Landscape Plan in accordance with Condition 11 of this permit.

n) A Tree Management and Protection Plan in accordance with Condition 14 of this permit.

o) A Construction Management Plan in accordance with Condition 20 of this permit.

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

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

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

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

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

7. 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.

8. 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.

9. Prior to the endorsement of plans pursuant to Condition 1 of this permit, 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.
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.

**Recording of building**

10. Prior to the endorsement of plans pursuant to Condition 1 of this permit and before demolition begins, an annotated photographic study of archival quality of the building prepared by a suitably qualified person to the satisfaction of the Responsible Authority must be submitted to the Responsible Authority as a record of the building at 20 Montclair Avenue, Brighton. The survey must include:

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

**Landscaping**

11. Prior to the endorsement of plans pursuant to Condition 1 of this permit, an amended 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 Formium, reference 1906:LC2 Rev F, dated Oct 2016 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A survey, including botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.  
b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.  
c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.  
d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.  
e) Details of surface finishes of pathways and driveways.  
f) The Tristaniopsis (Luscious) being planted along the northern boundary opposite the rear yard of 22 Montclair Avenue to be 3 metres in height at time of planting.  
g) The existing retaining wall treatment between the site and 22 Montclair Avenue to be retained to pre-development conditions.  
h) Any consequential changes required by Condition 1 of this permit.

12. The landscaping and trellis as shown on the endorsed plans must be constructed within one month of the construction of the basement carpark to the satisfaction of the Responsible Authority.
13. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

**Tree Management and Protection Plan**

15. Prior to the endorsement of plans pursuant to Condition 1 of this permit, 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.

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

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

**Street Tree Protection**

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

**Drainage**

19. Before the development starts, the permit holder must apply to Council for the Legal Point of Discharge for the development from where storm-water is drained under gravity to the Council network.
20. Before the development, detailed plans indicating, but not limited to, the method of storm-water discharge to the nominated Legal Point of Discharge (and On-Site Detention System where applicable) must be submitted to and approved by Council’s Infrastructure Assets Department.

Construction Management Plan

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

   a) A detailed schedule of works including a full project timing.
   b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.
   c) The location for the parking of all construction vehicles and construction worker vehicles during construction.
   d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.
   e) Proposed traffic management signage indicating any inconvenience generated by construction.
   f) Fully detailed plan indicating where construction hoardings would be located.
   g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.
   h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.
   i) Site security.
   j) Public safety measures.
   k) Construction times, noise and vibration controls.
   l) Restoration of any Council assets removed and/or damaged during construction.
   m) Protection works necessary to road and other infrastructure (limited to an area reasonable proximate to the site).
   n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).
   o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.

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

r) Details of crane activities, if any.

**Permit expiry**

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

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

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

**Permit Notes:**

- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council's Policy for "Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- The existing street tree/s must not be removed or damaged.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>13 June 2017</td>
<td>Amendment to the permit under Section 72 of the Planning and Environment Act 1987 to:</td>
</tr>
<tr>
<td></td>
<td>• Amend condition 1(b) to state ‘the side setback of the new building from the northern boundary to be consistent with Standard B17 of Clause 55 of the Bayside Planning Scheme, other than a 1.2 metre section along the westernmost part of the wall which shall taper in height down from 8.4 metres to 7.6 metres. The balconies at ground and first floor must not project more than 1 metre from the building, except the Juliette balconies which must remain at 600mm.'</td>
</tr>
</tbody>
</table>
6. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.11 Local Areas
- Clause 22.05 Heritage Policy
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.07 Discretionary Uses in Residential Areas
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.01 Heritage Overlay (Schedule 251)
- Clause 43.02 Design and Development Overlay (Schedule 10)
- Clause 52.06 Car parking
- Clause 52.07 Loading and Unloading of Vehicles
- Clause 55 Two or more dwellings on a lot and Residential Buildings
- Clause 65 Decision Guidelines

7. **Considerations**

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

7.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct B5 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2.

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

The proposed amendment to the permit relates only to the side setbacks of the development. As such a full Clause 55 assessment has not been carried out, only an assessment against Standard B17 which is the applicable standard.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Second Floor</th>
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<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
<td>Required</td>
</tr>
<tr>
<td><strong>North (side)</strong></td>
<td>2.0 metres</td>
<td>2.7 metres</td>
<td>2.69-3.49</td>
</tr>
</tbody>
</table>
The area of non-compliance (which also pertains to the area of the proposed amendment) is associated with the first floor of the building. In particular, it relates to a parapet element (with a height of 8.4 metres) that wraps around the façade and extends for a length of 2.0 metres along the northern elevation. The remainder of the first floor wall height is 7.6 metres.

The entire northern elevation at first floor has a setback of 2.7 metres (excluding the balcony areas).

Condition 1 (b) of the Planning Permit requires the entire wall to be set back 3.49 metres from the northern boundary. Therefore, the setback requirements across the majority of the first floor northern elevation exceed the requirements of Standard B17 (despite its compliance).

The area of non-compliance (the parapet element) is not considered to be an appropriate outcome and results in unreasonable visual bulk when viewed from the adjoining property at 22 Montclair Avenue. It is considered the wall will have an overbearing and unacceptable impact on the amenity of the residents.

It is noted that a parapet element is an appropriately design solution in providing an acceptable streetscape presentation, while also maintaining the design symmetry of the proposal.

Therefore, it is recommended that the parapet wall be tapered down from 8.4 metres to 7.6 metres over a 1.2 metre section. This condition will appropriately reduce the visual bulk of the proposal from the adjoining property to an acceptable level and achieve a satisfactory streetscape presentation.

6.3. Heritage Overlay

The site at 18 Montclair Avenue, known as ‘Bendurb’ is covered by the Heritage Overlay and is individually significant. The proposed amendment does not make any changes to this building over what has already been approved under the original permit. The changes are solely to the three storey addition proposed on the site at 20 Montclair Avenue. As such there will be no impact on the heritage significant of Bendurb.

6.4. Design and Development Overlay

The original application triggered the requirement for a permit under this overlay due to the proposal exceeding 9 metres in height. No change is proposed to the already approved height under this amendment application.

6.5. Objections received

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

Dominant three storey proposal, which is out of character with the streetscape

The proposed three storey extension and new building were approved under the original permit application. There is no change to the height of the buildings under this amendment application. The proposed change to the section of parapet wall on the northern boundary closest to the street will not have any adverse impact on the character of the area over what has already been approved.

Loss of privacy

The proposed change to the parapet wall will not have any impact on the loss of privacy to any neighbouring properties over what has already been approved.
Impact on landscaping along the northern boundary

Condition 11 (f) of the permit requires planting of Tristaniopsis (Luscious) at a height of 3 metres along the northern boundary. Whilst there will be a reduction in the amount of space between the new building and the northern boundary, the separation distance of 2.7 metres is considered to be sufficient to allow for this planting still to occur.

Front setback will result in overlooking

This amendment application does not proposed any changes to the front setback from the original permit.

Parking, vehicle access and loading

This amendment application does not propose any changes to the parking arrangements from the original permit.

Support Attachments

1. Development Plans
2. Site imagery and surrounds
3. Planning Permit
4. Neighbourhood Character Assessment
ATTACHMENT 2
Site and Surrounds Imagery

Legend

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</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objectors</td>
<td>●</td>
</tr>
</tbody>
</table>
Site: Existing heritage building “Bendurb”.

Site: Existing vehicle access into basement along north side of “Bendurb”
Site: Existing dwelling at 20 Montclair Avenue to be demolished for the proposed additions
Existing dwelling at 22 Montclair Avenue
**Address Of The Land:** No. 18 and 20 Montclair Avenue BRIGHTON

**The Permit Allows:** Construction and three storey building extension of the existing Montclair aged care facility with associated car parking 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, prepared by Smith+Tracey Architects, reference Job No: 13064, dated 18/11/2016 with Dwg No: DA1101-DA1103 Rev/C, DA2000-DA2001 Rev/C, DA3001-DA3003 Rev/C and DA4100 Rev/C, submitted with the application but modified to show:
   a) The front setback of the new building on 20 Montclair Avenue increased to 9 metres, with balconies only projecting by 1 metre from the building.
   b) The side setback of the new building from the north boundary increased to 3.49 metres. The balconies at ground and first floor must not project more than 1 metre from the building, except the Juliette balconies which must remain at 600mm.
   c) The ground level west facing wall of bedroom 1 setback to match that of the bedroom 5 west facing wall setback on the first floor. The material used for the ground level west facing wall of bedroom 1 must match that used on the first floor of bedroom 5.
   d) All ground, first and second floor windows with an outlook to an adjoining property habitable room window or secluded private open space must be screened in accordance with Standard B22 of Clause 55 of the Bayside Planning Scheme.
   e) The new metal handrail on the first floor balcony on the heritage building known as “Bendurb” is to be of stainless steel construction.
   f) Details, including floor plans and elevations of the front fence and gate on Montclair Avenue. Such fence must not exceed 1.4 metres in height and must be at least 25% transparent, with major posts expressed only at ends, corners and gates and of a design to the satisfaction of the Responsible Authority.
   g) The widening of the existing vehicle crossing to accommodate the widening of the widened on site driveway.
   h) Adequate sight lines must be provided where the proposed driveway intersects with the footpath as per the diagram shown in the AS2890.1.
   i) 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 and south of the ridge line of the second floor of the new additions on 20 Montclair Avenue, but must not exceed the height of the 11m ridge line.
   j) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   k) Water sensitive urban design measures in accordance with Condition 9 of this permit.
   l) An Annotated Photographic Study in accordance with Condition 10 of this permit.
   m) An amended Landscape Plan in accordance with Condition 11 of this permit.
   n) A Tree Management and Protection Plan in accordance with Condition 14 of this permit.
   o) A Construction Management Plan in accordance with Condition 20 of this permit.
2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.

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

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

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

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

7. 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.

8. 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.
9. Prior to the endorsement of plans pursuant to Condition 1 of this permit, 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.
   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.

Recording of building

10. Prior to the endorsement of plans pursuant to Condition 1 of this permit and before demolition begins, an annotated photographic study of archival quality of the building prepared by a suitably qualified person to the satisfaction of the Responsible Authority must be submitted to the Responsible Authority as a record of the building at 20 Montclair Avenue, Brighton. The survey must include:
   a) Each elevation of the building
   b) The interior of the building
   c) Architectural design detailing of the building
   d) A statement prepared by an architectural historian describing and explaining both the design and construction of the building and the photographs.

Landscaping

11. Prior to the endorsement of plans pursuant to Condition 1 of this permit, an amended 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 Formium, reference 1906:LC2 Rev F, dated Oct 2016 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways.
   f) The Tristaniopsis (Luscious) being planted along the northern boundary opposite the rear yard of 22 Montclair Avenue to be 3 metres in height at time of planting.
   g) The existing retaining wall treatment between the site and 22 Montclair Avenue to be retained to pre-development conditions.
   h) Any consequential changes required by Condition 1 of this permit.

12. The landscaping and trellis as shown on the endorsed plans must be constructed within one month of the construction of the basement carpark to the satisfaction of the Responsible Authority.

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

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

**Tree Management and Protection Plan**

15. Prior to the endorsement of plans pursuant to Condition 1 of this permit, 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.

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

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

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

Drainage

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

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

Construction Management Plan

21. Before the commencement of works, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:
   a) A detailed schedule of works including a full project timing.
   b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.
   c) The location for the parking of all construction vehicles and construction worker vehicles during construction.
   d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.
   e) Proposed traffic management signage indicating any inconvenience generated by construction.
   f) Fully detailed plan indicating where construction hoardings would be located.
   g) A waste management plan including the containment of waste on site: disposal of waste, stormwater treatment and on-site facilities for vehicle washing.
   h) Containment of dust, dirt and mud within the site and method and frequency of clean up procedures in the event of build-up of matter outside the site.
   i) Site security.
   j) Public safety measures.
   k) Construction times, noise and vibration controls.
   l) Restoration of any Council assets removed and/or damaged during construction.
   m) Protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site).
   n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).
   o) An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experience.

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

r) Details of crane activities, if any.

**Permit expiry**

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

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

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

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

**Permit Notes:**

- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset Protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.
- The existing street tree/s must not be removed or damaged.
1 February 2017

G2 Urban Planning
670 Mt Alexander Road
MOONEE PONDS 3039

Dear Sir or Madam,

Application Number: 2016/371/1
Address: 18 and 20 Montclair Avenue BRIGHTON
Proposal: Construction and three storey building extension of the existing Montclair aged care facility with associated car parking

Further to Council’s Notice of Decision, the Victorian Civil & Administrative Tribunal has advised that no appeals have been lodged in respect of Council’s approval of the above application. The above town planning permit is now issued subject to the conditions set out.

Please note conditions 1, 9, 10, 11, 15, 17, 20 and 21 of the planning permit and request that you submit the required information at your earliest convenience.

It is important to note that the use and development of this property must be in accordance with the conditions of the permit. Prior approval from Council must be obtained for any changes to the plans or the permit.

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

Arthur Vatzakis
Email: enquiries@bayside.vic.gov.au
Telephone: 9599 4648

Yours faithfully

STATUTORY PLANNING DEPARTMENT
Enc.
ATTACHMENT 4

Neighbourhood Character Policy (Precinct B5)

Preferred Future Character

The area retains a predominance of pre WW2 dwellings, and in Meyer Crt, 1950s brick dwellings. The new pitched roof dwellings sit within established, largely exotic gardens and respect the older dwellings while not replicating these styles. Dwellings are well articulated in plan and elevation, use simple detailing and contain a variety of materials within the front façade. They are also low in scale and do not dominate the streetscape. Space for the planting of vegetation is provided in front yards by the provision of generous front and side setbacks and locating car ports and garages behind the line of the dwelling. Fences are open in style and appropriate to the era of the dwelling. In Meyer Crt front fences are not provided.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objective</th>
<th>Design Response</th>
<th>Avoid</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>The loss of the dwelling at 20 Montclair Avenue has already been approved; the dwelling at 18 Montclair Avenue, which is covered by a Heritage Overlay will be retained.</td>
</tr>
<tr>
<td></td>
<td>• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era.</td>
<td></td>
<td>The proposed amendment is to the new building on the site at 20 Montclair Avenue.</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>No change from previously approved application. Sufficient space will be retained for landscaping as per the requirements of the condition.</td>
</tr>
<tr>
<td>Objective</td>
<td>Design Response</td>
<td>Avoid</td>
<td>Comment</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>To provide adequate space for front gardens.</td>
<td>Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>No change from approved scheme.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings.</td>
<td>Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>The proposal will still retail space between buildings, albeit with a slightly narrower gap to the northern boundary.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td>No change from approved scheme.</td>
</tr>
<tr>
<td></td>
<td>Provide only one single width driveway crossover per typical site frontage.</td>
<td>Front setbacks dominated by impervious surfaces.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minimise paving in front garden areas including driveways.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that buildings and extensions do not visually dominate the streetscape.</td>
<td>Recess upper level elements from the front façade.</td>
<td></td>
<td>Conditions in the original require the front of the building to be modified to ensure it does not dominate the streetscape and the heritage place.</td>
</tr>
<tr>
<td>To encourage modern and contemporary architectural responses to surrounding dominant building forms.</td>
<td>Adopt, adapt or re-interpret existing building forms (eg. Façade proportions and articulation, roof forms and plan forms) without copying period design details.</td>
<td>Reproduction of historic building styles.</td>
<td>The proposal is modern in its form and appropriately respects the existing character and in particular the built form the additions to the south site of the heritage place at 18 Montclair. The proposal ensures a symmetrical design outcome for this site.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or building massing.</td>
<td>No change from approved scheme. The existing Heritage building on 18 Montclair Avenue will be retained.</td>
</tr>
</tbody>
</table>
### Objective

**To use a variety of building materials and finishes that reflect those in the streetscape.**

- Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.
- Roof materials should generally be terracotta, red black or subdued coloured tiles or similar.
- Use simple building details.

**Avoid**

- Exclusive use of one material on external wall surfaces.
- Period reproduction detailing.

**Comment**

The building incorporates a variety of building materials consistent with the materials found on the site and in the immediate vicinity.

<table>
<thead>
<tr>
<th>Objective</th>
<th>Design Response</th>
<th>Avoid</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To use a variety of building materials and finishes that reflect those in the streetscape.</td>
<td>Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.</td>
<td>Exclusive use of one material on external wall surfaces. Period reproduction detailing.</td>
<td>The building incorporates a variety of building materials consistent with the materials found on the site and in the immediate vicinity.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>Provide open style front fences, other than along heavily trafficked roads. Front fence style should be appropriate to the building era.</td>
<td>High, solid front fencing.</td>
<td>A front fence is proposed at 1.4 metres. This is acceptable given it is proposed to be of a picket style. Conditions are included to require full details of the fence.</td>
</tr>
</tbody>
</table>
4.4 26 COWPER STREET, SANDRINGHAM
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/557/1 WARD: SOUTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/75216

1. Purpose and background
To report a planning permit application for the construction of two double storey dwellings, including a roof deck on a lot with an area of 730 square metres (refer Attachment 1) at 26 Cowper Street, Sandringham (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Robus Group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>10 November 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>9 January 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.
Clause 43.02-2 (Design and Development Overlay 1) – Construction of buildings and works, including a roof deck.

Planning scheme amendments
Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. The site is not included in the SBO nor is it proposed to include it within the SBO.

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

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

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

Public notification

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

- Potential adverse effect on neighbourhood character;
- Inappropriate tree species selection;
- Visual bulk;
- Impact on north-facing habitable room windows;
- Insufficient side setbacks;
- Overshadowing;
- Overlooking; and
- Impact of noise sources.

Consultation meeting

A consultation meeting was held on 17 May 2017 and was attended by the applicant and five objectors. As a result of the meeting, some solutions were reached in regards to potential overlooking, which are reflected in the conditions of the recommendation. No objections were formally withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2016/557/1 for the land known and described as 26 Cowper Street, Sandringham, for the construction of two double storey dwellings, including a roof deck in accordance with the endorsed plans and subject to the following conditions:

1. Before the use and/or development start/s, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application by Robus Architecture, Council date stamped 10 November 2016, job no. 16110, dwg. no TP.00.B – TP.04.B) but modified to show:

a) The north-western edge of the roof terrace setback a minimum of 2m from the edge of the roof.

b) Horizontal screening to the window of Bedroom 2 of the southern dwelling to limit overlooking to the habitable room window at the rear of 3/150 Beach Road.

c) Vertical screening to the window of Bedroom 2 of the northern dwelling angled as such to limit overlooking to the habitable room window at the rear of 3/150 Beach Road and the balcony of 4/150 Beach Road.

d) The alfresco area to the southernmost dwelling setback 2.025m from the southeastern boundary as per the remainder of the wall on that boundary.
e) Details and 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) An amended schedule of construction materials, external finishes and colours (incorporating for example paint samples), incorporating a greater degree of non-masonry materials.

g) Water sensitive urban design measures in accordance with Condition 9 of this permit.

h) An amended Landscape plan in accordance with Condition 13 of this permit.

i) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 16 of this permit.

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

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

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

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

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

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

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

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

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

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

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

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.
10. The water sensitive urban design stormwater treatment system as shown on the endorsed plans must be retained and maintained at all times in accordance with the Urban Stormwater - Best Practice Environmental Management Guidelines, CSIRO 1999, to the satisfaction of the Responsible Authority.

11. 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.

12. 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.

13. Prior to the endorsement of plans pursuant to Condition 1, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Robus Landscape Design, reference 26 Cowper Street, dated November 2016, Issue A, and be drawn to scale with dimensions and three copies provided. The plan must show:
   a) A survey, including botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. The planting schedule must include indigenous trees and shrubs and be suitably tolerant to salt-heavy conditions.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways.

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

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

16. 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.

17. 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.

18. 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.

19. Before the development starts, the applicant must pay $2,776.73 to the Responsible Authority for the removal and replacement of the existing street trees. This amount has been determined in accordance with Council’s current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

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

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

22. 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:

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

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

- 3.1.3 Advocating Council’s planning and urban design objectives.
Bayside Planning Scheme

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.11 Local Areas
- Clause 22.06 Neighbourhood Character Policy F1
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 55 Two or More Dwellings on a Lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct F1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

It is considered that the development maintains and enhances the garden setting by providing ample garden space at both the front and rear, with space to plant substantial vegetation at both the front and rear.

The development enhances the openness of the streetscape by not providing a front fence treatment while also recessing second storey elements to reduce the visual impact of the development’s bulk on the streetscape.

A further refinement of the development’s materials to make the structure less masonry heavy ought to ensure that the development meets all aspects of the preferred neighbourhood character guidelines. This is included as a condition on the recommendation.

6.2. Design and Development Overlay (Schedule 1)

The DDO1 specifies the following requirements for a roof deck.

A roof deck must:

- Be designed and constructed of materials that integrate with the architectural style and form of the building.
- Be set back at least 2 metres from the roof edge immediately below on all sides to minimise the visual impact on the street, coastal environs and adjoining properties.
- Be designed to limit views into secluded private open space and habitable room windows of adjacent dwellings.
- Not include any structures or elements that exceed a height of 1.7 metres, apart from an access structure.
- Be accessed by a structure that is designed and located to have minimal impact on the street and adjoining properties, does not enclose any useable floor space and does not exceed 2.4 metres in height (measured from floor level at the point of access onto the roof deck).

For the purposes of this schedule a ‘roof deck’ means an area designed and used as private open space that is located above the upper storey of a building.

The proposal has been assessed and meets these requirements with the exception of the roof deck not being located 2 metres from the roof edge immediately below. A condition has been included in the recommendation to address this matter.

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:

**Side and Rear Setbacks (Standard B17)**

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
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</tr>
<tr>
<td>Northwest (side)</td>
<td>0m or 2m</td>
<td>0m or 2.02m</td>
</tr>
<tr>
<td>Southeast (side)</td>
<td>0m or 2m</td>
<td>2.02m</td>
</tr>
<tr>
<td>Southwest (rear)</td>
<td>0m or 3m</td>
<td>6.7m</td>
</tr>
</tbody>
</table>

The encroachment at the rear of the first floor on this side is only 6cm, increasing to 1.02m towards the front of the property due to the fall of the land. It is noted, however, that the adjoining property contains a garage to the boundary in this position, meaning that any impact on the neighbour will be limited where the encroachment occurs. The encroachment is not considered to have a detrimental impact on neighbourhood character and is considered acceptable.

The setback on the south eastern side is similar in that the encroachment is more minor towards the rear due to the natural ground level. It is noted that there is some semi-mature vegetation along this boundary and that there is therefore unlikely to be a particularly adverse visual impact upon these properties. The encroachment is not considered to have a detrimental impact on neighbourhood character.

**Overshadowing Open Space (Standard B22)**

The majority of the burden of overshadowing falls on two properties, 1A Southey Street and 3/151 Beach Road. At least 40m² of the secluded private open space of 1A Southey Street would still receive sunlight at the relevant times as per Standard B21.

The secluded private open space of 3/151 Beach Road does not appear to currently receive the requisite amount of sunlight under the Standard, and the development would further overshadow the secluded private open space of that property, although this effect is only really felt after 2pm in the afternoon when measured at the Spring Equinox.

An examination of the site conditions shows that the rear of 151 Beach Road contains some high vegetation in its northern corner. This vegetation currently overshadows much of the secluded private open space of this property, particularly around 2pm to 3pm on the Spring Equinox. In effect, the building is unlikely to result in any additional overshadowing to this area of secluded private open space. Consequently, it is
considered that the secluded private open space of this property will not be significantly overshadowed as a result of the development.

**Overlooking (Standard B22)**

There is the potential for overlooking from the rear first-floor windows into the ground habitable room window at the rear of 150 Beach Road and from the roof deck into habitable room windows at 24 Cowper Street, all of which are within the relevant measure of 9 horizontal metres. Moving the edge of the deck so that no part of it is within 2 metres of the roof edge to its northwest will resolve the overlooking issue towards 24 Cowper Street. Screening techniques need to be applied in relation to the rear first-floor windows to ensure that potential overlooking to 150 Beach Road is appropriately limited. These matters have been addressed by conditions included in the recommendation.

**Design Detail (Standard B31)**

The design detail of the development can be improved to provide lighter materials that are not so masonry-heavy. A condition to this effect has been included in the recommendation.

**6.4. Car parking and traffic**

Each dwelling is provided with two car spaces in accordance with Clause 52.06. Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions which are included as part of the recommended permit conditions.

Council’s Traffic Engineer recommended that the crossover for the southern site be relocated further to the south of the site, to ensure that a car can park between the two driveways. The gap between the two proposed driveways would be 5.4m. This is sufficient to accommodate most cars given that no other vehicles would be parking in front of or behind a vehicle in that position.

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

**6.5. Street tree removal**

Council’s Open Space Arborist has advised that the removal of the two street trees in front of the property is unavoidable in regards to the subject proposal, and is acceptable provided that a financial contribution is made to the Council for the removal of those trees in accordance with Council’s Policy.

**6.6. Vegetation & Landscaping**

The application plans show the removal of 13 small trees from the site including a Lillypilly, Lemon-scented Tea-Tree, Weeping Bottlebrush, Forest Oak and a Kuhuhu. Council’s Arborist has assessed that the removal of these trees is acceptable provided that appropriate replacement species are planted as they make only a low amenity contribution.

There is a Lillypilly at 1A Southey Street and a Crepe Myrtle at 151C Beach Road within close proximity of the development, although the development does appear to be occurring outside the tree protection zones of both of these trees. Basic tree protection measures should ensure their viability.

The applicant has provided a landscape plan, although this has been assessed as unacceptable due to the species selection it has proposed. Greater use of indigenous coastal vegetation is recommended to ensure that the species selected have an appropriate tolerance to coastal conditions, including salt-laden winds, as the development is within about 200m of the coast.
6.7. **Building over an easement**

According to Council’s records, there is a stormwater drain running along the south eastern boundary of the property, which is considered to be subject to an implied easement. The alfresco area to the southern dwelling extends into this area. Consequently, a condition has been included requiring the plans to be amended so that the alfresco to the southern dwelling does not go over this easement.

6.8. **Objections received**

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

**Overlooking**

Concern has been raised that there is the potential for overlooking from the window of Bedroom 3 of the southern dwelling to the adjoining secluded private open space of the dwelling to the south. Such a view is not direct and would be on an angle of greater than 45°. Consequently, the window complies with Standard B22.

**Impact of Noise Sources**

There is not expected to be any sources of noise that will result in anything louder than what is typically expected of a residential development of this scale. A condition has been included in the recommendation requesting the location of mechanical plant be shown and located away from the habitable room windows of adjoining properties.

**Inaccuracies of Overshadowing Diagrams**

The overshadowing diagrams indicate the amount of overshadowing that occurs as a result of the existing paling fences. For the purposes of these diagrams, these fences are calculated as being 1.8m high, which is the typical height of such fences. The actual height of fencing along the boundaries varies, and is higher in several instances. It is considered that this does not materially affect the assessment of the application. The shadow diagrams are appropriate for a comprehensive assessment of the proposal to occur.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
Figure 1 Aerial overview of the site and surrounds

Legend

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

NB – Two of the objectors are not shown on this image.

Figure 2 View towards the site from the northeast
Figure 3 View towards the site from the ENE

Figure 4 View towards the site from the ENE
ATTACHMENT 3
NEIGHBOURHOOD CHARACTER PRECINCT F1

Preferred Future Character Statement

The dwellings, including a continued frequent presence of pre WW2 dwellings, sit within garden settings. Buildings are occasionally built to the side boundary, however the impression of the streetscape is of informality and openness due to the open front fencing, and well-articulated building designs. Buildings and gardens are clearly visible from the street despite the presence of front fences, and these are appropriate to the building era. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>The existing house has no heritage designation.</td>
</tr>
<tr>
<td></td>
<td>• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character.</td>
<td>• Retain established trees and vegetation.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Suitable landscaping can be accommodated on the site to ensure that the garden setting of the neighbourhood is appropriately maintained and enhanced.</td>
</tr>
<tr>
<td></td>
<td>• Replace any trees removed with species that will grow to a similar height.</td>
<td>Removal of trees.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Encourage replanting of indigenous sandbelt vegetation.</td>
<td>Planting of environmental weeds.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>
| To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting. | • 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. | Loss of front garden space.                                           | The building adjoins one boundary and is setback from the other. It therefore provides for the continuing visual separation of buildings and for the planting of appropriate trees and shrubs. |
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking structures that dominate the façade or view of the dwelling. | The development provides two single garages thus minimising the dominance of car parking structures and driveways and maximising the amount of front garden space. |
| To ensure that new buildings and extensions do not dominate the streetscape. | • Recess second storey elements from the front façade.                          | High pitched or mansard roof forms with dormer windows.              | Second storey elements are recessed from the front elevation, thus reducing the visual impact of the built form on the streetscape. |
| To respect the identified heritage qualities of adjoining buildings.      | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design. | Large bulky buildings with flat, poorly articulated front wall surfaces. | There are no designated heritage buildings in the vicinity of the site.                         |
| To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes. | • Incorporate a variety of timber or other non-masonry wall materials where possible. | Heavy materials and design detailing (eg. Large masonry columns and piers). | The building predominantly utilises masonry materials. Some further consideration of materials is appropriate to reduce the preponderance of “heavy” materials. |
| To maintain the openness of the streetscape and views to the dwellings.    | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid front fencing.                                           | No front fencing is proposed.                                                                 |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To create a visually interesting and attractive built form interface with the foreshore reserve. | • Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.  
• Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheathing, glazing, stone and brick.  
• Provide articulated roof forms to create an interesting skyline when viewed from the beach. | Buildings that have no relationship to the foreshore setting.  
Poorly articulated roof and building forms.  
Highly reflective materials or glazing. | The building does not have an interface with the foreshore.                                                                                                                                   |
### ATTACHMENT 4

#### CLAUSE 55 ASSESSMENT

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 7.6m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Proposed: 7.6m</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
</tr>
<tr>
<td>--------</td>
<td>-----------------------------------------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### B14 Access
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

*Yes*

Appropriate vehicular access is provided.

**Maximum:** 33% of street frontage

**Proposed:** 30% 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>
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</thead>
<tbody>
<tr>
<td><strong>Northwest (side)</strong></td>
<td></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>0m or 2.02m</td>
</tr>
<tr>
<td></td>
<td>Required</td>
</tr>
<tr>
<td>3.92m – 4.88m</td>
<td>3.86m</td>
</tr>
<tr>
<td><strong>Southeast (side)</strong></td>
<td></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>2.02m</td>
</tr>
<tr>
<td></td>
<td>Required</td>
</tr>
<tr>
<td>3.92m – 4.18m</td>
<td>3.86m</td>
</tr>
<tr>
<td><strong>Southwest (rear)</strong></td>
<td></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 3m</td>
<td>6.7m</td>
</tr>
<tr>
<td></td>
<td>Required</td>
</tr>
<tr>
<td>4.8m</td>
<td>6.7m</td>
</tr>
</tbody>
</table>

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

*Yes*

**Maximum Height:** 3.6m

**Proposed:** 3.2m

**Maximum Average Height:** 3.2m

**Proposed:** 3.15m

**Maximum Length:** 16.5m

**Proposed:** 7m

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

*Yes*

Existing windows have adequate access to daylight.

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

*Yes*

There are habitable room windows within 3m of the south-eastern boundary at 3/151 Beach Road, however these are not classified as north-facing windows under the provisions of the Scheme due to the direction that they face not
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>No</td>
<td>Refer report.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>Refer report. Addressed via conditions.</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>Windows at first floor have been adequately located and designed to limit internal overlooking to less than 50%. The shed and rainwater tank prevent overlooking between the areas of secluded private open space at the rear.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate provision.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 120m² SPOS &amp; 107m² SPOS</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>A storage shed of 6m³ in size is provided in the rear open space of each dwelling.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td></td>
<td>No</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Yes/No</td>
<td>Notes</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>--------</td>
<td>-------</td>
</tr>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>No front fence is proposed.</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>
<td>No common property is proposed.</td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
<td>Plans show clotheslines, mailboxes and storage areas as required. Space for meters has been provided alongside the entries of each dwelling.</td>
</tr>
</tbody>
</table>
4.5  438 BEACH ROAD, BEAUMARIS
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/472/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/100870

1. Purpose and background
To report a planning permit application for the alterations and additions to a single
dwelling on a lot with an area of 347 square metres (refer Attachment 1) at 438 Beach
Road, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>ID Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>6 March 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>14 May 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – A permit is required to extend one
dwelling on a lot less than 500 square metres.

Planning scheme amendments
Planning Scheme Amendment C139 has been prepared by Council and requires
development to provide a financial contribution for drainage in this area. Council has
adopted Amendment C139 and has submitted it to the Minister for Planning for approval.
Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet
made a decision on the Amendment.

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

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

Internal referrals
The application was not referred to any Council departments for comment.

Public notification
The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and
Environment Act 1987 and three objections were received. The following concerns were
raised:
- Neighbourhood Character
- Overlooking
- Increased Noise
- Site Coverage
- Setbacks

Consultation meeting

A consultation meeting was held on 14 December 2016 attended by the permit applicant and 3 objectors. As a result of this meeting no objections were withdrawn.

The plans were subsequently amended on 6 March 2017. The amended plans were re-advertised. As a result of these actions, no objections were withdrawn.

4. Recommendation

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2016/472/1** for the land known and described as **438 Beach Road, Beaumaris**, for the **alterations and additions to a single dwelling on a lot less than 500 square metres** in accordance with the endorsed plans and subject to the following conditions:

1. **Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.** When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by i.d. design dated 3 February 2017 but modified to show:
   a) A landscape plan in accordance with Condition 5.
   b) Removal of the boundary fence notations.
   c) The permeability of the site to be no less than 20%.

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. **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.**

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. **Prior to the endorsement of plan pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority.** The plan must be generally in accordance with the proposed plan L1635-01 prepared by i.d Design, revision B, dated 3 February 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.  b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject
b) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. When in VPO include: Plantings must be 80% indigenous by species type and count.

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

d) Details of surface finishes of pathways and driveways

e) The permeability of the site to be no less than 20%.

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

7. 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 2013-2017

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.

- 3.1.3 Advocating Council’s planning and urban design objectives.

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 22.06 Neighbourhood Character Policy Precinct H4
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
• Clause 43.02  Design and Development Overlay (Schedule 1)
• Clause 54  One Dwelling on a Lot
• Clause 65  Decision Guidelines

6. **Considerations**

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

6.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct H4 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal includes an increase the front balcony, the creation of a rear balcony and the inclusion of a pool. The large percentage of the building is existing, it does include masonry piers and poorly articulated side walls. However, as the dwelling is existing, the choice of materials and features bear no weight on the application.

A large percentage of the existing site is paved open space, this will remain as part of the application. The existing garden bed at the front of the dwelling will be removed to form part of the new terrace and the existing large rear garden bed will be reduce in favour of a pool. A landscape plan will be required as a condition to reduce the paved area. The proposed increase to the first floor front balcony with use of a cantilevered balcony and glass balustrade will remain within the existing side setbacks set by the dwelling. Furthermore, the front setback will not be decreased, maintaining the spacious visual separation between buildings. There are no proposed changes to the existing garage or the existing front fence. The proposed front extensions are in line with the existing and preferred neighbourhood character.

The proposal is in line with the existing and preferred neighbourhood character.

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

An assessment against the requirements of Clause 54 is provided at Attachment 4. Those non-compliant standards are discussed below:

**Site Coverage (Standard A5)**

A site coverage of 53% is proposed which exceeds the 50% standard. The objective of the standard is to ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site.

In the overall context of the site, in particular the small size of the lot, the non-complying site coverage relates to an area of 10.41 square metres. In comparison, the proposed ground floor alfresco area has a total area of 13.49 square metres. Given the minor nature of this non-compliance and as the development can comfortably achieve the required permeability level by condition, the proposal is considered to achieve the objective of this standard.

**Permeability (Standard A6)**

A permeability level of 18% is proposed which falls short of the 20% standard. The subject site has a large percentage of paving to the front and rear of the site and could achieve the permeability level with the removal of some paving. The application not meeting the permeability standard is not appropriate. A condition has been included in the recommendation to reduce hard surface and increase landscaping space.

6.3. **Car parking and traffic**

The existing car parking will not be altered.
6.4. **Street tree removal**

No works are proposed within the nature strip.

6.5. **Vegetation & Landscaping**

No trees are proposed for removal.

6.6. **Objections received**

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

**Neighbourhood Character**

The proposed front balcony and rear alfresco area and rear balcony are not in line with the originally designed dwellings, inclusive of number 438A and 438B Beach Road that included three adjoining, cohesive, integrated townhouses. The proposal would somewhat alter the integrity of the original design for the three townhouses, however this is not unreasonable and the additions would still have an appropriate degree of integration with the original development and the remainder of the streetscape.

**Overlooking**

The proposed increase to the first floor meals area window and the front balcony with a 1 metre high glass balustrade will overlook the vacant site at 437 Beach Road.

As 438 Beach Road is a vacant lot, there are no habitable room windows or secluded private open space existing on site.

The size of the rear balcony was reduced following the consultation meeting. The previously proposed 1.7m high screening was retained as part of the proposal.

**Increased noise**

The planning scheme does not take into consideration the noise made by household pets.

**Setbacks**

The existing front, side and rear setbacks will be maintained.

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**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment (Precinct H4) ↓
4. Rescode 54 Assessment ↓
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

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

Item 4.5 – Matters of Decision
Figure 2 View east towards the site from the corner of Beach Road and Dalgetty Road.
Figure 3 View north towards the site.
Figure 4 View north-west towards the site.

Figure 5 View south-west towards the rear of the site from Rennison Street.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H4)

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To enhance the bayside vegetation character of the area through the planting of indigenous coastal species. | • Prepare a landscape plan to accompany all applications for new dwellings that utilises indigenous coastal species.  
• Retain large, established trees and provide for the planting of new trees and shrubs wherever possible (locate footings outside root zone). | Lack of a landscape plan.  
Removal of large established trees.  
Use of exotic species and planting of environmental weeds | A large percentage of the existing site is paved open space, this will remain as part of the application.  
The existing garden bed at the front of the dwelling will be removed to form part of the new terrace and the existing large rear garden bed will be reduce in favour of a pool.  
A landscape plan will be required as a condition to reduce the paved area. |

<p>| To maintain the rhythm of spacious visual separation between buildings. | • Dwellings should be sited to create the appearance of space between buildings and to accommodate substantial vegetation. |  | The proposed increase to the first floor front balcony with use of a cantilevered balcony and glass balustrade will remain within the existing side setbacks set by the dwelling. Furthermore, the front setback will not be increased, maintaining the spacious visual separation between buildings. |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the dominance of car parking structures and the loss of front garden space. | - Locate garages and carports behind the line of the dwelling.  
  - Minimise paving in front garden areas including driveways and crossovers.  
  - Underground car parking accessed from the front of 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 facilities that dominate the façade or view of the dwelling.  
  Creation of new crossovers and driveways or wide crossovers.  
  Front setbacks dominated by impervious surfaces. | No changes are proposed to the garage.                                                                 |
| To ensure that new buildings and extensions do not dominate the streetscape. |                                                                                                                                                                                                                       |                                                                                                                                                                                                     | The proposed front extensions are in line with the existing balcony and will not reduce the existing front and side setbacks of the dwelling. |
| To encourage innovative architecture that reflects the bayside setting.    | - New buildings should be individually designed to respond to the characteristics of the bay side location and the site.  
  - Incorporate building elements and details that contribute to a lightness of structure including balconies, verandahs, glazing and light transparent balustrading. | Large, bulky buildings with poorly articulated front and side wall surfaces.  
  Heavy design detailing (eg. Masonry columns and piers).  
  Highly reflective materials or glazing. | The large percentage of the building is existing, it does include masonry piers and poorly articulated side walls. As it is existing, it bears no weight on the application. |
<p>| To use lighter looking building materials and finishes that complement the bayside setting. | - Use a mix of contemporary and traditional coastal materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing.                                                                                                                                                         | The application does not include period reproduction.                                                             |
| To maintain the openness of the streetscape and views to coastal garden settings. | - Provide open style front fencing, other than in exceptional circumstances. | High or solid front fencing.                                                                                                                                                                     | The existing front fence will remain.                                                                                   |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To create a visually interesting and attractive built form interface with the foreshore reserve, on properties fronting Beach Road and visible from the reserve. | • Where the properties front to both Beach Road and another street, ensure the dwellings present visually interesting elevations on all faces visible from the public domain.  
• Use landscaping materials and coastal plants within the front setback that contribute to the coastal character and amenity of the street.  
• Provide articulated roof forms to create an interesting skyline when viewed from the beach.  
• Provide low or open style front fencing along Beach Road frontages. | Flat, poorly articulated roof forms and facades visible from the public domain.  
High, solid front fencing on Beach Road. | The roof form of the first floor will not alter.  
The proposed ground floor alfresco area roof form will include a 2 degree slope towards the east. |
### Attachment 4

#### Clause 54 Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwellings 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><strong>A3 Street Setback</strong></td>
<td>N/A</td>
<td>Existing</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>A4 Building Height</strong></td>
<td>N/A</td>
<td>Existing</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>No</td>
<td>Maximum: 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>Proposed: 53%</td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>No</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>Proposed: 18%</td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwelling.</td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.  

<table>
<thead>
<tr>
<th>A8 Significant Trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development respects the landscape character of the neighbourhood and retains significant trees on site.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A10 Side and Rear Setbacks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A11 Walls on Boundaries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A12 Daylight to existing windows</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into existing habitable room windows.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A13 North Facing Windows</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A14 Overshadowing Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A15 Overlooking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows</td>
</tr>
<tr>
<td>Item</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>A16 Daylight to New Windows</td>
</tr>
<tr>
<td>A17 Private Open Space</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
</tr>
<tr>
<td>A19 Design Detail</td>
</tr>
<tr>
<td>A20 Front Fences</td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report a planning permit application for the construction of two dwellings, including a basement car park and a front fence exceeding 1.2 metres in height on two lots with a combined area of 783 square metres (refer Attachment 1) at 1-3 Collins Street, Brighton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Jewell Partnership</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>29 March 2016 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>19 July 2016</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

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

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

**Planning scheme amendments**

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

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

3. **Stakeholder Consultation**

**External referrals**

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

**Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>--------------------------</td>
<td>---------------------------------------</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Street Trees</td>
<td>No objection, subject to permit notes.</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 three objections were received. The following issues were raised:

- Neighbourhood Character Precinct.
- Excessive visual bulk.
- Non-compliant front, side and rear setbacks.
- Boundary to boundary unacceptable.
- Loss of Private Open Space.
- Excessive front fence height.
- Loss of established vegetation.

Consultation meeting

A consultation meeting was held on 28 July 2016 attended by the permit applicant and 3 objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2015/812/1 for the land known and described as 1-3 Collins Street, Brighton, for the construction of two dwellings on two lots and a front fence exceeding 1.2 metres in height in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with plans dated August 2015 prepared by Wall Architects Ltd but modified to show:
   a) Reduction in building height such that it does not exceed 8.0m any any point in accordance with the mandatory requirements of the Neighbourhood Residential Zone (pre amendment VC110).
   b) The street setback to be increased to 9 metres in accordance with Standard B6.
   c) The northwest and southeast side setbacks for the main bedroom to be increased to 3m.
   d) The northwest and southeast side setbacks for the walk in robe and hallway adjoining the stairwells to be increased to 3.5m.
   e) All walls constructed along a boundary must achieve compliance with Standard B18.
   f) A fence located between the secluded private open space of dwellings 1
and 2 designed in accordance with Standard B23.

g) Externally accessible storage space measuring 6 cubic metres per dwelling shown in the basement in accordance with Standard B30.

h) Removal of any notations relating to existing boundary fences.

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

j) A cross sectional plan detailing the driveway gradient and clearance room, noting that compliance must be achieved with AS2890.1/Planning Scheme.

k) Pedestrian sight triangles associated with the driveway in accordance with clause 52.06-8 (this will require changes to the front fence).

l) Proposed front fence accurately labelled on the site plans.

m) Retaining measures for the basement detailed on all relevant plans.

n) Water sensitive urban design measures in accordance with condition 6.

o) Landscaping plan in accordance with condition 8.

p) Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with condition 9.

q) A schedule of construction materials, external finishes and colours (incorporating for example paint samples) in accordance with condition 14.

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

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

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

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

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

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

c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.
These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999.

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

8. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan should include the following:
   a) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   b) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   c) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   d) Details of surface finishes of pathways and driveways
   e) A substantial planted screen along the common northern property boundary with No. 5 Primrose Crescent.
   f) One tree, capable of reaching 10m in height to be planted in the front setback in replacement of one of the proposed *Pistacia chinesis* (Chinese Pistachio).

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

9. 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.

The development plan must be amended in accordance with the Tree Protection Plan and Tree Management Plan to the satisfaction of the Responsible Authority.

10. Before the occupation of the development or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the
endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

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

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

14. 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.

15. Before the occupation of the development, the area set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
   a) Constructed
   b) Properly formed to such levels that they can be used in accordance with the dwelling
   c) Surfaced with an all-weather-seal coat
   d) Drained
   All to the satisfaction of the Responsible Authority

16. Car spaces and driveways must be kept available for these purposes at all times.

17. Vehicular crossings must be constructed to the road to suit the proposed driveways to the satisfaction of the Responsible Authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.

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

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

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

21. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the issued date of this permit.
   b) The development is not completed within four years of the issued 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:
- Street Tree payments: Before any Asset Protection Permit is issued by Council, the applicant will be required to pay $2,985.27 to Council for the removal of the Platanus orientalis (Oriental Plane) street tree adjacent to the Collins Street frontage of the site and for any other street trees that may be proposed to be removed to facilitate the development. This amount has been determined in accordance with Council’s current policy for the removal of street trees and may be amended.
- Council records indicate that there is no easement within the property.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours’ notice is required.
- Building approval must be obtained prior to the commencement of the above approved works.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:
- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

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 22.06 Neighbourhood Character Policy (Precinct B2)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines
6. **Considerations**

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

6.1. **Neighbourhood character**

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

The proposal features a reduced setback of 7.815m varying the required 9m setback, however, a condition will be included in the recommendation requiring compliance, this will allow for adequate space for a front garden, including trees and shrubs. The garden space will contribute to the visual separation between dwellings and improve the aesthetics of the streetscape presentation.

Located between the proposed front gardens for each dwelling, is a shared ramp into the basement car parking. The access to the basement will be located below the natural ground level and will also be hidden behind the proposed front fence. The design of the driveway will ensure the car parking facilities do not dominate the streetscape.

A second aspect of the development that can be improved via conditions is the first floor side setbacks. Further increases to the side setbacks will ensure that the visual bulk within the streetscape will be reduced and amenity impact on neighbouring properties also bought back to within the realms of ‘reasonable impact’.

The proposal includes the use of render and aluminium cladding with simple building details, including a flat roof and large windows in line with the Neighbourhood Character Precinct.

It is important to note that the character of this streetscape is highly varied with no predominant built form patterns – hence the somewhat unique and modernistic design detail would not pose an unreasonable addition to this street and would not be in stark contrast to any character element.

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

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

**Street Setback (Standard B6)**

The proposed setback for each dwelling is 7.815 metres for 1 Collins Street and 7.61 metres for 3 Collins Street.

The applicant has advised that 58A St Andrews Street has a front setback of 2.3 metres and 5 Collins of 9.2 metres. Whilst this variation is noted, the proposed setbacks is contrary to the standard which allows for 9 metre setback or the greater of the two adjoining properties (being the 9.2 metres of 5 Collins Street), whichever is the lesser.

The proposed reduction in the setback is not in accordance with the standard. A condition will be included in the recommendation to increase the front setback to allow for adequate landscape space and softening of the building when viewed from the street. There is no constraint on this site that would warrant a reduced front setback such as that proposed.

**Building Height (Standard B7)**

The highest point of the proposed dwelling is 8.172m at the north-west corner of the development, with both chimneys reaching a height of 8.7m. The proposal would vary the standard setback of 8 metres and is not considered in line with the objective and the standard.
Whilst neither of these factors are concerning on character or amenity grounds, the zoning does not allow for any discretion to the stated maximum heights (which in this case is 8.0m given that the application lodged prior to amendment VC110) and a condition will be enforced requiring a reduced height.

The application does not benefit from the transitional provisions of VC110 and must be considered under the height controls of the Bayside Planning Scheme as per prior to the introduction of the amendment. A condition has been included in the recommendation.

**Side and Rear Setbacks (Standard B17)**

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Northwest (side)</strong></td>
<td><strong>Southwest (side)</strong></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>0m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Northeast (rear)</strong></th>
<th><strong>Southeast (side)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 3m</td>
<td>7.985m</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The proposal would vary the side setbacks at first floor in relation to the north western and south-eastern boundaries. The objective of the standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

At this first floor level, both the northwest side and southeast side walls have proposed setbacks of 2m for the main bedroom and adjoining walk in robe, with an instep for the stairwell of 3.46m. These varied setbacks, in relation to the bedroom and walk in robes, would result in unreasonable bulk to the character of the streetscape and also when viewed from neighbouring residential lots. It is recommended that the main bedrooms on both dwellings have side setbacks increased to 3m and the walk in robe / hallway have an increased setback to 3.5m. Conditions will be included in the recommendation to this effect.

Whilst the ‘conditioned’ setbacks would still require a meaningful reduction in setback (between 1.2m and 2.2m along the northwest elevation and between 2.2m and 2.9m along the southeast elevation), the impact along the streetscape and when viewed from neighbouring properties is not unreasonable and the following is noted:

- The front region of the first floor (where the 3.0m setback is to be conditioned) abuts walls built to the boundary and / or side setback areas (with very few habitable room windows) of reduced amenity protection value;
- The rear region of the first floor (where the 3.5m setback is to be conditioned) continues to abut a side setback, less sensitive to the southeast and to the northeast its abuttal adjacent the secluded private open space of the dwelling at 60 St Andrews Street is not unreasonable as no overlooking or overshadowing would occur, with a 3.5m setback considered an acceptable built form buffer for a heavily built up location such as this.

The proposed first floor east (rear) setback for the west dwelling has a variation of 0.022m and the east dwelling has a varied setback of 0.565m. These variations are due...
to the slope of the land and are seen to achieve the objective of the standard. It is further noted that the reduced rear setbacks are due to the desk and window locations of proposed bedroom 3 for each dwelling. These windows have been designed to meet the objective of Standard B22 to limit overlooking and Standard B23 to limit internal views.

Walls on boundary (Standard B18)

The proposed west boundary maximum average height of 3.37m exceeds the standard 3.2m. A condition will be included in the recommendation requiring compliance.

Internal Views (Standard B23)

The secluded private open space of each dwelling, located off the ground floor sitting rooms do not show an internal fence with a height of 1.8 metres from natural ground level to limit internal overlooking between the proposed dwellings.

A condition will be included in the recommendation for the provision of a boundary fence between the secluded open spaces of the proposed dwellings.

Storage (Standard B30)

A mud room has been provided in the basement of each dwelling, however, no cubic measurement has been supplied. A condition will be included in the recommendation requiring the cubic measurement to be shown in accordance with Standard B30.

Front Fences (Standard B32)

The proposed front fence at 1.9 metres high, with solid rendered walls and aluminium pedestrian and vehicular gates exceeds the required 1.2 metres.

The proposal includes a 1.9 metre high rendered brick fence. The streetscape includes a mixture of high and low front fences.

Predominately fences within the streetscape are high masonry pier fences with steel picket infills, allowing for passive visual surveillance.

However, is similar to two fences closely located to the subject site, being 5 and 7 Collins Street.

Therefore it is considered that the proposed fence is in line with the existing neighbourhood character.

Site Services (Standard B34)

The site plan does not show mailboxes as per the standard. A condition will be included in the recommendation requiring mailboxes to be shown on plan.

6.3. **Car parking and traffic**

<table>
<thead>
<tr>
<th>Component</th>
<th>Rate Required</th>
<th>Car Parking Spaces Required</th>
<th>Car Parking Spaces Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident Parking</td>
<td>2 per dwelling</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>4</td>
<td>6</td>
</tr>
</tbody>
</table>

As shown in the table above, car parking has been provided at the rate required by the Planning Scheme.

The level of increased traffic generated by the proposed development will not adversely impact the local road network and Council’s Traffic Engineer has raised no objection in this regard.
Council's Traffic Engineer has requested that several minor items be attended to, which have been included as conditions in the recommendation.

6.4. **Street tree removal**

A street tree will be affected by the new access into the site. Council's Street Tree Arborist has advised that removal of this tree is acceptable provided that a contribution is made to Council to cover the loss of amenity resultant from that removal and to allow the planting of a new tree.

Conditions addressing street matters have been included in the recommendation as a condition of the permit.

6.5. **Vegetation & Landscaping**

The application plans show the removal of all vegetation from the site. Council's Arborist has inspected the site and found it not to contain any vegetation worthy of retention, provided that suitable plantings are provided to accompany the development to maintain the landscape character of the area. In particular, Council’s Arborist has raised concern with the planting of two *Pistachio chinensis* (Chinese Pistachio) in the front setback. The tree is capable of reaching a height of 8 metres and a canopy width of 6 metres.

Council's Arborist has recommended that one of the *Pistachio chinensis* be replaced with one tree capable of reaching a height of 10m at maturity. This has been included as a condition in the recommendation.

There are a number of trees located on 60 St Andrews Street and 6-8 William Street which have their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. As such, Council’s Arborist has advised that a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure those trees adjoining the subject site remain viable both during and post construction. A condition to this effect is included in the recommendation.

6.6. **Objections received**

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

**Excessive visual bulk**

Conditions have been included in the recommendation to increase the ground floor front setback and the first floor side setbacks to reduce the visual bulk.

**Loss of amenity to Private Open Space**

Conditions have been included in the recommendation to increase the ground floor front setback and the first floor side setbacks to reduce the impact on adjoining secluded private open space.

**Support Attachments**

1. Development Plans ➔
2. Site and Surrounds Imagery ➔
3. Neighbourhood Character Assessment ➔
4. Clause 55 Assessment ➔
Advertised Plan

SEVENTH TARCUITTA
NEW RESIDENCES
1 & 3 COLLINS STREET
BRIGHTON
Attachment 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚪️</td>
</tr>
</tbody>
</table>
Figure 2 View south-east towards the site

Figure 3 View north-west towards the site
Figure 4 View east towards adjoining properties; being 5 Collins Street (single storey), 7 Collins Street (dark tile roof) and 9 Collins Street (red tile roof).

Figure 5 View west towards the subject site and adjoining properties; being 58A St Andrews Street (grey dwelling) and 58 St Andrews Street (cream building).
Attachment 3
Neighbourhood Character Assessment (Precinct B2)

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>The proposal is for the construction of two new dwellings in place of the existing two dwellings.</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>A landscape plan has been supplied, however it does not meet the objective. No substantial trees are proposed to be planted. The trees proposed for the front setbacks are likely to reach mature dimensions of 8 metres high by 6 metres wide at most, these would be classed as small trees. A condition will be included in the recommendation.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>The proposal allows for adequate garden space to the front of the dwelling, but as advised above, does not propose adequate trees. This can be amended by condition.</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>between buildings and provide space for front gardens.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td>The application includes a proposed basement car parking configuration. The proposed basement car parking is accessible via a shared ramp. The access to the basement will be located below the natural ground level and will also be hidden behind the proposed front fence. With the inclusion of garden space to each side of the driveway that will allow for adequate planting. It is noted a number of dwellings within the street have basement car parking.</td>
</tr>
</tbody>
</table>
| To minimise the loss of front garden space and the dominance of car parking facilities. | • Locate garages and carports behind the line of the dwelling.  
• Provide only one vehicular crossover per typical site frontage.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking facilities that dominate the façade or view of the dwelling.                                                                                                                                                                                                 |                                                                                                                                                                                                                     |
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | • Articulate the form of buildings and elevations, particularly front facades.  
• Recess upper storey elements from the front façade.                                                                                                                                                  | Large buildings with poorly articulated facades.                                                                                                                                                     | The proposed design includes some articulation through minor setbacks of walls. Use of materials and colours provides further articulation.                                                                                                                                               |
| To respect the identified heritage qualities of adjoining buildings.      | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s, in the new building design.                                             | Buildings that dominate heritage buildings by height, siting or massing.  
Imitation or reproduction of historic building styles and detailing.                                                                                                                                                                                                                      | The property adjoins HO388 (6-8 William Street) to the rear. The ground floor is set back 8.26 metres from the shared rear boundary. The proposed dwellings will not impact on the visual significance of HO388.                                                                                                  |
| To use a variety of building materials and finishes that provide visual interest in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Use simple building details.                                                                                                                                                                         | Exclusive use of one material on external wall facades.                                                                                                                                              | The proposal includes the use of render and aluminium cladding with simple building details, including a flat roof and large windows.                                                                                                                                                     |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To improve the visual connection between the dwellings and the streetscape and encourage views to front gardens.</td>
<td>- Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid fences</td>
<td>The proposal includes a 1.9 metre high rendered brick fence. The streetscape includes a mixture of high and low front fences. Predominately fences within the streetscape are high masonry pier fences with steel picket infills, allowing for passive visual surveillance.</td>
</tr>
<tr>
<td></td>
<td>- Front fence style should be appropriate to the building era.</td>
<td></td>
<td>The proposed fence however, is similar to two fences closely located to the subject site, being 5 and 7 Collins Street.</td>
</tr>
</tbody>
</table>
## Attachment 4  
### 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 2. |
| **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 and entries are clearly identifiable from either the streetscape or the common pedestrian access. |
| **B6 Street Setback**  
The setbacks of buildings from a street respect the existing or preferred neighbourhood | No | Minimum: 9m  
Proposed: 7.815m (1 Collins Street) and 7.61m |
<table>
<thead>
<tr>
<th>Item</th>
<th>4.6 – Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Character and make efficient use of the site.</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>No</td>
</tr>
<tr>
<td><strong>Required:</strong> 8m</td>
<td></td>
</tr>
<tr>
<td><strong>Proposed:</strong> 8.172 m</td>
<td></td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
</tr>
<tr>
<td>Yes</td>
<td><strong>Maximum:</strong> 50%</td>
</tr>
<tr>
<td><strong>Proposed:</strong> 50%</td>
<td></td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
</tr>
<tr>
<td>Yes</td>
<td><strong>Minimum:</strong> 20%</td>
</tr>
<tr>
<td><strong>Proposed:</strong> 32%</td>
<td></td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
</tr>
<tr>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwellings.</td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
</tr>
<tr>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Layout to provide safety and security for residents and property.</td>
</tr>
<tr>
<td>Yes</td>
<td>No safety issues are considered to be likely to arise.</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>To provide appropriate landscaping. To encourage:</td>
</tr>
<tr>
<td>Yes</td>
<td>Development that respects the landscape character of the neighbourhood.</td>
</tr>
<tr>
<td>Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td></td>
</tr>
<tr>
<td>The retention of mature</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>B14 Access</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
</tr>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
</tr>
</tbody>
</table>

### Ground Floor

<table>
<thead>
<tr>
<th>North-west (side)</th>
<th>Required</th>
<th>Proposed</th>
<th>South-east (side)</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>0m or 2m</td>
<td>0m</td>
<td></td>
<td>0m or 2m</td>
<td>0m</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>North-east (rear)</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>0m or 3m</td>
<td>7.985m</td>
<td></td>
</tr>
</tbody>
</table>

### First Floor

<table>
<thead>
<tr>
<th>East Dwelling:</th>
<th>7.08m</th>
<th>West Dwelling:</th>
<th>6.382m</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Dwelling:</td>
<td>6.515m</td>
<td>West Dwelling:</td>
<td>6.36m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>Description</th>
<th>Decision</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td>No</td>
<td><strong>Maximum Height:</strong> 3.6m <strong>Proposed:</strong> East boundary: 3.206m West boundary: 3.425m <strong>Maximum Average Height:</strong> 3.2m <strong>Proposed:</strong> East boundary: 3.15m West boundary: 3.37m <strong>Maximum Length:</strong> 16.645m</td>
</tr>
<tr>
<td>Item</td>
<td>Proposed:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>-----------</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>East boundary: 14.645m</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>West boundary: 14.645m</td>
<td></td>
<td></td>
</tr>
<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>
<td></td>
</tr>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
<td></td>
</tr>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
<td></td>
</tr>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Yes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| B23 Internal Views | No | Windows at first floor have been adequately located and designed to limit internal overlooking to less than 50%  
At ground level, fencing to a height of 1.8m will prevent internal overlooking, a condition will be included in the recommendation. |
| Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. | | |
| B24 Noise Impacts | Yes | The development will not generate any noise above that typically expected from a residential building. |
| Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | | |
| B25 Accessibility | Yes | Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required. |
| Consider people with limited mobility in the design of developments. | | |
| B26 Dwelling Entry | Yes | The entries to both dwellings are easily identifiable from the street. |
| Provide a sense of identity to each dwelling. | | |
| B27 Daylight to New Windows | Yes | All habitable windows have direct access to daylight. |
| Allow adequate daylight into | | |
new habitable room windows.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
</table>
| **B28 Private Open Space** | Provide reasonable recreation and service needs of residents by adequate pos. | Yes      | **Minimum:** 25m² secluded, 40m² overall  
**Proposed:**  
**West dwelling:** 78 m² overall  
**East dwelling:** 78 m² overall |
| **B29 Solar Access to Open Space** | Allow solar access into the secluded private open space of new dwellings/buildings. | Yes      | Appropriate solar access to the private open space areas is provided.                                                                |
| **B30 Storage** | Provide adequate storage facilities for each dwelling. | No       | A mud room has been supplied in the basement of each dwelling, however, no cubic measurement has been noted.                   |
| **B31 Design Detail** | Encourage design detail that respects the existing or preferred neighbourhood character. | Yes      | Refer Attachment 2.                                                                                                                  |
| **B32 Front Fences** | Encourage front fence design that respects the existing or preferred neighbourhood character. | No       | **Required:** 1.2m  
**Proposed:** 1.9m |
| **B33 Common Property** | Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. | N/A      | N/A                                                                                                                                  |
| **B34 Site Services** | Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. | No       | Plans show drying rooms (no clotheslines), and storage areas as required.  
Space for meters and mailboxes has been provided alongside the entries of each dwelling. A condition will be included in the recommendation requiring the mailbox to be shown. |
4.7 55 ORLANDO STREET, HAMPTON
NOTICE OF DECISION TO AMEND A PLANNING PERMIT
APPLICATION NO: 2014/386/3 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/53554

1. Purpose
To report a planning permit application for a Section 72 Amendment to Planning Permit 2014/386 issued on 25 February 2015 and subsequently amended on the 2 June 2015 for the construction of a triple storey dwelling (including an attic) on lot less than 500 square metres in a Design Development Overlay Schedule 12 (refer Attachment 1) at 55 Orlando Street, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Peter Wright &amp; Associates Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>07 April 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>6 June 2017</td>
</tr>
</tbody>
</table>

This application seeks approval to:

- Construct a timber picket front fence with a height of 1.8 metres;
- Increase the balcony width from 3.0m to 5.8m;
- Provision of obscured windows to stairwell;
- Construct a 3 metre wall and 2 metre high wall along part southeast boundary (bounding pool and courtyard);
- Increase the overall building height by approximately 150mm (9.45m to 9.6m);
- Amended living room roof pitch;
- Relocate the pool equipment to the rear corner of the site (Southwest boundary);
- BBQ area located along northwest boundary;
- Solar hot water service located on roof;
- Vertical overlooking screen added to southeast side balcony.

It is noted that many of works require retrospective approval (including the overall height and increased width of balcony).

2. Background
Planning Permit 2014/386/1 was issued on 25 February 2015 for the construction of a triple storey dwelling (including an attic) on a lot less than 500 square metres in a Design Development Overlay Schedule 12.

On 2 June 2015, the Permit was amended pursuant to Section 72 of the Planning and Environment Act 1987 to show the following changes:

- Condition 1a amended to say “The front setback of the dwelling increased to a minimum of 5.6 metres at ground floor and 6.6 metres at first floor level. This excludes the square bay windows of each level.”
- The front setback of the dwelling reduced to 5.6 metres at ground floor and 6.6 metres at first floor level excluding the square bay window at each level.

Plans were endorsed in accordance with the planning permit conditions by Council on 9 July 2015.
On 3 February 2017, Council’s Investigation Department received a compliant regarding the balcony not being developed in accordance with the endorsed plans. Subsequent to this investigation, this current amendment application was lodged to authorise all the above-mentioned works (some of which were already constructed and some which have not yet been constructed).

3. **Policy implications**

**Planning permit requirements**

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

**Original planning permit requirements**

A planning permit was originally required pursuant to:

- Clause 32.08 – 3 (General Residential Zone) of the Bayside Planning Scheme.
- Clause 43.02 (Design and Development Overlay – Schedule 12) of the Bayside Planning Scheme.

**Planning scheme amendments**

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

4. **Stakeholder Consultation**

**External referrals**

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

**Internal referrals**

The application was not required to be referred to any internal Council departments for comment.

**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:

- Overlooking from the balcony,
- Noise impact,
- Visual bulk,
- Balcony at second floor is a roof deck and should not be permitted under the DDO12 if it is accessed from habitable space.
- Registered Proprietor information on title differs from the planning application form.

The application was readvertised pursuant to Section 52 (2B) (3) of the Planning and Environment Act 1987 include additional elements that were not included in the previous adverting description dated 7 November 2016. No additional objections were received, though previously stated comments were re-emphasised.
Consultation meeting

A consultation meeting was held on 13 January 2017 at Council offices attended by the permit applicant, three objectors and Council Officers. After the meeting one objection was withdrawn on the basis of amended plans which detail screening treatment to the balcony. Two objectors remain.

5. Recommendation

That Council:

Issues a Notice of Decision to Amend a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2014/386/3 for the land known and described as 55 Orlando Street, Hampton, for the construction of a triple storey dwelling (including an attic) on lot less than 500 square metres in a Design Development Overlay Schedule 12 in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the responsible authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans labelled Code E (dated 07/04/17) and prepared by Peter Wrights & Associates Pty Ltd Architects but modified to show from the standard conditions:

   a) The front setback of the dwelling increased to a minimum of 5.6 metres at ground floor and 6.6 metres at first floor level. This excludes the square bay windows of each level.

   b) The height of the south-east boundary fence adjacent to the courtyard increased to a minimum of 1.7 metres above the paving level.

   c) The width of the garage opening a minimum of 4.8 metres

   d) The internal dimensions of the garage a minimum of 5.5 metres wide by 6 metres long.

   e) Driveway a minimum width of 3 metres where it intersects with the footpath.

   f) The location of plant and equipment including air conditioning units and condensers located so as to minimise amenity impacts to adjoining properties;

   g) The water tank pump and pool pump to be located away from the existing habitable room windows of the adjoining dwellings or located in a sound proof case to minimise noise to adjoining properties.

   h) A landscaping plan in accordance with Condition 6 including a canopy tree capable of reaching a minimum mature height of 12 metres within the front setback and a smaller canopy tree capable of reaching a minimum mature height of 8 metres within the rear.

   i) The locations of the rain water tank and rain gardens.

   j) Provide a permanently fixed privacy screen on the balcony to the south west elevation measuring at least 1.7 metres above floor level and be no more than 25 per cent transparency. Any louvered elements of this screen must be angled such that no overlooking upon the first floor terrace areas of the dwellings at No.42A and 42B Beach Road is possible. This screen can replace the previously proposed vertical overlooking screen extending off the roof at this elevation.
2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. 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.

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

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

6. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must show:
   a) A survey (including botanical names) of all existing vegetation to be retained and/or removed
   b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the 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 including the locations of canopy trees in accordance with Condition 1h of this permit. All species selected must be to the satisfaction of the Responsible Authority.

7. 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.

8. 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.

9. The existing street tree must not be removed or damaged.

10. All existing vegetation shown on the endorsed plans to be retained must not be removed, destroyed, pruned or lopped without the written consent of the Responsible Authority. All tree pruning must be carried out by a qualified Arborist to AS 4373, (Pruning of Amenity Trees).

11. The proposed internal drainage must be connected to the existing legal point of discharge. The applicant may apply for legal point of discharge and local drain information, or carry out on site verification.

12. Stormwater discharge is to be retained on site to the pre-development level of peak stormwater discharge. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.
13. Any seepage / agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain /Pit and not be discharged to the kerb and channel unless directed otherwise.

14. 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.

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

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

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

Permit Notes

- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- Building approval must be obtained prior to the commencement of the above approved works.
- 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>2 June 2015</td>
<td>Amended Permit under Section 72:</td>
</tr>
</tbody>
</table>
|             | - Condition 1a. Amended to say "The front setback of the dwelling increased to a minimum of 5.6 metres at ground floor and 6.6 metres at first floor level. This excludes the square bay windows of each level."
|             | Amended Plan under Section 72:                                            |
|             | - The front setback of the dwelling reduced to 5.6 metres at ground floor and 6.6 metres at first floor level excluding the square bay window at each level. |
| 18 April 2017 | Amended Permit under Section 72:                                          |
|             | - Introduce condition 1(j) to state 'provide a permanently fixed privacy screen on the balcony to the south west elevation measuring at least 1.7 metres above floor level and be no more than 25 per cent transparency. Any louvered elements of this screen must be angled such that no overlooking upon the first floor terrace areas of the dwellings at No.42A and 42B Beach Road is
possible. This screen can replace the previously proposed vertical overlooking screen extending off the roof at this elevation’. Amend Plan under Section 72 to include:

- Construct a timber picket front fence with a height of 1.8 metres;
- Increase the balcony width from 3.0m to 5.8m;
- Provision of obscured windows to stairwell;
- Construct a 3 metre wall and 2 metre high wall along part southeast boundary (bounding pool and courtyard).
- Increase the overall building height by approximately 150mm (9.45m to 9.6m);
- Amended living room roof pitch;
- Relocate the pool equipment to the rear corner of the site (Southwest boundary);
- BBQ area located along northwest boundary;
- Solar hot water service located on roof;
- Vertical overlooking screen added to southeast side balcony.

6. Council Policy

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.11 Local Areas
- Clause 22.06 Neighbourhood Character Policy
- Clause 32.08 General Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 12)
- Clause 54 One dwelling on a lot
- Clause 65 Decision Guidelines

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

7.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct F1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The height of the proposed front fence is 1.8 metres. The proposed front fence exceeds the 1.2 metres preferred height for this neighbourhood. The existing fences in the area are generally 1.4 metres. It is considered that the proposal is acceptable because of the open style design of the fence which will maintain the openness to the streetscape and views to the dwelling.

The increased balcony width is acceptable from a neighbourhood character perspective, though there are amenity concerns as discussed below.

Construction of a new wall on the southeast boundary is considered acceptable because the existing rhythm and spacing between buildings is maintained, and will not detrimentally impact any habitable or outdoor spaces on the adjoining property.

The proposed increase in height of the dwelling by 150mm is acceptable because it maintains a low pitched roof, and the increase is not considered to be overly significant, noting that it would still comply with all planning controls (zone and overlay).

7.2. Design and Development Overlay (Schedule 12)

The site is located within the Hampton Street Major Activity Centre and specifically within Built Form Precinct F, which has a maximum height control of 11.0 metres (3 storeys). The proposed alterations to increase the maximum height to 9.6m is acceptable as it is within the mandatory height required of 11.0 metres.

7.3. Compliance with Clause 54 (ResCode)

An assessment against the requirements of Clause 54 is provided at Attachment 3. Those non-compliant standards are discussed below:

<table>
<thead>
<tr>
<th>Walls on boundaries (Standard A11)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A new wall on the boundary will be built on the southeast to the living area at 3 metres high and with a length of 3 metres. The overall length of wall when built will be 17.38 metres. The maximum length permitted under Standard A11 is 16.25 metres.</td>
</tr>
<tr>
<td>A portion of 2.20 metres length and 2 metres high fence will be built to the southeast to the courtyard. This portion of fence is not included as part of the overall length of wall on boundary because the 2 metre high wall is consistent with the side boundary fence heights in the neighbourhood.</td>
</tr>
<tr>
<td>The variation to the length of wall on the southeast boundary is considered acceptable as it would largely abut similar structures built along the boundary at No. 53 Orlando – and noting no objection from the only affected owner.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard A20 (Front Fences)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
</tr>
<tr>
<td>1.5 metres</td>
</tr>
</tbody>
</table>

The variation is considered to be acceptable because the proposed fence is an open style timber picket fence which will maintain the openness of the streetscape and views to the dwelling and generally consistent with the fence in the neighbourhood. Examples
of similar heights are found at No. 25, No. 28, No.45 and No. 31 Orlando Street.

7.4. **Car parking and traffic**

Parking and traffic provision will not be impacted by the proposed amendment.

7.5. **Street tree removal**

No street trees will be impacted by the proposed amendment.

7.6. **Vegetation & Landscaping**

No vegetation and landscaping will be impacted by the proposal.

7.7. **Objections received**

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

**Loss of amenity for properties at 42 Beach road**

The increased height and of the dwelling and increased size of the balcony would negatively impact on the amenity of the properties adjacent to the rear boundary at No.42 Beach Road. To account for this, a 1700mm screen will be required along the southwest façade of the second level balcony. This would achieve an appropriate balance between protecting neighbouring amenity whilst still allowing an outlook of high amenity from the balcony on the subject site.

**Owners detail on title differs from information on the application form**

The owner listed on the application is the same as the owner on the Certificate of Title. The information on the title is consistent with the information provided on the planning application form.

**Noise Impact from the balcony and swimming pool**

The consideration of this planning application is confined only to the construction of the dwelling. The residential use of the dwellings and the use of the balcony do not require a planning permit and is not a planning matter. Residential noise associated with a dwelling is considered normal and reasonable in an urban setting.

**The relocation of the pool equipment**

The pool equipment will be relocated from the southeast boundary to the rear corner of the site on the southwest boundary. The pool equipment will be located in a sound proof case to minimise noise and is located away from sensitive habitable rooms. It is noted that the boundary fence will further reduce any noise transmission from the pool equipment.

**Balcony at second floor is a roof deck and should not be permitted under the DDO12 is it is accessed from habitable space.**

The balcony would not be classified as a roof deck as it does not sit above the uppermost floor of the dwelling (the DDO12 states that a roof deck ‘means an area designed and used as private open space that is located above the upper storey of a building’). With this in mind, the requirements relating to ‘roof decks’ under the DDO12 would not apply.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Policy ↓
4. ResCode (Clause 54) Assessment ↓
5. Planning Permit and Endorsed Plans ↓
Item 4.7 – Matters of Decision
Aerial overview of the site and surrounds

Legend

| Subject site | ⭐ |
| Objector(s) | ● |
| Withdrawn | ▲ |
Figure 2 View towards the site from the southeast – boundary between No.53.

Figure 3 View towards the site from the northwest.
Figure 4 View from the site towards the northeast towards No. 53 Orlando Street.

Figure 5 View from the site towards the northwest towards No. 57 Orlando Street.
Figure 6 View from the site towards No.54A Orlando.
Figure 7 view from second floor balcony to properties at 42 Beach Road.
# ATTACHMENT 3

## Neighbourhood Character Policy (Precinct F1)

### Preferred Future Character Statement

The dwellings, including a continued frequent presence of pre WW2 dwellings, sit within garden settings. Buildings are occasionally built to the side boundary, however the impression of the streetscape is of informality and openness due to the open front fencing, and well articulated building designs. Buildings and gardens are clearly visible from the street despite the presence of front fences, and these are appropriate to the building era. Buildings fronting the foreshore reflect their setting and provide a visually attractive built form interface with the reserve.

### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | No change |
| To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character. | • Retain established trees and vegetation.  
• Replace any trees removed with species that will grow to a similar height.  
• Encourage replanting of indigenous sandbelt vegetation.  
• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation. | Lack of landscaping and substantial vegetation.  
Removal of trees.  
Planting of environmental weeds. | No Change |
<p>| To ensure the building setbacks reflect the existing spacious visual separation of | • Buildings should be sited to allow space for the planting of trees and shrubs. | Loss of front garden space. | No change |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>buildings and contribute to the informality of the dwelling setting.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking structures that dominate the façade or view of the dwelling.                                                                                                                                                  | No change                                                                                                                                                                                                                  |
| To ensure that new buildings and extensions do not dominate the streetscape. | • Recess second storey elements from the front façade.                                                                                                                                                             | High pitched or mansard roof forms with dormer windows.                                                                                                                                                                     | The proposed increase of the overall building height will not change the roof form as approved in the original permit. The increase of the building height will not dominate the streetscape. |
| To respect the identified heritage qualities of adjoining buildings.       | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.                                                                           | Large bulky buildings with flat, poorly articulated front wall surfaces.                                                                                   | The development is not within a heritage place nor a heritage building.                                                                                                                                                      |
| To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes.      | • Incorporate a variety of timber or other non-masonry wall materials where possible.                                                                                                                             | Heavy materials and design detailing (eg. Large masonry columns and piers).                                                                                   | No change                                                                                                                                                                                                                  |
| To maintain the openness of the streetscape and views to the dwellings.    | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era.                                                                                             | High, solid front fencing.                                                                                                                                                                                               | The proposed height of 1.8 metres picket timber front fence is not consistent with fences in the area. Most of the fences are approximately 1.5 metres in height. Although the height of the fence exceeds what is currently in the area and what is required, it has maintained the openness to the streetscape and views to the dwelling due to the open style design. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To create a visually interesting and attractive built form interface with the foreshore reserve. | • Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.  
• Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.  
• Provide articulated roof forms to create an interesting skyline when viewed from the beach. | Buildings that have no relationship to the foreshore setting.  
Poorly articulated roof and building forms.  
Highly reflective materials or glazing. | The proposed increase to the size of the balcony to the rear has maintained the articulation of the building form. |


## ATTACHMENT 4

### 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><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer section 7.1 of the report.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>No change</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 9m</td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td>Proposed: No change</td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Required: 11m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td>Proposed: 9.02m - 9.44m</td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 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>Proposed: No change</td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></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>Proposed: No change</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 | No change |

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

| Yes | No change |

**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 | No change |

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>0m or 1m</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 1m</td>
</tr>
<tr>
<td><strong>South (rear)</strong></td>
<td>0m or 1m</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.

| No | Maximum Height: 3.6m |
|    | Proposed: 3m to southeast boundary |
|    | Maximum Average Height: 3.3m |
|    | Maximum Length: 16.25m |
|    | Proposed: 17.38m |

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

| Yes | No change |

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A13 North Facing Windows</strong></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>No change</td>
</tr>
<tr>
<td><strong>A14 Overshadowing Open Space</strong></td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
<td>No</td>
<td>No change</td>
</tr>
<tr>
<td><strong>A15 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows</td>
<td>No</td>
<td>Screen to be required through condition.</td>
</tr>
<tr>
<td><strong>A16 Daylight to New Windows</strong></td>
<td>Allows adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>No change</td>
</tr>
</tbody>
</table>
| **A17 Private Open Space** | Provide adequate private open space for the recreation and service needs of residents. | Yes | **Minimum:** 25m² secluded, 40m² overall  
**Proposed:** No change |
| **A18 Solar Access to Open Space** | Allow solar access into secluded private open space of a new dwelling. | Yes | No change |
| **A19 Design Detail** | Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer section 7.2 of the report. |
| **A20 Front Fences** | Encourage front fence design that respects the exiting or preferred neighbourhood character. | Yes | **Required:** 1.2m  
**Proposed:** 1.6m |
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 advertised plans dated 11 August 2014 and amended plans received by Council on 16 May 2015 but modified to show:
   a) The front setback of the dwelling increased to a minimum of 5.8 metres at ground floor and 6.6 metres at first floor level. This excludes the square bay windows of each level.
   b) The height of the south-east boundary fence adjacent to the courtyard increased to a minimum of 1.7 metres above the paving level.
   c) The width of the garage opening a minimum of 4.8 metres.
   d) The internal dimensions of the garage a minimum of 5.5 metres wide by 6 metres long.
   e) Driveway a minimum width of 3 metres where it intersects with the footpath.
   f) The location of plant and equipment including air conditioning units and condensers located so as to minimise amenity impacts to adjoining properties.
   g) The water tank pump and pool pump to be located away from the existing habitable room windows of the adjoining dwellings or located in a sound proof case to minimise noise to adjoining properties.
   h) A landscaping plan in accordance with Condition 6 including a canopy tree capable of reaching a minimum mature height of 12 metres within the front setback and a smaller canopy tree capable of reaching a minimum mature height of 8 metres within the rear.
   i) The locations of the rain water tank and rain gardens.

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

Date issued: 25 February 2015
Date Amended: 2 June 2015

Stuart Caldwell
Manager Statutory Planning
Signed by: Kathy Birs

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.
3. 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.

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

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

6. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must show:
   a) A survey (including botanical names) of all existing vegetation to be retained and/or removed
   b) Buildings and trees (including botanical names) on neighbouring properties within three metres of the 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 including the locations of canopy trees in accordance with Condition 1h of this permit.

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

7. 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.

8. 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.

9. The existing street tree must not be removed or damaged.
<table>
<thead>
<tr>
<th>PLANNING PERMIT NO:</th>
<th>Responsible Authority: Bayside City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/2014/386/2</td>
<td>Planning Scheme: Bayside</td>
</tr>
</tbody>
</table>

10. All existing vegetation shown on the endorsed plans to be retained must not be removed, destroyed, pruned or lopped without the written consent of the Responsible Authority. All tree pruning must be carried out by a qualified Arborist to AS 4373, (Pruning of Amenity Trees).

11. The proposed internal drainage must be connected to the existing legal point of discharge. The applicant may apply for legal point of discharge and local drain information, or carry out on site verification.

12. Stormwater discharge is to be retained on site to the pre-development level of peak stormwater discharge. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the Responsible Authority.

13. Any seepage / agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain / Pit and not be discharged to the kerb and channel unless directed otherwise.

14. 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.

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

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

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

**Permit Notes**

* 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.

<table>
<thead>
<tr>
<th>Date issued:</th>
<th>25 February 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Amended:</td>
<td>2 June 2015</td>
</tr>
</tbody>
</table>

Stuart Caldwell
Manager Statutory Planning
Signed by: Kathy Iris

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 NO: 5/2014/386/2

### Responsible Authority: Bayside City Council
### Planning Scheme: Bayside

- 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 9569 4638.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
</table>
| 2 June 2015 | **Amended Permit under Section 72:**  
  - Condition 1a. amended to say "The front setback of the dwelling increased to a minimum of 5.6 metres at ground floor and 5.6 metres at first floor level. This excludes the square bay windows of each level."  
  - Amended Plan under Section 72:  
    - The front setback of the dwelling reduced to 5.6 metres at ground floor and 6.6 metres at first floor level excluding the square bay window at each level. |

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

---

**Date issued:** 25 February 2015  
**Date Amended:** 2 June 2015  
**Signed by:** Kathy Iris

---

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 to ensure this permit is the current permit and can be acted upon.
4.8 7 DOWNES AVENUE, BRIGHTON
NOTICE OF DECISION TO GRANT AN AMENDED PLANNING PERMIT
APPLICATION NO: 2015/445/2 WARD: NORTHERN

1. Purpose
To report a planning permit application for a Section 72 Amendment to Planning Permit 2015/445/1 issued on 7 October 2015 for alterations and additions (single storey), including partial demolition to the existing dwelling in a Heritage Overlay on a lot with an area of 827 square metres (refer Attachment 1) at 7 Downes Avenue, Brighton (refer Attachment 2).

The submitted amendment seeks approval for:

- Provision of a first floor;
- Alterations to the internal layout and subsequent areas of demolition;
- Increased rear boundary setbacks (from 7360mm to 12360mm);
- Construction of pool house and reconfiguration of the pool and associated equipment; and
- Modification to material schedule.

2. Background
Planning permit 2015/445/1 was issued under delegation on 7 October 2015 for the construction of alterations and additions (single storey), including partial demolition, to the existing dwelling in a Heritage Overlay.

Plans were endorsed 8 October 2015.

3. Policy implications
There are no planning permit triggers associated with the proposed amendment.

Original planning permit requirements
Clause 43.01 (Heritage Overlay) - demolish a building (or part building) and to construct and carry out works

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

Planning scheme amendments
Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment. Stakeholder Consultation.
Planning Scheme Amendment C153 has been initiated by Council and proposes to modify the boundaries of the Special Building Overlay (SBO) and remove the Land Subject to Inundation Overlay from the Bayside Planning Scheme. The public exhibition process concluded on 16 January 2017 and a report considering submissions will be presented to Council early in 2017. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted. As such, there is no statutory weight which can be given to Amendment C153. The site is not impacted by the proposed amendment.

4. Stakeholder Consultation

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

Internal referrals
The application was not referred to any internal Council department for comment, and can be adequately assessed with existing planning policy and consideration of existing permit conditions.

Public notification
The application (amended plans council date stamped 27 March 2017) was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and two objections were received. The following concerns were raised:

- Site and view line
- Overlooking
- Impacts to heritage significance of precinct
- Neighbourhood character
- Demolition and replacement of eastern boundary wall
- Pool equipment
- Confirmation of proposal details

Consultation meeting
The applicant declined a consultation meeting, advising that issues raised by objectors were unlikely to be resolved through mediation.

5. Recommendation

That Council:

Issues a Notice of Decision to Grant an Amended Permit under the provisions of the Bayside Planning Scheme in respect of Planning Permit Application 2015/445/2 for the land known and described as 7 Downes Avenue, Brighton, for alterations and additions (double storey), including partial demolition to the existing dwelling in a Heritage Overlay in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

2. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
b) The development is not completed within four years of the date of this permit. The Responsible Authority may extend the periods referred to above if a request is made in writing:

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

**Permit Notes**

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

**THE PERMIT INCORPORATES THE FOLLOWING AMENDMENTS:**

<table>
<thead>
<tr>
<th>Date Amended</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>18 April 2017</td>
<td>Amendment pursuant to Section 72 of the <em>Planning and Environment Act 1987</em>, involving:</td>
</tr>
<tr>
<td></td>
<td>Amendment to permit preamble:</td>
</tr>
<tr>
<td></td>
<td>- To replace ‘single storey’ with ‘double storey’. The permit is to read as follows (changes highlighted in bold);</td>
</tr>
<tr>
<td></td>
<td>- Alterations and additions <em>(double storey)</em>, including partial demolition to the existing dwelling in a Heritage Overlay in accordance with the endorsed plans and subject the following conditions.</td>
</tr>
<tr>
<td></td>
<td>Amendment to the plans endorsed under the permit;</td>
</tr>
<tr>
<td></td>
<td>- Addition of a first storey,</td>
</tr>
<tr>
<td></td>
<td>- Additional external and internal demolition</td>
</tr>
<tr>
<td></td>
<td>- Internal layout changes,</td>
</tr>
<tr>
<td></td>
<td>- Rear setbacks increased from 7360mm to 12360mm,</td>
</tr>
<tr>
<td></td>
<td>- Construction of pool house, relocation of pool from eastern to northern boundary and associated equipment to eastern boundary,</td>
</tr>
<tr>
<td></td>
<td>- Modification to material schedule.</td>
</tr>
</tbody>
</table>

This amends and supersedes sheets 1, 2, 3, 4, 5 and 6 of the previously endorsed plans dated 8 October 2015. Sheets 2a, 5a, 6a, 6b and 7 have been created and must be read in conjunction with the endorsed plans.

6. **Council Policy**

**Council Plan 2013-2017**

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.
7. Considerations

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

7.1. Heritage Overlay

The subject site is located in North Road Heritage Precinct HO662. The building is not listed as contributory to the significance of the Heritage Precinct.

Pursuant to the objectives of Clause 22.05-2, Heritage Policy seeks to;

- ...ensure that non-contributory buildings in heritage precincts are developed in a manner that is sympathetic to, and does not detract from, the significance of the heritage precinct.

Further, it is Policy at Clause 22.05-3.2 to:

- Allow the partial demolition of significant and contributory heritage buildings where the fabric to be demolished is of no significance, or where the demolition helps to reveal the original fabric of the building.
- Allow the demolition of non-contributory buildings in heritage precincts.

Demolition

The demolition associated with the proposed amended application is generally confined to the rear of the building and does not raise any concerns in relation to the heritage precinct.

Alterations and additions

The proposed amendment increases the ground floor rear setback from 7.3 metres to 12.3 metres.

The first floor addition will have an 11.3 metres rear boundary setback and a 9.1 metre setback from the façade (equating to a 20.5 metre street setback).

The first floor addition will have a flat roof form and an overall maximum height of 6.7 metres. As a result of the existing ground floor hipped roof form, the proposed first floor addition will project approximately 2.3 metres above the roof line.
Council Heritage Policy recognises that the low roof pitch and broad frontage of the inter-war dwelling make it difficult to obscure the proposal.

Having regard to this, it is considered that the proposed first floor will have limited visibility from the streetscape and adjoining buildings. This is based on the limited height of the proposed first floor extension and its significant setbacks from both the front and rear boundaries.

Further, it is not considered that the proposed first floor extension will unreasonably impact upon the heritage views of the heritage precinct.

The contemporary design of the first floor is characterised by the flat roof form and choice of materials (zinc and aluminium wall panels). The ground floor materials have altered from acrylic render and painted brick work to bagged brick work in white and aluminium wall panels as utilised on the first floor.

The muted tones will assist in blending the additions into the surroundings whilst delineating the old and new. Therefore, the non-contributory building remains sympathetic to the significance of the heritage precinct. The proposal does not attempt to replicate historical detail and the proportions, massing and form are complementary and respectful to the existing buildings and character of the precinct.

**Pool house**

The proposed pool house located on the rear northern boundary will partially adjoin the existing pool house located on the adjoining property at 66 North Road.

The pool house will be approximately 24 square metres in area, with a height of 3.5 metres. The pool house addition will provide supplementary area for current and future residents.

The addition of the pool house will be largely screened to adjoining properties by way of existing vegetation and existing boundary fencing (ranging in height from 2.0-2.8 metres).

The relocation of the pool from the eastern to northern boundary will provide additional solar access to the pool. It is considered that the relocation of the pool equipment to the eastern boundary will not result in an unacceptable level of noise impacts as the equipment is proposed to be located adjacent to the existing swimming pool of the adjoining lot.

It is considered that the proposed amendment will have limited impact to the amenity of adjoining properties or cause material detriment to any third parties. Notwithstanding the amendment to the permit preamble, the proposal does not conflict with any permit conditions and remains compliant with the relevant objectives and standards of the Bayside Planning Scheme.

### 7.2. Objections received

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

**Overlooking**

The proposed amendment is not subject to the objectives, standards and decision guidelines of Clause 54 (ResCode). These will be assessed at the building permit stage.

**Overshadowing**

The proposed amendment is not subject to the objections, standards and decision guidelines of Clause 54 (ResCode). These will be assessed at the building permit stage.
Confirmation of proposal details

The planning permit was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987*. Sufficient time allowed affected people to view plans and seek clarification of the proposals details.

Demolition of boundary fencing

Consideration cannot be given to the details of boundary fencing as it is a civil matter that is administered under the *Fences Amendment Act 2014*.

Support Attachments

1. Development Plans
2. Sites and Surrounds Imagery
3. Planning Permit 2015/445/2
4. Endorsed Plans to Planning Permit 2015/445/2
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

**Legend**

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

Figure 3 View towards the sites eastern title boundary from the south
PLANNING PERMIT
2015/445/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land: No. 7 Downes Avenue BRIGHTON

The Permit Allows: Alterations and additions (single storey), including partial demolition, to the existing dwelling in a Heritage Overlay 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. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

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

Permit Notes

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

Date issued: 7 October 2015

Connor Perrott
Acting Manager Statutory Planning
Signed by: Ayumi Dentry

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.
1. Purpose and background

To report a planning permit application for alterations and additions to an existing retail and office premises comprising an extension of the existing first floor, addition of a second floor, and a reduction of the car parking requirement on a lot with an area of 660 square metres at 249G Hampton Street, Hampton (refer Attachment 1).

The applicant seeks approval to extend the current commercial building by extending the first floor and constructing a second floor, both to be used as office space; which equates to an additional office area of 312sqm. Five new car spaces are proposed (through the construction of car stackers to the rear, replacing five existing spaces with ten spaces) and the applicant is seeking a waiver of five spaces.

2. Policy implications

Planning permit requirements

Clause 34.01-4 (Commercial 1 Zone) – Buildings and works
Clause 43.02-2 (Design and Development Overlay Schedule 12) – Buildings and works
Clause 52.06-5 (Car Parking) – Reduction of the required number of car parking spaces.

Planning scheme amendments

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

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

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

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic</td>
<td>Objection</td>
</tr>
<tr>
<td></td>
<td>- Office area should be decreased by 150sqm to ensure no parking shortfall.</td>
</tr>
<tr>
<td></td>
<td>- Further details of stackers required.</td>
</tr>
<tr>
<td></td>
<td>- Car park management plan 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 two objections were received. The following concerns were raised:

   - Visual bulk,
   - Reduction in light/overshadowing,
   - Visibility of cars in stackers,
   - Reduced amenity,
   - No overshadowing diagrams,
   - Overshadowing diagrams not accurate, and
   - Overlooking.

   **Consultation meeting**
   A consultation meeting was held on 24 May 2017 and was attended by the applicant and both objectors. This meeting did not result in a resolution of any issues and as such, no objections were withdrawn.

4. **Recommendation**

   That Council:

   Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/620/1** for the land known and described as 249G Hampton Street, Hampton for **additions and alterations to an existing retail and office premise and reduction of car parking requirements** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

   1. Before the use and/or development start/s, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans Council date stamped 20 January 2017 but modified to show:
a) The first floor extension deleted.
b) The second floor extension reduced by 5.5 metres at the rear.
c) Details of some form of aesthetically pleasing screening measure across the south and west boundaries to ensure that the car stackers (and any car parked at the highest point) would not be visible from the neighbouring properties.
d) Allocation of all car spaces to the different tenancies.
e) All other changes as required by Condition 6 of this permit.
f) Details of windows along the south elevation to be clearly shown on site plans and elevations, including any required screening measures to ensure no unreasonable overlooking upon neighbouring habitable room windows and secluded private open space.

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

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

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

6. 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 plans must be fully dimensioned and show:
   a) Full manufacture details of the car stackers to the satisfaction of the Responsible Authority.
   b) Details as to how the stackers will be protected from the elements (i.e. roof, water proofing of mechanic equipment etc).
   c) Car stacker specifications including dimensional cross sections.
   d) At least 25 per cent of the mechanical car parking spaces capable of accommodating a vehicle clearance height of at least 1.8 metres.

The plans must be accompanied by a submission / report from a suitably qualified professional demonstrating how any noise emanating from the operation of the stackers would not be unreasonable for this site context.

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

8. 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.

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

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

Permit Notes
- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Prior to commencement of any building works, an Asset protection Application must be taken out. This can be arranged by calling Asset Protection Administrator on 9599 4638.

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:
- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside’s liveability along with its natural and built environment.
- 3.1.3 Advocating Council’s planning and urban design objectives.

Bayside Planning Scheme
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.07 Economic Development
- Clause 21.11 Local Areas
- Clause 34.01 Commercial 1 Zone
- Clause 43.02 Design and Development Overlay (Schedule 12)
- Clause 52.06 Car Parking
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Strategic Justification

Clause 21.11 Local Areas refers to the Local Planning Policy Framework for the Hampton Street Major Activity Centre. Objective 1, seeks to strengthen the role of the Hampton Street Centre as a multi-use centre offering retail, office, entertainment and community services. The proposed addition, and use of the space as offices, is considered to appropriately respond to the objectives of the local policy, as it responds well to the mixed use nature of the precinct and supports employment growth in the area.
6.2. **Commercial 1 Zone**

As the subject site is located within a commercial zone adjacent to the General Residential Zone, is it appropriate to consider the amenity impact the development will have on neighbouring properties.

Currently the building is being used as a retail premise on the ground floor with offices at the first floor. The proposed addition will increase the leasable floor area by 310.70sqm. As it is proposed to use this additional floor area as offices, which is an as of right use within the zone, the assessment is based upon the amenity impacts of the proposal and the reduction of car parking. In this regard it is considered that the development responds well to the location and Council has no concerns in regard to overshadowing neighbouring properties and private open space. In regard to overlooking, there are three (3) windows marked on the southern elevation, which are not shown on the floor plans; these need to be marked on plans and details of any screening measures to ensure no unreasonable overlooking would occur. Screening of the car stackers, along with details of any acoustic attenuation measures to ensure no unreasonable noise impact would also be required.

6.3 **Design and Development Overlay (Schedule 12)**

The proposed development is located in Precinct C which supports a preferred building height of 11m (3 storeys). The proposed addition does not exceed the preferred building height for the precinct and is considered appropriate to the location.

In relation to setback requirements; where the site abuts the boundary of a property containing a dwelling and located in a residential zone the minimum setbacks from the title boundary of that property should be 3m at ground floor, 5m at 1st floor, 10m at 2nd floor and 15m at 3rd floor or above.

As the site is located adjacent to the Neighbourhood Residential Zone, these setback requirements apply to the west rear boundary and south side boundary. The following table summarises the setbacks required and proposed; areas of non-compliance are underlined:

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
<th>Second Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
<td><strong>Required</strong></td>
</tr>
<tr>
<td>West (rear)</td>
<td>3m</td>
<td>No change</td>
</tr>
<tr>
<td>South (side)</td>
<td>3m</td>
<td>No change</td>
</tr>
</tbody>
</table>

The setbacks from residential boundaries are compliant to the rear though non-compliant to the south residential boundary.

Full compliance with these setbacks would be unreasonably onerous given the existing building line, dimensions of the lot and taking into account the neighbouring interface that largely comprises a common driveway to a number of units (i.e. a less sensitive area). That being said, there would be some visual impact upon this neighbouring interface though subject to the reduction in building length to appease the parking issues as discussed below, this impact would be reduced. Furthermore, the overshadowing diagrams indicate that there would be no additional overshadowing to the south. Therefore whilst non-compliant, it is considered a reasonable outcome that will have minimal impact to the amenity of neighbouring properties to the south.

In relation to the design detail, the additions are proposed to be as per the existing building, which is considered an acceptable outcome for this streetscape and surrounding interface.
6.4 Car parking and traffic

The application has been referred to Council's traffic engineer who advised that parking demand within the Hampton Street precinct exceeds current supply. As such it is recommended the office floor area be reduced, as a reduction in car parking would not be supported. It is also worth noting that the existing building was approved with one car space waiver.

The following table summarises the car parking requirement set out in the Planning Scheme and the proposed provision of parking. This table has been prepared based on the total office floor area proposed.

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Size</th>
<th>Statutory Parking Rate</th>
<th>Car spaces required</th>
<th>Car spaces provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office</td>
<td>312 sqm</td>
<td>3.5 to each 100sqm of net floor area</td>
<td>10</td>
<td>5</td>
</tr>
</tbody>
</table>

Total: 10, 5

Shortfall: 5 car parking spaces

As per the traffic referral comments, it is recommended that there be a reduction in floor area, as it is considered that the long term nature of the parking required by the office space cannot be accommodated within Hampton Street. It is therefore recommended to reduce the length of the 1st floor by 5.6m (63.8sqm), which essentially entails the removal of the first floor extension, and the 2nd floor by 5.5m (51.15sqm). This equates to a reduction of approximately 115.0sqm which would then transform the proposal to one which requires a reduction of just one car space. This is considered a reasonable outcome when balanced against the need to support employment opportunities as per state and local planning policy, further noting the access to public transport in proximity of the site.

In relation to the use of car stackers, as no information has been provided as to the specific make and model being used, a permit condition is being included to ensure the amenity of neighbouring properties is not impacted by their use. This report will require full manufacture details along with details of any acoustic attenuation measures required to limit their operational noise. Council's traffic engineer has also raised concerns regarding the ongoing viability of locating the stackers outdoors and as such a permit condition has been included to ensure the stackers are adequately protected from the elements.

Further concerns have been raised by objectors about the visibility of the car stackers, which are proposed to be located adjacent to private open space of neighbouring residential dwellings. Whilst there is currently vegetation (see figures 4 and 5) located along the southern and western boundaries, this is not considered a sufficient permanent screening measure, thus an additional permit condition is being included for the stackers to be entirely screened to the satisfaction of the Responsible Authority.

6.5 Objections received

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

Visual Bulk

The reduction in floor space as discussed above, has the added benefit of reducing the bulk of the building, the proposal is considered to appropriately address the location and not have a detrimental impact on neighbouring properties.
Overshadowing
To the west, the overshadowing would barely project beyond that caused by the existing fence, and is well within the realms of that deemed to be reasonable had this application been assessed under Clause 54 of the Bayside Planning Scheme. There is no additional overshadowing to the south.

Reduced Amenity
Subject to the changes required through condition as previously discussed, there will be no unreasonable amenity impacts from the development.

No overshadowing diagrams
The applicant provided additional overshadowing diagrams which show limited additional overshadowing to neighbouring properties as discussed above.

Support Attachments
1. Development Plans ↓
2. Site and Surrounds Imagery ↓
Item 4.9 – Matters of Decision
ATTACHMENT 2
Aerial Surrounds and Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2 View of the existing commercial building, taken from the southeast

Figure 3 View of the existing commercial building, taken from the southwest
Figure 4 View of existing vegetation, taken from the northeast.

Figure 5 View of existing vegetation, taken from the east.
1. **Purpose and background**

To report a secondary consent application to allow:

- Internal layout changes to all dwellings and modification to apartment schedule from 3 to 2 bedrooms,
- Design modification to building entry,
- Material change to roof from concrete to metal,
- Material change to front fence from black vertical steel to vertical timber battens,
- Window modification and placement changes,
- The addition of external site services and enclosure to eastern (front) title boundary,
- Roof top finished floor level reduced 400mm from 15410 to 15010 AHD,
- Parapet to ground floor western elevation increased 200mm from 11085 AHD to 11285 AHD,

on a lot with an area of 1,170 square metres (refer Attachment 1) at 1-5/33 Sussex Street Brighton (refer Attachment 2).

Planning permit 2014/283/1 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 6 November 2015. The permit allows the construction of two or more dwellings on a lot in the Neighbourhood Residential Zone, a front fence exceeding 1.5 metres in height, a floor to ceiling height greater than 3.5 metres, and the construction of a roof deck above the second storey of the building (refer Attachment 3).

<table>
<thead>
<tr>
<th><strong>Applicant</strong></th>
<th>Powell &amp; Glenn</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Date application received</strong></td>
<td>14 November 2016</td>
</tr>
</tbody>
</table>

2. **Policy implications**

There are no primary policy matters to consider as part of this application which seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2014/283/1.

3. **Stakeholder Consultation**

Referrals

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

Internal referrals

The application was not required to be referred to any Council departments for comment.

Public notification

Applications made in accordance with the provisions of Secondary Consent are not subject to the notice requirements of Sections 52(1)(a), (b) and (d) of the Planning and Environment Act 1987. Therefore these changes to the plans cannot be advertised.
4. **Recommendation**

That Council:

**Approve** the Amended Plans in accordance with the Secondary Consent Provisions of Planning Permit No. 2014/283/1 issued for the **construction of two or more dwellings on a lot in the Neighbourhood Residential Zone, a front fence exceeding 1.5 metres in height, a floor to ceiling height greater than 3.5 metres, and the construction of a roof deck above the second storey of the building** and the following table be added at the end of the permit.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 June 2017</td>
<td><strong>Secondary Consent Amended Plans</strong></td>
</tr>
<tr>
<td></td>
<td>• Internal layout changes to all dwellings and modification to apartment schedule from 3 to 2 bedrooms,</td>
</tr>
<tr>
<td></td>
<td>• Design modification to building entry</td>
</tr>
<tr>
<td></td>
<td>• Material change to roof from concrete to metal,</td>
</tr>
<tr>
<td></td>
<td>• Material change to front fence from black vertical steel to vertical timber battens,</td>
</tr>
<tr>
<td></td>
<td>• Window modification and placement changes,</td>
</tr>
<tr>
<td></td>
<td>• The addition of external site services and enclosure to eastern (front) title boundary,</td>
</tr>
<tr>
<td></td>
<td>• Roof top finished floor level reduced 400mm from 15410 to 15010 AHD,</td>
</tr>
<tr>
<td></td>
<td>• Parapet to ground floor western elevation increased 200mm from 11085 AHD to 11285 AHD.</td>
</tr>
</tbody>
</table>

This amends and supersedes sheets 1, 3, 4, 5 and 8 of the previously endorsed plans dated 4 March 2016. The remaining sheets remain in accordance with the endorsed plans dated 4 March 2016.

5. **Council Policy**

There are not any primary relevant Council policy matters to consider as part of the request to consider amending plans pursuant to the secondary consent provisions afforded by the planning permission.

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:

6.1 **The proposed amendment does not result in a transformation of the proposal.**

The proposed amendments pertain to external (parapet height adjustment, entry design) and internal design changes to the front fence, fenestration (deletion of bedroom 1 window to apartment 1 and 3 and window placement changes to Apartment 2 and 4 living room) and material schedule.

The apartment mix has been modified, resulting in larger 2 bedroom apartments with modified layouts. The resulting changes remain compliant with the relevant with Clause
55 – ResCode standards.

Structural changes involving the reduction in finished floor level to the roof top and the parapet height increase to the ground floor western elevation are minor engineering refinements.

It is noted that the wall on boundary to the western elevation that abuts an existing wall complies with Standard B18 of Clause 55 of the Bayside Planning Scheme.

The addition of the external site services enclosure to the eastern (front) title boundary is to correct an omission to the previously endorsed plans. Located adjacent to the developments accessway and in excess of 4.2 metres from the northern title boundary. The addition will be obscured by the front fence. The enclosure will be easily maintained and accessible and the proposed location will limit the impact on the amenity of any existing dwellings.

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 do not conflict with any permit conditions and do not result in a transformation of the proposal. The changes comply with the relevant Planning Scheme policies including Neighbourhood Character and does not increase site coverage.

6.2 The proposed amendment does not authorise something for which primary consent is required under the planning scheme.

The primary consent was issued at the direction of VCAT for construction of two or more dwellings on a lot in the Neighbourhood Residential Zone, a front fence exceeding 1.5 metres in height, a floor to ceiling height greater than 3.5 metres, and the construction of a roof deck above the second storey of the building. The amendments sought under this application are consistent with the proposal and do not authorise something for which primary consent is required under the Planning Scheme.

6.3 The proposed amendment is of no 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.

6.4 The proposed amendment is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent.

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. Planning Permit
2. Development Plans
3. Endorsed Plans
4. Sites and Surrounds Imagery
PLANNING PERMIT NO: 5/2014/283/1

Address of the Land: 1-5/33 Sussex Street BRIGHTON

The Permit Allows: The construction of two or more dwellings on a lot in the Neighbourhood Residential Zone, a front fence exceeding 1.5 metres in height, a floor to ceiling height greater than 3.5 metres, and the construction of a roof deck above the second storey of the building in accordance with the endorsed plans and subject 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 with the application but modified to show:
   (a) Measures to prevent overlooking from the roof top decks provided in accordance with Standard B22 of Clause 55.04-6.
   (b) A schedule of external materials and finishes in accordance with Condition 3 of this permit.
   (c) A landscape plan in accordance with Condition 8 of this permit.
   (d) Water sensitive urban design measures in accordance with Condition 16 of this permit.

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

3. Before the development starts, three copies of a schedule (including printed samples) of all external materials and colours for all walls, roofs, windows, doors and vehicle access ways to be used in the construction of the proposed dwellings, must be submitted to and be approved by the Responsible Authority.

4. 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.

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

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

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

Date issued: 6 November 2015
Date amended: 18 May 2017

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.

Michael Henderson
Signature for the Responsible Authority
8 Before the development starts, a landscape plan generally in accordance with the landscape plan prepared by Robert Boyle Landscape Design Pty Ltd, dated 7/8/2015 (sheets 1-4, revision C) 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) Tree protection zones for all trees to be retained on the subject site and all trees on neighbouring properties where the tree protection zone extends into the subject site in accordance with AS4970-2009.

(c) Buildings and trees (including botanical names) on neighbouring properties within three metres of the boundary.

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

(f) Landscaping and planting within all open areas of the site

(g) An in-ground irrigation system to all landscaped areas.

(h) An implementation and maintenance plan to include measures for the maintenance of all landscaping shown on the plan. The implementation and maintenance plan must show how the maintenance of the landscape will be the responsibility of the whole development including after subdivision.

(i) The landscape works shown on the endorsed plans must be implemented by a qualified landscape architect and inspected by the landscape architect at the following stages:
   1. Sub soil preparation and cultivation.
   2. Top soil installation and cultivation.
   3. Planting set out.
   4. Paving set out, permeable paving and drainage.
   5. Practical completion.

9 Before the use/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.

10 The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.
PLANNING PERMIT NO: 5/2014/283/1  

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>The existing street tree(s) must not be damaged, destroyed or removed unless with the prior written consent of Council’s Open Space Arborist.</td>
</tr>
<tr>
<td>12</td>
<td>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:</td>
</tr>
<tr>
<td>(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;</td>
<td></td>
</tr>
<tr>
<td>(b) All traffic management plans for the site demolition, excavation, deliveries and other construction related activities that will affect vehicle and pedestrian traffic;</td>
<td></td>
</tr>
<tr>
<td>(c) The location of all areas on-and/or off-site to be used for construction staff parking;</td>
<td></td>
</tr>
<tr>
<td>(d) A parking management plan for all associated construction vehicles;</td>
<td></td>
</tr>
<tr>
<td>(e) All site sheds, portable toilet, storage and materials, etc must be confined to the site;</td>
<td></td>
</tr>
<tr>
<td>(f) The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises;</td>
<td></td>
</tr>
<tr>
<td>(g) A truck wash must be installed and used so vehicles leaving the site do not deposit mud or other materials on roadways;</td>
<td></td>
</tr>
<tr>
<td>(h) No water containing oil, foam, grease, scum or litter will be discharged to the stormwater drainage system from the site;</td>
<td></td>
</tr>
<tr>
<td>(i) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;</td>
<td></td>
</tr>
<tr>
<td>(j) The amount of mud, dirt, sand, soil, clay or stones deposited by vehicles on the abutting roads is minimised when vehicles are leaving the site; and</td>
<td></td>
</tr>
<tr>
<td>(k) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system.</td>
<td></td>
</tr>
<tr>
<td>(l) Tree protection measures for street trees.</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>All works must accord with the approved Construction Management Plan to the satisfaction of the Responsible Authority.</td>
</tr>
<tr>
<td></td>
<td>Before the use or occupation of the development starts, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:</td>
</tr>
<tr>
<td>(a) Constructed;</td>
<td></td>
</tr>
<tr>
<td>(b) Properly formed to such levels that they can be used in accordance with the plans;</td>
<td></td>
</tr>
<tr>
<td>(c) Surfaced with an all-weather-seal coat;</td>
<td></td>
</tr>
<tr>
<td>(d) Drained;</td>
<td></td>
</tr>
<tr>
<td>(e) Line marked to indicate each car space and all access lanes; and</td>
<td></td>
</tr>
<tr>
<td>(f) Clearly marked to show the direction of traffic along access lanes and driveways.</td>
<td></td>
</tr>
<tr>
<td>To the satisfaction of the Responsible Authority.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Car spaces, access lanes and driveways must be kept available for these purposes at all times.</td>
</tr>
</tbody>
</table>

| Date issued: | 6 November 2015 |
| Date amended: | 18 May 2017 |
| Signature for the Responsible Authority: | Michael Henderson |

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.
14 All car parking spaces must be designed to allow all vehicles to drive forwards both when entering and leaving the property.

15 Vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) to the satisfaction of the responsible authority and any existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority.

16 Before the commencement of works, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be approved by the Responsible Authority to provide for Water Sensitive Urban Design Stormwater Treatment Measures.
   (a) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas; and
   (b) Design details of the water sensitive urban design stormwater treatment measures, including cross sections;

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.

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

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

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

20 The legal point of discharge for the development is towards the north-east of the property and should be connected to discharge to the existing Council kerb and channel in Sussex street.

21 All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:
   (a) A trench grate (160mm minimum internal width) located within the property; and/or
   (b) Shaping the driveway so that water is collected in a grated pit on the property; and/or
   (c) Another Council approved equivalent.

Date issued: 6 November 2015
Date amended: 18 May 2017

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.
22 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.

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

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

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

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

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

**Permit Notes**

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>18 May 2017</td>
<td>Permit correction pursuant to Section 71 of the Planning and Environment Act 1987 to: The amendment to Permit Condition 20 is as follows: • The legal point of discharge for the development is towards the north-east of the property and should be connected to discharge to the existing Council kerb and channel in Sussex street.</td>
</tr>
</tbody>
</table>

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.
June 25, 2014

Bayside City Council
Hew Gerrard
Statutory Planning Department
PO Box 27
SANDRINGHAM VIC 3191

Dear Hew,

RE: APPLICATION NO.: 2014283/1
33 SUSSEX ST BRIGHTON VIC 3186
WATER SENSITIVE URBAN DESIGN REPORT

This water sensitive urban design (wsud) report has been provided in response to the request for further information from Bayside City Council regarding the proposed development at 33 Sussex St, Brighton.

Per point 4, a STORM Report has been requested by council. The details of the requirements and proposed measures can be found below.

PLANNING SCHEME: Clause 22.08
The current requirement of the planning scheme in regard to water sensitive urban design is outlined in clause 22.08 and applicable to new multi-unit residential buildings. The objectives of the clause are as follows:

- To promote the use of water sensitive urban design, including stormwater re-use.
- To protect the surface water and ground waters in the Port Phillip Bay catchment from stormwater pollutants.
- To reduce the impacts of peak stormwater flows.
- To integrate stormwater treatment measures into the landscape.
- To reduce the entry of pollutants into stormwater run-off.

This is to be achieved through the following policy requirements:

- Achieve the best practice water quality performance objectives set out in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999. These water quality performance objectives require:
  - Suspended Solids - 60% retention of typical urban annual load
  - Total Nitrogen - 45% retention of typical urban annual load
  - Total Phosphorus - 45% retention of typical urban annual load
  - Maintain discharges for the 1.5 year ARI at pre-development levels

- Best practice measures such as those contained in the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 are to be incorporated into the design of a development.

- Stormwater quality treatment measures are to be designed to prevent litter being carried to receiving water. This includes appropriate design of water enclosures and use of gross pollutant traps for development with potential to generate significant amounts of litter.

The requirement of the applicant is the provision of a report outlining how the application achieves the objectives of the policy, including an assessment from an industry accepted performance measurement tool such as STORM.
INTENT OF STORM

The Melbourne Water STORM rating tool is used as a compliance tool for statutory authorities in order to demonstrate compliance with objectives. Achievement of a 100% STORM rating demonstrates a theoretical 45% reduction in the typical annual loads of nitrogen and achieved best practice objectives.

PROPOSED WATER SENSITIVE URBAN DESIGN STRATEGY

In order to demonstrate that the proposed site meets the requirements set out in the Bayside City Council's Planning Scheme Clause 22.08 Water Sensitive Urban Design (Stormwater Management), a STORM rating has been undertaken. The council requirement for a 100% rating is achieved where the following is implemented:

A 10,000L rain water tank, harvesting water from all ground and first floor roof areas. Harvested rainwater shall provide irrigation to all ground floor gardens. The water required for landscape irrigation must be input into the STORM calculator as 'equivalent bedrooms'. The STORM calculator assumes that a person or people in one bedroom have an average non-potable water usage of 20 Litres per day. Based on the average daily rainwater usage for landscape irrigation, an equivalent number of bedrooms can be calculated. This can be found on the following page. Refer Attachment A – STORM Rating Report.

Permeable paving to all ground floor common and private open space areas, as depicted on the Robert Boyle Landscape Design Pty Ltd - Proposed landscape design drawing. Drawing No.: 140604_14_009.

Figure 1 below depicts the proposed catchment area for the rainwater tank.

Figure 1 – Proposed catchment areas for rainwater harvesting

Yours faithfully,
GIW ENVIRONMENTAL SOLUTIONS PTY LTD

NIRAJ PATEL
ESD Engineer

140625-080222STORM_A090509RNCNT.DOCX
### ATTACHMENT “A”

**STORM Rating Report**

<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>
</tr>
</thead>
<tbody>
<tr>
<td>Roof</td>
<td>615.00</td>
<td>Rainwater Tank</td>
<td>10,000.00</td>
<td>20</td>
<td>122.60</td>
<td>82.0%</td>
</tr>
<tr>
<td>Impervious</td>
<td>129.00</td>
<td>None</td>
<td>0.60</td>
<td>0</td>
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<td>0.00</td>
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</table>

### MONTHLY AVERAGES

<table>
<thead>
<tr>
<th>Month</th>
<th>Rainwater Harvested (L)</th>
<th>Irrigation Demand (L)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan</td>
<td>12,333</td>
<td>21,559</td>
</tr>
<tr>
<td>Feb</td>
<td>12,965</td>
<td>19,478</td>
</tr>
<tr>
<td>Mar</td>
<td>5,968</td>
<td>9,968</td>
</tr>
<tr>
<td>Apr</td>
<td>5,808</td>
<td>9,554</td>
</tr>
<tr>
<td>May</td>
<td>8,705</td>
<td>9,900</td>
</tr>
<tr>
<td>Jun</td>
<td>7,368</td>
<td>4,472</td>
</tr>
<tr>
<td>Jul</td>
<td>4,509</td>
<td>4,597</td>
</tr>
<tr>
<td>Aug</td>
<td>4,542</td>
<td>4,597</td>
</tr>
<tr>
<td>Sep</td>
<td>10,985</td>
<td>13,071</td>
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<tr>
<td>Oct</td>
<td>11,146</td>
<td>13,436</td>
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<tr>
<td>Nov</td>
<td>13,090</td>
<td>13,071</td>
</tr>
<tr>
<td>Dec</td>
<td>13,508</td>
<td>21,569</td>
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</tbody>
</table>

Total 118,897 145,230

Equivalent STORM for "bedroom" 20
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th>Subject site</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td></td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the east
Figure 3 View towards the sites northern title boundary from the east

Figure 4 View towards the sites southern title boundary from the east
4.11 66 MALE STREET, BRIGHTON
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2014/412/1  WARD: NORTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/100674

1. Purpose and background
To report a secondary consent application to allow:

- Alterations to the basement layout plan increasing the size of the basement and the size of storage units.
- Alterations to the ground floor plan changing the decks to paving.
- Alterations to the first floor plan showing a change to the wall treatment outside bedroom 1 of each dwelling, inclusion of air-conditioning enclosures, reduction of the size of the windows and alteration of the screens outside bedroom 3 to each dwelling.
- Alterations to the elevations reflecting the above and altering wall treatments.

On a lot with an area of 857 square metres (refer Attachment 1) at 66 Male Street, Brighton (refer Attachment 2).

Planning Permit 2014/412/1 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 2 April 2015. The permit allows the development of four double storey dwellings with basement car parking on a lot in the Neighbourhood Residential Zone and a front fence exceeding 1.2m in height. The development is currently under construction (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Ekberg Architecture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>6 December 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
There are no primary policy matters to consider as part of this application, which seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit No. 2014/412/1.

3. Stakeholder Consultation

Referrals
There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme and no internal referrals required to be made to other Council departments for comment.

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:

Approve the Amended Plans in accordance with Secondary Consent Provisions of Planning Permit No. 2014/412/1 in respect of the land known and described as 66 Male Street, Brighton, for the development of four double storey dwellings with
The primary consent was issued at the direction of VCAT for the development of four double-storey dwellings with basement car parking on a lot in the Neighbourhood Residential Zone and a front fence exceeding 1.2m in height. 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.

---

### Amendments

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 June 2017</td>
<td>Secondary Consent Amended Plans:</td>
</tr>
<tr>
<td></td>
<td>• Alterations to the basement layout plan increasing the size of the basement and the size of storage units.</td>
</tr>
<tr>
<td></td>
<td>• Alterations to the ground floor plan changing the decks to paving.</td>
</tr>
<tr>
<td></td>
<td>• Alterations to the first floor plan showing a change to the wall treatment outside Bedroom 1 of each dwelling, inclusion of air-conditioning enclosures, reduction of the size of the windows and alteration of the screens outside Bedroom 3 to each dwelling.</td>
</tr>
<tr>
<td></td>
<td>• Alterations to the elevations reflecting the above and altering wall treatments.</td>
</tr>
</tbody>
</table>
6.3 **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.

6.4 **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. Development plans ↓
2. Site & Surrounds Imagery ↓
3. Planning permit 2014/412/1 ↓
4. Endorsed plans to Planning permit 2014/412/1 ↓
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
</tr>
</thead>
</table>

Figure 2 View towards the site from the south
PLANNING PERMIT
5/2014/412/1

Address Of The Land: No. 66 Male Street BRIGHTON

Planning Scheme: Bayside

Development of four double storey dwellings with basement car parking on a lot in the Neighbourhood Residential Zone and a front fence exceeding 1.2m in height 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 with the application but modified to show:
   (a) The privacy screening at first floor level nominated as being no more than 25% transparent;
   (b) Visibility splay in accordance with Design Standard 1 of Clause 52.06-8;
   (c) The ramp redesigned to have a 1 in 10 grade over the first 5m, a 1 in 5 grade over the subsequent 2m, a 1 in 4 grade over the subsequent 7m and a 1 in 8 grade over the remaining 2m;
   (d) A landscape plan in accordance with Condition No. 8; and
   (e) A WSUD response in accordance with Condition No. 16.

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

3. 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.

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

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

Date issued: 2 April 2015

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.
6 Before the occupation of the development starts, the areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be:
   (a) Constructed;
   (b) Properly formed to such levels that they can be used in accordance with the plans;
   (c) Surfaced with an all-weather-seal coat;
   (d) Drained;
   (e) Line marked to indicate each car space and all access lanes;
   (f) Clearly marked to show the direction of traffic along access lanes and driveways;
   to the satisfaction of the responsible authority.

7 Car spaces, access lanes and driveways must be kept available for these purposes at all times.

8 Before the development starts, a landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three copies must be provided.

   The plan must show:
   (a) A survey of all existing vegetation to be retained and/or removed;
   (b) Buildings and trees on neighbouring properties within three metres of the boundary;
   (c) Details of surface finishes of pathways and driveways;
   (d) A planting schedule of all proposed trees, shrubs and ground covers, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
   (e) A limited number of small-medium trees in the courtyards of Dwellings 3 and 4 to ensure the property to the rear of the site retains reasonable access to sunlight;
   (f) Landscaping and planting within all open areas of the site; and
   (g) The provision of an in-ground irrigation system to all landscaped areas.
   to the satisfaction of the responsible authority.

9 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.

Date issued: 2 April 2015

Planning and Environment Regulations 2006 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.
10 The landscaping shown on the endorsed plans must be maintained to the satisfaction of the responsible authority, including that any dead, diseased or damaged plants are to be replaced.

11 Before the 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;

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 to the satisfaction of the responsible authority.

12 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.

13 The proposed internal drainage must be connected to the existing legal point of discharge to the satisfaction of the responsible authority. The applicant may apply for legal point of discharge and local drain information, or carry out on site verification.

14 Stormwater discharge is to be retained on site to the pre-development level of peak stormwater discharge. The development is to have a Stormwater Detention System installed, the design capacity to be to the satisfaction of the responsible authority.

15 Any seepage / agricultural drainage water must be filtered to rain water clarity and must be pumped to the nearest Council Drain /Pit to be to the satisfaction of the responsible authority and not be discharged to the kerb and channel unless directed otherwise.
PLANNING PERMIT
5/2014/412/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

16 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.

17 The driveway/Parking areas/paved courtyards/paths and 'pervious' pavements must be graded/drainage to prevent stormwater discharge onto the front footpath and into adjacent properties to be to the satisfaction of the responsible authority.

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

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

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

Date issued: 2 April 2015

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.
4.12 11 OLINDA AVENUE, BEAUMARIS (FORMERLY PART OF 9 OLINDA)
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2006/867/1  WARD: SOUTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/101950

1. Purpose and background
To report a secondary consent application to allow modifications to the landscaping of the townhouse to the south of the two dwellings, which is now known as 11 Olinda Avenue, Beaumaris (refer Attachment 1). The combined lot (known as 9 Olinda Avenue, Beaumaris) has an area of 929.46 square metres. No. 11 Olinda Avenue has an overall area of 463 square metres (refer Attachment 2).

Planning Permit 2006/867/1 was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 17 September 2007. The permit allows the construction of two (2) double storey dwellings with basement, removal of vegetation in a Vegetation Protection Overlay and construction of roof decks in a Design and Development Overlay 1. The development is completed (refer Attachment 3).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Luke Reinehr</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>4 May 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
There are no primary policy matters to consider as part of this application, which seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2006/867/1.

3. Stakeholder Consultation

Referrals
There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme and no internal referrals required to be made to other Council departments for comment.

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:

Approve the Amended Plans in accordance with Secondary Consent Provisions of Planning Permit No. 2006/867/1 in respect of the land known and described as 9 Olinda Avenue, Beaumaris, for the construction of two (2) double storey dwellings with basement, removal of vegetation in a Vegetation Protection Overlay and construction of roof decks in a Design and Development Overlay 1 in accordance with the endorsed plans and subject to the following table being inserted at the end of the permit:

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 June 2017</td>
<td>Secondary Consent Amended Plans:</td>
</tr>
<tr>
<td></td>
<td>• Modifications to the landscaping of the townhouse to the</td>
</tr>
</tbody>
</table>
south of the two dwellings, which is now known as 11 Olinda Avenue, Beaumaris, in particular:
- Provision of additional landscaping along the northern boundary of the dwelling where there was only a footpath.
- Replacement of the Myrtus Luma (Luma) along the southern boundary with Strelizia Reginae (Strelizia), Acacia Cognata (Limelight), Strelizia Nicolia (Bird of Paradise), Cordyline and Yucca Elephantipes (Yucca).
- Replacement of the some landscaping species within the front yard with other species, and the addition of additional plants/trees.
- Replacement of the Eucalyptus Pauciflora (Snow Gum) in the front yard with a Eucalyptus Melliodora (Yellow Box).
- Replacement of grass in the rear yard with decking.
- Relocation of the BBQ in the backyard from adjacent to the northern most bedroom of the dwelling to adjacent the southern boundary of the rear yard.
- Replacement of the Dwarf Lilly Pilly along the rear boundary with Bambusa textiles gracilis (Gracillis), Lomondra Longifolia (Mat rush), Nandina domestica (Moonbay) and Dianelle Caerulea (Cassa Blue).

5. Council Policy

There are not any primary relevant Council policy matters to consider as part of the request to consider amending plans pursuant to the secondary consent provisions afforded by the planning permission.

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:

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

The amendment does not result in a transformation of the proposal. The amendment would provide for alterations to the landscaping of a generally minor nature. Importantly, the proposal still retains large tree species within the front and rear yard, consistent with Council’s landscaping guidelines. In addition, the landscaping proposed includes more planting than that originally approved. Overall, an improved landscape outcome is proposed.
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 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. It is noted that the reason why the amendment is sought is to reflect actual plantings on site.

6.2 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 two (2) double storey dwellings with basement, removal of vegetation in a Vegetation Protection Overlay and construction of roof decks 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.

6.3 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.

6.4 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. Development plans
2. Site and Surrounds Imagery
3. Planning permit 2006/867/1 and Endorsed plans
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from Olinda Avenue from south
Figure 3 View towards the site from the Olinda Avenue
Figure 4 View towards the site from Olinda Avenue from north
PLANNING PERMIT
2006/867/1

Address Of The Land: No. 9 Olinda Avenue BEAUMARIS

Construction of two (2) double storey dwellings with basement,
removal of vegetation in a Vegetation Protection Overlay and
construction of roof decks in a Design and Development Overlay
1. In accordance with the endorsed plans and subject to the
following conditions.

The Permit Allows:

The Following Conditions Apply To This Permit:

1. Before the development starts three copies of revised plans drawn to scale and
dimensioned, must be submitted to and approved by the Responsible Authority.
When approved the plans will be endorsed and will then form part of the permit. The
plans must be generally in accordance with the application plans, as varied by the
plans marked TP03C, TP04B, TP05A, TP06, TP07B, TP08B and TP09B, but further
modified to show to the satisfaction of the Responsible Authority:

(a) All levels based on Australian Height Datum.

(b) The first floor front façade in each dwelling setback by 3 metres with
consequential changes to the void and stairs. The front balcony may be
enlarged to occupy this additional setback area.

(c) Roof decks modified if necessary to comply with Design and Development
Overlay Schedule 1 and the setback from Olinda Avenue of the stairwell in
Townhouse 1 increased by two metres.

(d) The garage to Townhouse 2 setback one metre from the southern boundary to
provide for landscaping along this boundary and to protect vegetation on the
abutting lot.

(e) The ground level northern setback of Townhouse 1 and the southern setback of
Townhouse 2 increased to 2 metres west of the garages.

(f) The northern setback of Townhouse 1 and the southern setback of Townhouse
2 modified to comply with B17 (as varied by the Residential 1 Zone of the
Bayside Planning Scheme).

(g) The front pathway to each dwelling reduced to be 1.2 metres wide so as to
increase the landscaping area within the front setback.

Date issued: 17 September 2007

Planning and Environment Regulations 2006 Form 4
(h) The width of driveways reduced to 3 metres at the site frontage so as to increase the landscaping area within the front setback.

(i) The rear planter beds increased in width by 500mm.

(j) The planter bed extended along the southern boundary of the rear private open space to Townhouse 2.

(k) Garage doors to be timber unless another material is to the satisfaction of the Responsible Authority.

(l) All wall heights above ground level to be nominated on the plans.

(m) All paving (except driveways) to be permeable. Details of the permeability of the paving must be supplied to the satisfaction of the Responsible Authority.

(n) A schedule of all external materials and finishes to be provided to the buildings and works on the land. The schedule shall show the materials, colour (including two colour samples) and finish of all external walls, roof, fascias, window frames and paving (including car park surfacing).

(o) The proposed landscape treatment for the site including the existing and proposed species, consistent with Condition 9 of this permit.

(p) All plant and equipment (including air conditioning units, heating units, hotwater systems, etc.) which is proposed to be located externally shall be identified on the plans and located to the satisfaction of the Responsible Authority. Such equipment should be located away from bedrooms of adjoining properties.

(q) The provision of 1.7 metre high screening to the entire perimeter of both roof decks.

(r) The north, south and west elevations of all balcony structures to incorporate the use of opaque/obscure screening to a height of 1.7 metres above finished floor level except for the rear western elevation of the upper level balcony in each dwelling if 9 metres or more from the site boundary.

(s) A suitable screening device to be provided to all first floor habitable room windows on the north and south elevations of both dwellings to a minimum height of 1.7 metres when measured above the floor level.

2 The development as shown on the endorsed plans must not be altered or modified (whether or not in order to comply with any statute, statutory rule or for any other reason) without the prior written consent of the Responsible Authority.
PLANNING PERMIT
2006/867/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

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

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

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

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

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

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

9 Before the development hereby permitted starts, three (3) copies of a Landscape Plan must be submitted for approval by the Responsible Authority. The plan must show the proposed landscape treatment of the site and include supporting information to the satisfaction of the Responsible Authority. The plan should be to a scale of 1:100 or 1:200, generally in accordance with the plan prepared by John Patrick Pty Ltd dated August 2007 Drawing 07-099L-LP and show:

Date issued: 17 September 2007
Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority
(a) Accurate location of boundaries, existing and proposed built elements, neighbouring buildings and/or vegetation that may affect or be affected by the proposed development and landscape.

(b) Accurate location and identification (botanical name) of existing vegetation to be retained and/or removed.

(c) Tree Protection Zones as required by the Responsible Authority to protect trees on adjacent sites, including the Willow myrtle on No. 5 Te Hongi Court, and street trees.

(d) Modifications to building setbacks, pathways and driveways required by Condition 1 with areas available for landscaping increased.

(e) An additional indigenous tree in front setback (so that there are no less than three indigenous trees in the front setback of each dwelling including along the side boundaries abutting the driveways).

(f) The rear planter widened to be 1.5 metres wide.

(g) The planter bed extended along the southern boundary of the rear private open space to Townhouse 2.

(h) The addition of a tree opposite bathroom of Townhouse 2 on southern boundary.

(i) Clear identification of the following elements:
   (i) Areas proposed to be lawn, pavement, garden beds, other landscape features;
   (ii) Proposed tree locations, shrub and ground cover groupings, climber locations;
   (iii) Coded identification for these groupings and the numbers proposed; and
   (iv) A Plant Schedule, which consists of an itemised list of all proposed species. The schedule must include the following headings:
       • Plant code; (refers to codified botanical names used on plan, for example, Bm)
       • Botanical and Common name;
       • Height and Width at maturity;
       • Installation height (for trees only);
PLANNING PERMIT
2006/867/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

- Container size (for all other plant groups); and
- Total quantities for each species.

(j) Supporting notes on the plan that elaborate on specific requirements for the proposed landscaping (eg. site preparation, protection during construction of existing vegetation, use of a suitable mulching material and proposed depth etc.)

(k) A legend that explains any graphic symbols used on the plan.

When approved the plan will be endorsed and will then form part of the permit.

10 Before occupation, landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority and then maintained to the satisfaction of the Responsible Authority.

11 The tree removal hereby approved shall be in accordance with the endorsed plan. The endorsed plan shall not be altered or modified unless further consent is obtained from the Responsible Authority.

12 The tree removal/pruning authorised by this permit must be completed to the satisfaction of the Responsible Authority.

13 Replacement planting shall take place within six (6) months of the date of this permit.

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

15 All existing vegetation shown on the endorsed plans must not be removed, destroyed, pruned or lopped without the written consent of the responsible authority, all tree pruning must be carried out by a qualified Arborist to AS 4373 Pruning of Amenity Trees.

16 Prior to the commencement of any development or demolition works a Tree Protection Zone must be identified for the following trees and approved by the Responsible Authority. Prior to the commencement of development or demolition works, a Tree Protection Zone Fence of cyclone wire or similar construction must be erected to a height of at least 1.8 metres at a minimum distance (metres) in radius from the centre of the trees as approved by the Responsible Authority:

Date issued: 17 September 2007

Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 4
| Street tree in front of the site - Eucalyptus radiata – Narrow-leaf Peppermint |
| Street tree in front of No. 5 Te Hongi Court |
| Willow myrtle on No. 5 Te Hongi Court |

(a) Barrier fences must stop access by persons, vehicles or machinery to the area it encloses and be maintained throughout the entire construction period and must have a sign attached stating 'Tree Protection Zone Fence'. (Access may be permitted only with the consent of the Site Manager or the Consultant Arborist)

(b) There is to be no excavation in the area enclosed by this fence and a layer of organic mulch (woodchips) to a depth of not less than 100mm, must be laid and be watered regularly as per current water restrictions.

(c) No materials, chemicals, paints etc, equipment, temporary building or otherwise, must not be dumped, stored or erected within this fence.

17 Tree Protection: General

(a) The installation of utility services must be bored under the root systems of the trees to be retained.

(b) Supplementary watering must be provided to all trees during dry periods, during and after the construction process. This must consist of a deep soaking at least twice a week during summer and daily in extreme heat conditions.

(c) Nothing whatsoever shall be attached to any tree including temporary services, wires, nails, screws or any other fixing device.

(d) All root zones shall be bridged using timber planks, to assist in reducing soil compaction and consequent root damage.

(e) A Qualified Arborist must attend the site during site cut and excavation to ensure that all affected tree roots are managed correctly and to ensure any damaged or exposed tree roots are pruned cleanly and the cut ends sprayed with a root hormone solution before covering with soil.

(f) Any backfill material must be a mixture of quality topsoil and organic composted material and the trees must be monitored on a regular basis during and after construction, by the Consultant Arborist.
(g) Open trenching must be avoided - bore under the root system as an alternative.

18 Crossings shall be constructed in a manner that will not damage the root systems of any mature street trees. An qualified Arborist must be engaged prior to the design and construction to plan and oversee construction methods which will ensure no damage to the trees (above and below ground). No work shall be carried out without approval of the Responsible Authority.

19 Prior to the commencement of any development works, Tree Protection Zones must be erected to the satisfaction of Council's Arborist.

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

(a) The development is not started within two (2) years of the date of this permit.
(b) The development is not completed within four (4) 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.

<table>
<thead>
<tr>
<th>Date</th>
<th>Extension of time amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 August 2009</td>
<td>Extension of time granted to allow development to commence by 17 September 2010 and completed by 17 September 2012.</td>
</tr>
</tbody>
</table>

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.
Item 4.12 – Matters of Decision
Item 4.12 – Matters of Decision
Item 4.12 – Matters of Decision
4.13 15 MIDDLETON STREET, HIGHETT
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/628  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/117527

1. Purpose and background
To report a planning permit application for the construction of two, two-storey dwellings on a lot with an area of 653 square metres (refer Attachment 1) at 15 Middleton Street, Highett (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Urbis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>22 September 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>13 January 2017</td>
</tr>
</tbody>
</table>

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

Planning scheme amendments
Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.

Planning Scheme Amendment C140 has been prepared by Council. Until such time however as Amendment C140 concludes exhibition, submissions are reviewed and the final form of the amendment is reviewed by a Panel and adopted by Council, no weight can be given to it. Case law confirms that proposed amendments to planning schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and adopted.

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions</td>
</tr>
</tbody>
</table>
Public notification

The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and 2 objections were received. The following concerns were raised:

- Neighbourhood character
- Box like design
- Size of windows presenting to the streetscape
- Walls on boundaries
- Car parking
- Lack of landscaping

Consultation meeting

A consultation meeting was not held for this application.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2016/628 for the land known and described as 15 Middleton Street, Highett, for the Construction of two, two-storey dwellings on the lot in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans Council date stamped 28 October 2016 but modified to show:
   a) Deletion of the parapet wall to the front façade.
   b) The porches and garages finished in a material different to render.
   c) Water sensitive urban design measures in accordance with condition 6.
   d) Landscaping plan in accordance with condition 10.

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. Before the buildings are occupied, or by such later date as approved in writing by the Responsible Authority, all new on-boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority.

5. Before the development is occupied, or by such later date as approved in writing by the Responsible Authority, all screening and other measures to prevent overlooking as shown on the endorsed plans must be installed to the satisfaction
of the Responsible Authority. Once installed the screening and other measures must be maintained to the satisfaction of the Responsible Authority.

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

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

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

8. 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.

9. 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.

10. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
    a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
    b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
    c) Any pruning of existing trees to be undertaken in accordance with AS4373.
    d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
    e) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
    f) Details of surface finishes of pathways and driveways.
11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

13. This permit will expire if:
   a) the development is 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;
   or

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.

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

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

5. Council Policy

Council Plan 2013-2017

Relevant strategies of the Council plan include:

- 3.1.1 Developing planning strategies and policies with our community that enhance Bayside's liveability along with its natural and built environment.
- 3.1.3 Advocating Council's planning and urban design objectives.

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (NCP G1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines
6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct G1. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal is generally compliant with the precinct guidelines as it will maintain the front garden setback and the existing large tree. The retained generous front setback will allow for landscaping of the site.

The design of the two new dwellings will present to Middleton Street for the width of the site, resulting in boundary to boundary construction. To the north-east at 76 Middleton Street, a side-by-side development has recently been constructed. Given the similarities between the constructed dual occupancy and this development it is considered that a side-by-side configuration can be supported.

The dwellings present to Middleton Street in a more contemporary, two-storey design with a rendered façade and parapet wall concealing the roof form. The streetscape consists of predominately single-storey, post-war dwellings. The design characteristics of the streetscape consists of exposed brick facades, timber window frames and tiled hipped roofs.

The proposed development does not incorporate these features into the design. Therefore it is recommend to delete the parapet component within the front setback. This will expose the hipped roof form and eaves, which is a prevailing characteristic within the streetscape. Further, it is also recommended that the porches and garages of each dwelling be finished in a material other than render. This will assist in breaking up the visual dominance of the proposal when viewed from the streetscape.

**Compliance with Clause 55 (ResCode)**

An assessment against the requirements of Clause 55 is provided at Attachment 3.

Pursuant to Clause 55, a development must meet all of the objectives of this clause and should meet all of the standards of this clause. Those non-compliant standards are discussed below, noting the corresponding objectives have been achieved.

**Side and Rear Setbacks (Standard B17)**

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>2 metres</td>
<td>2.3 metres</td>
</tr>
<tr>
<td>South (side)</td>
<td>2 metres</td>
<td>2 metres</td>
</tr>
<tr>
<td>West (rear)</td>
<td>3 metres</td>
<td>6.31 metres</td>
</tr>
</tbody>
</table>

The ground and first floor walls of the dwellings comply with the required side and rear setbacks.
The area of non-compliance is limited to the parapet wall to the front façade which encroaches into the side setback 0.5m (shown on the east elevation). Given this encroachment is limited to the parapet wall, it is considered that this is not unreasonable; or will not have a detrimental amenity impact on the adjoining sites.

The wall has an interface with the adjoining dwelling to the north and the primary car parking area on the site to the south. It is also noted that the standard allows for minor encroachments and whilst a parapet wall is not listed as built form that can encroach into the setback, it is considered that this has no more amenity impact than an eave would.

Notwithstanding the above, a condition has been recommended for the removal of the parapet wall for design reasons. Therefore, the area of non-compliance will be removed.

6.2. **Car parking and traffic**

Each dwelling has provisions for a single car garage and tandem car space in accordance with the requirements of Clause 52.06 (Car Parking) of the Bayside Planning Scheme.

Adequate space is provided between the two crossovers associated with the proposed development to allow for on-street car parking.

6.3. **Street tree removal**

The proposal does not involve the removal of any existing street trees, while adequate separation between the proposed crossover and the street tree is achieved to ensure its healthy retention.

6.4. **Vegetation & Landscaping**

The application proposes the retention of the Silver Birch tree with in the front setback, while tree protection measures are recommended as a condition of permit to ensure the healthy retention of the adjoining Maple Lilly Pilly at 17 Middleton Street.

A condition of permit is also recommended to require the provision of a Landscape Plan to detail post-construction landscaping on the subject site (in addition to the retained Silver Birch).

6.5. **Objections received**

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

**Size of windows presenting to the streetscape**

The application proposes large rectangular windows at ground and first floor to integrate with the streetscape. The window forms and sizes are considered appropriate and will provide a high level of passive surveillance across the streetscape.

As these windows are orientated over the streetscape, no unreasonable overlooking of adjoining properties will occur.
Support Attachments

1. Development Plans
2. Site and surrounds imagery
3. Neighbourhood Character Precinct G1
4. Clause 55 (ResCode) Assessment
Item 4.13 – Matters of Decision
Item 4.13 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objectors</td>
<td>⚪️</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the northeast
Figure 3 View towards the site from the southeast
### Neighbourhood Character Precinct G1

#### Preferred Future Character Statement

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

#### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds partially  
Comments:  
No landscape plan provided. Proposes to retain the existing tree at the front of site and retains the front setback to allow for landscaping. |

| To maintain the rhythm of visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Does not respond  
Comments:  
Construction of garages on the boundary therefore presents to the street as boundary to boundary construction. There is no opportunity to landscape side setbacks due to garage locations. |

| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Use pitched roof forms with eaves. | Large, bulky buildings with poorly articulated front and side wall surfaces. | Does not respond  
Comments:  
The proposal provides a simple design that consists of rendered walls and rectangular window forms. A small porch protrudes from the front façade. The proposal does not include roof or window forms present within the street or incorporate materials that are already present within Middleton Street. |

| To maintain the openness of the streetscape. | High, solid front fencing. | | Responds  
Comments:  
No front fence proposed. |
## ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>No</td>
<td>Discussed in more detail in the report are the following points: \ The existing streetscape consists of single-storey, post war dwellings interspersed with some Old English era dwellings. \ Prominent built form characteristics include exposed brick façade, timber frame windows and tiled hipped roofs. \ Generous front setbacks with the dwellings setback from the side boundaries.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></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><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td><strong>Minimum:</strong> 9m \ <strong>Proposed:</strong> 9m, however the porches of the two dwellings encroach 1.04m into the setback. This is considered acceptable given it has been restricted to only the porches.</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td><strong>Required:</strong> 8m \ <strong>Proposed:</strong> 6.55m</td>
</tr>
<tr>
<td>Item</td>
<td>Matter</td>
<td>Decision</td>
</tr>
<tr>
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</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</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. | Yes      | The following has been incorporated into the design to make the dwelling more energy efficient:  
  - All habitable room windows have access to natural light; and  
  - Operable windows allow for natural cooling and ventilation of the dwelling. | |
| **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. | |
| **B13 Landscaping**  | To provide appropriate landscaping. To encourage:  
  - Development that respects the landscape character of the neighbourhood.  
  - Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
  - The retention of mature vegetation on the site. | No       | No landscaping plan has been provided.  
  - The arborist has provided comments and should a permit be issued a condition will require a landscape plan and a tree management report to ensure protection of the tree on the subject site and that on the site to the north.  
  - The arborist is satisfied that the trees within the rear setback of the subject site are of low amenity value and can be removed. | |
Bayside City Council  
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Attachment 4

<table>
<thead>
<tr>
<th>Item 4.13 – Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>B14 Access</td>
</tr>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
</tbody>
</table>
| Appropriate vehicular access is provided.  
  **Maximum**: 40% of street frontage as less than 20m  
  **Proposed**: 38% 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                           |
| Residents have been provided with on-site car parking spaces and given that only two cars are required per dwelling there is unlikely to be unreasonable noise levels from vehicles. |

| 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. |
| Partial compliance           |
| As the table below shows the proposal complies with the side and rear setbacks prescribed by Schedule 3 to the Neighbourhood Residential Zone. However the plans shows the parapet wall to the front façade encroaches into the setback. Refer to the report for a discussion on the non-compliance. |

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Height</td>
</tr>
<tr>
<td>North (side)</td>
<td>2.5m – 3.1m</td>
</tr>
<tr>
<td>South (side)</td>
<td>2.35m – 2.8m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>2.35m – 2.5m</td>
</tr>
</tbody>
</table>

| B18 Walls on Boundaries   |
| Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. |
| Yes                       |
| Maximum Height: 3.6m  
  **Proposed**: 3.6m  
  **Maximum Average Height**: 3.2m  
  **Proposed**: 3.2m  
  **Maximum Length**: 17.94m  
  **Proposed**: 6.47m |

| B19 Daylight to Existing Windows |
| Allow adequate daylight into existing habitable room windows. |
| Yes                           |
| The site to the north has four windows facing the new garage wall. The windows are setback 1m from the boundary thus they have 1m clear to the sky. The light court available to the windows is approximately 5sqm therefore compliance with the standard is achieved.  
  The north-facing windows on the adjoining site will be discussed in the following provision which is more restrictive. |

<p>| B20 North Facing Windows    |
| Allow adequate solar access to existing north-facing |
| Yes                           |
| The ground floor wall opposite the north-facing window should be setback 1m from the boundary for a wall height of 2.8m. The wall is setback 2m, |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.13</td>
<td>Bayside City Council Planning &amp; Amenity Committee Meeting - 13 June 2017</td>
<td>Attachment 4</td>
<td></td>
</tr>
<tr>
<td></td>
<td>habitable room windows.</td>
<td>thus complies with the standard. The first floor wall has a height of 5.6m and should be setback 2.2m under the standard. The wall is setback 3.2m therefore complying with the standard.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>B21 Overshadowing Open Space</td>
<td>Yes</td>
<td>Shadow diagrams show that there is no overshadowing of SPOS on the adjoining sites. New shadow from the proposal will fall within the existing shadow cast by the fence.</td>
</tr>
<tr>
<td></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>B22 Overlooking</td>
<td>Yes</td>
<td>First floor habitable room windows that have the potential to overlook have obscure glazing up to 1.7m above finished floor level (FFL). The plans do not state that these windows are fixed, as such a condition will require the windows to be fixed up to 1.7m above FFL.</td>
</tr>
<tr>
<td></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>B23 Internal Views</td>
<td>Yes</td>
<td>At ground level, fencing to a height of 1.7m will prevent internal overlooking, whilst windows at first floor have been adequately located and designed to limit internal overlooking to less than 50%.</td>
</tr>
<tr>
<td></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></td>
<td></td>
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<td></td>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>B25 Accessibility</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be would allow people of limited mobility to live comfortably within the dwellings.</td>
</tr>
<tr>
<td></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
<td></td>
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<td></td>
<td>B26 Dwelling Entry</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td></td>
<td>Provide a sense of identity to each dwelling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>B27 Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight given they have an outlook over the subject site’s SPOS or the adjoining roofs.</td>
</tr>
<tr>
<td></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>B28 Private Open Space</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: Dwelling 1 - 93.39sqm overall and 50.28sqm SPOS with a minimum dimension of 6.3m. Dwelling 2 – 87.4sqm overall and 49.88sqm SPOS with a minimum dimension of 6.3m.</td>
</tr>
<tr>
<td></td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>B29 Solar Access to Open Space</td>
<td>Yes</td>
<td>SPOS is orientated to the north and west and will therefore receive adequate amounts of daylight.</td>
</tr>
<tr>
<td></td>
<td>Allow solar access into the secluded private open space</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Item 4.13 – Matters of Decision
| B30 Storage | Yes | A storage shed of 6m² in size is provided in the rear open space of each dwelling. |
| B31 Design Detail | No | Refer to the report. This assessment has been paired with the neighbourhood character assessment. |
| B32 Front Fences | Yes | No front fence proposed. |
| B33 Common Property | N/A |  |
| B34 Site Services | Yes | Plans show clotheslines, mailboxes and storage areas as required. Space for meters has been can be accommodated on site within title boundaries comfortably. |
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