Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 13 March, 2018
at 7:00pm

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

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies
2. Declarations of Interest
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4. Matters of Decision
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5. Confidential Business
Nil

Next Meetings 2018

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Tuesday 13 March 2018
Tuesday 27 March 2018
Tuesday 17 April 2018
Tuesday 1 May 2018
Tuesday 15 May 2018
Tuesday 29 May 2018
Tuesday 12 June 2018
Tuesday 17 July 2018
Tuesday 14 August 2018
Tuesday 28 August 2018
Tuesday 11 September 2018
Tuesday 16 October 2018
Tuesday 13 November 2018
Monday 10 December 2018
Thursday 20 December 2018
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 27 February 2018.
4. Matters of Decision

4.1 277 BAY ROAD, CHELTENHAM
NOTICE OF DECISION TO AMEND A PLANNING PERMIT
APPLICATION NO: 2015/311/3 WARD: CENTRAL

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/18/33956

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Devcon Planning Services Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>2 June 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>298 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Commercial 1 Zone</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 2)</td>
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<tr>
<td></td>
<td>Development Contributions Overlay Schedule 1</td>
</tr>
<tr>
<td>Number of objections</td>
<td>6</td>
</tr>
</tbody>
</table>

Proposal
The application seeks an amendment to planning permit 2015/0311/2 for the use of the land for the purpose of dwellings; the construction of a building and the construction of or the carrying out of works; a reduction of the required car parking, and a waiver of the required loading bay. The proposed amendment is as follows:

- Addition of a communal rooftop area.

The application as originally submitted included an additional dwelling on the fourth floor as well as the communal rooftop area. Following on from public notification and a meeting with officers, the application was formally amended under Section 57A of the Planning and Environment Act 1987 to remove the dwelling element of the proposal.

The application plans are provided at Attachment 1.

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

History
Planning permit 2015/311/1 was issued at the direction of the Victorian and Civil Administrative Tribunal (VCAT) on 8 July 2016. The permit allowed the use of the land for the purpose of dwellings, the construction of a building and the construction of or the carrying out of works; a reduction of the required parking and a waiver of the required loading bay.

An amendment to the endorsed plans under secondary consent was granted on 15 December 2016. These changes were internal within the basement and ground floor.

An amendment to this permit (2015/0311/2) was granted on 11 October 2017. This amendment approved a reduction in the overall height of the building, changes to the external treatment on the south, east and west elevations and a slight alteration to the type of some of the apartments.
A further amendment to the endorsed plans under secondary consent was approved on 17 October 2017. This amendment approved the introduction of a second basement level to allow the removal of previously approved car stackers. The endorsed plans and permit are provided at Attachments 3 and 4.

2. Planning controls

There are no new planning permit requirements.

Original planning permit requirements

Clause 34.01-1 (Commercial 1 Zone) – Use of land for dwellings
Clause 34.01-4 (Commercial 1 Zone) – Buildings and works
Clause 43.02-2 (Design and Development Overlay Schedule 2) – Buildings and works
Clause 52.06-3 Car parking (waiver of spaces)
Clause 52.07 Loading and unloading (waiver of requirements)

Planning Scheme Amendments

Planning Scheme Amendment C126 proposes to modify the planning controls for Bayside’s 33 small activity centres. In relation to the Bay Road and Avoca Street centre, the following changes are proposed:

- Delete the Design and Development Overlay Schedule 2 from the centre (a more general planning control)
- Apply a new Design and Development Overlay Schedule 14 to the centre (which proposes specific building controls including setback requirements and a mandatory 3 storey height limit)

Council publicly exhibited Amendment C126 in April 2017 and received 90 submissions. At its 23 May 2017 Ordinary Meeting, Council resolved to review the Small Activity Centres Strategy 2014 and Amendment C126 to have regard to the submissions received and the changes which have occurred in the centres over time. At the 21 February 2018 Ordinary Meeting, Council resolved to undertake further consultation with respect of Amendment C126. 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>
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<tbody>
<tr>
<td>Strategic Planning</td>
<td>No objection.</td>
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</tbody>
</table>

Public notification

The original application, which included the dwelling on the fourth floor was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and six objections were received. The following concerns were raised:

- Out of keeping with the character of the area - visual bulk;
- Does not comply with the Design and Development Overlay Schedule 2;
- Will set a precedent for other overdevelopment in the area;
- Overlooking;
- Parking / Traffic;
- Noise issues given proposed bedrooms will face onto Bay Road;
- Noise issues from residents;
- New bedrooms are south facing; and
- Communal terrace unlikely to be used by all residents.

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

Following on from public notification, the application was formally amended under Section 57A of the Planning and Environment Act 1987 to delete the dwelling on the fourth floor. Objectors were notified of this amended application, however no objections were withdrawn.

It is noted that many of the above objections related to the original proposal to include an additional dwelling. As this element of the proposal has been removed through a formal amendment to the application, these objections are no longer relevant and will not be discussed further in this report.

Consultation meeting

The applicant declined to hold a consultation meeting and instead amended the plans to remove the proposed additional dwelling, which was one of the main areas of concern. The objectors were all notified of the amended plans, however no objections were withdrawn.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant an Amended Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2015/311/3 for the land known and described as 277 Bay Road, Cheltenham, for the use of the land for the purpose of dwellings; the construction of a building and the construction of or the carrying out of works; a reduction of the required car parking, and a waiver of the required loading bay 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) The removal of apartments G.01 and G.02 and the replacement of these apartments with commercial floor space generally in accordance with the plans contained at Appendix D of the evidence statement of Mr Tim Biles dated May 2016.

   (b) Amendments to the roof of the proposed development generally in accordance with the plan contained in appendix C of the evidence statement of Mr Phillip Greenup dated 25 May 2016.
(c) Amendments to the proposed provision for car parking generally in accordance with the design recommendations in section 6 and appendix B of the evidence statement of Mr Russell Fairlie dated May 2016.

(d) Double glazing for all south facing windows of any, level 1 and level 2, apartments with a Bay Road facade.

(e) A schedule of construction materials, external finishes and colours.

(f) If practicable, a small canopy tree within the courtyards of apartment G.05.

(g) A landscape plan in accordance with Condition 9 of this planning permit.

(h) 1.7m high screens between any balconies or private open space areas where appropriate to avoid internal overlooking.

(i) A notation setting out the proposed allocation of car spaces within the basement between residents, traders, and visitors generally in accordance with the approach adopted in of the evidence statement of Mr Russell Fairlie dated May 2016.

(j) Identification and directional signage in respect of the proposed visitor car spaces;

(k) The bin storage areas at ground floor re-located to the basement in the non-secured section of the basement.

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 the 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 dwellings without the written consent of the Responsible Authority.

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

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 development;

(c) Surfaced with an all-weather-seal coat;

(d) Drained;

(e) Line marked to indicate each car space and all access lanes; and

(f) Clearly marked to show the direction of traffic along access lanes and driveways

To the satisfaction of the Responsible Authority.

Car spaces, access lanes and driveways must be kept available for these purposes at all times.

7 The vehicular crossing must be constructed to the road to suit the proposed driveway 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.

8. Concrete kerbs or other barriers must be provided to the satisfaction of the Responsible Authority to prevent direct vehicle access other than via the vehicle crossing shown on the endorsed plans.

9. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided. The plan must detail all plant species and demonstrate that sufficient soil volume exists to support these species.

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

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

12. Before commencement of development, Tree Protection Fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire nature strip under the drip line of the trees. The Tree Protection Zone is to be established and maintained in accordance with Australian Standards 4970 (Protection of trees on development sites). During construction of the crossover, tree protection fencing may be reduced to the edge of the council approved crossover to facilitate the construction of the crossover.

13. 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.

14. Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.60. 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 and not be discharged to the kerb and channel unless directed otherwise.

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

17. Before the development begins, two 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.

18 The driveway / Parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge into adjacent properties.

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

(a) Construction methodology.
(b) Site access establishment, adjoining properties, use of the rear laneway and the public footpath along Bay Road.
(c) Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints.
(d) The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises.
(e) Control of noise and airborne matter and contact numbers for complaints;
(f) No water containing oil, foam, grease, scum or litter to be discharged to the stormwater drainage system from the site;
(g) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
(h) 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;
(i) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;
(j) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

20 Prior to the commencement of the development hereby approved, the applicant must submit to the Responsible Authority, an amended Waste Management Plan (WMP). This WMP must be to the satisfaction of the Responsible Authority and specify that all waste will be collected by private contractors from within the site. The WMP must also detail that a 6.4m rear mini loader is to be used. The WMP must be amended to reflect conditions of this permit and include the following notes:

In section 2.3

• Commingle recycling (mixed recycling) must also include plastics coded 1-7 at a minimum
• Cardboard recycling will be organised by the Operators through a private collection contractor.
• Hard waste collections will be managed by the Operators (Body Corporate / Owners Corporation) and will be organised with a private collection contractor.
• Other waste items such as e-Waste, white goods, domestic volumes of household paints, household batteries, florescent tubes and mixed globes can be taken to Baysides Waste Transfer and Recycling Centre at 144 Talinga Road, fees and charges may apply.

• Household Chemical collections can be arranged through Sustainability Victoria via the mobile chemical collection program.

In Section 2.4

• Storm water drains in storage area should be fitted with a litter trap/filter installed to trap litter which can then be disposed of responsibly; any trap/filter is to be included on a regular cleaning and sanitising schedule and must be emptied regularly

• Signage and bin colour coding must be in accordance with Sustainability Victoria’s Away from Home Waste Signage guide. Update table to reflect signage guide – all bases should be black or green.

21 Prior to the commencement of the development (excluding demolition), the applicant must carry out a Preliminary Environmental Assessment (PEA) of the site to determine if it is suitable for the intended uses. This PEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the uses.

The PEA should include:

• Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This should include details of how long the uses occupied the site.

• A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials. This also includes a review of any previous Environmental Audits of the site and surrounding sites.

Should the PEA reveal that further investigative or remedial work is required to accommodate the intended uses, then prior to the commencement of the development, the applicant must carry out a Comprehensive Environmental Assessment (CEA) of the site to determine if it is suitable for the uses.

This CEA must be carried out by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or a person who is acceptable to the Responsible Authority. This CEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development. The CEA should include:

• Intrusive soil sampling in accordance with the requirements of Australian Standard (AS) 44582.1. This includes minimum sampling densities to ensure the condition of the site is accurately characterised.

• An appraisal of the data obtained following soil sampling in accordance with ecological, health-based and waste disposal guidelines.

• Recommendations regarding what further investigate and remediation work, if any, may be necessary to ensure the site is suitable for the intended uses.

Prior to the occupation of the building, the applicant must submit to the Responsible Authority a letter confirming compliance with any findings, requirements, recommendations and conditions of the CEA.
Should the CEA recommend that an Environmental Audit of the site is necessary then prior to the occupation of the building the applicant must provide either:

(a) A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or

(b) A Statement of Environmental Audit in accordance with Section 53Z of the Environment Protection Act 1970. This Statement must confirm that the site is suitable for the intended use(s).

Where a Statement of Environmental Audit is provided, all the conditions of this Statement must be complied with to the satisfaction of the Responsible Authority and prior to the occupation of the building. Written confirmation of compliance must be provided by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or other person acceptable to the Responsible Authority. In addition, the signing off of the Statement must be in accordance with any requirements in it regarding the verification of works.

If there are conditions on the Statement that the Responsible Authority consider requires significant ongoing maintenance and/or monitoring, the applicant must enter into a legal agreement in accordance with Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. This Agreement must be executed on title prior to the occupation of the building. The owner of the site must meet all costs associated with the drafting and execution of this agreement including those incurred by the Responsible Authority.

The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:

(a) Transport of materials, goods or commodities to or from the land;

(b) Appearance of any building, works or materials;

(c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste productions, grit or oil;

(d) Presence of vermin;

(e) Other as appropriate.

Deliveries to and from the site (including waste collection) must only take place as specified in the Environmental Protection Authority’s Noise Control Guidelines Publication 1254 October 2008.

Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1

or

Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2

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

The communal rooftop terrace may only be used by the residents of the dwellings in the building and for no commercial purpose.
28 This permit will expire if one of the following circumstances applies:

(a) The development has not commenced within two years of the date of this permit.

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

(c) The uses have not commenced within one year of completion of the development.

The Responsible Authority may extend the periods referred to above if a request is made in writing:

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

Permit Notes:

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
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<tbody>
<tr>
<td>15 December 2016</td>
<td>Amendment to the endorsed plans under Secondary Consent:</td>
</tr>
<tr>
<td></td>
<td>Basement and access</td>
</tr>
<tr>
<td></td>
<td>• The vehicle access ramp gradients revised and changes made accordingly to</td>
</tr>
<tr>
<td></td>
<td>the ground floor and basement plans; and</td>
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<td></td>
<td>• A non-allocated car parking space reallocated to Apartment G.03.</td>
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<tr>
<td>Ground Floor Level</td>
<td>• Apartment G.03 reconfigured to allow for a three bedroom apartment with</td>
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<tr>
<td></td>
<td>the north-facing courtyard decreasing in area from 18m² to 15m² and the</td>
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<td></td>
<td>west-facing courtyard increasing from 16m² to 17m²;</td>
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<td></td>
<td>• Apartment G.04 increasing from a 1 bedroom apartment to a two bedroom</td>
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<td></td>
<td>apartment and north-facing courtyard increasing in area from 17m² to</td>
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<td></td>
<td>20m²;</td>
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<td></td>
<td>• Apartment G.05 to be reconfigured internally;</td>
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<tr>
<td></td>
<td>• Reduction in floor area of the services room and the remaining space</td>
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<tr>
<td></td>
<td>used for bathrooms, laundry and store for Apartment G.03.</td>
</tr>
<tr>
<td>11 October 2017</td>
<td>Planning and Environment Act 1987, Section 72 amendment to endorsed plans</td>
</tr>
<tr>
<td></td>
<td>to include:</td>
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<td>• A reduction in the overall height of the building.</td>
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<td></td>
<td>• Amendment to the external treatment of the building including the use</td>
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<td>of circular elements along the south, east and west elevations and a</td>
</tr>
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<td></td>
<td>more traditional design along the north elevation where it faces the</td>
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<td>residential properties.</td>
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Item 4.1 – Matters of Decision

Bayside City Council
Planning & Amenity Committee Meeting - 13 March 2018

- Slight alteration to the type of some of the apartments.

Pursuant to Section 71 of the Planning and Environment Act 1987, a correction to the Amended Planning Permit is required. Due to an administrative error an amended planning permit was issued prior to a Notice of Decision to Grant an Amended Permit.

13 March 2018
Amendment under S72 of the Planning and Environment Act 1987 to include:
- Addition of a communal roof top terrace area
- Inclusion of condition 27 in relation to the use of the communal terrace area and subsequent renumbering of following conditions.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:
- With village-style activity centres, combining retail at ground floor with increased opportunities for apartment-style living above.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

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

Bayside Planning Scheme
- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 22.08 Water Sensitive Urban Design
- Clause 34.01 Commercial 1 Zone
- Clause 43.02 Design and Development Overlay (Schedule 2)
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

Amendment C126 provides an activity centre hierarchy for Bayside’s small activity centres. The Bay Road and Avoca Street centre, which the subject site is within, is classified as a Small Neighbourhood Activity Centre. These centres provide convenience retailing for the daily ‘top-up’ shopping needs of local residents and passing motorists. They have a small supermarket or milk bar as well as other commercial/retail premises such as takeaway food, cafes, hairdressers, medical, offices or specialist retailers. The centre is anticipated to accommodate a moderate level of growth.

Amendment C126, as exhibited proposed to remove the DDO2 from the property and apply a new DDO14. The design objectives of DDO14 are:

- To ensure that new development is consistent with the relevant urban form concept plan at subclause 5.0 of this Schedule.
- To ensure that new development respects the urban form and building types within the activity centre.
- To ensure that new development is designed to provide an appropriate interface with and transition to surrounding lots and residential zones.
- To ensure that new development contributes to safe and active streets.
- To ensure that new development is designed to prioritise pedestrian access.
- To protect and reinforce views to key buildings and features identified at subclause 5.0 of this Schedule.
- To protect residential secluded private open space and habitable room windows from unreasonable amenity impacts, including overlooking and overshadowing.
- To ensure that environmentally sustainable design is incorporated into new buildings.

The DDO14 applies a mandatory 11m (3 storey) height control to the centre. The approved development is generally consistent with C126 as exhibited. Council’s Strategic Planning team are satisfied that the provision of a communal rooftop terrace over part of the roof, with a small covered area does not conflict with the intention of this amendment. It should be noted however, as stated earlier in this report, that this amendment is not yet a seriously entertained document.

6.2. Design and Development Overlay Schedule 2

The design objectives of this schedule are as follows:

- To achieve architectural and urban design outcomes that contribute positively to local urban character and enhance the public realm while minimising detrimental impact on neighbouring properties.
• To preserve the existing character and amenity of the areas as low rise (up to two storeys) suburban areas with a strong garden character.
• To maintain the prevailing streetscape rhythm, building scale and height of neighbourhoods.
• To maintain a strong landscape character with buildings set within vegetated surrounds.

This proposal seeks to amend the existing planning permit to allow for the provision of a communal rooftop terrace. No other changes are proposed. A small covered area is proposed as part of the terrace to allow for communal facilities, including a WC and kitchen area and a lift lobby.

The terrace is set well back from all elevations and as such there will only be limited views of the covered area. The building will still read as three storeys, albeit with a small central covered area above that will hardly be visible from the streetscape and surrounding area. It is considered that the proposed rooftop terrace is consistent with the design objectives of the DDO.

6.3. Car parking and traffic

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

No additional dwellings are being proposed, therefore there is no requirement to provide additional parking.

6.4. Objector issues not already addressed

Precedent

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

Overlooking

The proposed communal terrace is set well back from all sides of the development, such that there will be no overlooking to neighbouring properties.

Noise issues from residents;

The proposed residential use will have noise impacts consistent with those normal to a residential zone. Speech, laughter, music etc. are noises associated with people living their lives and are all part of life in an urban area. No additional dwellings are being proposed as part of this amendment.

Communal terrace unlikely to be used by all residents

A condition is included in the recommendation that will restrict the use of the terrace to the residents of the dwellings in the building. Whether people choose to use the terrace is a personal decision. It is anticipated that the body corporate for the development will set out any rules and regulations for controlling the use of the terrace area.

Support Attachments

1. Development Plans
2. Site and surrounds imagery
3. Endorsed Plans
4. Existing Permit
Figure 1 Aerial overview of the site and surrounds

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

Figure 3 View towards the site from the southeast
Address Of The Land:  No. 277 Bay Road CELTENHAM

The Permit Allows:  The use of the land for the purpose of dwellings; the construction of a building and the construction of or the carrying out of works; a reduction of the required car parking, and; a waiver of the required loading bay in accordance with the endorsed plans and subject to the following conditions.

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) The removal of apartments G.01 and G.02 and the replacement of these apartments with commercial floor space generally in accordance with the plans contained at Appendix D of the evidence statement of Mr Tim Biles dated May 2016.
   (b) Amendments to the roof of the proposed development generally in accordance with the plan contained in appendix C of the evidence statement of Mr Phillip Greenup dated 25 May 2016.
   (c) Amendments to the proposed provision for car parking generally in accordance with the design recommendations in section 6 and appendix B of the evidence statement of Mr Russell Fairlie dated May 2016.
   (d) Double glazing for all south facing windows of any, level 1 and level 2, apartments with a Bay Road facade.
   (e) A schedule of construction materials, external finishes and colours.
   (f) If practicable, a small canopy tree within the courtyards of apartment G.05.
   (g) A landscape plan in accordance with Condition 9 of this planning permit.
   (h) 1.7m high screens between any balconies or private open space areas where appropriate to avoid internal overlooking.
   (i) A notation setting out the proposed allocation of car spaces within the basement between residents, traders, and visitors generally in accordance with the approach adopted in of the evidence statement of Mr Russell Fairlie dated May 2016.
   (j) Identification and directional signage in respect of the proposed visitor car spaces;
   (k) The bin storage areas at ground floor re-located to the basement in the non-secured section of the basement.

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 the 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 dwellings without the written consent of the Responsible Authority.

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

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 development;
   (c) Surfaced with an all-weather-seal coat;
   (d) Drained;
   (e) Line marked to indicate each car space and all access lanes; and
   (f) Clearly marked to show the direction of traffic along access lanes and driveways To the satisfaction of the Responsible Authority.

   Car spaces, access lanes and driveways must be kept available for these purposes at all times.

7 The vehicular crossing must be constructed to the road to suit the proposed driveway 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.

8 Concrete kerbs or other barriers must be provided to the satisfaction of the Responsible Authority to prevent direct vehicle access other than via the vehicle crossing shown on the endorsed plans.

9 Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and two copies must be provided. The plan must detail all plant species and demonstrate that sufficient soil volume exists to support these species.

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

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

12 Before commencement of development, Tree Protection Fencing is to be established around the street trees prior to demolition and maintained until all works on site are complete. The fencing is to be constructed and secured so its positioning cannot be modified by site workers. The fencing is to encompass the entire nature strip under the drip line of the trees. The Tree Protection Zone is to be established and maintained in accordance with Australian Standards 4970 (Protection of trees on development sites).
During construction of the crossover, tree protection fencing may be reduced to the edge of the council approved crossover to facilitate the construction of the crossover.

13 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.

14 Stormwater discharge must be retained for the portion above the discharge calculated using a Coefficient of Runoff of 0.60. 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 and not be discharged to the kerb and channel unless directed otherwise.

16 All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:

(a) A trench grate (150mm minimum internal width) located within the property; and/or
(b) Shaping the driveway so that water is collected in a grated pit on the property; and/or
(c) Another Council approved equivalent.

17 Before the development begins, two 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.

18 The driveway / Parking areas / paved courtyards / paths and 'pervious' pavements must be graded / drained to prevent stormwater discharge into adjacent properties.

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

(a) Construction methodology.
(b) Site access establishment, adjoining properties, use of the rear laneway and the public footpath along Bay Road.
(c) Hours of construction, control of noise and airborne matter, deliveries, vehicle access, worker car parking, damage to public assets, and contact numbers for complaints.
(d) The covering and maintenance of all roads/storage areas/external stockpiles/or vacant areas to avoid dust nuisance to any residential and commercial premises.
(e) Control of noise and airborne matter and contact numbers for complaints;
(f) No water containing oil, foam, grease, scum or litter to be discharged to the stormwater drainage system from the site;
(g) All stored wastes are kept in designated areas or covered containers that prevent escape into the stormwater system;
(h) 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;

(i) No mud, dirt, sand, soil, clay or stones are washed into, or are allowed to enter the stormwater drainage system;

(j) The site is developed and managed to minimise the risks of stormwater pollution through the contamination of run-off by chemicals, sediments, animal wastes or gross pollutants in accordance with currently accepted best practice.

20 Prior to the commencement of the development hereby approved, the applicant must submit to the Responsible Authority, an amended Waste Management Plan (WMP). This WMP must be to the satisfaction of the Responsible Authority and specify that all waste will be collected by private contractors from within the site. The WMP must also detail that a 6.4m rear mini loader is to be used. The WMP must be amended to reflect conditions of this permit and include the following notes:

In section 2.3

• Commingle recycling (mixed recycling) must also include plastics coded 1-7 at a minimum

• Cardboard recycling will be organised by the Operators through a private collection contractor.

• Hard waste collections will be managed by the Operators (Body Corporate / Owners Corporation) and will be organised with a private collection contractor.

• Other waste items such as e-Waste, white goods, domestic volumes of household paints, household batteries, florescent tubes and mixed globes can be taken to Baysides Waste Transfer and Recycling Centre at 144 Talinga Road; fees and charges may apply.

• Household Chemical collections can be arranged through Sustainability Victoria via the mobile chemical collection program.

In Section 2.4

• Storm water drains in storage area should be fitted with a litter trap/filter installed to trap litter which can then be disposed of responsibly; any trap/filter is to be included on a regular cleaning and sanitising schedule and must be emptied regularly

• Signage and bin colour coding must be in accordance with Sustainability Victoria's Away from Home Waste Signage guide. Update table to reflect signage guide – all bases should be black or green.

21 Prior to the commencement of the development (excluding demolition), the applicant must carry out a Preliminary Environmental Assessment (PEA) of the site to determine if it is suitable for the intended uses. This PEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the uses.

The PEA should include:

• Details of the nature of the land uses previously occupying the site and the activities associated with these land uses. This should include details of how long the uses occupied the site.

• A review of any previous assessments of the site and surrounding sites including details of the anticipated sources of any contaminated materials. This also
includes a review of any previous Environmental Audits of the site and surrounding sites.

Should the PEA reveal that further investigative or remedial work is required to accommodate the intended uses, then prior to the commencement of the development, the applicant must carry out a Comprehensive Environmental Assessment (CEA) of the site to determine if it is suitable for the uses.

This CEA must be carried out by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or a person who is acceptable to the Responsible Authority. This CEA must be submitted to, and be approved by the Responsible Authority prior to the commencement of the development. The CEA should include:

- Intrusive soil sampling in accordance with the requirements of Australian Standard (AS) 44582.1. This includes minimum sampling densities to ensure the condition of the site is accurately characterised.
- An appraisal of the data obtained following soil sampling in accordance with ecological, health-based and waste disposal guidelines.
- Recommendations regarding what further investigate and remediation work, if any, may be necessary to ensure the site is suitable for the intended uses.

Prior to the occupation of the building, the applicant must submit to the Responsible Authority a letter confirming compliance with any findings, requirements, recommendations and conditions of the CEA.

Should the CEA recommend that an Environmental Audit of the site is necessary then prior to the occupation of the building the applicant must provide either:

(a) A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or
(b) A Statement of Environmental Audit in accordance with Section 53Z of the Environment Protection Act 1970. This Statement must confirm that the site is suitable for the intended use(s).

Where a Statement of Environmental Audit is provided, all the conditions of this Statement must be complied with to the satisfaction of the Responsible Authority and prior to the occupation of the building. Written confirmation of compliance must be provided by a suitably qualified environmental professional who is a member of the Australian Contaminated Land Consultants Association or other person acceptable to the Responsible Authority. In addition, the signing off of the Statement must be in accordance with any requirements in it regarding the verification of works.

22 If there are conditions on the Statement that the Responsible Authority consider requires significant ongoing maintenance and/or monitoring, the applicant must enter into a legal agreement in accordance with Section 173 of the Planning and Environment Act 1987 with the Responsible Authority. This Agreement must be executed on title prior to the occupation of the building. The owner of the site must meet all costs associated with the drafting and execution of this agreement including those incurred by the Responsible Authority.

23 The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:

(a) Transport of materials, goods or commodities to or from the land;
(b) Appearance of any building, works or materials;
(c) Emissions of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste productions, grit or oil;
(d) Presence of vermin;
(e) Other as appropriate.

24 Deliveries to and from the site (including waste collection) must only take place as specified in the Environmental Protection Authority’s Noise Control Guidelines Publication 1254 October 2008.

25 Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1

or

Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Music Noise from Public Premises), No. N-2

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

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

(a) The development has not commenced within two years of the date of this permit.
(b) The development is not completed within four years of the date of this permit.
(c) The uses have not commenced within one year of completion of the development.

The Responsible Authority may extend the periods referred to above if a request is made in writing:

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

Permit Notes

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
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<tbody>
<tr>
<td>15 December 2016</td>
<td>Amendment to the endorsed plans under Secondary Consent: Basement and access</td>
</tr>
<tr>
<td></td>
<td>• The vehicle access ramp gradients revised and changes made accordingly to the ground floor and basement plans; and</td>
</tr>
<tr>
<td></td>
<td>• A non-allocated car parking space reallocated to Apartment G.03. Ground Floor Level</td>
</tr>
<tr>
<td></td>
<td>• Apartment G.03 reconfigured to allow for a three bedroom apartment with the north-facing courtyard decreasing in area from 18m² to 15m² and the west-facing courtyard increasing from 16m² to 17m²;</td>
</tr>
<tr>
<td></td>
<td>• Apartment G.04 increasing from a 1 bedroom apartment to a two bedroom apartment and north-facing courtyard increasing in area from 17m² to 20m²;</td>
</tr>
<tr>
<td></td>
<td>• Apartment G.05 to be reconfigured internally;</td>
</tr>
<tr>
<td></td>
<td>• Reduction in floor area of the services room and the remaining space used for bathrooms, laundry and store for Apartment G.03.</td>
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</tbody>
</table>
11 October 2017  

Planning and Environment Act 1987, Section 72 amendment to endorsed plans to include:

-  A reduction in the overall height of the building.
-  Amendment to the external treatment of the building including the use of circular elements along the south, east and west elevations and a more traditional design along the north elevation where it faces the residential properties.
-  Slight alteration to the type of some of the apartments.

Pursuant to Section 71 of the Planning and Environment Act 1987, a correction to the Amended Planning Permit is required. Due to an administrative error an amended planning permit was issued prior to a Notice of Decision to Grant an Amended Permit.

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED
11 October 2017

Devcon Planning Services Pty Ltd
nikki@devconps.com.au

Dear Sir/Madam,

**Application Number:** 2015/311/2  
**Address:** 277 Bay Road CHELTENHAM  
**Proposal:** The use of the land for the purpose of dwellings; the construction of a building and the construction of or the carrying out of works; a reduction of the required car parking, and; a waiver of the required loading bay

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.

If you are required to submit plans for endorsement as a result of a condition of the planning permit and the review deems the plans to be unsatisfactory, you will be required to pay a fee for any subsequent review of those plans.


Amendments to plans not pertaining to the conditions contained in the permit will need to be lodged as a formal amendment.

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

Fiona Farrand  
Email: enquiries@bayside.vic.gov.au  
Telephone: 9599 4604

Yours faithfully

STATUTORY PLANNING DEPARTMENT  
Enc.  
Item 4.1 – Matters of Decision
4.2 9-11 ADAMSON STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/525  WARD: NORTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/18/19907

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
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</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Ratio Consultants Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>4 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>173 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 11)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>15</td>
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</tbody>
</table>

Proposal

The application seeks the construction of a three storey apartment building (nine (9) units) with basement parking and a front fence in excess of 1.5m in height on a lot with an area of 1433 square metres. Key details of the proposal are as follows:

- Nine dwellings (3 x 2 bedroom, 3 x 2 bedroom plus study, 1 x 3 bedroom, 2 x 3 bedroom plus study)
- Three storey building at a maximum height of 10.91 metres
- Site coverage 58%
- Permeability 20.1%
- Garden area 35.8%
- Provision of 18 resident parking spaces and one visitor space (requirement is for 12 resident spaces and one visitor space)

The application plans are provided at Attachment 1.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.08-6 (General Residential Zone) – Construction of two or more dwellings on a lot and a front fence in excess of 1.5 metres.
- Clause 43.02-2 (Design and Development Overlay) – Buildings and works
Planning Scheme Amendments

Planning Scheme Amendment C153 has been initiated by Council at Melbourne Water’s request 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. An independent Planning Panel has considered the submissions received to the amendment and the Panel Report will be presented to Council early in 2018. 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. Whilst the subject site is currently not affected by the SBO, this amendment proposes to include a section of the site at 11 Adamson Street.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

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

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 15 objections were received. The following concerns were raised:

- Out of keeping with neighbourhood character;
- Excessive scale and bulk;
- Will set a precedent;
- Overlooking;
- Overshadowing;
- Parking / Traffic;
- Noise and dust from construction;
- Potential structural damage;
- Drainage concerns; and
- Property values.

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

Consultation meeting

The applicant declined a consultation meeting and instead contacted all the objectors separately, one objection was subsequently withdrawn.
4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/525 for the land known and described as 9-11 Adamson Street, Brighton, for the **construction of a three storey apartment building (nine (9) units) with basement parking and a front fence in excess of 1.5m in height** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Mckimm but modified to show:
   a) The height of the boundary wall on the south-west elevation to be reduced to a maximum average height of 3.2m.
   b) Plans demonstrating that all first and second floor windows and balconies on the north-east, north-west and south-west elevations comply with Standard B22 of the Bayside Planning Scheme.
   c) Clarification (change if required) that a 4.0m setback is achieved between first and second floors at the front façade.
   d) All dwellings to comply with Standard B35 of the Bayside Planning Scheme and not exceed the maximum cooling load.
   e) An updated landscape plan to show compliance with Standard B38 of the Bayside Planning Scheme as set out at condition 10.
   f) Compliance with Standard B41 of the Bayside Planning Scheme in terms of accessibility for 50% of the dwellings.
   g) Bicycle parking to comply with AS2890.3:2015.
   h) 1 in 10 grade to be provided for the first 5m of the basement entrance from the property boundary.
   i) Relocation of the intercom to ensure a vehicle using the intercom can be stopped wholly within the 1 in 10 grade.
   j) Swept path analysis to demonstrate that a 6.4m waste vehicle can enter and exit the basement in a forward direction and with satisfactory height clearance.
   k) 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.
   l) An updated Waste Management Plan to include the requirements set out at condition 18.

   All to the satisfaction of the Responsible Authority.

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

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

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

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

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

7. The loading and unloading of vehicles and the delivery of goods to and from the premise must at all times be conducted entirely within the site and in a manner that limits interference with other vehicular traffic to the satisfaction of the Responsible Authority.

Water Sensitive Urban Design

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plans drawn by John Patrick Landscape Architects, dated August 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.

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

e) Full compliance with Standard B38 of the Bayside Planning Scheme in relation to deep soil areas and canopy trees.

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.

Street tree protection

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

   a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
   b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

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

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

Sustainability

16. Prior to the endorsement of plans pursuant to condition 1, a Sustainability Report to the satisfaction of the Responsible Authority must be submitted and endorsed by the Responsible Authority. The Sustainability Report must generally be in accordance with the Report prepared by GIW Environmental Solutions dated 27 September 2017 Revision C.

17. The development must be carried out and maintained in accordance with the recommendations and requirements as described in the endorsed sustainability report to the satisfaction of the Responsible Authority.

Waste Management Plan

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

a) Dimensions of storage waste areas.
b) Adequate internal storage space within each dwelling to enable the separation of waste, recyclables and food waste where appropriate.
c) Storm water drains in storage areas should be fitted with a litter trap.
d) The number and size of bins to be provided.
e) Adequate ventilation.
f) Located and design for convenient access by residents and made easily accessible to people with limited mobility.
g) Facilities for bin cleaning.
h) Method of waste and recyclables collection.
i) Types of waste for collection, including colour coding and labelling of bins.
j) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
k) Method of hard waste collection.
l) Method of presentation of bins for waste collection.
m) Sufficient headroom within the basement to accommodate waste collection vehicles.
n) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
o) Strategies for how the generation of waste and recyclables will be minimised.
p) Compliance with relevant policy, legislation and guidelines.

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

Construction Management Plan

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

a) A detailed schedule of works including a full project timing.
b) A traffic management plan for the site, including when or whether any access points would be required to be blocked, an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services, preferred routes for trucks delivering to the site, queuing/sequencing, excavation and swept-path diagrams.
c) The location for the parking of all construction vehicles and construction worker vehicles during construction.
d) Delivery of materials including times for loading/unloading, unloading points, expected frequency and details of where materials will be stored and how concrete pours would be managed.

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

m) Protection works necessary to road and other infrastructure (limited to an area 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.

Drainage

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

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

Basement Construction

22. Following completion of the construction of the basement and prior to commencement of the next level, a report prepared by a licensed surveyor certifying the overall internal dimensions and levels have been achieved shall be submitted to and approved by the Responsible Authority.

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

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

Permit Expiry

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

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

Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- Council records indicate that there is no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated Basements or Below Ground Structures.”

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

• Clause 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 21.11 Local Areas (Church Street Major Activity Centre)
• Clause 22.06 Neighbourhood Character Policy (Precinct B2)
• Clause 22.08 Water Sensitive Urban Design
• Clause 22.08 General Residential Zone (Schedule 2)
• Clause 21.11 Neighbourhood Character Policy (Precinct B2)
• Clause 21.06 Built Environment and Heritage
• Clause 21.11 Local Areas (Church Street Major Activity Centre)
• Clause 21.11 Neighbourhood Character Policy (Precinct B2)
• Clause 22.08 Water Sensitive Urban Design
• Clause 22.08 General Residential Zone (Schedule 2)
• Clause 32.08 General Residential Zone (Schedule 2)
• Clause 43.02 Design and Development Overlay (Schedule 11)
• Clause 52.06 Car Parking
• Clause 52.34 Bicycle 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. **Strategic Justification**

The Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres. The local areas policy contains a subsection relating specifically to the Church Street Major Activity Centre (Clause 21.11-3) that seeks to encourage residential development close to shops and services to provide a transition from the business precinct to low scale residential areas.

Furthermore Clause 21.11 encourages redevelopment of larger sites and grade level car parks for residential with basement car parking and encourages the provision of adequate off-street parking for all new dwellings.

Additionally, the policy in Clause 21 seeks to provide an opportunity for as many people as is appropriate given the character of the area and the opportunities for change to live and work in Brighton, with access to public transport and within walking and cycling distance of activity centres, and hence to provide a real transport option for people other than the private car. It is considered that the proposal meets the above policy aspirations because the proposed development is located within walking distance to Middle Brighton Station, is located within an activity centre (Church Street Major Activity Centre) and is located within walking distance to the commercial sector.

6.2. **Design and Development Overlay Schedule 11**

The design objectives of this schedule are as follows:
To ensure that the height of new development is compatible with the preferred future role and character of the Church Street Major Activity Centre;

To develop the centre in a way that conserves and enhances its valued urban character and heritage places;

To ensure that new development contributes to safe and active streets; and,

To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.

The site is identified as being located within the Church Street Major Activity Centre and identified as been within Precinct E of the Schedule.

Precinct E has the following build form provisions:

**Table to built form precinct provisions**

Refer to Built Form Precinct Map at the end of the schedule.

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>13.5m (4 storeys)</td>
<td>-</td>
</tr>
<tr>
<td>C</td>
<td>11.0m (3 storeys)</td>
<td>-</td>
</tr>
<tr>
<td>D</td>
<td>9.0m (2 storeys) fronting Well Street; 11.0m (3 storeys) fronting any other street</td>
<td>-</td>
</tr>
<tr>
<td>E</td>
<td>-</td>
<td>11.0m (3 storeys); or 12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more</td>
</tr>
</tbody>
</table>

For clarity purposes, the following map shows where the proposed development is located in relation to the ‘E Built Form Precinct Map’:
The proposal retains the low rise, neighbourhood character of the Church Street Major Activity Centre by respecting the scale of built form. The plans comply with the Design and Development Overlay – Schedule 11 for the following reasons:

- The proposed development consists of a maximum height of 10.91 metres (above NGL) / three storeys development. There are no portions that exceed the 10.91 metres;
- The bulk, location and appearance of the development is considered to be in keeping with the emerging character and appearance of adjacent buildings located within close proximity and is considered to enhance the streetscape;
- The proposed development does not overshadow any public space nor any adjoining streets to an unsatisfactory level;
• The proposed use of a mixture of building materials provides a level of articulation and breaks up the perceived bulk from all abutting allotments;

• The subject is located within walking distance to Middle Brighton Station which encourages the use public transport and furthers the Church Street Centre Framework Plan;

• The proposed development will contribute to creating a vibrant residential activity centre;

• The proposed development is considered to be consistent with the Church Street Centre Framework Plan;

• The layout and appearance of areas set aside for car parking is considered sufficient as it will not be dominant to the streetscape due to the location (basement).

• The second floor is set back a minimum of 4 metres behind the front wall of the floor immediately below. This will be confirmed via a condition in the recommendation as there is some ambiguity between floor plans and elevations.

In principle, the proposed development and the diversity of the housing stock is supported. The precinct as a whole offers a variety of dwelling sizes and types therefore the increase in assortment of dwellings for the subject site is an appropriate outcome for the precinct. In general, this form of medium density development is encouraged under the Church Street Centre Framework Plan therefore, the proposed development is considered to be consistent with the objectives of the DDO11.

6.3. Neighbourhood character

As a starting point it, it must be acknowledged that the site locates within the Church Street Major Activity Centre and is covered by the DDO11, where high density development is encouraged.

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

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

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

• To recognise the need for change around activity centres while respecting the desired future character of the area.

• To recognise the need for new or additional Design Objectives and Design Responses for areas affected by structure planning outcomes and Melbourne 2030 housing objectives.

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

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

• The preferred future character and the precinct guidelines including objectives, design responses and avoid statements for each precinct as described in this policy.

• The extent to which the characteristics of the built and natural environment in the immediate vicinity of the site may determine a preferred future character that is
different from that applying to the remainder of the precinct in which the site is located.

- Whether the site is located within a residential opportunity area as shown on the Strategic Framework Plan of the Municipal Strategic Statement and the extent to which this may alter the relevance of the design responses to consideration of the proposal.

It is the planning department’s submission that the underlined section above applies to the development under consideration, and the relevance of the Neighbourhood Character Precinct B2 is diminished by the site’s inclusion in the Church Street Activity Centre and the DDO11.

Failure to acknowledge such a contradiction would result in an assessment whereby one would effectively ‘have one foot on the accelerator and one foot on the break’. i.e., the intensive development sought under the DDO11 (and various other State and Local Policy) would be severely restricted by the objectives of Clause 22.06 (Neighbourhood Character Policy) that effectively requires development to respect the surrounding, largely single storey housing stock.

Notwithstanding the above, an assessment has been undertaken against Neighbourhood Character Precinct B2, and an appropriate level of compliance has been achieved with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposal allows for sufficient setbacks to provide substantial landscaping and spacing between buildings. Parking is provided in the basement with a single access. The building is well articulated with the upper floor set back thereby diminishing the impact on the surrounding area. A variety of materials have been employed providing visual interest and articulation.

The proposed front fencing is not in keeping with preferred character of open style fencing. Adamson Street however comprises mainly of high solid brick fences on the front boundaries. As such the proposal is considered to be in keeping with the established character of fencing in Adamson Street, particularly with the landscaping strip to the front.

6.4. Compliance with Clause 55 (ResCode)

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

Front setbacks (Standard B6)

The required setback from the street frontage is 9 metres. The proposal complies with this at ground floor level, but at first floor level, the balcony encroaches to some extent, resulting in the setback being reduced 6.3 metres. However the balcony walls are only 1.3 metres in height with raised garden beds included along the front of the balcony areas. This provides additional landscaping to the street front. The low level height of the balconies together with the landscaping are therefore considered to minimise the impact of the encroachment such that it will not have an adverse impact on the surrounding area.

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-east (side)</td>
<td>0m or 1.0m</td>
<td>2.226m</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### South-west (side)
<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>0m or 1.0m</td>
<td>0m, 3.096m</td>
<td>1.78m</td>
</tr>
<tr>
<td></td>
<td>3.235m</td>
<td></td>
</tr>
</tbody>
</table>

### North-west (rear)
<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>0m or 1.0m</td>
<td>0m, 4m</td>
<td>1.96m</td>
</tr>
<tr>
<td></td>
<td>3m, 4.1m, 5.6m</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second floor</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>North-east (side)</td>
<td>5.89m</td>
<td>2.062m, 2.371m</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3.276m</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South-west (side)</td>
<td>4.49m</td>
<td>5.275m</td>
<td></td>
</tr>
<tr>
<td>North-west (rear)</td>
<td>4.99m</td>
<td>3m, 4.3m, 5.15m</td>
<td></td>
</tr>
</tbody>
</table>

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

As can be seen in the table above, the proposal does not meet the required setbacks on the north-east and north-west elevations of the development at second floor levels. In addition, there is a minor element of non-compliance at first floor level on the north-east elevation.

There is a laneway adjacent to both the north-east and north-west boundaries which provides a buffer to the residential properties beyond. This laneway is between 4.5-5 metres in width. The non-compliant aspects of the proposal front onto this laneway, an area that obviously demands far less amenity protection that a residents private yard or habitable room window.

These decreased setbacks have allowed for a design response that provides generous setbacks to the most sensitive interface on the south-west boundary, with the setbacks well in excessed of what is required. It is therefore considered that this is an appropriate outcome, with the only amenity outcomes enforced upon the Council owned laneway area that is not highly trafficable.

### Walls on boundaries (Standard B18)

Bedroom 2 of dwelling 3 abuts directly onto the north-west boundary of the site. Whilst the length of this wall is compliant with the standard, the height is a maximum of 4 metres, which exceeds the maximum of 3.6 metres. The wall is however directly on the boundary with a laneway and as such this additional height for a width of 5 metres on the boundary will not have any adverse impact.

Dwelling 4 has a wall built on the south-west boundary. Again, the length is compliant but the average height of the wall is 3.245 metres instead of 3.2m. A condition is included in the recommendation to reduce this height to 3.2 metres.

### Front Fences (Standard B32)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adamson Street</td>
<td>1.5m</td>
<td>1.8-2.1m</td>
<td>0.3-0.6m</td>
</tr>
</tbody>
</table>

A brick front fence of 1.8-2.1 metres in height is proposed to the front boundary of the site on Adamson Street. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

The front boundary treatment for the majority of properties in Adamson Street typically comprises of brick fencing in excess of 1.5 metres. The front boundary fencing proposed
together with the landscaping strip along the frontage is therefore considered to be in keeping with the surrounding street scape.

**Energy Efficiency Objectives (Standard B35)**

Eight of the nine dwellings proposed meet the requirements set out in the standard. However no justification has been provided as to why dwelling 8 exceeds the maximum cooling rate. As such, a condition is included in the recommendation requiring full compliance with the standard.

6.5. **Car parking and traffic**

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

Based on the above requirements, 12 resident parking spaces and one visitor parking space are required. This proposal will provide 18 resident parking spaces and one visitor parking space, thereby exceeding the requirements of Clause 52.06.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to driveway gradients, bicycle parking and clearance for a waste truck.

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

6.6. **Objector issues not already addressed**

**Noise and dust from construction**

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

**Potential structural damage**

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

**Drainage concerns**

The application has been referred to Council’s Drainage Engineer who has required that specific drainage conditions be included on any planning permit that is issued.

**Precedent**

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

**Property values**

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

1. Development Plans
2. Site and surrounds imagery
3. Neighbourhood Character Assessment
4. Clause 55 Assessment
Item 4.2 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

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

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objectors</td>
<td>📰</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>▲</td>
</tr>
</tbody>
</table>
Figure 2. View towards 9 Adamson Street, from the south-east.

Figure 3. View of 11 Adamson Street and adjacent laneway.
Figure 4. View of laneway to rear of site.

Figure 5. End of Adamson Street and entrance to laneway.
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.

Pearson Street and Loller Street are both areas of significant neighbourhood character.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds
Neither of the proposed dwellings makes any significant contribution to the precinct. No objection is raised to their demolition. |
| To maintain and enhance the garden settings of the dwellings.             | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds
The proposal allows for generous landscaping within the development. A landscaping condition is included in the recommendation. |
| To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens. | • 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. | Responds
The building is set sufficiently well back to allow for substantial planting and landscaping in the front garden areas. This will be secured by way of condition. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the loss of front garden 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.              | Responds  
Parking is provided in the basement of the proposed building. An existing vehicle crossover will be utilised. |
| 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.                                      | Responds  
Whilst the proposed building is larger than the existing dwellings in Adamson Street it is well articulated through both setbacks and materials. The second floor is set back from the lower levels thereby lessening the dominance of the building. |
| 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 | N/A                                                                                   |
| 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.                               | Responds  
The proposal incorporates a variety of materials, including brick, render and cladding and is of a simple contemporary design. |
| To improve the visual connection between the dwellings and the streetscape | • Provide open style front fences, other than along heavily trafficked roads. | High, solid fences.                                                                 | Does not respond  
A solid brick fence of between 1.8-2.1 metres is proposed. Whilst this is not in |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>and encourage views to front gardens.</td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td>keeping with the preferred design response, the typical front boundary treatment in Adamson Street is that of high solid fences. As such the proposal is considered to be in keeping with the streetscape.</td>
</tr>
</tbody>
</table>
## BAYSIDE PLANNING SCHEME – CLAUSE 55 ASSESSMENT

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Compliance</th>
<th>Amended Plans Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>contributes to a preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to features of the site and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td></td>
<td>Complies</td>
</tr>
<tr>
<td>Residential development is consistent with housing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>policies in the SPPF, LPPF including the MSS and local</td>
<td></td>
<td></td>
</tr>
<tr>
<td>planning policies.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Support medium densities in areas to take advantage of</td>
<td></td>
<td></td>
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<tr>
<td>public transport and community infrastructure and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td></td>
<td>Complies</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td></td>
<td>Complies</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Variation</td>
<td>Variation requested –</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the</td>
<td>requested</td>
<td>refer report.</td>
</tr>
<tr>
<td>existing or preferred neighbourhood character and</td>
<td>–</td>
<td></td>
</tr>
<tr>
<td>make efficient use of the site.</td>
<td>10.91m</td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td></td>
<td>Complies – 10.91m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td></td>
<td>Complies – 58%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character and respond to the features of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td></td>
<td>Complies – 20.1%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td></td>
<td>Complies</td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>residential buildings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure orientation and layout reduces fossil fuel</td>
<td></td>
<td></td>
</tr>
<tr>
<td>energy use and makes appropriate use of daylight and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>solar energy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Integrate layout of development with any public and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>communal open space provided in or adjacent to the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td></td>
<td>Complies</td>
</tr>
<tr>
<td>Layout to provide safety and security for residents and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>property.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**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.

**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.

**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.

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

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
</tr>
<tr>
<td>North-east (side)</td>
<td>0m or 1.0m</td>
</tr>
<tr>
<td>South-west (side)</td>
<td>0m or 1.0m</td>
</tr>
<tr>
<td>North-west (rear)</td>
<td>0m or 1.0m</td>
</tr>
</tbody>
</table>

**Second floor**

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North-east (side)</td>
<td>5.89m</td>
<td>2.062m, 2.371m, 3.276m</td>
</tr>
<tr>
<td>South-west (side)</td>
<td>4.49m</td>
<td>5.275m</td>
</tr>
<tr>
<td>North-west (rear)</td>
<td>4.99m</td>
<td>3m, 4.3m, 5.15m</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.

Length of walls comply. Height of wall on north-west elevation does not comply. Slight non-compliance with height of wall on south-west boundary.

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

Complies

**B20 North Facing Windows**

Complies
<table>
<thead>
<tr>
<th>Allow adequate solar access to existing north-facing habitable room windows.</th>
<th></th>
</tr>
</thead>
</table>
| **B21 Overshadowing Open Space**  
Ensure buildings do not significantly overshadow existing secluded private open space. | Complies |
| **B22 Overlooking**  
Limit views into existing secluded private open space and habitable room windows. | Complies |
| **B23 Internal Views**  
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. | Complies |
| **B24 Noise Impacts**  
Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | Complies |
| **B25 Accessibility**  
Consider people with limited mobility in the design of developments. | Complies |
| **B26 Dwelling Entry**  
Provide a sense of identity to each dwelling. | Complies |
| **B27 Daylight to New Windows**  
Allow adequate daylight into new habitable room windows. | Complies |
| **B28 Private Open Space**  
Provide reasonable recreation and service needs of residents by adequate pos. | Complies |
| **B29 Solar Access to Open Space**  
Allow solar access into the secluded private open space of new dwellings/buildings. | Complies |
| **B30 Storage**  
Provide adequate storage facilities for each dwelling. | Complies |
| **B31 Design Detail**  
Encourage design detail that respects the existing or preferred neighbourhood character. | Refer report. |
| **B32 Front Fences**  
Encourage front fence design that respects the existing or preferred neighbourhood character. | Variation requested – refer report. |
| **B33 Common Property**  
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. | N/A |
| **B34 Site Services**  
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. | Complies. |

**Clause 55.07: Apartment Development**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **Standard B35 Energy efficiency objectives**  
To achieve and protect energy efficient dwellings and | Will comply. | Dwelling 8 does not comply, all others do. Require condition for full compliance. |
buildings. To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy. To ensure dwellings achieve adequate thermal efficiency.

<table>
<thead>
<tr>
<th>Standard B36 Communal open space</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development. Developments with 40 or more dwellings should provide a minimum area of communal open space of 2.5 sq metres per dwelling or 250 sq metres, whichever is lesser.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B37 Solar access to communal outdoor open space</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow solar access into communal outdoor open space.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B38 Deep soil areas and canopy trees objective</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>To promote climate responsive landscape design and water management in developments to support thermal comfort and reduce the urban heat island effect.</td>
<td>Included as a recommended condition.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Standard B39 Integrated water and stormwater management</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the use of alternative water sources such as rainwater, stormwater and recycled water. To facilitate stormwater collection, utilisation and infiltration within the development. To encourage development that reduces the impact of stormwater run-off on the drainage system and filters sediment and waste from stormwater prior to discharge from the site.</td>
<td>The proposal will incorporate a 15,000 litre rainwater tank and associated pump in the basement garage, which will be connected to all toilets. An in-ground drip irrigation system is proposed and in addition, a 300mm deep raingarden will be provided.</td>
</tr>
<tr>
<td><strong>Standard B40 Noise impacts</strong></td>
<td>Complies</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td><strong>Standard B41 Accessibility</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>Standard B42 Building entry and circulation</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>Standard B43 Private open space above ground floor</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>Standard B44 Storage</strong></td>
<td>Complies</td>
</tr>
<tr>
<td><strong>Standard B45 Waste and recycling</strong></td>
<td>Complies</td>
</tr>
</tbody>
</table>
### Standard B46 Functional layout
To ensure dwellings provide functional areas that meet the needs of residents.

| Complies | All living areas and bedrooms for each dwelling exceed the requirements of this standard. |

### Standard B47 Room depth
To allow adequate daylight into single aspect habitable rooms.

| Complies | All habitable rooms have sufficient depth and ceiling height to allow for adequate daylight. |

### Standard B48 Windows
To allow adequate daylight into new habitable room windows.

| Complies | All habitable rooms have at least one window in an external wall of the building. No bedrooms require a secondary area within the bedroom for natural light. |

### Standard B49 Natural ventilation
To encourage natural ventilation of dwellings.
To allow occupants to effectively manage natural ventilation of dwellings.

| Complies | The proposal meets the requirement in terms a minimum of 40% of dwellings having effective cross ventilation. |
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Amend a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Stockwood Design</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>26 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>153 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 2)</td>
</tr>
<tr>
<td></td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>6</td>
</tr>
</tbody>
</table>

Proposal

The application seeks alterations and additions to a dwelling and roof deck on a lot with an area of 358 square metres. The application was lodged pursuant to Section 72 of the Planning and Environment Act 1987 as an amendment to increase the height of the dwelling from 8.11m to 8.918m. The plans submitted with the application show the following changes:

- Increase to the height of the dwelling from 8.11m to 8.918m;
- Removal of glazing to the first-floor bathroom window and staircase windows on the southern elevation;
- Removal of a skylight to the ground floor meals area;
- Internal alteration to the layout and minor reduction and relocation to the size of the roof terrace; and,
- Minor internal alterations.

The application plans are provided at Attachment 1.

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

History

Planning application 2015/678/1 was submitted to Council on 14 October 2015 for first-floor alterations and additions to an existing dwelling and the addition of a roof terrace. The application was approved by Council at the Planning and Amenity Committee meeting held on 12 April 2016.

The permit applicant lodged a conditions appeal at VCAT pursuant to Section 80 of the Planning and Environment Act 1987 in regards to the removal of Condition 1a from the permit. Additionally, one of the objectors lodged an Application for Review pursuant to Section 82 of the Planning and Environment Act 1987 against Council’s decision. The appeal was heard at VCAT on 28 October 2017. A permit was issued at the direction of
VCAT with the removal of Condition 1a from the permit.

On 1 March 2017, an application to amend the plans under secondary consent was submitted to Council for the relocation of the existing solar panels and addition of two air-conditioning units. The plans were amended on 18 May 2017 and endorsed on 25 May 2017.

The planning permit is provided at Attachment 3, while the endorsed plans are provided at Attachment 4.

2. Planning controls

Original planning permit requirements

A planning permit was required pursuant to:

- Clause 32.09-5 - (Neighbourhood Residential Zone Schedule 3) – Alterations and additions to a single dwelling on a lot less than 500 square metres.

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.

The proposal does not trigger additional permit requirements outside of the previous planning approval as listed above.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

Public notification

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

- Application form unsatisfactory;
- Plans poor/unclear;
- Compliance with Clause 55 (ResCode) of the Bayside Planning Scheme;
- Visual bulk;
- Incorrect shadow diagrams; and,
- Overlooking.

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

Consultation meeting

A consultation meeting was not held in regards to this application as the applicant declined the meeting.
4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Amend Planning Permit 2015/679/1** under the provisions of the Bayside Planning Scheme in respect of **planning application 2015/679/2** for the land known and described as **398 New Street, Brighton** for the **alterations and additions to a dwelling and roof deck on a lot less than 500m²** 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 plans but modified to show:
   a) Provision of overlooking screens to the south and east of the terrace in accordance with Standard A15 of Clause 54 of the Bayside Planning Scheme.

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 and roof terraces including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

7. 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.
- Council records indicate that there is no easement within the property.
- The existing street tree/s must not be removed or damaged.

THE PERMIT INCORPORATES THE FOLLOWING AMENDMENTS:

<table>
<thead>
<tr>
<th>Date Amended</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 March 2018</td>
<td>Amendment pursuant to Section 72 of the Planning and Environment Act 1987, involving:</td>
</tr>
<tr>
<td>13 March 2018</td>
<td>Amendment to the plans endorsed under the permit:</td>
</tr>
<tr>
<td>13 March 2018</td>
<td>• Increase to the height of the dwelling from 8.11m to 8.918m</td>
</tr>
<tr>
<td>13 March 2018</td>
<td>• Removal of glazing to the first-floor bathroom window and staircase windows on the southern elevation</td>
</tr>
<tr>
<td>13 March 2018</td>
<td>• Removal of a skylight to the ground floor meals area</td>
</tr>
<tr>
<td>13 March 2018</td>
<td>• Internal alteration to the layout and minor reduction and relocation to the size of the roof terrace</td>
</tr>
<tr>
<td>13 March 2018</td>
<td>• Minor internal alterations</td>
</tr>
</tbody>
</table>

Sheets 1-4 (inclusive) have been created and will supersede all of the previously endorsed plans endorsed on 25 May 2017.

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- 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. Increase to building height

The proposal involves an increase to the height of the dwelling from 8.11m to 8.918m. The Design and Development Overlay (Schedule 2), allows a maximum building height for this site of 9.0m. The proposed changes are compliant with this schedule. In addition, the building height remains lower than that of the neighbouring building at 396 New Street and as such, is unlikely to cause any significant amenity impacts to the street or adjoining dwellings.

6.2. Internal and external alterations

The plans submitted with the application also show the following additional changes from the currently endorsed plans:

- Removal of glazing to the first-floor bathroom window and staircase windows on the southern elevation;
- Removal of a skylight to the ground floor meals area;
- Internal alteration to the layout and minor reduction and relocation to the size of the roof terrace; and,
- Minor internal alterations that are not visible externally.

The removal of window glazing to the stairs and bathroom on the southern elevation is compliant as these windows are not considered habitable pursuant to Clause 72 of the Bayside Planning Scheme (see Attachment 5 for ResCode Assessment).

The removal of the skylight to the ground floor meals area is unlikely to have a significant impact on daylight to the dwelling as there are multiple east-facing windows in the meals/living area that will provide solar access to the room. Its removal will not be seen from the street and will have no impacts to the amenity of adjoining dwellings.

The proposed changes to the size and layout of the roof terrace are minor in nature and will not majorly alter the appearance of the dwelling from the street. Screening has been provided to the roof deck to prevent overlooking and is compliant with the Clause 54 (Overlooking) standard.

All other changes to the endorsed plans are internal and minor in nature and will not be seen from the street or adjoining dwellings. Council is satisfied that the above changes are suitable to the dwelling and are compliant with the relevant standards of the Bayside Planning Scheme.

6.3. Compliance with Clause 54 (ResCode)

An assessment against the requirements of Clause 54 is provided at Attachment 5. All of the proposed changes are compliant with the relevant standards.

6.4. Landscaping

The application does not propose to remove any trees protected by the Local Law.

6.5. Objector issues not already addressed

Visual Bulk

The proposal relates to minor changes to the layout, location and height of the already approved roof deck. The height of the dwelling remains compliant with Clause 54 (ResCode) of the Bayside Planning Scheme and is lower than the height of the adjoining dwelling 396 New Street. The design response is suitable in an eclectic streetscape of
single and double storey building form, many of which are not dissimilar to the proposed built form.

**Incorrect Shadow Diagrams**

An objection to the amendment was received regarding incorrect shadow diagrams submitted with the application. Updated shadow diagrams were circulated to objectors on 14 February 2018. As per the ResCode assessment provided in Attachment 5, the diagrams show minimal additional shadowing from the proposed increased height of the dwelling. All additional shadowing occurs to the shared driveway of 396 New Street and is compliant with Clause 54.

**Support Attachments**

1. Development Plans
2. Site Surrounds and Imagery
3. Planning Permit
4. Endorsed Plans
5. ResCode Assessment
Item 4.3 – Matters of Decision
ATTACHMENT 5
Site and Surrounds Imagery

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

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector</td>
<td>⬜️</td>
</tr>
</tbody>
</table>
Figure 2: View towards the site from the west

Figure 3: View towards the site and 396 New Street from the west
Figure 3: View towards the site and 398A New Street from the west
The Following Conditions Apply to this Permit

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 but modified to show:
   a) Provision of overlooking screens to the south and east of the terrace in accordance with Standard A15 of Clause 54 of the Bayside Planning Scheme.

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 and roof terraces including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building

7. 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.

Date issued: 28 October 2016

Michael Raffo
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.
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.
- Council records indicate that there is no easement within the property.
- The existing street tree/s must not be removed or damaged.

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>18 May 2017</td>
<td>Secondary Consent Amended Plans:</td>
</tr>
<tr>
<td></td>
<td>• Relocation of the existing solar panels from the north and east of the roof to propose two new rows of five panels one to the north-west and one to the south-east, and.</td>
</tr>
<tr>
<td></td>
<td>• Inclusion of two A/C units to the north-east of the terrace with 800mm high louver screening.</td>
</tr>
</tbody>
</table>

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED

Date issued: 28 October 2016

Michael Kelleher
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.
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.
Item 4.3 – Matters of Decision
## ATTACHMENT 5
ResCode (Clause 54) Assessment

### ResCode Clause 54 (One Dwelling on a Lot)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>N/A</td>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>N/A</td>
<td>Integrate the layout of development with the street.</td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>N/A</td>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</td>
</tr>
</tbody>
</table>
| **A4 Building Height** | Complies | **Maximum**: 9.0m  
As per Design and Development Overlay Schedule 2  
**Proposed**: 8.918m |
| **A5 Site Coverage** | N/A | Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. |
| **A6 Permeability** | N/A | Reduce the impact of stormwater run-off on the drainage system and |
facilitate on-site stormwater infiltration.

<table>
<thead>
<tr>
<th>A7 Energy Efficiency</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td></td>
</tr>
</tbody>
</table>

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

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

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

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

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

<table>
<thead>
<tr>
<th>A14 Overshadowing Open Space</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure buildings do not unreasonably overshadow</td>
<td>Shadow diagrams submitted with the application demonstrate minimal additional shadowing to adjoining properties. There is some minor shadowing to the shared driveway of 396 New Street but no</td>
</tr>
</tbody>
</table>
existing secluded private open space. | additional shadows to habitable windows or SPOS.
---|---
**A15 Overlooking**
Limit views into existing secluded private open space and habitable room windows | Complies
Glazing has been removed from the staircase and first floor bathroom of the dwelling. As these rooms are not habitable, the design response is compliant.

**A16 Daylight to New Windows**
Allows adequate daylight into new habitable room windows. | N/A

**A17 Private Open Space**
Provide adequate private open space for the recreation and service needs of residents. | N/A

**A18 Solar Access to Open Space**
Allow solar access into secluded private open space of a new dwelling. | N/A

**A19 Design Detail**
Encourage design detail that respects the existing or preferred neighbourhood character. | N/A

**A20 Front Fences**
Encourage front fence design that respects the exiting or preferred neighbourhood character. | N/A
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Amend Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Lowe Design and Build</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants. There is a S173 agreement registered on title. This relates to the development of the land being in accordance with the endorsed plans (or subsequently amended). The proposed development does not conflict with this agreement.</td>
</tr>
<tr>
<td>Date application received</td>
<td>5 October 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>22 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1) Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>1</td>
</tr>
</tbody>
</table>

Proposal

The application seeks to amend planning permit 2013/567/1 which allows ‘Construction of two (2) double storey dwellings (side by side) and removal of native vegetation in accordance with the endorsed plans and subject to conditions’.

The current application seeks the following amendments:

- Removal of five trees protected by the VPO3.

Three of the trees sought for removal in the front setback of the site have already been removed. The remaining two trees sought for removal are located in the rear setback of the site.

The existing endorsed plans are provided at Attachment 1.

The current application plans showing the amendments are provided at Attachment 2.

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

History

A planning permit was issued by VCAT on the 27 March 2015 for Construction of two (2) double storey dwellings and removal of native vegetation in accordance with the endorsed plans and subject to conditions (2013/567/1).

Plans were endorsed on 14th December 2015.

An extension of time was granted on 27 September 2016 pursuant to Section 69 of the Planning and Environment Act 1987. Condition 21 of the permit was amended as follows:
‘The Planning Permit will expire if:
- The development is not commenced by 26 September 2017
- The development is not completed by 26 September 2018.’

The application was amended (2013/567/2) under Section 72 of the Planning and Environment Act on 21st February 2017 and the following changes to the design were approved:
- Demolition of brick boundary wall on southern boundary and replacement with timber paling fence to 2 metres in height.
- Increase in extent of decking and seating in rear garden of No.24A Reserve Road
- Removal of two palm trees in rear garden of No.24A Reserve Road.
- Internal reconfiguration of first floor bathrooms to both units.
- Increase in setback from the rear boundary of 82mm and 40mm to 24A and 24B Reserve Road respectively.

Amended plans were endorsed on 13th September 2017.

This application seeks to amend the permit further as outlined above.

2. **Planning controls**

Planning Permit requirements
A planning permit is required pursuant to:
- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 42.02 (Vegetation Protection Overlay) – Removal of native vegetation to Australia.

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

Policy Implications
Pursuant to Section 73 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.

3. **Stakeholder consultation**

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

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

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

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and one objection was received. The following concerns were raised:
• Removal of native trees;
  - Impact on neighbourhood character,
  - Impact on drainage.

• Creeping consent.

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

Consultation meeting

A consultation meeting was not held in this instance as it was considered that the
objection was an in principle objection and mediation would not be achieved.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Amend Permit under the provisions of the Bayside
Planning Scheme in respect of Planning application 2013/567/3 for the land known
and described as 4 Reserve Road, BEUAMARIS, for the removal of five (5) trees
protected by the Vegetation Protection Overlay in accordance with the endorsed
plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the
   Responsible Authority must be submitted to and approved by the Responsible
   Authority. When approved, the plans will be endorsed and will then form part
   of the permit. The plans must be drawn to scale with dimensions and three
copies must be provided. The plans must be generally in accordance with the
amended plans dated 8 May 2014 but modified to show:
   a) Deleted.
   a) Deleted.
   b) A schedule of construction materials and colours.
   c) A landscape plan in accordance with condition 9 of this permit.
   d) Tree protection fencing in accordance with condition 12 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 occupation of the site commences or by such later date as is
   approved in writing by the responsible authority, all buildings and works and
   the conditions of this permit must be carried out and completed to the
   satisfaction of the responsible authority.

4. All pipes, fixtures, fittings, air conditioning units 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. The walls on the boundaries of the adjoining properties shall be cleaned and
   finished to the satisfaction of the Responsible Authority.

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

8. 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.

9. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and be 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) Two indigenous canopy trees within the rear setback of each dwelling (not over the easement) to reach a minimum height of 8.0m at maturity. Decks and pools may need to be reduced in size to accommodate this tree.

b) An indigenous canopy tree in the front setback to reach a minimum height of 8.0m at maturity

c) A survey (including botanical names) of all existing vegetation to be retained and/or removed.

d) Trees (including botanical names) on neighbouring properties within three (3) metres of the boundary.

e) Details of surface finishes of pathways and driveways.

f) 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. The planting must consist of 80% indigenous plantings.

g) Landscaping and planting with all open areas of the site.

h) **Planting of three (3) replacement indigenous trees in the front setback to the satisfaction of the Responsible Authority.**

i) **Planting of two (2) replacement indigenous trees in the rear setback to the satisfaction of the Responsible Authority.**

All species selected must be 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. Replacement trees should be in accordance with those required in condition 10.

12. Before the development (including demolition) starts, a tree protection fence must be erected around the trees in the front setback to be retained. The tree protection fence must encompass the dripline of the outer most tree 9 unless otherwise indicated in writing. The fence must be in accordance with AS 4970-2009. The tree protection fence must remain in place until construction is completed and the following must be undertaken within that Tree Protection Zone:

a) The ground surface of the Tree Protection Zone must be covered by a 100 mm deep layer of mulch and be watered regularly
b) No operation of any heavy machinery, excavator or similar;

c) No storage or dumping of tools, equipment or waste;

All tree protection measures must be in accordance with Australian Standard 4970-2009 and be to the satisfaction of the Responsible Authority.

13. 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.

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.

14. 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.

15. 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.

16. 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. The design must meet the requirements of Council’s discharge of Pumped Subterranean Water Associated with Basements or Below-Ground Structures.

17. All on-site stormwater is to be collected from the hard surface areas and must not be allowed to flow uncontrolled onto adjoining properties. The on-site drainage system must prevent discharge from each driveway onto the footpath. Such a system may include either:

a) A trench grate (150mm minimum internal width) located within the property; and/or

b) Shaping the driveway so that water is collected in a grated pit on the property; and/or

c) Another Council approved equivalent.
18. 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.

19. 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.

20. Before development commences the applicant must pay $6,037.02 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council's current policy for the removal of street 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(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.

21. The permit expires if one of the following applies:
   a) The development has not commenced within two years of the date of this permit
   b) The development is not completed within four years of the date of this permit.

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

Permit Notes

• A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
• Building approval must be obtained prior to the commencement of the above approved works.
• Consultation should take place with Council respect of the removal of the vehicular crossing and reinstatement works.
• The existing street tree/s must not be removed or damaged.
• Reticulated sewerage must be provided to the requirements of the Sewerage Authority.
• Build Over Easement
   There is an easement at the rear of the property as indicated on the submitted plans, but there are no proposals to build over or encroach into the easement. Any future proposals in regards to this easement require a formal application for Council's consent as part of the Building Permit process.

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

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

(c) Flood Zone

Property is not in a ‘flood zone’.

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 April 2014</td>
<td>The Tribunal directs that Permit No. 2013/567/1 must contain the conditions set out in the permit issued by the Responsible Authority on 26 September 2014 with the following modifications:</td>
</tr>
<tr>
<td></td>
<td>- Conditions 1(a) and 1(b) are deleted.</td>
</tr>
<tr>
<td>27 September 2016</td>
<td>Extension of time pursuant to Section 69 of the Planning and Environment Act 1987:</td>
</tr>
<tr>
<td></td>
<td>The Planning Permit will expire if:</td>
</tr>
<tr>
<td></td>
<td>- The development is not commenced by 26 September 2017.</td>
</tr>
<tr>
<td></td>
<td>- The development is not completed by 26 September 2018.</td>
</tr>
<tr>
<td>21 February 2017</td>
<td>Amended plans endorsed under Section 72, allowing the following alterations:</td>
</tr>
<tr>
<td></td>
<td>- Demolition of brick boundary wall on southern boundary and replacement with timber paling fence to 2 metres in height.</td>
</tr>
<tr>
<td></td>
<td>- Increase in extent of decking and seating in rear garden of No.24A Reserve Road</td>
</tr>
<tr>
<td></td>
<td>- Removal of two palm trees in rear garden of No.24A Reserve Road.</td>
</tr>
<tr>
<td></td>
<td>- Internal reconfiguration of first floor bathrooms to both units.</td>
</tr>
<tr>
<td></td>
<td>- Increase in setback from the rear boundary of 82mm and 40mm to 24A and 24B Reserve Road respectively.</td>
</tr>
<tr>
<td></td>
<td>This amends and supersedes sheets 1 to 4 (of 6) of the previously endorsed plans dated 14/12/2014.</td>
</tr>
<tr>
<td>13th March 2018</td>
<td>Section 72 amendment, allowing the following alterations:</td>
</tr>
<tr>
<td></td>
<td>- Removal of five (5) trees protected by the Vegetation Protection Overlay.</td>
</tr>
<tr>
<td></td>
<td>- Modification of Condition 9 to include the following:</td>
</tr>
<tr>
<td></td>
<td>h) Planting of three (3) replacement indigenous trees in the front setback to the satisfaction of the Responsible Authority.</td>
</tr>
<tr>
<td></td>
<td>i) Planting of two (2) replacement indigenous trees in the rear setback to the satisfaction of the Responsible Authority.</td>
</tr>
</tbody>
</table>
5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

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

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

Relevant strategies of the Council plan include:

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

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct H3)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (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 H3. The proposal is considered to demonstrate an appropriate level of compliance with the preferred future character statement and precinct guidelines.

The proposal seeks to retain the existing mature Southern Magnolia tree on the site and to replace five native trees to be removed with indigenous species. The changes would
be an acceptable design response to strengthen the bushy, garden character of the area in accordance with the precinct guidelines. As such, the development will continue to respond suitably to the existing and preferred neighbourhood character.

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

Standard B13 of Clause 55 of the Bayside Planning Scheme seeks to encourage development that respects the landscape character of the neighbourhood, maintain and enhances habitats for plants and animals in locations of habitat importance, provide appropriate landscaping and encourage the retention of mature vegetation on the site.

The existing mature Southern Magnolia tree is to be retained on the site and appropriate replacement planting consisting of indigenous species including canopy trees is included in the recommended conditions. This will ensure it respects the landscape character of the neighbourhood.

6.3. **Landscaping**

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

The application plans show the removal of five trees from the site including two trees protected by the VPO3. The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Trees 5, 6, 19, 21, 22</td>
<td>Tree 18</td>
<td>Trees 1, 2, 3, 7, 17, 20,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed for retention</td>
</tr>
</tbody>
</table>

From an arboriculture perspective Council’s Arborist has reviewed the application and raised no objection to the proposed tree removal, subject to replacement replanting of indigenous species.

Trees 5 and 6 are Bungalow Palms (*Archontophoenix cunninghamiana*) protected by the VPO3, located in a raised garden bed to the rear boundary of the site and are proposed for removal. The cut level of the site associated with the approved development is significantly lower than the raised garden bed, as is the natural ground level of the neighbouring property to the rear. The applicant seeks to remove the raised garden bed and these trees as they would otherwise be exposed in the raised garden bed, significantly higher than the ground level on either side.

Tree 5 is a mature, native tree in fair health with good structure. This tree has a life expectancy of 10-19 years, has low amenity, retention and habitat values. Tree 6 is a mature, native tree in fair health with poor structure. This tree has a life expectancy of 10-19 years, has low amenity, retention and habitat values. Trees 5 and 6 are proposed to be replaced with indigenous species. Further details of each tree is provided in Attachment 4.

Trees 19, 21 and 22 are native species which were located in the front setback of the site in a raised garden bed and are protected by the VPO3. Trees 19 and 22 were Sweet Pittosporum (*Pittosporum undulatum*) and Tree 21 was a Lilly Pilly (*Syzygium sp.*).
These trees have already been removed from the site. During demolition of the front brick fence, the tree roots were exposed, located above the footings of the fence and therefore the trees could not be retained. Whilst it is regrettable that these native species have been removed without a permit, the applicant proposes to replace these trees with indigenous species. This will be secured by condition.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 4. The extent of vegetation removal proposed is considered to be acceptable when assessed against the decision guidelines of the VPO3. Given that the trees to be removed are native and the proposed replacement trees are indigenous, the character of the area will be maintained and enhanced once replacement plantings are undertaken. The proposed vegetation removal will also not impact on the overall quality of habitat within the broader area and the extent of removal is justified when considered against the level of development proposed.

The proposed vegetation removal is therefore considered to comply with the objectives of the VPO3. It is recommended that the landscaping condition is amended to require replacement planting of indigenous species.

Tree No’s 1, 2, 3, 7, 17 and 20 are not protected by the VPO3. Their removal is considered to be acceptable as the submitted landscape plan shows an appropriate level of indigenous planting across the site.

Tree 18 is a mature, Southern Magnolia (*Magnolia Grandiflora*) proposed to be retained.

**Tree Management Plan and Tree Protection conditions are included in the original conditions of the permit.**

**6.4. Objector issues not already addressed**

**Flooding**

Subject to condition, the trees to be removed will be replaced. The replacement trees will ensure that the amendment will not unduly compromise the ability of rainwater to infiltrate the ground.

**Creeping Consent**

Pursuant to Section 72 of the *Planning and Environment Act 1987*, the applicant is entitled to apply to the Responsible Authority to amend the permit. Council has considered the proposed amendments in relation to the Bayside Planning Scheme and whilst it is noted that the amendments result in a change to the development, the Council is satisfied that these changes comply with the requirements of current planning policy.

**Support Attachments**

1. Existing Endorsed Plans ↓
2. Application Plans ↓
3. Site and Surrounds ↓
4. VPO3 Assessment ↓
VPC03 protected trees to be removed

VPC03 protected trees already removed
Figure 1. Aerial Overview of subject site and objector map.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>●</td>
</tr>
</tbody>
</table>
Figure 2: View towards the site from the west
## Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The impact the vegetation removal would have on the character of the area</strong></td>
<td>2 of the trees proposed to be removed trigger the VPO. 3 trees that have already been removed trigger the VPO. Their removal is supported by the Council’s Arborist subject to these trees being replaced by indigenous vegetation. The trees to be removed are all natives with having low amenity values. The landscape plan shows indigenous species to be planted on the site and therefore the removal of the proposed five trees would not be detrimental to the character of the area.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the presence of indigenous species in the locality</strong></td>
<td>The trees being removed will be replaced by indigenous species. Conditions are recommended requiring these indigenous species to be located where the trees are to be removed. Three replacement trees will be required to be provided in the front setback and two in the rear setback. The remainder of the proposed shrubs and plants to be located in the front side and rear setbacks will comprise 80% indigenous species which are considered to be suitable in accordance with the Bayside Landscape Guidelines (2016).</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the appearance of development.</strong></td>
<td>The development will see the retention of the existing <em>Southern Magnolia</em> within the front setback. Substantial landscaping of shrubs and ground covers and indigenous species to replace Trees 19, 21 and 22 will continue the bushy landscaped appearance of the subject site. It is not expected that the removal of the existing vegetation will be detrimental to the development because of the replacement plantings.</td>
</tr>
<tr>
<td><strong>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</strong></td>
<td>The proposal is not considered to have a detrimental impact on the fauna of the area. The trees to be removed will be suitably replaced with indigenous trees, offering quality habitats for fauna. The proposed trees and shrubs will provide food and shelter for wildlife. Thus, the development will not have an undue adverse impact on wildlife corridors.</td>
</tr>
<tr>
<td><strong>Any proposal to regenerate or plant indigenous vegetation on the site.</strong></td>
<td>The proposed replacement trees are to be indigenous trees, as shown on the landscape plan. The Council’s Arborist has no objection to the amendment and the proposed plantings on the remainder of the site must comprise a minimum of 80% indigenous species.</td>
</tr>
</tbody>
</table>
### Tree No. 5
- **Botanical Name:** Archontophoenix cunninghamiana
- **Common Name:** Bangalow Palm
- **Height / Canopy:** 6m x 4m
- **Trunk Circ.@1m:** 63cm
- **Location 1:** E0
- **Location 2:** S8

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

### Tree No. 6
- **Botanical Name:** Archontophoenix cunninghamiana
- **Common Name:** Bangalow Palm
- **Height / Canopy:**
- **Trunk Circ.@1m:**
- **Location 1:** E0
- **Location 2:** S7

<table>
<thead>
<tr>
<th>Origin</th>
<th>Indigenous</th>
<th>Victorian</th>
<th>Australian</th>
<th>Exotic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age</td>
<td>Young</td>
<td>Semi-mature</td>
<td>Mature</td>
<td>Over-mature</td>
</tr>
<tr>
<td>Health</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Dead</td>
</tr>
<tr>
<td>Structure</td>
<td>Good</td>
<td>Fair</td>
<td>Poor</td>
<td>Hazardous</td>
</tr>
<tr>
<td>Amenity Value</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td>None</td>
</tr>
</tbody>
</table>

Item 4.4 – Matters of Decision
## Definitions

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

### (H) High

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

### (M) Medium

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

### (L) Low

The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.

---

<table>
<thead>
<tr>
<th>Life Expectancy:</th>
<th>20 years +</th>
<th>10-19 years</th>
<th>4-9 years</th>
<th>0 - 3 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retention Value:</td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
<td>None</td>
</tr>
<tr>
<td>Habitat value:</td>
<td>High</td>
<td>Moderate</td>
<td>Low</td>
<td></td>
</tr>
</tbody>
</table>
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Taylors</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>27 November, 2015 (Amended Plans lodged: 23 May 2017)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>269 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (DDO1)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>1</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the Construction of two double storey dwellings and removal of vegetation in a Vegetation Protect Overlay on a lot with an area of 631 square metres. Key details of the proposal are as follows:

- Two dwellings
- Two-storey built form of 7.6 metres in height
- Site coverage 49.6%
- Permeability 37%
- Two car spaces per dwelling
- Removal of eight (8) trees from the site including two (2) trees protected by the VPO3.

The application plans are provided at Attachment 1.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

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

- Clause 42.02-2 (Vegetation Protection Overlay) – Removal of vegetation native to Australia.

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

3. Stakeholder consultation

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

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

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

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

- Removal of trees.
- Lack of landscaping and areas to allow for drainage.
- Parking congestion and traffic safety issues.
- First dual occupancy in Scott Street.

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

The application was amended on 5th May 2017 and subsequently re-advertised. No objections were received.

Consultation meeting
As one objection was received initially and no further objections were received in relation to the amended advertised plans, a consultation meeting was not considered necessary.

4. Recommendation

That the Delegate resolve to:

Issue a Notice of Decision to Grant a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application No. 2015/744/1 for the land known and described as 40 Scott Street BEAUMARIS, for the Construction of two double storey dwellings and removal of vegetation in a Vegetation Protect Overlay in accordance with the endorsed plans and subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three
copies must be provided. The plans must be generally in accordance with the plans (amended) Council date stamped 23rd May 2017 but modified to show:

a) Landscaping plan in accordance with condition 11.

b) Location of all plant and equipment, including hot water services and air conditioners etc.

c) Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

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

e) Water sensitive urban design measures in accordance with condition 8.

f) Any consequential changes to the plans to comply with any conditions of this permit must result in no increase in the built form or envelope.

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 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.

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

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

Water Sensitive Urban Design

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

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

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

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

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

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

**Transport**

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

**Landscaping**

11. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the advertised landscape plan drawn by Taylors reference LO2- Landscape Plan dated 2nd March 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. Plantings must be 80% indigenous by species type and count.

   d) Retention of the existing Victorian Blue Gum (Eucalyptus bicostata) in the street setback of Unit 1.

   e) Planting of 1 large canopy tree (trees with mature heights of 10-15 metres) or two smaller canopy trees (trees with mature heights of 6-8 metres) in the rear of each dwelling.

   f) Planting of one indigenous replacement canopy tree in the front setback of Unit 2.

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

   h) Details of surface finishes of pathways and driveways.

   i) Prior to commencement of works associated with the construction of the dwellings, a detailed plan and report identifying the construction materials and techniques for the part of the drive that is inside the Tree Protection Zone of the Victorian Blue Gum (*Eucalyptus bicostata*). The plan will include schematics of the proposed works in vertical and horizontal plane. The report will comment on the way the construction
will occur, protection measures required while the work is being undertaken method and periods which will require supervision.

j) The information required by condition 11(i) may be included in a Tree Protection Management Plan for the whole of the site or be a stand-alone document.

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

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

**Tree Management and Protection Plan**

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

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

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

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

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

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

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

**Street tree protection**

17. Tree protection fence is to be installed around the *Fraxinus angustifolia* fronting 42 Scott Street in compliance with AS 4970–2009, Protection of trees on development sites.

**Drainage**

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

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

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

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

Permit Expiry

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

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

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

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

Permit Notes:

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

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

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

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

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

- The installation of the vehicle crossing at the proposed location conflicts with the Melaleuca armillaris street tree asset. As the design does not allow any other option for the location of this vehicle crossing and to allow this development to proceed, the tree may be approved for removal under Clause 6.5 of the Street and Park Tree Management Policy (2016).

- Before the vehicle crossing application will be approved, the applicant must pay $3,409.63 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by
5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct H3)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (DDO1)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

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

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

Space will be retained around the new dwellings to allow for sufficient landscaping opportunities to maintain the bushy garden character of the area. The single garages at each dwelling limit the potential visual dominance of car parking structures to the streetscape.

The proposed setbacks will maintain an appearance of visual separation between dwellings. On account of the varied character of the area, the variety of materials proposed are considered to be appropriate. The application does not propose major excavation works which would result in significant site disturbance. Overall, the development demonstrates a high level of compliance with the preferred future character statement for the precinct.

6.2. Compliance with Clause 55 (ResCode)

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

Those non-compliant standards are discussed below, noting the corresponding objectives have been achieved.

Energy Efficiency (Standard B10)

The standard calls for new development to locate the living and private open space to the north side of dwellings.

Unit 1 complies with the standard. Unit 2 does not have any north facing accommodation, however, the open plan living area has large glazed doors facing east as well as south facing windows. In addition, the development has to meet the building requirements with a minimum of 6 star energy rating which is considered to comply with the objective of energy efficiency for this case.

Side and Rear Setbacks (Standard B17)

The setbacks are predominantly compliant with the standard. Areas of non-compliance are underlined in the table below.

<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>0m or 2m</td>
<td>2m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>0m – 2m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
<td>6.3m – 8.35m</td>
</tr>
</tbody>
</table>

The side and rear setbacks comply with the standard at ground floor level.

At first floor level the setbacks are compliant to the rear and to the southern boundary. A small variation is sought to the northern boundary.

The proposed front facing balcony at Unit 1 has a northern wall with a height of approximately 6.9 metres. The required setback in accordance with the standard is 3.98 metres. The proposed side setback of this wall is 3.54 metres.

The neighbouring property to the north of the site is No. 42 Scott Street which is located approximately 5.2 metres from the proposed balcony wall. There are no neighbouring habitable room windows located directly opposite the proposed balcony wall. It is
considered that sufficient space will be retained between the application buildings and this neighbouring dwelling to ensure that the proposal would not appear overly dominant when viewed from the neighbouring site and so that visual separation is apparent in the streetscape.

The setback variation is supported.

6.3. **Landscaping**

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

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

The application plans show the removal of eight (8) trees from the site including two (2) trees protected by the VPO3. The table below identifies those trees protected by the VPO3, those protected by the Local Law and those which are not protected by any statutory mechanism. Indigenous trees are marked with a *.

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>Tree 2 and 3*</td>
<td>Tree 1</td>
<td>Trees 5, 6 and 7</td>
</tr>
<tr>
<td>Trees 4, 8 and 9</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

From an arboriculture perspective, Council’s Arborist has reviewed the application and advises that Trees 4 and 9 are exotic species with low amenity values and there is no objection to their removal. Trees 5, 6, 7 and 8 are native Australian trees which are below the dimensions to be protected by the VPO3. Council’s Arborist has commented that these trees have low amenity values and their removal is acceptable if they are replaced by suitable indigenous tree plantings.

Tree 2 is a Southern Mahogany (*Eucalyptus botryoides*) which is a native tree with a high amenity value. Removal of this tree is recommended on the basis of its poor structure. Tree 3 is a Coast Tea-tree (*Leptospermum laevigatum*) which is a small tree with a low amenity value, however, its retention value is high as this is an indigenous species. Council’s arborist has commented that removal of Tree 3 is not supported as it does not meet the requirements of the VPO3. However, on balance, with consideration of its size, subject to appropriate re-planting, its removal is considered to be acceptable in this instance. Further detail of each tree and an assessment against the decision guidelines of the VPO3 is provided at Attachment 5.

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

Tree 1 is a Victorian Blue Gum (*Eucalyptus biostata*). Council's Arborist has advised that to ensure that Tree 1 remains viable post-construction, a Tree Management Plan and Tree Protection Plan will be required. These are included as recommended conditions.

The existing concrete drive adjacent to the tree provides ground protection that can buffer any underlying root mass during construction and therefore a condition is recommended for this to be retained. The exposed aspects of the TPZ of Tree 1 must be isolated via Tree protection fencing prior to any works. Ground protection within the fenced area is to comprise strapped timber rumble boards over 75mm layer of mulch over a layer of geotextile fabric. Sections of the concrete drive required to be removed for building construction can be done outside of the TPZ by hand with arboricultural supervision by a project arborist. After construction, permeable paving should be provided in the TPZ area.

The area of the pathway to the entry to Unit 1, located within the TPZ is to be constructed using methods and materials that will limit soil compaction and not inhibit root growth. Consequently allowing the tree to remain viable post construction. Conditions are included in the recommendation to secure the tree protection.

Tree Nos. 10, and TG1 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such, consideration must be given to the impact of the development upon these trees in the Tree Management Plan and Tree Protection Plan, secured by condition.

A revised landscape plan will be required to be submitted to the satisfaction of Council. The plan must include the planting of 1 large canopy tree (trees with mature heights of 10-15 metres) or two smaller canopy trees (trees with mature heights of 6-8 metres) in the rear of each dwelling and of 1 large canopy tree in the front setback of Unit 2 to replace Tree 2. In addition, the remaining landscaping must provide for at least 80% native vegetation overall in accordance with the Bayside Landscape Guidelines (2016).

### 6.4. Street trees

There is a *Melaleuca armillaris* tree located within the nature strip. The proposed new vehicle crossing for Unit 2 conflicts with the location of the street tree and Council’s Street Tree Officer has commented that as the design does not allow any other option for the location of vehicle crossing, the tree can be removed under the 6.5 of the *Street and Park Tree Management Policy* (2016). The applicant will be responsible for paying for the removal of the tree and replacement planting as specified in the permit notes.

There is also a *Fraxinus angustifolia* tree located in the nature strip close to the site. This tree will require a tree protection zone during construction. Conditions are recommended requiring street tree protection measures.

### 6.5. Car parking and traffic

Each dwelling is provided with two car spaces, in accordance with Clause 52.06. Units 1 and 2 each have one covered parking space in the form of a single garage and driveway providing a second uncovered parking space.

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

The application proposes to reinstate the existing crossover and construct two new crossovers for the new dwellings. The footpath and nature strip must be reinstated to Council’s satisfaction where the existing crossover is to be removed. Where the driveways intersect the footpath, each driveway should be 3 metres in width and the new crossovers should be 3 metres wide. Conditions are included in the recommendation to this effect.
6.6. **Objector issues not already addressed**

**Dual occupancy development**

The purpose of the Neighbourhood Residential zone is to facilitate a diversity of housing types including increased residential densities. The zone does not restrict dual occupancy development. The planning permit application is assessed against the relevant provisions of the Bayside Planning Scheme, as is included in this report.

**Drainage**

Council’s drainage engineer has reviewed the proposal and has no objection subject to conditions being included in the recommendation.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds ↓
3. Neighbourhood Character Precinct H3 ↓
4. Clause 55 Assessment ↓
5. VPO3 Assessment ↓
| Item 4.5 – Matters of Decision | Planning & Amenity Committee Meeting - 13 March 2018 | Attachment 1 |
Figure 1 Aerial overview of the site and surrounds

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

Note: One objection was received from No. 19 Scott Street, Beaumaris which is located outside of the aerial map view.
Figure 2 View towards the site from the west

Figure 3 View towards the site from the northwest
Neighbourhood Character Precinct H3

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.  
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds | Responds  
The submitted landscape plan demonstrates that space will be retained around the dwellings for planting. Whilst it is noted that some trees will be removed from the site, the existing large Spotted Gum will be retained in the street setback. Further landscaping is proposed to the street setback and conditions are recommended requiring permeable paving to the driveway adjacent to the Spotted Gum. Subject to appropriate replanting which will be secured by condition, the proposal would respond appropriately to the bushy garden character of the area. |
| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • Buildings should be sited to allow space for a garden, including trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds  
The development has been set back 2 metres from the northern side boundary of the site at Unit 1 and set back 2 metres from the southern boundary of the site, behind the garage at Unit 2. This ensures that space will be retained around the dwellings for the planting of trees and shrubs. Furthermore, the street setback generally accords with those of neighbouring properties and the first
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | - Locate garages and carports behind the line of the dwelling.  
- Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking structures that dominate the façade or view of the dwelling. | Responds  
Both crossovers are single width and the driveways provide surface parking for one car per dwelling. Each dwelling is also provided with a single garage which is located behind the front building lines to ensure that garage doors do not dominate the front façade of the development. The street setback area will remain predominantly landscaped.                                                                                                                                                                                                                                                                                                                                                      |
| To minimise site disturbance and impact of the building on the landscape. | - Buildings should be designed to follow the contours of the site on sloping sites.  
- Minimise the use of retaining walls and battering of slopes.  
- Design new buildings and extensions so as not to exceed the predominant tree canopy height. | Major excavation works and site levelling. Buildings that protrude above the tree canopy height. | Responds  
The application does not propose major excavation works or site levelling. The dwellings have been designed to broadly follow the natural ground level.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| To ensure that new buildings provide an articulated and interesting façade to the street. | - Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
- Recess upper levels from the front façade. | Large, bulky buildings  
Poorly articulated front and side wall surfaces. | Responds  
The proposed dwellings incorporate a number of different projections of the front elevation. The entry and porch at Unit 1 project forward of the garage and gym/study and at Unit 2 the gym/study projects forward of the garage providing an articulated elevation. At first floor level, both dwellings are recessed from the front façade of the building. At Unit 1, the balcony is set back from the ground floor of the building and at Unit 2, Bed 3 is set back further from the front of the building. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To use building materials and finishes that complement the natural setting.| • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | Responds  
The new dwellings are proposed to be constructed predominantly in painted render with sections of vertical cladding on the first floor side elevations. The combination of materials is considered to be an appropriate design response. |
| To maintain the openness of the front garden to the street.               | • Provide open style front fences, other than along heavily trafficked roads.     | High or solid front fences.| Responds  
The application does not propose a front fence.                                      |
ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support two dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>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. The entry to Unit 2 is easily identifiable from the streetscape and the entry to Unit 1 is easily identifiable from the pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 9m or the greater distance of the setbacks of the front walls of existing buildings on abutting allotments, whichever is the lesser.</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>7.6m</td>
<td>Proposed: 7.6m</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Required: 9m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td><strong>neighbourhood character</strong></td>
<td></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>
<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>
<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>
<td>No</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>
<td>N/A</td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
**B14 Access**
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
<td>Appropriate vehicular access is provided.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Maximum</strong>: 40% of street frontage</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Proposed</strong>: 37.9% of street frontage</td>
</tr>
</tbody>
</table>

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

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

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

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

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

<table>
<thead>
<tr>
<th></th>
<th>Maximum Height: 3.6m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Proposed: 2.9m</td>
</tr>
<tr>
<td></td>
<td>Maximum Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 2.9m</td>
</tr>
<tr>
<td></td>
<td>Maximum Length: 17.3m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 6.48m</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th></th>
<th>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th></th>
<th>No north facing windows on adjoining properties are affected.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

**B21 Overshadowing Open Space**
Ensure buildings do not

<table>
<thead>
<tr>
<th></th>
<th>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>4.5</td>
<td>Matters of Decision</td>
</tr>
</tbody>
</table>

Bayside City Council
Planning & Amenity Committee Meeting - 13 March 2018
Attachment 4

<table>
<thead>
<tr>
<th>B22 Overlooking</th>
<th>Limit views into existing secluded private open space and habitable room windows.</th>
<th>Yes</th>
<th>Windows and balconies with direct views into neighbouring habitable room windows or secluded private open space of neighbouring properties with a horizontal distance of 9m will be screened or obscure glazed and fixed shut below 1.7m above floor level.</th>
</tr>
</thead>
<tbody>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>At ground level, fencing to a height of 1.95m 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>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 pos.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall  Proposed:  Unit 1 - 51m² secluded  Unit 2 - 69m² secluded</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>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 6m² in size is provided in the garage of each dwelling.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
<td>Details</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
<td>---------</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
</tbody>
</table>
| **B32 Front Fences** | Encourage front fence design that respects the existing or preferred neighbourhood character. | N/A | Required: 1.2m  
Proposed: No front fence is proposed. |
| **B33 Common Property** | Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. | N/A | |
| **B34 Site Services** | Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. | Yes | Plans show space for clotheslines, metres and storage areas alongside the entries of each dwelling. Mailboxes are provided in the front setback for each dwelling. |
Decision Guidelines of the Vegetation Protection Overlay (Schedule 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact the vegetation removal would have on the character of the area</td>
<td>Two of the trees proposed to be removed trigger the VPO. Subject to these trees being replaced by appropriate indigenous vegetation, their removal would be acceptable. The remaining trees to be removed are either exotic or native with low amenity values and their removal would not be detrimental to the character of the area. A condition of permit requires replacement planting to be 80% indigenous.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the presence of indigenous species in the locality</td>
<td>The trees being removed will be required to be replaced by canopy trees in the rear setbacks of the dwellings. The condition requires the shrubs and plants to be located around the dwellings to comprise of 80% indigenous species in accordance with the Bayside Landscape Guidelines (2016).</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the appearance of development.</td>
<td>The development will see the retention of the existing vegetation within the street setback. There is also sufficient space for landscaping which can comprise of plants and shrubs around the proposed driveways which will ensure that the development will continue to contribute to the bushy landscaped appearance of the street.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</td>
<td>The proposal is not considered to have a detrimental impact on the fauna of the area. The eight trees to be removed will be suitably replaced with indigenous species subject to condition. This would ensure that quality habitats for fauna as well as food and shelter for wildlife are offered. As a result, the development would not have an undue adverse impact on wildlife corridors.</td>
</tr>
<tr>
<td>Any proposal to regenerate or plant indigenous vegetation on the site.</td>
<td>The replacement canopy trees to be secured by condition will be shown on the endorsed landscape plan and there is ample space around the dwellings for the provision of sufficient replacement planting, of which 80% of the species can be indigenous.</td>
</tr>
</tbody>
</table>

Tree profiles

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Botanical Name:</td>
<td>Eucalyptus bicostata</td>
</tr>
<tr>
<td>Common Name:</td>
<td>Victorian Blue Gum</td>
</tr>
<tr>
<td>Height / Canopy:</td>
<td>16 X 14</td>
</tr>
<tr>
<td>Trunk Circ.@1m:</td>
<td>115</td>
</tr>
<tr>
<td>Location 1</td>
<td>N 4 m</td>
</tr>
<tr>
<td>Location 2</td>
<td>W 5 m</td>
</tr>
</tbody>
</table>
### Table 1: Tree Properties

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

### Table 2: Tree Details

<table>
<thead>
<tr>
<th>Tree No.</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Botanical Name:</strong></td>
<td><em>Eucalyptus botryoides</em></td>
</tr>
<tr>
<td><strong>Common Name:</strong></td>
<td>Southern Mahogany</td>
</tr>
<tr>
<td><strong>Height / Canopy:</strong></td>
<td>15 X 16</td>
</tr>
<tr>
<td><strong>Trunk Circ.@1m:</strong></td>
<td>90</td>
</tr>
<tr>
<td><strong>Location 1:</strong></td>
<td>S 5 m</td>
</tr>
<tr>
<td><strong>Location 2:</strong></td>
<td>W 6 m</td>
</tr>
</tbody>
</table>

### Table 3: Tree Properties

<table>
<thead>
<tr>
<th>Property</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Origin:</strong></td>
<td>Indigenous</td>
</tr>
<tr>
<td></td>
<td>Victorian</td>
</tr>
<tr>
<td></td>
<td>Australian</td>
</tr>
<tr>
<td></td>
<td>Exotic</td>
</tr>
<tr>
<td><strong>Age:</strong></td>
<td>Young</td>
</tr>
<tr>
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<td></td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>None</td>
</tr>
<tr>
<td><strong>Life Expectancy:</strong></td>
<td>20 years +</td>
</tr>
<tr>
<td></td>
<td>10-19 years</td>
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<td></td>
<td>Medium</td>
</tr>
<tr>
<td></td>
<td>Low</td>
</tr>
<tr>
<td></td>
<td>None</td>
</tr>
</tbody>
</table>
Tree No. | Location 1 | Location 2
--- | --- | ---
3 | N 4 m | W 9 m

Botanical Name: *Leptospermum laevigatum*

Common Name: Coast Tea-tree

Height / Canopy: 3 X 5

Trunk Circ.@1m: 65

Origin: Indigenous

Victorian

Australian

Exotic

Age: Young

Semi-mature

Mature

Over-mature

Health: Good

Fair

Poor

Dead

Structure: Good

Fair

Poor

Hazardous

Amenity Value: High

Moderate

Low

None

Life Expectancy: 20 years +

10-19 years

4-9 years

0 - 3 years

Retention Value: High

Medium

Low

None

Definitions

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

(H) High

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

(M) Medium

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

(L) Low

The tree is generally in fair health and structure, provides low levels of amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a reasonable timeframe.
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Mecone Town Planning</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>Crown Allotment 8A Parish of Moorabbin</td>
</tr>
<tr>
<td></td>
<td>Lot 1 on Title Plan 676115W</td>
</tr>
<tr>
<td></td>
<td>Lot 1 on Title Plan 423627G</td>
</tr>
<tr>
<td></td>
<td>No covenants or restrictions apply to the land.</td>
</tr>
<tr>
<td>Date application received</td>
<td>3 November 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>71 days</td>
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<tr>
<td>Zoning</td>
<td>Commercial 1 Zone</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay - Schedule 12 (DDO12);</td>
</tr>
<tr>
<td></td>
<td>Heritage Overlay - Schedule 748 (HO748); and,</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay – Schedule 1 (DCPO1).</td>
</tr>
<tr>
<td>Number of objections</td>
<td>1 (later withdrawn)</td>
</tr>
</tbody>
</table>

Proposal
To report an in-principle agreement reached by all parties subsequent to a VCAT Compulsory Conference for the Use of land for dwellings; Buildings and works for in the Commercial 1 Zone and Design and Development Overlay Schedule 12; Demolition, buildings and works in a Heritage Overlay; Reduction in the required car parking rates and Waiver of the loading requirements (refer Attachment 1) at 293 – 295 Hampton Street and 13 Railway Crescent, Hampton.

History
Planning Permit 2014/669 was refused by Council on 20 July 2015.

A subsequent appeal was lodged against Council’s refusal. Council’s decision was set aside and Planning Permit 2014/669 was issued at the direction of VCAT on 11 March 2016 for ‘Buildings and works for in the Commercial 1 Zone and Design and Development Overlay Schedule 12; Demolition, buildings and works in a Heritage Overlay; Reduction in the required car parking rates and Waiver of the loading requirements’.

On 28 August 2017 an amendment under secondary consent was approved amending the plans as follows:

Ground Floor Plan (TP05-D)
- Apartments G01 (2 bedroom) and G02 (1 bedroom) combined to create one 3 bedroom apartment (renumbered G01). Consequential changes to balcony/terrace space and adjustment to window openings on northern wall to suit;
• Location of gas metres and mail boxes shown adjacent Railway Crescent;

*First Floor Plan (TP06 – D)*

• Apartment 105 changes to fitout in living room, requiring removal of north facing window to living room;
• Minor amendments to balcony shape for apartments 104 and 105, increasing size for each by 0.5 sqm (from 8 to 8.5sqm);
• Amendment to location of front doors for Apartment 104 and 105;
• Apartment 102 internal layout changes and an additional window opening to southern wall;

*Second Floor Plan (TP07 – D)*

• Apartments 204 (1 bedroom) and 205 (2 bedroom) combined to create one 3 bedroom apartment numbered 204/205. One north facing window removed to accommodate the changes and balcony space attached/reconfigured to suit;
• Apartment 206 internal layout reconfigured resulting in reduced snorkel length to second bedroom;
• Apartment 201 internal layout reconfigured.

*Elevations and Sections (TP10-D to TP12-D)*

• Northern Elevation – A vertical rebate relief has been added to the wall to add visual interest where the windows have been removed. This rebate will be charcoal render to tie in with the approved rebated relief on the southern elevation;
• Southern Elevation – Additional window added to the first floor;

*Changes to Number of Dwellings*

• The number of apartments is decreased from 18 to 16 apartments.
• Amend the permit by changing condition 4 to read as follows:

Before the development permitted by this permit starts, all lots comprising the subject land must be consolidated into one lot or a plan of subdivision lodged with the Responsible Authority which subdivides the land to coincide with the development approved by planning permit 5/2014/669/1.

On **21 December 2017 a Section 72 amendment** was approved by Council and generally involved the following:

*Amendment to the Planning Permit:*

• Condition 1(b) reworded to reference Apartment 301.

*Amendment to the Endorsed Plans:*

• Ground floor amendments
• Precast wall extended adjacent car stacker bay.
• Windows to Apartment G01 revised.
• Electricity Supply Pillar added to Apartment G01 Terrace as required by the electricity authority and G01 mailbox adjusted.
• Relocation of underground water tank and inclusion of stormwater detention tank.
• Reconfiguration of service location.
• Wall to Bicycle Storage revised.
• Skylight removed from the lobby.
• Revised stairs.

First floor
• Removal of skylight window to lobby below.

Third floor amendments
• Apartments 301 and 302 combined into one apartment (now 301).
• Two windows on the northern elevation to the approved Apartment 301 readjusted to suit the reconfigured Apartment 301.
• One window on the southern elevation to the approved Apartment 302 deleted.
• Fireplace added to the living area of Apartment 301 with flue extending above the roofline.

Elevations and section
• South Elevation - Articulation and treatment to façade removed where it abuts the approved adjoining development at 23-31 Small Street.
• North Elevation – Articulation and treatment to façade to suit revised windows.
• Material finish changed from the approved ‘Precast Concrete Panel’ (CT1 and CT2) to the proposed ‘Render’ (AR1 and AR2) as previously approved. Colours remain the same as approved – Off White and Charcoal.
• Material finish changed from the approved Glass (GL2) – charcoal colour infill panel between windows to proposed ‘Render’ (AR2) – charcoal colour.
• Windows previously shown full height have been reduced in height.
• Apartments 301 and 302 combined into one apartment (now 301).

Current application
The applicant lodged an appeal under Section 87A of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) to amend Planning Permit No 2014/669/3.

Section 87A of the Planning and Environment Act 1987 allows VCAT to amend a permit that has been issued at its direction. The application follows the same process as if it was a planning permit application, except that VCAT decides the application after hearing submissions from all parties.

A comprehensive itemised list of the Section 87A application is as follows:

Ground floor:
• Additional car parking bay 3 – additional car parking spaces provided (total of 22 spaces); and
• Additional storage provided (20 storage cases in total).

First floor
• No change.

Second floor
• No change.

Third floor
• Apartment 301 north-western bedroom enlarged by moving the north western wall, with a commensurate reduction in the size of the balcony space from 10.5 sqm to
5.5 sqm;
- Addition of a new apartment 302 to the west of apartment 301;
- Communal roof top terrace removed from the western roof; and,
- Ceiling of apartment 301 increased from 2.6m to 2.7m (parapet height is not altered – overall building height does not change).

**Roof Plan**
- Roof plan updated to reflect roof plan of new apartment 302; and
- The eastern communal roof top terrace is to remain unchanged.

**Summary of current changes**
In summary, the application seeks to increase the size of the third floor by the addition of a new apartment 302 to the west of the existing approved building and the addition 3 parking spaces (from 19 to 22); and, subsequently increasing the overall number of units to 16 (from 15).

The existing endorsed plans are included at **Attachment 3**.

**VCAT**
At a VCAT Compulsory Conference held on 14 February 2018, attended by the permit applicant and Council Officers, an in-principle agreement was reached between all parties in attendance. It is noted that one objection was received, however the objector did not attend or send a representative to the compulsory conference. It is imperative to note that the objection was later withdrawn, it is for this reason that this report will not make an assessment against the issues raised in the objection.

The agreement was that an amended planning permit could be issued for the proposal subject to conditions. The plans tabled at the Compulsory VCAT Conference are provided at **Attachment 1** and were used to assist with discussion at the conference and in forming the recommendation below.

If Council agrees to support the recommendation below then an amended planning permit will be issued by VCAT which contains, unchanged, all of the conditions contained in the recommendation of this report.

Alternatively, should Council determine to not support the issue of an amended permit, then the application will proceed to a two day VCAT merits hearing set for 3 and 4 April 2018.

It is noted that Council can only assess the changes proposed, any others matters pertaining to the already approved development is outside the scope of Councils’ assessment.

**Proposal**
The application seeks approval for the use of land for dwellings; buildings and works for in the Commercial 1 Zone and Design and Development Overlay Schedule 12; Demolition, buildings and works in a Heritage Overlay; Reduction in the required car parking rates and Waiver of the loading requirements on a lot with an area of 878 square metres. Key details of the proposal are as follows:
- 16 dwellings (5 x 1 bedrooms, 3 x 3 bedrooms, 6 x 2 bedrooms; and, 2 x 4 bedrooms);
- 14.05 metres in height; and, 4 storeys;
- 22 Car spaces.

The application plans are provided at **Attachment 1**.
An aerial image and photographs of the site and surrounds are provided at Attachment 2.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 34.01 (Commercial 1 Zone) – Use of the land as accommodation where the frontage at ground floor exceeds 2 metres; buildings and works associated with a Section 2 use and in a Commercial 1 Zone.
- Clause 43.02 (Design and Development Overlay, Schedule 12) – Building and works in a Design and Development Overlay.
- Clause 43.01 (Heritage Over, Schedule 748) – Partial demolition and building and works in a Heritage Overlay.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Heritage Adviser</td>
<td>No objection subject to conditions.</td>
</tr>
<tr>
<td>Strategic Planning</td>
<td>No objection.</td>
</tr>
<tr>
<td>Urban Designer</td>
<td>No objection.</td>
</tr>
</tbody>
</table>

Public notification

VCAT instructed Public Notification of the application in which one objection was lodged. The following matter was raised:

- Overshadowing.

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

Consultation meeting

VCAT arranged and held a Compulsory Conference on 14 February 2017. The objector of this application was invited to attend the Compulsory Conference however did not attend.

The applicants submitted plans are those being considered in this report were agreed by all parties in attendance.

The one objection received was later withdrawn.
4. **Recommendation**

That Council resolve to:

Determines to **Support** the application under the provisions of the Bayside Planning Scheme in respect of **Planning Application No. 2014/669/3** for the land known and described as **293-295 Hampton Street HAMPTON and 13 Railway Crescent HAMPTON**, for the **Use of land for dwellings; Buildings and works for in the Commercial 1 Zone and Design and Development Overlay Schedule 12; Demolition, buildings and works in a Heritage Overlay; Reduction in the required car parking rates and Waiver of the loading requirements** in accordance with the amended plans received by Council on 12 October 2017 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 submitted with the application but modified to show:
   
   (a) A schedule of construction materials, external finishes and colours (incorporating two (2) paint samples);
   
   (b) The finish of the balustrade to the balcony of Apartment 301 to be lightweight and not glass;
   
   (c) Changes to improve daylight access to apartments in accordance with the Plans TP05- TP09 prepared by CBG Architects “Issued for Information Purposes Only- February” in Appendix E of the LID Consulting report dated 8 February 2016.
   
   (d) The provision of a warning light/s at the entrance to the car park visible from the intersection of the laneway and Railway Crescent that indicate when the roller door is open;
   
   (e) Vehicle sight lines in accordance with Australian AS2890.1 at the intersection of the laneway and Railway Crescent;
   
   (f) Details of the restoration works to the Hampton Street facade;
   
   (g) Specifications of the car stackers to be used including sections through building showing sufficient clearance around the stackers;
   
   (h) Changes to the internal layout and balcony of Apartments 103 and 203 to provide for an improved outlook;
   
   (i) Inclusion of an access door to the southern elevation of the bike store; and
   
   (j) Swept path diagrams confirming access to and from all car parking spaces can be achieved in a forwards direction.

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

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

4. Before the development permitted by this permit starts, all lots comprising the subject land must be consolidated into one lot under the *Subdivision Act 1988*.

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

6. 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.

7. 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 prior written consent of the Responsible Authority.

8. 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 Responsible Authority prior to the occupation of the building hereby approved.

9. 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 development;
   
   (c) Drained; and
   
   (d) Line marked to indicate each car space and all access lanes.

   All to the satisfaction of the responsible authority.

   Car spaces, access lanes and driveways must be kept available for these purposes at all times.

10. Prior to the commencement of the development hereby approved, the applicant must submit to the Responsible Authority a Construction Management Plan (CMP) for approval. Once approved, this plan will form part of the permit. This CMP must state that, unless otherwise agreed by the Responsible Authority:

   (a) Pedestrian access will be maintained at all times along the Railway Crescent and Hampton Street footpath adjacent to the site;

   (b) No footpath will not be obstructed during construction works;

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

   (d) All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created to the satisfaction of the Responsible Authority;
(e) All roads/storage areas/external stockpiles areas must be maintained to avoid dust nuisance to any residential area to the satisfaction of the Responsible Authority.

(f) 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.

All measures of the CMP must be implemented to the satisfaction of the Responsible Authority.

11 Prior to the commencement of the development hereby approved a Waste Management Plan 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 Waste Management Plan must include (but is not limited to), the following items:

(a) Responsibility for rubbish collection by a private contractor and how collection of refuse and recycling materials will be managed;

(b) The size and details of the waste collection vehicle to service the site;

(c) The frequency and hours for the collection of all waste and recyclables;

(d) The type of waste and recycling bins to be used;

(e) Collection of waste to the satisfaction of the Responsible Authority;

(f) Collection measures to minimise disruption to traffic flows within the site and on the surrounding road network;

(g) Any other relevant matter.

12 Waste storage areas must be kept in a clean and tidy condition and free from offensive odours to the satisfaction of the Responsible Authority.

13 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.

14 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 of which is to be to the satisfaction of the Responsible Authority.

15 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.

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

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

18 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.

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.

19 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.

This permit as it relates to use will expire if the use does not commence within two (2) years after the completion of the development.

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 period referred to in this condition.
<table>
<thead>
<tr>
<th>Date</th>
<th>Brief description of amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>28 August 2017</td>
<td>Amendment to the endorsed plans and permit pursuant to Section 72 of the <em>Planning and Environment Act 1987</em> to show:</td>
</tr>
<tr>
<td></td>
<td>a) Amend the plans as follows:</td>
</tr>
<tr>
<td></td>
<td>Ground Floor Plan (TP05-D)</td>
</tr>
<tr>
<td></td>
<td>• Apartments G01 (2 bedroom) and G02 (1 bedroom) combined to create one 3 bedroom apartment (renumbered G01). Consequential changes to balcony/terrace space and adjustment to window openings on northern wall to suit;</td>
</tr>
<tr>
<td></td>
<td>• Location of gas metres and mail boxes shown adjacent Railway Crescent;</td>
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<td>First Floor Plan (TP06 – D)</td>
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<td>• Apartment 105 changes to fitout in living room, requiring removal of north facing window to living room;</td>
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<td>• Minor amendments to balcony shape for apartments 104 and 105, increasing size for each by 0.5 sqm (from 8 to 8.5sqm);</td>
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<tr>
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<td>• Amendment to location of front doors for Apartment 104 and 105;</td>
</tr>
<tr>
<td></td>
<td>• Apartment 102 internal layout changes and an additional window opening to southern wall;</td>
</tr>
<tr>
<td></td>
<td>Second Floor Plan (TP07 – D)</td>
</tr>
<tr>
<td></td>
<td>• Apartments 204 (1 bedroom) and 205 (2 bedroom) combined to create one 3 bedroom apartment numbered 204/205. One north facing window removed to accommodate the changes and balcony space attached/reconfigured to suit;</td>
</tr>
<tr>
<td></td>
<td>• Apartment 206 internal layout reconfigured resulting in reduced snorkel length to second bedroom;</td>
</tr>
<tr>
<td></td>
<td>• Apartment 201 internal layout reconfigured.</td>
</tr>
<tr>
<td></td>
<td>Elevations and Sections (TP10-D to TP12-D)</td>
</tr>
<tr>
<td></td>
<td>• Northern Elevation – A vertical rebate relief has been added to the wall to add visual interest where the windows have been removed. This rebate will be charcoal render to tie in with the approved rebated relief on the southern elevation;</td>
</tr>
<tr>
<td></td>
<td>• Southern Elevation – Additional window added to the first floor;</td>
</tr>
<tr>
<td></td>
<td>Changes to Number of Dwellings</td>
</tr>
<tr>
<td></td>
<td>• The number of apartments is decreased from 18 to 16 apartments.</td>
</tr>
<tr>
<td></td>
<td>b) Amend the permit by changing condition 4 to read as follows:</td>
</tr>
</tbody>
</table>
Before the development permitted by this permit starts, all lots comprising the subject land must be consolidated into one lot or a plan of subdivision lodged with the Responsible Authority which subdivides the land to coincide with the development approved by planning permit 5/2014/669/1

21 December 2017 Amendment to the endorsed plans and permit pursuant to Section 72 of the Planning and Environment Act 1987 to show:

Amendment to the Planning Permit:
- Condition 1(b) reworded to reference Apartment 301.

Amendment to the Endorsed Plans:

Ground floor amendments
- Precast wall extended adjacent car stacker bay.
- Windows to Apartment G01 revised.
- Electricity Supply Pillar added to Apartment G01 Terrace as required by the electricity authority and G01 mailbox adjusted.
- Relocation of underground water tank and inclusion of stormwater detention tank.
- Reconfiguration of service location.
- Wall to Bicycle Storage revised.
- Skylight removed from the lobby.
- Revised stairs.

First floor amendments
- Removal of skylight window to lobby below.

Third floor amendments
- Apartments 301 and 302 combined into one apartment (now 301).
- Two windows on the northern elevation to the approved Apartment 301 readjusted to suit the reconfigured Apartment 301.
- One window on the southern elevation to the approved Apartment 302 deleted.
- Fireplace added to the living area of Apartment 301 with flue extending above the roofline.

Elevations and section amendments
- South Elevation - Articulation and treatment to façade removed where it abuts the approved adjoining development at 23-31 Small Street.
- North Elevation – Articulation and treatment to façade to suit revised windows.
- Material finish changed from the approved ‘Precast Concrete Panel’ (CT1 and CT2) to the proposed ‘Render’ (AR1 and AR2) as previously approved. Colours remain
### 4.6 – Matters of Decision

<table>
<thead>
<tr>
<th>Item 4.6 – Matters of Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>the same as approved – Off White and Charcoal.</td>
</tr>
<tr>
<td>- Material finish changed from the approved Glass (GL2) – charcoal colour infill panel between windows to proposed ‘Render’ (AR2) – charcoal colour.</td>
</tr>
<tr>
<td>- Windows previously shown full height have been reduced in height.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>13 March 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amendment to the endorsed plans and permit pursuant to Section 87A of the Planning and Environment Act 1987 to show:</td>
</tr>
<tr>
<td>Ground floor</td>
</tr>
<tr>
<td>- Additional car parking bay 3 – additional car parking spaces provided (total of 22 spaces in total); and</td>
</tr>
<tr>
<td>- Additional storage provided (20 storage cases in total).</td>
</tr>
<tr>
<td>First floor</td>
</tr>
<tr>
<td>- No change.</td>
</tr>
<tr>
<td>Second floor</td>
</tr>
<tr>
<td>- No change.</td>
</tr>
<tr>
<td>Third floor</td>
</tr>
<tr>
<td>- Apartment 301 north-western bedroom enlarged by moving the north western wall, with a commensurate reduction in the size of the balcony space from 10.5 sqm to 5.5 sqm;</td>
</tr>
<tr>
<td>- Addition of a new apartment 302 to the west of apartment 301;</td>
</tr>
<tr>
<td>- Communal roof top terrace removed from the western roof; and,</td>
</tr>
<tr>
<td>- Ceiling of apartment 301 increased from 2.6m to 2.7m (parapet height is not altered – overall building height does not change).</td>
</tr>
<tr>
<td>Roof Plan</td>
</tr>
<tr>
<td>- Roof plan updated to reflect roof plan of new apartment 302; and,</td>
</tr>
<tr>
<td>- The eastern communal roof top terrace is to remain unchanged.</td>
</tr>
</tbody>
</table>

### 5. Council Policy

**Council Plan 2017-2021**

Relevant strategies of the Council plan include:

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

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

**Bayside Planning Scheme**

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.11 Local Areas – Hampton Street Major Activity Centre
- Clause 22.05 Heritage Policy
- Clause 22.06 Neighbourhood Character Policy
- Clause 22.08 Water Sensitive Urban Design
- Clause 43.01 Heritage Overlay (Schedule 748)
- Clause 43.02 Design and Development Overlay (Schedule 12)
- Clause 45.06 Development Contributions Plan Overlay (DCPO)
- 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 and the individual merits of the application.

6.1 **Strategic Justification**

The Planning Policy Frameworks support the intensification of development in and around public transport nodes and in activity centres. The local areas policy contains a subsection relating specifically to Hampton (Clause 21.11-4) that seeks to revitalise Hampton as an attractive, vibrant and well are and community focal point that provides a wide range of local shopping, business and community services. The subject site falls under Precinct 2 which states the following objective:

- Encourage mixed use developments with shop, office and other non-residential uses on the ground floor and residential on upper levels.

Furthermore, the policy seeks to provide an opportunity for as many people as is appropriate given the character of the area and the opportunities for change to live and work in Hampton, with access to public transport and within walking and cycling distance of activity centres, and hence to provide a real transport option for people other than the private car. It is considered that the proposal broadly meets the above policy aims.
The below image shows the location of where the subject site is located within the Hampton Activity Centre.

**6.2 Urban Context and built form**

There have been no relevant changes in the Bayside Planning Scheme since the planning permit was issued, the zoning and overlays remain unchanged. The site remains in an area earmarked for change and urban renewal and continues to be supported by the relevant State and Local polices.

The principle of higher density development on the site and within the immediate site context has been established. Since the original approval of the development, albeit in an amended format, in March 2016, the immediate area has changed with the construction of several higher density mixed use developments being approved and constructed.

The image below demonstrates that buildings in this precinct range in height from 3 storey to 4 storey.
6.3 Dwelling diversity

In principle, the proposed increase in the number of dwellings (1 additional) and the diversity of the housing stock is supported. The precinct as a whole offers a variety of dwelling sizes and types. The overall increase in dwelling numbers is an appropriate outcome for this precinct. It is important to note that the proposal is only for the addition of one dwelling in a Major Activity Centre.

6.4 Neighbourhood Character

As the site is located within a Commercial 1 Zone the Neighbourhood Character Policy is not applicable to this zone. The preferred and valued neighbourhood character objectives for the Hampton Street Activity Centre are expressed in the Major Activity Centre Structure Plan.

6.5 Design and Development Overlay – Schedule 12 (DDO12)

The amended proposal retains the medium density neighbourhood character of the Hampton Street Major Activity Centre by respecting the scale of the existing, preferred and emerging two, three; and, four storey built form.

The Design and Development Overlay – Schedule 12 (DDO12) - Hampton Street Major Activity Centre is divided into 6 Precincts (tabled below). It is noted that the subject site is divided into two precincts, Precinct B and C.

The eastern (existing) portion of the site (facing Hampton Street) is identified as a Precinct B which has a preferred height of 13.5 metres and 4 storey. The existing approved development contains an overall height of 13.5 metres.

The proposed amendment is located within Precinct C which has a preferred height of 11 metres and 3 storey. It is quintessential to note that no maximum building height is stipulated within either Precinct B or C.
The amended plans comply with the Design and Development Overlay – Schedule 12 for the following reasons:

- The amendment proposes to increase the western portion of the development from three storeys (11 metres) to four storeys (14.05 metres). This is considered to be appropriate as the 3.05 metres beyond the 11 metres preferred height is considered minimal as it will not be visible from any vantage points. This is shown in the diagrams below.
Whist the overall height exceeds the 11 metres preferred height by 3.05 metres, the proposal is considered acceptable as the design response mitigates against the additional height and creates an appropriate transition between the abutting allotments (as demonstrated in Section 7.1 of this report);

The bulk, location and appearance of the amended development is in keeping with the character and appearance of adjacent buildings and is considered to be inconsequential to the streetscape due to its limited visual impact;

The additional unit is recessed 5 metres from the front street boundary and therefore is compliant with the DDO12 requirements;

The proposed amendment will not exceed the height of the eastern (approved) section of development. It considered that the proposed amendment will unify the west and eastern portion of the site;

The proposed amendment will not appear juxtaposed to the immediate buildings;

The additional unit will have minimal visual impact from streetscape due to its recession and it is anticipated that no part of the unit will be visible from Railway Crescent and Small Street;

The provision of commercial/retail areas (abutting Hampton Street) at ground level provides a level of passive surveillance, visual interest and commercial viability located within the public realm, thus compliant with the requirements of the DDO12;

The proposed use of a mixture of building materials continue to provide a level of articulation and breaks up any perceived bulk from all abutting allotments;

The setback of the proposed unit will provide articulation, improved internal amenity without increasing the perceived built form from the public realm;

The proposed amendment will contribute to creating a vibrant retail and residential activity centre;

No unreasonable overlooking is anticipated by the proposed amendment;

Approval has already been sought from Councils’ Heritage advisor, therefore the design, form, layout, proportion and scale of the amended design is considered to be compatible with the style, form, proportion, and scale of the neighbouring properties; and,

The layout and appearance of areas set aside for car parking is considered sufficient.

Furthermore, DDO12 stipulates that a variation to the preferred building height can be can supported if:
- Identify the design objectives, design requirements and outcomes to be achieved for the proposal as specified in this schedule.
- Include an assessment of how any departure from a preferred building height or building setback specified in this schedule assists in achieving the design objectives and built form outcomes to be achieved for the proposal as specified in this schedule.

**Demonstrate that the proposal will achieve the following outcomes (as appropriate):**

- A high standard of architectural design.
- Innovative environmental design.
- Minimal overshadowing of adjoining streets, public spaces and residential properties.
- Minimal impact on the amenity of adjoining residential precincts.
- Respect for places subject to the Heritage Overlay.
- Transitions in scale to lower building forms.

It is considered the proposed amendment to be in line with the variations to the requirements of this schedule as:

- The proposed height of the amendment is compatible with the existing and future role of the character of the Hampton Street Major Activity centre;
- No change to existing Heritage façade is proposed and therefore the development continues to conserve the valued urban character and heritage places;
- The provision of commercial / retail at ground floor continues to contribute to safe and active streets;
- The proposed increase in height (3.05 metres) to the preferred building height is not considered to be a great departure from the existing immediate area as the abutting allotment contains an approved buildings of similar heights;
- No additional overshadowing is anticipated to any public space and adjoining streets;
- The proposed increase in overshadowing to the residential properties is not considered to be to an unacceptable level and is considered to be compliant with the overshadowing requirements of Standard B21 (Overshadowing);
- The proposed amendment will have minimal impact on the amenity of the residential precinct to the northwest (due to its proximity – approx. 16 metres);
- As demonstrated above (Section 7.1) the proposed amendment is considered to provide sufficient transition with the immediate buildings;

The proposed changes to the development would not result in additional visual bulk and would achieve a high standard of urban design and manage to achieve a high level of compliance with the design objectives of the DDO12.

The scale and mass of the proposed development responds to the immediate building form, provides a human scale and mitigates against any potential concerns relating to visual bulk.

The additional unit is sufficiently setback from street frontage and mitigate against the visual bulk and a vertical emphasis of the building.

The proposed changes implement the findings of the Hampton Street Major Activity Centre in relation to building height and form in that part of Hampton Street Major Activity Centre.
Centre. It is considered that the proposed amendment will make a positive contribution to the area.

Generally, the overall composition of the development when read in the streetscape together does not present any additional bulk and is considered to be a well-proportioned design. The scale and massing of the amended development now responds to the existing / emerging neighbourhood character.

6.6 Car parking and traffic

The proposal does not seek a car parking reduction under Clause 52.06 relative to that that is currently approved.

It is imperative to note that the approved development provided 19 residential car spaces and has an existing waiver of three visitor car spaces and four retail car spaces. As this dispensation has already been provided (for visitor and retail) it falls outside the scope of assessment for this amendment.

The proposed amendment provides a total of 22 residential spaces.

Minimum required and Proposed Parking Allocation is identified below:

<table>
<thead>
<tr>
<th>USE</th>
<th>SIZE</th>
<th>PLANNING SCHEME PARKING RATE</th>
<th>CAR PARKING REQUIREMENT</th>
<th>CAR PARKING PROPOSED</th>
<th>SHORTFALL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>2 x 4 - bedroom</td>
<td>1 space to each 1 or 2-bedroom dwelling</td>
<td>22 resident spaces</td>
<td>22</td>
<td>Nil</td>
</tr>
<tr>
<td></td>
<td>3 x 3 - bedroom</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>6 x 2 – bedroom</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5 x 1 bedroom</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling (visitor)</td>
<td>16</td>
<td>1 space for visitors to every 5 dwellings</td>
<td>3 visitor space</td>
<td>Not allocated</td>
<td>3 space</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>24 SPACES</td>
<td>22 SPACES</td>
<td>21 SPACES</td>
</tr>
</tbody>
</table>

Council’s Traffic Engineer considered the original proposal and considered the reduction in car parking acceptable. It is noted that proposal is for less apartments than originally approved and contains a surplus of residential parking therefore the provision of no visitor parking remains unaltered.

The existing approval already provides a waiver of the visitor car parking space and loading bay requirement. This remains unchanged and is considered to acceptable given that there is on-street parking in the immediate area to accommodate visitors.

As stated earlier, the site is within an easy walk of the Hampton Train Station and has good public transport accessibility. Furthermore the availability of alternative parking within the area and the likelihood that trips to this location will be multi-purpose and not solely to visit this development further support the existing approved shortfall.

In relation to the commercial / retail sector of the existing permit both visitors and the operator of the shop benefit from immediate public transport access to the site and this provides an alternative to private vehicles. The site is located in a Major Activity Centre where increased scale buildings are encouraged and with this comes more intensive land use. It is this intensity which underpins the vibrancy and economic prosperity of activity centres.

The provision of car parking strictly in accordance with statutory rates can often
undermine this vibrancy and prosperity and lead to congestion and issues of access. Given the immediacy of public transport services to this site, it is considered that the occasional demands generated by visitors remains well catered for.

Traffic generated by the proposal is expected to be accommodated within the local road network. The findings of the Traffic Impact Assessment Report prepared by Traffix Group are generally considered acceptable. Car parking allocations, car stackers specifications and waste management recommendations continue to form part of the above mentioned conditions should the application be supported.

6.7 Conclusion

The design, form, layout, proportion and scale of the proposed amendment is considered to be compatible with the style, form, proportion, and scale of the neighbouring properties.

The subject site forms part of the Hampton Street Activity Centre where increased residential densities and heights are envisioned. The amended development responds to the broader strategic direction contained within the Bayside Planning Scheme specifically the design objectives and built form requirements of the Design and Development Overlay, Schedule 12. The proposal will not result in unreasonable off-site amenity impacts, and it is therefore considered that it is worthy of support.

The overall development is considered to show a high level of compliance with the Bayside Planning Scheme. Furthermore, all parties to the appeal have signed off on the amended application.

Support Attachments

1. Amended Plans ▼
2. Site and Surrounds Imagery ▼
3. Approved Plans ▼
Item 4.6 – Matters of Decision
Item 4.6 – 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>
</tbody>
</table>
Southeast view from Small Street.

Western view from Hampton Street.
Item 4.6 – Matters of Decision
Item 4.6 – Matters of Decision
Item 4.6 – Matters of Decision
4.7 UNIT 27, 26 CHURCH STREET, BRIGHTON (ALSO KNOWN AS 3 WELL STREET, BRIGHTON) AND COMMON PROPERTY
NOTICE OF DECISION TO AMEND A PLANNING PERMIT
APPLICATION NO: 2014/874/4 WARD: NORTHERN

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant an Amended Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Sophie Jordan Consulting</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>14 November 2016 (Amended on 25 August 2017)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>159 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 11)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay</td>
</tr>
<tr>
<td></td>
<td>(Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>13</td>
</tr>
</tbody>
</table>

Proposal

The application seeks retrospective approval to amend an existing planning permit for the buildings and works associated with existing restaurant, liquor licence and advertising signage (internal illuminated) on a lot with an area of approximately 157 square metres. Key details of the proposal are as follows:

- Amend Condition 2 from:
  
  “This approval pertains to the title boundaries of the lot and not common property”
  
  to:

  “This approval pertains to the title boundaries of the lot and not common property except for the planter box located along the southern façade of the restaurant and the built form marked in red on the Merrigan Millar plan dated 16 February 2017, surveyors reference 20503R.”

- Amend Condition 4 to reduce the approved trading hours from:

  “The sale and consumption of liquor may only be undertaken between 11:00am and 12:00am on any day”

  to:

  “The sale and consumption of liquor may only be undertaken between 11am and 10:30pm, except for Chinese New Year and 31 December”.

- Amend the Endorsed Plans as follows:
**Works within the existing restaurant**

- Modification to the ground floor plan to change the area approved as ‘Freezer and Cool Room’ to be a ‘Freezer’.
- Deletion the wording of ‘Dry Storage’ which is located next to the ‘Freezer’.
- The existing ‘Operable Door’ facing Well Street has been amended to ‘Operable Door For Exit Only’.
- Proposed louvre windows to the south of the building are proposed to be closed at 10pm on any given evenings.
- Modification to the first floor plan to change the area approved as ‘VIP Room 2’ to a new dining area, resulting in floor area variations to the approved ‘Female Toilet’ and the proposed dining area.
- Modification to the first floor plan to change the approved preparation area layout.

**External works**

- Allow the construction of planter boxes in common property which is located along the southern façade of the restaurant adjacent to the bi-fold doors.
- Modification to the southern façade windows to change the bi-fold doors to be fixed doors, resulting in only one opening door at the front of the premises facing Wells Street for exit only.
- Construction of a masonry planter box along the southern façade to replace a planter box previously removed.
- Roof plan altered to show all plant and equipment, consisting of a hot water system and refrigeration motors.
- Altered notations on the plan, with ‘adjacent building’ to be substituted with ‘fire escape associated with the cinemas – not part of the restaurant tenancy’ and ‘back door’ to be substituted with ‘entry’.

**Red-line Area**

- Updated to the red line plan to include kitchen at ground floor and voids at first floor.

The development plans are provided at Attachment 1 and the endorsed plans and planning permit are provided at Attachment 2.

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

**Permit History**

Given the subject site is located within the Dendy Plaza, there is significant planning permit history. The most relevant planning permits have been listed below:

*Planning Permit P.1422, 1422A and 1422B*

This permit was issued on the 26 May 1982 for residential, commercial, professional and entertainment purposes.

Plans forming part of P.1422 were subsequently amended by a series of Permits issued between 1982 and 1984. P1422A was issued on 29 June 1982 altered details of the access road from Well Street. P.1422B was issued on 26 July 1982 for a large number of internal details changes. The use and the development was established in permit P.1422.
**Planning Permit P.2282**

The permit was issued on 22 January 1986 for a fenced outdoor eating area at the rear of the restaurant facing Wells Street. This permit also limited the number of patrons in the outdoor eating area not to exceed 60 at any time.

**Planning Permit P.3085**

The permit was issued on 9 June 1989 for alterations to the centre including the erection of an awning over the outdoor area.

**Planning Permit P.3699**

The permit was issued on 16 November 1992 for construction of a door for outdoor eating area enclosure. The proposed door at the west side of the restaurant.

**Planning Permit P.4095**

The Permit was issued on 24 May 1993 to allow use of the outdoor living area as part of the existing restaurant.

**Amendment to Planning Permit 2014/874/1**

The amended permit was issued on 11 May 2015 for buildings and works associated with existing restaurant, liquor licence and advertising signage (internally illuminated). Key details of the proposal are as follows:

- Approved liquor licence with a maximum patron number at 150
- Approved sale and consumption of liquor is between 11:00am and 12:00am on any day
- Approved building and works are constructed within title boundary, not the common property

**Amended plans under Secondary Consent (2014/874/1)**

This amended plans were approved on 11 August 2015 to:

**Ground floor**

- Relocating the stairs from the middle of the building towards the east of the building
- Relocate the bar from the middle of the building towards the rear (north of the building)
- Straightening out of the rear wall separating the kitchen and dining area
- Show the location and door for the grease trap
- Change in internal reconfiguration of kitchen
- Deletion of indicative tables and chairs
- Deletion of external planter boxes

**First Floor**

- Show the new stair location to replicate the floor below
- Replace the old stair location with a light void
- Reduce the size of the original light void due to the stairs
- Removed indicative tables and chairs

**Elevations**

- Deletion of planter boxes
- Minor change to appearance of building due to change in window style
• Change in advertising signage name from ‘Moon Cowry’ to ‘Gold Moon’
• Notations and visual appearance slightly changed on plan

Red line
• The plan has been updated to reflect the changes in the internal layout.

Council noted the unauthorised changes to replace the existing fixed windows to bi-fold doors at the ground floor facing the Wells Street was not requested in this application. This inconsistency has since been applied to be rectified as part of the current planning permit being considered in this report, being 2014/874/4.

Application to Amend a Planning Permit 2014/874/2
This application was lodged on 16 January 2016 for use common property for seating for the restaurant, minor buildings and works in common property and a car parking waiver in association with the proposed searing in common property. The application was refused on 16 April 2016.

Application to amend plans under Secondary Consent (2014/874/3)
This application was lodged on 31 August 2016 which sought permission to:

a) Include a roof plan showing all plant and equipment on the building (Unit 27, 26 Church Street, Brighton).

The applicant advised Council on 14 June 2017 they did not wish to proceed with this application. Council acknowledged and withdrew the application on the same day. This application was closed on 14 June 2017.

Amendment to Planning Permit 2014/874/3
This application was lodged on 16 August 2016 which sought permission to:

a) Delete Condition 2, which reads “This approval pertains to the title boundaries of the lot and not common property.”

b) Amend the endorsed plans to incorporate landscape works to the outdoor plaza. These works include new paving to replace existing paving, and new planting to the common property.

The applicant advised Council on 14 June 2017 they did not wish to proceed with this application. Council acknowledged and withdrew the application on the same day. This application was closed on 14 June 2017.

2. Planning controls

Original Planning Permit requirements
A planning permit was required pursuant to:

• Clause 32.08-8 (General Residential Zone 2) – a permit is required for buildings and works associated with a Section 2 use.

  Note: there is no separate permit trigger for buildings and works within the common property and therefore works within the common property falls under the ‘buildings and works associated with a Section 2 use’.

  Note: use of the land as a restaurant was established in permit P.1422.

• Clause 52.27 (Licensed Premises) – a permit is required to use land to sell or consume liquor when the area that liquor is allowed to be consumed or supplied under a licence is to be increased.

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
There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

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

Internal referrals
There is no requirement to refer the application to any internal departments within
Council.

An independent Acoustic assessment was sought to determine the potential noise
impacts from the restaurant. The summary of the outcome is provided below, with the
Acoustic report provided at Attachment 4.

<table>
<thead>
<tr>
<th>Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Renzo Tonin &amp; Associates</td>
<td>No objection.</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and
Environment Act 1987 and 13 objections were received. The following concerns were
raised:

- Amenity impacts including noise and traffic issues.
- Louvre windows to be closed at 10pm on any given evenings are unenforceable.
- The ‘Operable Door For Exit Only’ is only 620mm wide which creates a danger to
  use as a means of egress.
- Unauthorised by all common property owners for the buildings and works are
  proposed on common property
- The proposed garden bed and planter boxes should be reinstated to its original
  extent.
- Request the proposed planting in the planter boxes to be maintained and replaced
  if necessary.
- Retrospectively approval for all plant and equipment which does not have a current
  building permit.
- The current sanitary facilities cannot hold 150 patron number. The approved 150
  patron number is inconsistent with the liquor licence.
- Acoustic report parameters not to resident’s specifications.
- Enforcement action on Planning and Building matters.

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

Consultation meeting
A consultation meeting was held on 5 February 2018 attended by the permit applicant
and five objectors. As a result of this meeting no objections were withdrawn.
4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Amend a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2014/874/4** for the land known and described as **Unit 27/26 Church Street, Brighton (also known as 3 Well Street) and common property**, for the buildings and works associated with existing restaurant, liquor licence and advertising signage (internally illuminated) in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application and advertised) prepared by Lamprecht Architect referenced 17105, Council date 25 August 2017 and revision number A but modified to show:
   a) **Louvre windows to be permanently closed at all times.**
   b) **A Landscaping Plan in accordance with Condition 2 of this permit.**

   **All to the satisfaction of the Responsible Authority.**

2. 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 show:
   a) **The location of the planter boxes. These planter boxes must be fixed to the floor and non-removable.**
   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.**

3. 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.

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

5. Deliveries to and from the site (including waste collection) must only take place between:
   - 7 am — 8 pm Monday to Saturday
   - 9 am — 8 pm Sunday and public holidays

   **Refuse bins should be located at sites that provide minimal annoyance to residential premises.**
   **Compaction should be carried out while the vehicle is moving.**
   **Noisy verbal communication between operators should be avoided where possible.**
All to the satisfaction of the Responsible Authority.

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

7. This approval pertains to the title boundaries of the lot and not common property except for the planter box located along the southern façade of the restaurant and the built form marked in red on the Merrigan Millar plan dated 16 February 2017, surveyors reference 20503R.

8. The lighting for the signage must be set to a timer or manually set to turn off after the premises closes.

9. The use of the land as a restaurant and the sale and consumption of liquor may only be undertaken between the following trading hours:
   - 11am and 10:30pm on any day; except
   - 11am and 12am on New Year’s Eve and Chinese New Year.

All to the satisfaction of the Responsible Authority.

10. There may be no more than 150 patrons (customers) on site to the satisfaction of the Responsible Authority.

11. The licenced area as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

12. The sale and consumption of liquor hereby permitted must at all times occur in conjunction with the sale and consumption of food to the satisfaction of the Responsible Authority.

13. 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:

- 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.

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 March 2018</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 2 from “This approval pertains to the title boundaries of the lot and not common property” to “This approval pertains to the title boundaries of the lot and not common property except for the planter box located along</td>
</tr>
</tbody>
</table>
the southern façade of the restaurant and the built form marked in red on the Merrigan Millar plan dated 16 February 2017, surveyors reference 20503R.”

- Amend Condition 9 to reduce the approved trading hours from “The sale and consumption of liquor may only be undertaken between 11:00am and 12:00am on any day” to “The sale and consumption of liquor may only be undertaken between:
  - 11am and 10:30pm on any day;
  - 11am and 12am on New Year’s Eve and Chinese New Year”

- Introduce Condition 5 to regulate the delivery time.

- Amend the Endorsed Plans as follows:

  **Works within the existing restaurant**
  - Modification to the ground floor plan to change the area approved as ‘Freezer and Cool Room’ to be a ‘Freezer’.
  - Deletion the wording of ‘Dry Storage’ which is located next to the ‘Freezer’.
  - The existing ‘Operable Door’ facing Well Street has been amended to ‘Operable Door For Exit Only’.
  - Proposed louvre windows to the south of the building are proposed to be closed at 10pm on any given evenings.
  - Modification to the first floor plan to change the area approved as ‘VIP Room 2’ to a new dining area, resulting in floor area variations to the approved ‘Female Toilet’ and the proposed dining area.
  - Modification to the first floor plan to change the approved preparation area layout.

  **External works**
  - Allow the construction of planter boxes in common property which is located along the southern façade of the restaurant adjacent to the bi-fold doors.
  - Modification to the southern façade windows to change the bi-fold doors to be fixed doors, resulting in only one opening door at the front of the premises facing Wells Street for exit only.
  - Construction of a masonry planter box along the southern façade to replace a planter box previously removed.
  - Roof plan altered to show all plant and equipment, consisting of a hot water system and refrigeration motors.
  - Altered notations on the plan, with ‘adjacent building’ to be substituted with ‘fire escape associated with the
cinemas – not part of the restaurant tenancy’ and ‘back door’ to be substituted with ‘entry’.

**Red-line Area**
- Updated to the red line plan to include kitchen at ground floor and voids at first floor.
- Renumbered the Conditions 6-13.

<table>
<thead>
<tr>
<th>11 August 2015</th>
<th><strong>Secondary consent to amend plans:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amendment to the endorsed plans under Secondary Consent:</td>
</tr>
<tr>
<td></td>
<td><strong>Ground floor</strong></td>
</tr>
<tr>
<td></td>
<td>• Relocating the stairs from the middle of the building towards the east of the building</td>
</tr>
<tr>
<td></td>
<td>• Relocate the bar from the middle of the building towards the rear (north of the building)</td>
</tr>
<tr>
<td></td>
<td>• Straightening out of the rear wall separating the kitchen and dining area</td>
</tr>
<tr>
<td></td>
<td>• Show the location and door for the grease trap</td>
</tr>
<tr>
<td></td>
<td>• Change in internal reconfiguration of kitchen</td>
</tr>
<tr>
<td></td>
<td>• Deletion of indicative tables and chairs</td>
</tr>
<tr>
<td></td>
<td>• Deletion of external planter boxes</td>
</tr>
<tr>
<td></td>
<td><strong>First Floor</strong></td>
</tr>
<tr>
<td></td>
<td>• Show the new stair location to replicate the floor below</td>
</tr>
<tr>
<td></td>
<td>• Replace the old stair location with a light void</td>
</tr>
<tr>
<td></td>
<td>• Reduce the size of the original light void due to the stairs</td>
</tr>
<tr>
<td></td>
<td>• Removed indicative tables and chairs</td>
</tr>
<tr>
<td></td>
<td><strong>Elevations</strong></td>
</tr>
<tr>
<td></td>
<td>• Deletion of planter boxes</td>
</tr>
<tr>
<td></td>
<td>• Minor change to appearance of building due to change in window style</td>
</tr>
<tr>
<td></td>
<td>• Change in advertising signage name from ‘Moon Cowry’ to ‘Gold Moon’</td>
</tr>
<tr>
<td></td>
<td>• Notations and visual appearance slightly changed on plan</td>
</tr>
<tr>
<td></td>
<td><strong>Red line</strong></td>
</tr>
<tr>
<td></td>
<td>The plan has been updated to reflect the changes in the internal layout.</td>
</tr>
</tbody>
</table>

5. **Council Policy**

### Council Plan 2017-2021

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

With village-style activity centres, combining retail at ground floor with increased opportunities for apartment-style living above.

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

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 17 Economic Development
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
- Clause 21.11 Local Areas (Church Street Major Activity Centre)
- Clause 22.06 Neighbourhood Character Policy (Precinct B2)
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 11)
- Clause 52.06 Car Parking
- Clause 52.27 Licensed Premises
- Clause 65 Decision Guidelines

### 6. Considerations

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

#### 6.1. Buildings and works (Amendments to plans)

There is two aspects of the works which require planning permission, being internal and external works. The most critical from a Neighbourhood Character perspective are the external works and how well the building adheres to the preferred future character statement and precinct guidelines. The site is located within the Neighbourhood Character Precinct B2.

Given this building is clearly a commercial entity, the decision guidelines under Clause 32.08-12 (Non-residential use and development) will be used to determine their appropriateness in this largely residential context. Those decision guidelines relevant to this proposal are:

- Whether the use or development is compatible with residential use.
The scale and intensity of the use and development.

- The design, height, setback and appearance of the proposed buildings and works.
- The proposed landscaping.
- The safety, efficiency and amenity effects of traffic to be generated by the proposal.

In summary, the proposal is considered to demonstrate an appropriate level of compliance with the preferred future character statement, precinct guidelines and the decision guidelines noted above.

Internal works

The internal works proposed are repeated below:

- Modification to the ground floor plan to change the area approved as ‘Freezer and Cool Room’ to be a ‘Freezer’.
- Deletion the wording of ‘Dry Storage’ which is located next to the ‘Freezer’.
- The existing ‘Operable Door’ facing Well Street has been amended to ‘Operable Door For Exit Only’.
- Proposed louvre windows to the south of the building are proposed to be closed at 10pm on any given evenings.
- Modification to the first floor plan to change the area approved as ‘VIP Room 2’ to a new dining area, resulting in floor area variations to the approved ‘Female Toilet’ and the proposed dining area.
- Modification to the first floor plan to change the approved preparation area layout.

The internal works largely involve the rearrangement of the restaurant to cater to the needs of the current restauranant. For the most part, these works are not visible to the adjoining properties and will not cause any increase in detriment. The works do not increase the size of the building.

The area of concern lay with the louvre windows, which will be discussed later in this report under the section title Noise.

External works

The external works proposed are repeated below:

- Allow the construction of planter boxes in common property which is located along the southern façade of the restaurant adjacent to the bi-fold doors.
- Modification to the southern façade windows to change the bi-fold doors to be fixed doors, resulting in only one opening door at the front of the premises facing Wells Street for exit only.
- Construction of a masonry planter box along the southern façade to replace a planter box previously removed.
- Roof plan altered to show all plant and equipment, consisting of a hot water system and refrigeration motors.
- Altered notations on the plan, with ‘adjacent building’ to be substituted with ‘fire escape associated with the cinemas – not part of the restaurant tenancy’ and ‘back door’ to be substituted with ‘entry’.

The existing building is located in a residential zone and is surrounded by a residential building to the west and a car park to the east.

The retrospective works to the west (adjacent the residential building) are the parapet wall. This wall was constructed at a maximum height of 9m and it slopes down to 7.1m.
Any built form above the 6.8m as stipulated on the title plan (refer below) is considered common property. The encroachments are same to the west side facing the property at 5 Well Street. The proposed parapet wall to front (south façade) also encroaches the common property by 1m.

The nearest residential dwelling is Unit 22 on Strata Plan 022934S. This dwelling is located approximately 8m away from the proposed parapet wall. Given the encroachments are minor in nature, officers do not believe it will cause any unreasonable visual bulk issues to this residential interface.

To the east, given the encroachment is directly facing a car park, it results in minimal amenity impacts.

Another matter planning officers have to take into consideration is if the proposed development is compatible with residential use in terms of scale. These works outside the title boundary are minor and only result in the overall height of 9m, below the allowable 11m maximum height as set out in the General Residential Zone.

Having regard to the above, the scale, height, setback and appearance of the building is compatible with the neighbourhood character and is unlikely to cause unreasonable visual bulk to the streetscape. The proposed works are sympathetic and compatible with the existing neighbourhood.

Moreover, the planter boxes are designed to provide landscaping which will further assist in soften the visual impact which may be caused by the development to the existing streetscape.

A condition will be imposed to maintain the proposed landscaping in the planter boxes to the satisfaction of Responsible Authority. Given the above reasons, the proposed works within the common property is supportive.

**Noise**

Concerns have been raised by residents that the following amendments will impact on the existing amenity of Well Street:

- The existing ‘Operable Door’ facing Well Street has been amended to ‘Operable Door For Exit Only’.
- Proposed louvre windows to the south of the building are proposed to be closed at 10pm on any given evenings.
- Modification to the southern façade windows to change the bi-fold doors to be fixed doors, resulting in only one opening door at the front of the premises facing Wells Street for exit only.

This door is only for operation when people exiting the premises (thereby reducing the potential use of the door by 50% in comparison to its previous approval). Notwithstanding this, the door is located approximately 35m away from the nearest frontage of residential site being 4 and 6 Well Street.
The applicant has submitted a Noise Assessment prepared by Arup Pty Ltd (a qualified acoustic consultant), the reports indicate that:

‘Background noise measurements were completed between 7 and 10 March 2017 at the night time given the noise limits during the night-time period are more onerous, compliance with the high-time noise limits at the nearest affected residential properties will demonstrate compliance at other nearby noise sensitive receivers.’

The results shows on the page 4: State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade). The objective of SEPP N-1 is to protect residential areas from noise generated by commercial, industrial or trade premises.

<table>
<thead>
<tr>
<th>Period</th>
<th>Zoning Level, Leq dB(A)</th>
<th>Background Level, L90 dB(A)</th>
<th>Noise Limit, Leq dB(A)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Evening</td>
<td>48</td>
<td>39</td>
<td>48</td>
</tr>
<tr>
<td>Night</td>
<td>43</td>
<td>36</td>
<td>43</td>
</tr>
</tbody>
</table>

The above results demonstrated that the background noise complies with the SEPP N-1.


The report placed monitoring devices at the following locations, please refer below location map which is extracted from the Acoustic Assessment prepared by Renzo Tonin & Associates, Figure 1,

Figure 1 presents an overview of the Emitting Premises and surrounding land uses and shows the monitor location. To quantify the existing noise levels from the operation of the Emitting Premises, Renzo Tonin & Associates conducted unattended noise monitoring from 11th to 23rd January 2018.

Within the Melbourne metropolitan region, noise from commercial plant affecting residential properties is governed by the Victorian EPA State Environmental Protection...
Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1); which is legislated by way of the Environment Protection Act 1970. SEPP N-1 is not legislatively applicable to patron noise or music noise. SEPP N-1 noise limits are calculated from planning overlays and; background noise levels measured within an area, in absence of intrusive commercial noise sources.

Of all the noise monitored, patron noise was observed to only be audible at Location L1 given the other locations are too far away from the site and unable to observe patron noise. All other noise sources associated with the premises were identified to comply with SEPP N-1. The table below identifies the major times where noise sources were detected:

Table 6: Measured patron noise at location L1

<table>
<thead>
<tr>
<th>Time</th>
<th>Measured noise levels</th>
<th>Patron noise limits</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$L_{eq}$ dB(A)</td>
<td>$L_{MAX}$ dB(A)</td>
</tr>
<tr>
<td>12/01/2018 1002 PM</td>
<td>20</td>
<td>51</td>
</tr>
<tr>
<td>12/01/2018 1002 PM</td>
<td>22</td>
<td>54</td>
</tr>
<tr>
<td>12/01/2018 1003 PM</td>
<td>25</td>
<td>58</td>
</tr>
<tr>
<td>12/01/2018 1005 PM</td>
<td>30</td>
<td>65</td>
</tr>
<tr>
<td>14/01/2018 1051 PM</td>
<td>25</td>
<td>60</td>
</tr>
<tr>
<td>16/01/2018 1001 PM</td>
<td>30</td>
<td>59</td>
</tr>
<tr>
<td>16/01/2018 1014 PM</td>
<td>30</td>
<td>54</td>
</tr>
<tr>
<td>16/01/2018 1017 PM</td>
<td>36</td>
<td>53</td>
</tr>
<tr>
<td>18/01/2018 1033 PM</td>
<td>30</td>
<td>59</td>
</tr>
<tr>
<td>12/01/2018 1055 PM</td>
<td>41</td>
<td>-</td>
</tr>
<tr>
<td>13/01/2018 7:26 PM</td>
<td>47</td>
<td>-</td>
</tr>
<tr>
<td>14/01/2018 2:55 PM</td>
<td>49</td>
<td>-</td>
</tr>
<tr>
<td>17/01/2018 8:35 PM</td>
<td>51</td>
<td>-</td>
</tr>
</tbody>
</table>

Notes:
1. The exact source of the indicated noise level may include contributions from patrons to the Emitting Premises, various other Dendy Plaza premises or possibly neighbouring residents talking within the backyards of their private residential properties.
2. Presented noise levels are not exhaustive, however they are considered to be representative of noise levels from the identified sources.
3. Presented $L_{eq}$ dB(A) noise levels have been duration adjusted per SEPP N-1 methodology.
4. Patron noise criteria as defined in Section 4.2, does not prescribe an $L_{MAX}$ limit during the evening period.

As can be seen in Table 6, compliance with the relevant patron noise criteria was met in all but one case. However, it is important to note that the derived patron noise criteria are not legislative, and additionally an exceedance of 2 dB is generally not considered significant.

The acoustic consultant has indicated that the exact source of the indicated noise level may include contributions from patrons to the Emitting Premises, various other Dendy Plaza premises or possibly neighbouring residents talking within the backyards of their private residential properties.

Given the site is located in an established residential zone, the amenity of these properties should have a higher level of protection. It is suggested to further condition that the proposed louvre windows to the south of the building as proposed to be closed permanently to further reduce the noise from the patrons of the restaurant.

The application also proposed to alter the roof plan to show all plant and equipment, consisting of a hot water system and refrigeration motors. They are invisible from the Well Street frontage and will not cause significant visual impacts to the streetscape. Objectors
remains concerned that the noise from mechanical plant may impact on the existing residential area amenity. Council’s independent review found that the mechanical plant servicing the Emitting Premises are expected to be operating at noise levels that comply with SEPP N-1 day, evening and night-time noise limits at all tested locations. Neither the applicant’s acoustic report has discovered the noise non-compliances from the equipment of the Gold Moon restaurant. No conditions are proposed to ensure compliance with SEPP N-1 for the air conditioning units as they comply with the EPA standards.

The Acoustic Assessment prepared by Renzo Tonin & Associates confirmed (section 5 of the report) that Table 5 below presents the measured noise levels at all locations (refer above location map) and give an indication of compliance with the relevant SEPP N-1 noise limit, for mechanical plant and truck activity.

<table>
<thead>
<tr>
<th>Source</th>
<th>Measured noise levels, $L_{eq}$ dB(A)</th>
<th>Exceedance over SEPP N-1 limits, $L_{eq}$ dB(A)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>L1</td>
<td>L2</td>
</tr>
<tr>
<td>Cumulative mechanical service noise in absence of Dendy Deli plant¹</td>
<td>43</td>
<td>41</td>
</tr>
<tr>
<td>Dendy Deli plant²</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Truck³</td>
<td>42</td>
<td>51</td>
</tr>
</tbody>
</table>

Notes: 1. Presented noise levels are not exhaustive, however considered to be representative of noise levels from the identified sources.
2. Presented noise levels are expected to include mechanical plant servicing the Emitting Premises (Gold Moon) and surrounding tenancies, but excludes the Dendy Deli plant.
3. Mechanical services noise from an adjacent commercial tenancy (per Figure 1, suspected to serve Dendy Deli) were observed to dominate the noise environment at locations L3 and L4 when operational.
4. The presented truck activity is an averaged noise level and said activity generally took place between the hours of 3:00am and 5:00am. It is not clear what portion of the recorded activity occurred on private land.

From surveys of the site and monitoring results, mechanical services noise from an adjacent commercial tenancy were observed to dominate the noise environment at locations L3 and L4 when operational. This issue will be reported to Planning Compliance Unit to follow up as it does not relate to the Gold Moon restaurant.

Other noise sources identified by Renzo Tonin & Associates

Apart from the suspected mechanical plant noise, the consultant noticed that:

“The presented truck noise levels indicate exceedances to SEPP N-1 evening and night-time noise limits for all locations except location L1 (10/3 Well Street). Truck activity was typically observed to occurred near 4am. It is important to note that the presented truck noise levels include noise from trucks driving to and from the site on public roads, and not just the activity on private land. These activities cannot be separated without concurrently logged video. SEPP N-1 limits are not applicable to noise from vehicles on public roads. As such, the assessment of truck noise should be taken as indicative only.”

Officers cannot confirm if this truck activity is caused by the site – Gold Moon Restaurant and this issue will be reported to Planning Compliance Unit to follow up. However, a condition will be imposed in the recommendation to confine the delivery time for the existing restaurant to a standard delivery time as follows:

- 7 am — 8 pm Monday to Saturday
6.2. Amending trading hours (Amendment to Condition 4)

The application seeks to amend Condition 4 of the permit to reduce the approved trading hours from:

“The sale and consumption of liquor may only be undertaken between 11:00am and 12:00am on any day”

to:

“The sale and consumption of liquor may only be undertaken between 11am and 10:30pm, except for Chinese New Year and 31 December”.

The current liquor licence that applies to the site includes the following hours, which were a result of a Victorian Commission for Gambling and Liquor Regulation (VCGLR) review and decision on 13 February 2017 prior to the granting of a licence.

TRADING HOURS

Good Friday and ANZAC Day Between 12 noon and 10.30pm

On any other day between 11am and 10.30pm

The applicant proposes to introduce an exception, being Chinese New Year and 31 December (New Years).

The trading hours for the premises have been a significant area of concern for the surrounding residents given the site has a frontage to Well Street, which is predominantly residential in nature. It should be noted that this site has been used for restaurant purposes since its establishment in the 1980’s.

The application proposes to reduce the hours consistent with those approved by VCGLR. This has undergone significant review by VCGLR, similar to a VCAT hearing and ultimately was approved by VCGLR after taking into account the residents amenity.

Given the proposal is to reduce the trading hours, it is considered that this will reduce the amenity impacts to the adjoining residents and those within Well Street. The proposed trading hours are within the ordinary trading hours under the Liquor Control Reform Act 1998.

In regard to trading on New Year’s Eve, the ordinary trading hours under the Liquor Control Reform Act 1998 include extended trading for New Year’s Eve in relation to certain licences. A restaurant and café licences can trade from 11pm on 31 December to 3am on 1 January. The amended liquor licences trading hours on New Year Eve from 11am to 12am does not exceed the ordinary trading hours under the Liquor Control Reform Act 1998 or the approved hours under the permit 2014/871/1. It is therefore not considered to offer any further amenity impacts on adjoining properties.

This ordinary trading hours however does not include Chinese New Year. However the Chinese New Year trading hours is to remain as approved, from 11am to 12am next day which complies with the approved trading hour under the permit 2014/871/1. Two times during the year the trading hours are considered to be reasonable given the context of the site.

Updated Red-line plan

The application proposes to update the red line plan to include the kitchen at ground floor and the voids at first floor. This change is procedural to ensure that all areas where alcohol is served or stored is within the red-line area. This change is considered appropriate having regard to the changes noted throughout this report.

6.3. Amendment to Condition 2

The application seeks approval to amend Condition 2 of the planning permit from:
“This approval pertains to the title boundaries of the lot and not common property”

to:

“This approval pertains to the title boundaries of the lot and not common property except for the planter box located along the southern façade of the restaurant and the built form marked in red on the Merrigan Millar plan dated 16 February 2017, surveyors reference 20503R.”

Given the above assessment, it is appropriate that Condition 2 of the permit be amended to reflect the works undertaken, both on private land and on common property. Any further works outside the scope of the condition on the Merrigan Miller plan noted above will require further permission from Council.

6.4. Objector issues not already addressed

Buildings and works within the common property without consent

As set out by the Victorian Civil and Administrative Tribunal (VCAT) in Wilson v Mildura Rural CC [2017], where an Owners Corporation exists, the Owners Corporation is the legal owner of common property and the lot owners are the equitable owners.

A person does not need to own land in order to lodge a permit application in respect of that land pursuant to Section 48 of the Planning and Environment Act 1987. However, where the applicant is not the legal owner of the land to which the permit application relates, pursuant to Section 48(1) of the Planning and Environment Act 1987 the permit application must:

a) be signed by the [legal] owner of the land; or
b) include a declaration by the applicant that the applicant has notified the owner about the application.

A permit application by a person who is not the legal owner of the land can be lodged without express consent having been obtained from the Owners Corporation. The application form submitted with the application identifies that the permit applicant has declared that they have advised the owner of the common land. Accordingly, Council can decide this application as presented.

Insufficient sanitary facilities to support 150 patron number

The approved 150 patron number under the planning permit 2014/874 authorise no more than 150 patrons (customers) on site. The number of toilets is determined by the Relevant Building Surveyor and is not a matter covered under planning legislation. Should they wish to include further toilets, an application to amend the permit will need to be made.

Traffic issues

The current planning scheme Clause 52.06 Car parking requires the applicant to provide 0.4 car parking space to each patron permitted. The proposal does not propose to increase the approved patron numbers. Therefore there is no requirement to increase the number of car spaces and accordingly, car parking /traffic issues cannot be further considered.

Car parking in general within the Dendy Plaza has also been raised as an issue by the objectors. Given the application is not increasing the number of patrons, the matter cannot be dealt with under this application. Parking and traffic issues experienced by residents is dealt with by Council’s Traffic Engineers to investigate.

It is noted at its ordinary meeting of 20 February 2018, Council was asked to change street parking in Well Street. Council resolved that the Chief Executive Officer consider and respond to this issue by no later than 30 March 2018. Accordingly, the matter is being addressed as a separate exercise.
Insufficient width for exit door

The proposed exit door width is outside the realms of consideration in planning legislation. This is a matter dealt with by the Relevant Building Surveyor under the Building Code of Australia and the Building regulations.

Acoustic report parameters not to resident’s specifications

Council commissioned an independent acoustic assessment of the restaurant. This report is prepared to Council’s Planning officers specifications in order to complete an assessment of the proposal against the relevant provisions of the Bayside Planning Scheme. Council instructed the contractor to place multiple monitors on surrounding properties to gain a complete understanding of the impact. This report remains independent of either the applicant/owner or residents in the immediate vicinity.

Enforcement action on Planning and Building matters

When a breach of a planning permit is identified, Council’s Planning Investigations Officers will always investigate the alleged breach by first reviewing the permit conditions and all endorsed plans. Council will then undertake a review of those alleged breaches, by means of a site visit, against existing planning permits to determine if a breach has occurred. If one is identified, Council will inform the owner of the action that is required to rectify the breach.

In regard to planning breaches, Council follows the Planning Enforcement Intervention Filter Criteria, a policy adopted by Council. The initial contact seeks an agreement on actions to bring the property into compliance and provides for a reasonable timeframe for compliance to be achieved. This includes an opportunity for owners to rectify any breaches found or apply for retrospective planning approval for the works/use to remain.

If the retrospective approval is refused, Council Planning Investigations Officers will then request the owner to voluntarily remove such breaches and provide a timeframe for compliance. If this timeframe is not met officers will issue notices of contraventions and/or issue infringement notices, again setting out timeframes for compliance to be achieved.

Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Endorsed Plans and Permit ↓
4. Acoustic Assessment ↓
Item 4.7 – Matters of Decision
Figure 1. Aerial Overview of subject site and objector map.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>Objectors</th>
</tr>
</thead>
<tbody>
<tr>
<td>🌟</td>
<td>⭐️</td>
</tr>
</tbody>
</table>
Figure 2. View from subject site towards north west
Figure 3. View from subject site towards south east.
Figure 4. View towards the subject site front yard facing Well Street.

Figure 5. View towards subject site from the nature strip at Well Street.
Figure 6. View towards subject site from the adjoining access way to its south east
Figure 7. view towards to the subject building
PLANNING PERMIT
2014/874/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land: No. 27/26 Church Street BRIGHTON
The Permit Allows: Buildings and works associated with existing restaurant, liquor licence and advertising signage 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 approval pertains to the title boundaries of the lot and not common property.
3. The lighting for the signage must be set to a timer or manually set to turn off after the premises closes.
4. The sale and consumption of liquor may only be undertaken between 11:00am and 12:00am on any day.
5. There may be no more than 150 patrons (customers) on site.
6. No more than 150 seats may be available for the consumption of liquor, unless with the prior written consent of the Responsible Authority.
7. The licenced area as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
8. The sale and consumption of liquor hereby permitted must at all times occur in conjunction with the sale and consumption of food to the satisfaction of the Responsible Authority.

Date issued: 11 May 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.
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.

   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

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.
<table>
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<td><strong>Secondary consent to amend plans:</strong></td>
</tr>
<tr>
<td></td>
<td>Amendment to the endorsed plans under Secondary Consent:</td>
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<tr>
<td></td>
<td>- Relocating the stairs from the middle of the building</td>
</tr>
<tr>
<td></td>
<td>towards the east of the building</td>
</tr>
<tr>
<td></td>
<td>- Relocate the bar from the middle of the building towards</td>
</tr>
<tr>
<td></td>
<td>the rear (north of the building)</td>
</tr>
<tr>
<td></td>
<td>- Straightening out of the rear wall separating the kitchen</td>
</tr>
<tr>
<td></td>
<td>and dining area</td>
</tr>
<tr>
<td></td>
<td>- Show the location and door for the grease trap</td>
</tr>
<tr>
<td></td>
<td>- Change in internal reconfiguration of kitchen</td>
</tr>
<tr>
<td></td>
<td>- Deletion of indicative tables and chairs</td>
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<td></td>
<td>- Deletion of external planter boxes</td>
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<td><strong>First Floor:</strong></td>
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<td>- Show the new stair location to replicate the floor below</td>
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<td>- Replace the old stair location with a light void</td>
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<td>- Reduce the size of the original light void due to the stairs</td>
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<td>- Removed indicative tables and chairs</td>
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<td></td>
<td>- Minor change to appearance of building due to change in window style</td>
</tr>
<tr>
<td></td>
<td>- Change in advertising signage name from 'Moon Cowry' to 'Gold Moon'</td>
</tr>
<tr>
<td></td>
<td>- Notations and visual appearance slightly changed on plan</td>
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<tr>
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<td><strong>Red line:</strong></td>
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<td>- The plan has been updated to reflect the changes in the</td>
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<td>internal layout</td>
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**THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED**

**Date issued:** 11 May 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.*
26 CHURCH STREET, BRIGHTON

Acoustic Assessment

31 January 2018

Bayside City Council

MC350-02FG3 Acoustic Assessment (r1)
## Document details

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<td>Bayside City Council</td>
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<td>Address:</td>
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## Document control

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**Important Disclaimer**

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We have derived data in this report from information sourced from the Client (if any) and/or available in the public domain at the time or times outlined in this report. The passage of time, manifestation of latent conditions or impacts of future events may require further examination and re-evaluation of the data, findings, observations and conclusions expressed in this report.

We have prepared this report in accordance with the usual care and thoroughness of the consulting profession, for the sole purpose described above and by reference to applicable standards, guidelines, procedures and practices at the date of issue of this report. For the reasons outlined above, however, no other warranty or guarantee, whether expressed or implied, is made as to the data, observations and findings expressed in this report, to the extent permitted by law.

The information contained herein is for the purpose of acoustics only. No claims are made and no liability is accepted in respect of design and construction issues falling outside of the specialist field of acoustics engineering including and not limited to structural integrity, fire rating, architectural buildability and fit-for-purpose, waterproofing and the like. Supplementary professional advice should be sought in respect of these issues.
Executive summary

Renzo Tonin & Associates was engaged by Bayside City Council (Council) to conduct an acoustic assessment of noise emissions associated with the operation of Gold Moon Gourmet Food Pty Ltd (the Emitting Premises / Subject Emitter), at 26 Church Street Brighton.

From the assessment we have found the following:

- Mechanical plant servicing the Emitting Premises are expected to be operating at noise levels that comply with SEPP N-1 day, evening and night-time noise limits at all tested locations

- Mechanical plant that is suspected to be servicing Dendy Deli were found to be operating at levels above SEPP N-1 night-time noise limits at locations L3 and L4 (8 Well Street and 7 Well Street, respectively)

- Early morning truck activity (4am), was found to have occurred on serval occasions during the monitored period

  - The operator of the truck(s), their location, and the proportion of the activity on private land are unknown, however the overall noise levels exceeded the SEPP N-1 night-time criterion

- Patron noise was only observed to be audible at location L1 (10/3 Well Street)

  - The exact source of the observed patron noise may include contributions from patrons to the Emitting Premises, various other Dendy Plaza premises or possibly neighbouring residents talking within the backyards of their private residential properties

  - Patron noise was observed to comply with recommended noise levels in all but one case; and

  - In the case where it did exceed, it was only above the nominated criteria by 2dB, which is generally not considered significant.

Subsequently, Renzo Tonin & Associates recommends the following:

- Further investigation be done to determine the operator(s) of the plant (nominally serving Dendy Deli), and measures be taken to ameliorate associated noise emissions; and

- Deliveries and waste collection be conducted in accordance with EPA Victoria Publication 1254 Noise Control Guidelines.
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3 Existing noise environment 1
4 Noise emission criteria 2
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1 Introduction

Renzon Tonin & Associates was engaged by Bayside City Council (Council) to conduct an acoustic assessment of noise emissions associated with the operation of Gold Moon Gourmet Food Pty Ltd (the Emitting Premises / Subject Emitter), at 26 Church Street, Brighton.

The work documented in this report was carried out in accordance with the Renzo Tonin & Associates Quality Assurance System, which is based on Australian Standard / NZS ISO 9001. Appendix A contains a glossary of acoustic terms used in this report.

2 Site overview

The Emitting Premises, is located within a General Residential Zone 2. Figure 1 presents an overview of the Emitting Premises and surrounding land uses. Table 1 presents an overview of the understood operational details of the Emitting Premises.

| Operational hours: | • Monday closed  
|                   | • Tuesday – Friday: 11:30am – 3pm and 5:30pm – 10pm  
|                   | • Saturday – Sunday: 11am – 3pm and 5:30pm – 10pm  
| Mechanical plant servicing the emitting premises: | • Mechanical plant located on the roof of the Emitting Premises  
| | • Mechanical plant enclosed by an acoustic barrier  
| | • At times the mechanical plant is expected to operate during the night-time period, as defined by SEPP N-1 (see Section 4.1) |
3 Existing noise environment

To quantify the existing noise levels from the operation of the Emitting Premises, Renzo Tonin & Associates conducted unattended noise monitoring from 11th to 23rd January 2018. The monitor locations are shown on Figure 1 and described in Table 2 below.

Table 2: Noise monitoring locations

<table>
<thead>
<tr>
<th>ID</th>
<th>Location</th>
<th>Details</th>
</tr>
</thead>
</table>
| L1 | 10/3 Well Street; Rear garden of dwelling | Monitored duration: Thursday 11th to Monday 22nd January 2018 (limited by battery)  
Microphone height: approximately 5 metres above ground level, at the height of the centre of first floor windows of 10/3 Well Street  
The microphone was located in a free field environment, with no vertical reflective surfaces within 3 metres  
The microphone had the closest proximity to the Emitting Premises and had an unobstructed view of local traffic, with comparison to locations L2, L3, L4  
The monitor was set to record broadband and spectral noise descriptors, and audio for noise source verification |
| L2 | 2 Well Street; Front garden of apartment complex, near fencing shared with 4 Well Street dwelling | Monitored duration: Friday 12th to Tuesday 23rd January 2018 (limited by battery)  
Microphone height: Atop a planted box with microphone approximately 4 metres above ground level, a location considered representative of Level 1 apartments  
The microphone was located in a free field environment, with no vertical reflective surfaces within close proximity (nearby fence 2 metres below microphone)  
The microphone had unobstructed plane of view to the Emitting Premises  
The monitor was set to record broadband and spectral noise descriptors, and audio for noise source verification |
| L3 | 8 Well Street; Front garden of dwelling near driveway | Monitored duration: Thursday 11th to Sunday 21st January 2018 (limited by battery)  
Microphone height: 1.5 metres above ground level  
The microphone was located in a free field environment, with no vertical reflective surfaces within close proximity  
The microphone had unobstructed plane of view to the Emitting Premises  
The monitor was set to record broadband and spectral noise descriptors, and audio for noise source verification |
| L4 | 7 Well Street; Rear garden of dwelling on the east side of property | Monitored duration: Friday 12th to Tuesday 23rd January 2018 (limited by battery)  
Microphone height: 1.5 metres above ground level  
The microphone was located in a free field environment, with no vertical reflective surfaces within close proximity  
The monitor was set to record broadband and spectral noise descriptors, and audio for noise source verification |

Notes:  
- Four NR 31 Class 1 noise monitors were used for the campaign. The calibration of each device was checked in the field immediately before and after the measurement using a Brand & Kjær Type 4231 calibrator, no drift in calibration was observed. The noise monitors comply with AS/NZS 61672:2004 Electroacoustics – Sound Calibrators and all carry current NATA certification or manufacturer certification, detailing Standard Conformance testing within the last two years and one year respectively.  
1. 7 Well Street is understood to be Council housing, however is currently vacant
4 Noise emission criteria

4.1 SEPP N-1 commercial noise legislation

Within the Melbourne metropolitan region, noise from commercial plant affecting residential properties is governed by the Victorian EPA State Environmental Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1); which is legislated by way of the Environment Protection Act 1970. SEPP N-1 is not legislatively applicable to patron noise or music noise. SEPP N-1 noise limits are calculated from planning overlays and background noise levels measured within an area, in absence of intrusive commercial noise sources. Table 3 presents the applicable noise limits, as presented in Arup Report ‘26 Church Street, Brighton – Roof Mounted Mechanical Services Noise Assessment’ dated 28 July 2017 (the Arup Report).

Table 3: SEPP N-1 criteria

<table>
<thead>
<tr>
<th>Period</th>
<th>SEPP N-1 limit Lₚₐₐ dB(A)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day(7)</td>
<td>53(7)</td>
</tr>
<tr>
<td>Evening</td>
<td>48(8)</td>
</tr>
<tr>
<td>Night</td>
<td>43(9)</td>
</tr>
</tbody>
</table>

Period Definitions:
- Day: Weekdays 7am - 6pm;
- Evening: Weekdays 6pm - 10pm;
- Night: All days 10pm - 7am;
- Saturdays 7am - 1pm;
- Sundays NA
- Saturdays 1pm - 10pm;
- Sundays 7am - 10am

Notes:

For noise sources that operate at a fixed noise level, compliance during the night-time period implies compliance during the evening and day periods. Typically, limits are applicable outside, within residential premises boundaries.

4.2 Criteria for patron noise

There are currently no legislated policies or guidelines in Victoria for the control or assessment of noise from patrons at venues. However, drawing on the results from an extensive survey of studies conducted worldwide on the impact of noise on domestic amenity, NSW EPA document Environmental Criteria for Road Traffic Noise, 1999 (ECRTN) and the subsequent New South Wales Office of Environment and Heritage Road Noise Policy, March 2011 (RNP), concluded that:

- From the research on sleep disturbance to date it can be concluded that:
  - Maximum internal noise levels below 50-55dB(A) are unlikely to awaken people from sleep.
  - One or two noise events per night, with maximum internal noise levels of 65-70dB(A), are not likely to affect health and wellbeing significantly.

When a window to a room is open (such as might be required for natural ventilation during the night), it is commonly accepted that the noise level inside the room due to external sources would be 10dB(A).
lower than the noise level outside the room. Where amenity may be affected due to sleep disturbance, the aforementioned criteria are typically taken to apply between 10pm and 7am the following day.

For analysis of patron noise impacts during the day and evening, SEPP N-1 noise limits, as defined in Section 4.1, provide a satisfactory, if conservative, benchmark: SEPP N-1 is the legislative noise limit for commerce related noise (car washes, air conditioning, exhaust fans, on-site truck movements, etc.) and is based on zoning and background noise information. Note that SEPP N-1 is explicitly not legislated to address to patron noise.

To summarise, the applicable criteria are presented in Table 4 below.

Table 4: Patron noise criteria

<table>
<thead>
<tr>
<th>Period</th>
<th>Criterion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Day:</td>
<td>( L_{eq} 53\text{ dBA} ) outside(^1)</td>
</tr>
<tr>
<td>Evening:</td>
<td>( L_{eq} 49\text{ dBA} ) outside(^1)</td>
</tr>
<tr>
<td>Night:</td>
<td>( L_{eq} 41\text{ dBA} ) outside(^3)</td>
</tr>
<tr>
<td>Night:</td>
<td>( L_{eq} 50-55\text{ dBA} ) inside a bedroom(^2)</td>
</tr>
<tr>
<td></td>
<td>(or ( L_{eq} 60-65\text{ dBA} ) outside an open bedroom window)</td>
</tr>
</tbody>
</table>

Notes:
1. SEPP N-1 noise limits
2. Sleep disturbance criteria
5 Noise impact assessment

5.1 Commercial noise emissions

Table 5 below presents the measured noise levels at all locations and give an indication of compliance with the relevant SEPP N-1 noise limit, for mechanical plant and truck activity. From surveys of the site and monitoring results, mechanical services noise from an adjacent commercial tenancy (per Figure 1, suspected to serve Dendy Deli) were observed to dominate the noise environment at locations L3 and L4 when operational.

Table 5: Measured commercial noise emissions

<table>
<thead>
<tr>
<th>Source</th>
<th>Measured noise levels, L_{eq} dB(A)</th>
<th>Exceedance over SEPP N-1 limits, L_{eq} dB(A)</th>
<th>Day</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>L1  L2  L3  L4</td>
<td>Evening limit +40 dB(A)</td>
<td>Night limit +43 dB(A)</td>
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<tr>
<td>Cumulative mechanical service noise in absence of Dendy Deli plant²</td>
<td>43 41 41 42</td>
<td>L1  L2  L3  L4</td>
<td>L1  L2  L3  L4</td>
</tr>
<tr>
<td>Dendy Deli plant¹</td>
<td>-    -    46  49</td>
<td>-    -    +1</td>
<td>-    +3    +6</td>
</tr>
<tr>
<td>Trucks</td>
<td>42  51  52  50</td>
<td>-    +3    +4</td>
<td>+2  +8    +9</td>
</tr>
</tbody>
</table>

Notes: L1: 10/3 Well Street; L2: 2 Well Street; L3: 8 Well Street; L4: 7 Well Street

1. Presented noise levels are not exhaustive, however considered to be representative of noise levels from the identified sources.
2. Presented noise levels are expected to include mechanical plant servicing the Emitting Premises (Gold Moon) and surrounding tenancies, but exclude the Dendy Deli plant.
3. Mechanical services noise from an adjacent commercial tenancy (per Figure 1, suspected to serve Dendy Deli) were observed to dominate the noise environment at locations L3 and L4 when operational.
4. The presented truck activity is an averaged noise level and said activity generally took place between the hours of 3:00am and 5:00am. It is not clear what portion of the recorded activity occurred on private land.

As can be seen in Table 5, SEPP N-1 noise limits were met at all locations when the suspected Dendy Deli plant was not operational. However, when the suspected Dendy Deli plant was operational, locations L3 and L4 (8 Well Street and 7 Well Street, respectively) received noise levels that exceeded SEPP N-1 evening and night-time limits.

The presented truck noise levels indicate exceedances to SEPP N-1 evening and night-time noise limits for all locations except location L1(10/3 Well Street). Truck activity was typically observed to occurred near 4am. It is important to note that the presented truck noise levels include noise from trucks driving to and from the site on public roads, and not just the activity on private land. These activities cannot be separated without concurrently logged video. SEPP N-1 limits are not applicable to noise from vehicles on public roads. As such, the assessment of truck noise should be taken as indicative only.
5.2 Patron noise emissions

Patron noise was observed to only be audible at location L1 (10/3 Well Street), as such Table 6 below presents both measured noise $L_{eq}$ dB(A) and $L_{max}$ dB(A) noise levels at location L1 only. Table 6 also gives an indication of compliance with the relevant patron noise criteria.

Table 6: Measured patron noise at location L1

<table>
<thead>
<tr>
<th>Time</th>
<th>$L_{eq}$ dB(A)</th>
<th>$L_{max}$ dB(A)</th>
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<th>$L_{max}$ dB(A)</th>
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<td>59</td>
<td>✓</td>
<td>65</td>
<td>✓</td>
</tr>
<tr>
<td>12/01/2018 6:55 PM</td>
<td>41</td>
<td>49</td>
<td>✓</td>
<td>n/a</td>
<td>n/a</td>
</tr>
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<td>13/01/2018 7:26 PM</td>
<td>47</td>
<td>49</td>
<td>✓</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>14/01/2018 2:55 PM</td>
<td>49</td>
<td>49</td>
<td>✓</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>17/01/2018 6:35 PM</td>
<td>51</td>
<td>49</td>
<td>✓</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

Notes:
1. The exact source of the indicated noise level may include contributions from patrons to the Emitting Premises, various other Dendy Plaza premises or possibly neighbouring residents talking within the backyards of their private residential properties.
2. Presented noise levels are not exhaustive, however they are considered to be representative of noise levels from the identified sources.
3. Presented $L_{eq}$ dB(A) noise levels have been duration adjusted per SNPP N-1 methodology.
4. Patron noise criteria as defined in Section 4.2, does not prescribe an $L_{max}$ limit during the evening period.

As can be seen in Table 6, compliance with the relevant patron noise criteria was met in all but one case. However, it is important to note that the derived patron noise criteria are not legislative, and additionally an exceedance of 2 dB is generally not considered significant.

Additionally, the exact source of the indicated noise level may include contributions from patrons to the Emitting Premises, various other Dendy Plaza premises or possibly neighbouring residents talking within the backyards of their private residential properties.
6 Recommendations

6.1 Suspected Dendy Deli mechanical plant

The suspected Dendy Deli mechanical plant (see Figure 1), is expected to be the primary cause of the exceedance to the SEPP N-1 noise limits at locations L3 and L4 (8 Well Street and 7 Well Street, respectively). As such, Renzo Tonin & Associates recommends further investigation be done to determine the operator(s) of the plant, and work be done to address the issue.

6.2 Possible truck loading activity

The operator of the truck activity cannot be identified and therefore cannot directly be linked to the operation of the Emitting Premises. Additionally, as mentioned, it is unclear how much of the noise is on public and/or private land. However, Renzo Tonin & Associates recommends that deliveries and commercial waste collections to be in accordance with EPA Victoria Publication 1254 Noise Control Guidelines.

Publication 1254 recommends following guidelines for deliveries:

<table>
<thead>
<tr>
<th>Schedule Deliveries to shops, supermarkets &amp; service stations</th>
</tr>
</thead>
<tbody>
<tr>
<td>• 7 am — 10 pm Monday to Saturday</td>
</tr>
<tr>
<td>• 9 am — 10 pm Sundays and public holidays</td>
</tr>
</tbody>
</table>

(Outside these hours) ... deliveries should be inaudible in a habitable room of any residential premises ... regardless of whether any door or window is open

Publication 1254 recommends following guidelines for commercial waste collections:

<table>
<thead>
<tr>
<th>One collection per week</th>
</tr>
</thead>
<tbody>
<tr>
<td>• 6:30 am — 8 pm Monday to Saturday</td>
</tr>
<tr>
<td>• 9 am — 8 pm Sunday and public holidays</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Two or more collections per week</th>
</tr>
</thead>
<tbody>
<tr>
<td>• 7 am — 8 pm Monday to Saturday</td>
</tr>
<tr>
<td>• 9 am — 8 pm Sunday and public holidays</td>
</tr>
</tbody>
</table>

Refuse bins should be located at sites that provide minimal annoyance to residential premises.
Compaction should be carried out while the vehicle is moving
Noisy verbal communication between operators should be avoided where possible.
7 Conclusion

Renzo Tonin & Associates was engaged by Bayside City Council (Council) to conduct an acoustic assessment of noise emissions associated with the operation of Gold Moon Gourmet Food Pty Ltd (the Emitting Premises / Subject Emitter), at 26 Church Street Brighton.

From the assessment we have found the following:

• Mechanical plant servicing the Emitting Premises are expected to be operating at noise levels that comply with SEPP N-1 day, evening and night-time noise limits at all tested locations

• Mechanical plant that is suspected to be servicing Dendy Deli were found to be operating at levels above SEPP N-1 night-time noise limits at locations L3 and L4 (8 Well Street and 7 Well Street, respectively)

• Early morning truck activity (4am), was found to have occurred on serval occasions during the monitored period
  o The operator of the truck(s), their location, and the proportion of the activity on private land are unknown, however the overall noise levels exceeded the SEPP N-1 night-time criterion

• Patron noise was only observed to be audible at location L1 (10/3 Well Street)
  o The exact source of the observed patron noise may include contributions from patrons to the Emitting Premises, various other Dendy Plaza premises or possibly neighbouring residents talking within the backyards of their private residential properties
  o Patron noise was observed to comply with recommended noise levels in all but one case; and
  o In the case where it did exceed, it was only above the nominated criteria by 2dB, which is generally not considered significant.

Subsequently, Renzo Tonin & Associates recommends the following:

• Further investigation be done to determine the operator(s) of the plant (nominally serving Dendy Deli), and measures be taken to ameliorate associated noise emissions; and

• Deliveries and waste collection be conducted in accordance with EPA Victoria Publication 1254 Noise Control Guidelines.
### APPENDIX A  Glossary of terminology

The following is a brief description of the technical terms used to describe noise to assist in understanding the technical issues presented.

<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambient noise</td>
<td>The all-encompassing noise associated within a given environment at a given time, usually composed of sound from all sources near and far.</td>
</tr>
<tr>
<td>Assessment period</td>
<td>The period in a day over which assessments are made.</td>
</tr>
<tr>
<td>Assessment point</td>
<td>A point at which noise measurements are taken or estimated. A point at which noise measurements are taken or estimated.</td>
</tr>
<tr>
<td>Background noise</td>
<td>Background noise is the term used to describe the underlying level of noise present in the ambient noise, measured in the absence of the noise under investigation, when extraneous noise is removed. It is described as the average of the minimum noise levels measured on a sound level meter and is measured statistically as the A-weighted noise level exceeded for ninety percent of a sample period. This is represented as the L90 noise level (see below).</td>
</tr>
<tr>
<td>Decibel (dB)</td>
<td>The units that sound is measured in. The following are examples of the decibel readings of everyday sounds: 0dB: The faintest sound we can hear 30dB: A quiet library or in a quiet location in the country 45dB: Typical office space. Ambience in the city at night 60dB: CBD mall at lunch time 70dB: The sound of a car passing on the street 80dB: Loud music played at home 90dB: The sound of a truck passing on the street 100dB: The sound of a rock band 120dB: Deafening</td>
</tr>
<tr>
<td>dB(A)</td>
<td>A-weighted decibels. The A-weighting noise filter simulates the response of the human ear at relatively low levels, where the ear is not as effective in hearing low frequency sounds as it is in hearing high frequency sounds. That is, low frequency sounds of the same dB level are not heard as loud as high frequency sounds. The sound level meter replicates the human response of the ear by using an electronic filter which is called the &quot;A&quot; filter. A sound level measured with this filter switched on is denoted as dB(A). Practically all noise is measured using the A filter.</td>
</tr>
<tr>
<td>Frequency</td>
<td>Frequency is synonymous to pitch. Sounds have a pitch which is peculiar to the nature of the sound generator. For example, the sound of a tiny bell has a high pitch and the sound of a bass drum has a low pitch. Frequency or pitch can be measured on a scale in units of Hertz or Hz.</td>
</tr>
<tr>
<td>L_{max}</td>
<td>The maximum sound pressure level measured over a given period.</td>
</tr>
<tr>
<td>L_{90}</td>
<td>The level of noise exceeded for 90% of the time. The bottom 10% of the sample is the L50 noise level expressed in units of dB(A).</td>
</tr>
<tr>
<td>L_{eq}</td>
<td>The “equivalent noise level” is the summation of noise events and integrated over a selected period of time.</td>
</tr>
<tr>
<td>Sound</td>
<td>A fluctuation of air pressure which is propagated as a wave through air.</td>
</tr>
<tr>
<td>Sound level meter</td>
<td>An instrument consisting of a microphone, amplifier and indicating device, having a declared performance and designed to measure sound pressure levels.</td>
</tr>
<tr>
<td>Sound pressure level</td>
<td>The level of noise, usually expressed in decibels, as measured by a standard sound level meter with a microphone.</td>
</tr>
</tbody>
</table>
4.8 1 & 2/16 ST. ANDREWS STREET, BRIGHTON
SUPPORT THE GRANT OF A PLANNING PERMIT
APPLICATION NO: 2017/259/1  WARD: NORTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/18/48169

1. Application details

To report a planning permit application which is the subject of an appeal to the Victorian Civil and Administrative Tribunal (VCAT) pursuant to Section 79 (failure to determine) of the Planning and Environment Act 1987.

VCAT have listed the matter for a compulsory conference (mediation) on 20 March 2018, and a two day hearing commencing on 2 May 2018. The purpose of this report is to form a position on the application for the VCAT appeal.

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Black Street Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>10 July 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>148 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 11)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>7</td>
</tr>
</tbody>
</table>

Proposal

The application seeks approval for the development of a three storey residential building consisting of five apartments, a front fence exceeding 1.5 metres in height, basement car park and one reduction of visitor car parking on a lot with an area of 917.18 square metres. Key details of the proposal are as follows:

- 2 x two bedroom apartments, 1 x three bedroom townhouse and 2 x three bedroom penthouses,
- Building Height – 10.9 metres,
- Site coverage - 59%,
- Permeability - 22%,
- Garden area – 36%,
- Basement car parking – 10 spaces which are allocated evenly to each dwelling,
- Reduction of one visitor car space,
- Provision of 5 bicycle spaces, and
- Located with the Church Street Major Activity Centre.

The application plans are provided at Attachment 1.

3D perspective drawings are provided at Attachment 5.
An aerial image and photographs of the site and surrounds are provided at Attachment 2.

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

2. Planning controls
Planning Permit requirements
A planning permit is required pursuant to:
- Clause 32.08-6 - General Residential Zone, Schedule 2 (GRZ2) - Construction of two or more dwellings on a lot;
- Clause 32.08-6 - General Residential Zone, Schedule 2 (GRZ2) - Construction of a front fence within 3 metres of a street exceeding a height of 1.5 metres; and,
- Clause 43.02-2 - Design and Development Overlay, Schedule 11 (DDO11) – Construct a building or construct and carry out works exceeding a height of 9 metres.
- Clause 52.06 – Car parking – Reduction of one visitor car space.

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

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

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to the retention of Tree 7.</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Raised concerns, which can be dealt with by conditions of permit.</td>
</tr>
<tr>
<td>Waste Management</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Heritage (external independent heritage advisor)</td>
<td>No objection.</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and seven objections were received. The following concerns were raised:
- Neighbourhood character;
- Tree removal;
- Noise including acoustic impacts by virtue of the basement ramp location and ground level windows;
• Overlooking;
• Excessive building bulk/mass and poor transition to 6 Black Street;
• Inadequate landscaping;
• Insufficient setback to Black Street;
• Inadequate respect for abutting heritage place;
• Parking / Traffic; and
• Inadequate notice for demolition

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

Consultation meeting

A consultation meeting was held on 22 November 2017 attended by the permit applicant and 5 objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council resolve to:

Issue a Support the application under the provisions of the Bayside Planning Scheme in respect of Planning Application 2017/259 for the land known and described as 1 & 2/16 St Andrews Street, Brighton, for the development of the land for the construction of a three-storey building containing five dwellings and the construction of a front fence in excess of 1.5m, and a reduction in the visitor car parking requirement in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application and advertised) prepared by Wolveridge Architects Project Name Black Street Residences 16 St Andrews Street Brighton 3166, date 16 August 2017 and revision number H but modified to show:

   a) Setback of the proposed second floor fronting Black Street to be increased to 7m from the boundary for the section from dwelling PH2’s entry north east to ensuite 3.

   b) The reduction in the width of the second floor pergola along the St Andrews Street and Black Street to no greater than 500mm extending out of the façade of the building.

   c) Walls on boundaries to be reduced to comply with Standard B18 of the Bayside Planning Scheme.

   d) Screening details to be provided to all habitable room windows in accordance with Standard B22 of the Bayside Planning Scheme.

   e) Internal fencing details to be provided in accordance with Standard B23 of the Bayside Planning Scheme.

   f) Re-allocation of the basement car park to include one visitor car parking space and ensure the minimum car parking spaces are provided for
each dwelling. Alternatively, the basement car park can be increased to provide one additional car space allocated to visitors.

**g)** A B85 turning template to be provided for the proposed car parking spaces in accordance with Clause 52.06 of the Bayside Planning Scheme.

**h)** Grades, length of grades, levels of headroom of a minimum of 2.2m to be provided on the longitudinal ramp design in accordance with Clause 52.06 of the Bayside Planning Scheme.

**i)** Reduce the existing crossover to 3.6m to match the new ramp width and reinstate the replaced crossover to nature strip at developer’s cost.

**j)** Adequate sight lines must be provided where the ramp intersects with the front footpath in accordance with Clause 52.06 of the Bayside Planning Scheme.

**k)** A minimum 2m x 2m corner splay to be provided at the north-west corner of the property. The splay to be infilled with asphalt to match the footpath.

**l)** 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.

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

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

**a)** Tree Management and Protection Plan in accordance with Condition 13 and Condition 17.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

**Water Sensitive Urban Design**

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

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

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

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

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

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

**Landscaping**

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Erkersley Garden Architecture, Drawing No. STA-0517-01-00, dated 10 July 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

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

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

f) Details of surface finishes of pathways and driveways.

g) Retention of Tree 7 which is located within the front yard of Apartment 1 in accordance with Condition 17.

h) Appropriately sized canopy trees in accordance with Bayside Landscape Guidelines for selection and soil volume requirements.

11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
12. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Tree Management and Protection Plan

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

- The Tree Management Plan (report) must be specific to the site, be in accordance with Australian Standard: Protection of Trees on Development Sites AS4970-2009 and include:
  - Details of Tree Protection Zones for all trees to be retained on the site and for all trees on neighbouring properties where any part of the Tree Protection Zone falls within the subject site;
  - Comment on methods to be utilised and instruction on how to deploy them;
  - Comment on when the protection measures are to be deployed;
  - Comment on when the protection measures can be modified;
  - Process that will be followed if any damage occurs to a tree;
  - Process that will be followed if construction works require alteration to protection measures outlined in report; and
  - Stages of development at which inspections will occur.

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

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

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

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

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

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

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

17. Prior to the development commencement or any removal of vegetation, a Tree Impact Assessment Report is required to be submitted to Council. The report...
will be in accordance with part 2.3.5 of Australian Standard Protection of Trees on Development Sites 4970 and will identify impacts that may be detrimental to the Tree #2 and Tree #7. The report will include design responses required to reduce any identified negative impact. The proposal will be modified to include any recommendations made in the report.

Street tree protection

18. Soil excavation must not occur within 3.5 metres from the edge of the Ecalyptus sideroxylon (Tree 1) and Ecalyptus leucoxylon (Tree 2) street tree asset's stem at ground level along the naturestrip.

19. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:
   a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
   b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

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

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

Drainage

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

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

Waste Management Plan

24. Before the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:
   a) Dimensions of storage waste areas.
   b) Storm water drains in storage areas should be fitted with a litter trap.
   c) The number and size of bins to be provided.
   d) Facilities for bin cleaning.
e) Method of waste and recyclables collection.

f) Types of waste for collection, including colour coding and labelling of bins.

g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).

h) Method of hard waste collection.

i) Method of presentation of bins for waste collection.

j) Sufficient headroom within the basement to accommodate waste collection vehicles.

k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.

l) Strategies for how the generation of waste and recyclables will be minimised.

m) Compliance with relevant policy, legislation and guidelines.

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

Construction Management Plan

25. 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.

Development Contributions

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

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

Permit Expiry

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

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

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

Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- Council records indicate that there is no easement within the property.
• Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy

Council Plan 2017-2021

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

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

Bayside Planning Scheme
• Clause 9  Plan Melbourne
• Clause 11  Settlement
• Clause 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 21.10  Infrastructure
• Clause 21.11  Local Areas (Church Street Brighton)
• Clause 22.06  Neighbourhood Character Policy (Precinct B2)
• Clause 22.08  Water Sensitive Urban Design
• Clause 32.08  General Residential Zone (Schedule 2)
• Clause 43.02  Design and Development Overlay (Schedule 11)
• Clause 45.06  Development Contributions Plan Overlay (Schedule 1)
• Clause 52.06  Car Parking
• Clause 55  Two or more dwellings on a lot
• Clause 65  Decision Guidelines

6. Considerations

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

6.1. Strategic Justification

The Planning Policy Framework supports the intensification of development in and around public transport nodes and in activity centres. The local areas policy contains a subsection relating specifically to the Church Street Major Activity Centre (Clause 21.11-
3) that seeks to encourage residential development close to shops and services to provide a transition from the business precinct to low scale residential areas. Furthermore Clause 21.11 encourages redevelopment of larger sites and grade level car parks for residential with basement car parking and encourages the provision of adequate off-street parking for all new dwellings.

Additionally, the policy in Clause 21.11 seeks to provide an opportunity for as many people as is appropriate given the character of the area and the opportunities for change to live and work in Brighton, with access to public transport and within walking and cycling distance of activity centres, and hence to provide a real transport option for people other than the private car.

It is considered that the proposal meets the above policy aspirations because the proposed development is located within walking distance to Middle Brighton Station, is located within an activity centre (Church Street Major Activity Centre) and is located within walking distance to the commercial sector.

6.2. **Design and Development Overlay Schedule 11 (DDO11)**

The design objectives of this schedule are as follows:

- To ensure that the height of new development is compatible with the preferred future role and character of the Church Street Major Activity Centre;
- To develop the centre in a way that conserves and enhances its valued urban character and heritage places;
- To ensure that new development contributes to safe and active streets; and,
- To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.

The site is identified as being located within the Church Street Major Activity Centre and identified as been within Precinct E of the Schedule.

Precinct E has the following build form provisions:

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>13.5m (4 storeys)</td>
<td>-</td>
</tr>
<tr>
<td>C</td>
<td>11.0m (3 storeys)</td>
<td>-</td>
</tr>
<tr>
<td>D</td>
<td>9.0m (2 storeys) fronting Well Street</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>11.0m (3 storeys) fronting any other street</td>
<td></td>
</tr>
<tr>
<td>E</td>
<td>11.0m (3 storeys)</td>
<td>12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 5m is 2.5 degrees or more</td>
</tr>
</tbody>
</table>

For clarity purposes, the following map shows where the proposed development is located in relation to the ‘E Built Form Precinct Map’: 
The proposal retains the low rise, neighbourhood character of the Church Street Major Activity Centre by respecting the scale of built form. The development plans comply with the Design and Development Overlay – Schedule 11 for the following reasons:

- The proposed development consists of a maximum height of 10.9 metres (above NGL) / three storeys development. There are no portions that exceed the 10.9 metres;
- The bulk, location and appearance of the development is considered to be in keeping with the emerging character and appearance of adjacent buildings located within close proximity and is considered to enhance the streetscape;
- The proposed development does not overshadow any public space nor any adjoining streets to an unsatisfactory level;
- The proposed use of a mixture of building materials provides a level of articulation and breaks up the perceived bulk from all abutting allotments;
- The subject is located within walking distance to Middle Brighton Station which encourages the use public transport and furthers The Church Street Centre Framework Plan;
- The proposed development will contribute to creating a vibrant residential activity centre;
- The proposed development is considered to be consistent with the Church Street Centre Framework Plan;
- The site abuts a heritage dwelling (6 Black Street), however the design, form, layout, proportion and scale of the proposed building is considered to be compatible with the style, form, proportion, and scale of the neighbouring properties. The setbacks between the two sites (1.8 metres at the ground floor, 4.81 metres at first floor and 5.895 metres at the second floor) allow for sufficient separation whilst the design response does not seek to replicate nor mimic heritage buildings found in the immediate and wider area;
- The layout and appearance of areas set aside for car parking is considered sufficient as it will not be dominant to the streetscape due to the location (basement).

Those non-compliant standards are discussed below. The variations to the DDO11 are:
- The second floor should be setback a minimum of 4 metres behind the front wall of the floor immediately below.

The proposed development does not meet the above requirement as the proposed development provides a 2.265 metres setback fronting St Andrews Street and 3.09 metres fronting Black Street. Being a corner site, the proposal has to address the character of both streets appropriately.

**St Andrew Street Frontage**

A variation to this requirement is considered to be appropriate. Although it does not strictly comply with numerically requirement, the front setback will be in alignment with other properties along the St Andrews Street, such as 14 St Andrews Street. The proposed front setback will therefore maintain the existing neighbourhood character.

**Black Street Frontage**

The proposed second floor setback 3.08m behind the front wall of the first and therefore a variation of 0.92m is sought. The proposed variation to the section towards St Andrews Street (Dining Room of PH02) is considered appropriate given the existing housing stock along the street is dominated by apartment style buildings, of 3 storey built form. However, the existing streetscape character along Black Street is predominantly single and double storey buildings. It is not suggesting the proposed three storey is inappropriate to Black Street streetscape however a more sensitive design response in providing a transition down from the 3 storey apartment style building to a more traditional residential context buildings must be taken into considerations. It is recommended the setback from the proposed second floor fronting Black Street to be increased to 7m to achieve compliance for the section from the PH2’s Entry towards east to the Ensuite 3.

In principle, the proposed development and the diversity of the housing stock is supported. The precinct as a whole offers a variety of dwelling sizes and types therefore the increase in assortment of dwellings for the subject site is an appropriate outcome for
the precinct. In general, this form of medium density development is encouraged under the Church Street Centre Framework Plan therefore, the proposed development is considered to be consistent with the objectives of the DDO11.

6.3. Neighbourhood character

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

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. It is noted that the character of St Andrews Street consists of various built form elements, therefore the proposed contemporary design will not seem at odds with the immediate area. Furthermore, the southern side of St Andrews Street contains examples of three storey development at 10 and 14 St Andrews Street.

The development will sit comfortably within the context largely due to the articulated facades, roof form responsive to dwelling forms in the neighbourhood, appropriate front setbacks in accordance with the DDO, materials and finishes that are complementary to the existing and the preferred character of the area.

The contemporary design of the development provides a level of visual interest along with various forms of articulation along all boundaries. The various forms of external building materials including brick veneer assists in integrating the development in to the emerging neighbourhood character.

The proposed setbacks from the side boundaries allow for suitable landscaping opportunities to enhance the landscaped character of the area. The proposed setback along with the amount of open space along the frontage, side and rear of the subject site provides an opportunity for the provision of landscaping, subject to conditions, thus maintaining the vegetated streetscape.

The proposed pergola along the St Andrews Street frontage and Black Street frontage adds unnecessary visual bulk to the streetscape. It is recommended to be deleted.

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

6.4. Compliance with Clause 55 (ResCode)

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

Walls on boundaries (Standard B18)

The proposed walls on boundaries exceed the required average height of 3.2m and it faces to a number of habitable room windows and private open space at 14 St Andrews Street. Compliance with this standard is included as a recommended condition.

Overlooking (Standard B22)

The proposal includes a number of windows serving habitable rooms that are within 9 metres of the secluded private open space (SPOS) and habitable room windows of the adjoining properties. The development is designed to incorporate external screening however some of them missed details to comply with the standard. It will be conditioned in the permit to ensure all the habitable room windows comply with the Standard B22. The ground floor boundary fence details is also required to address the overlooking issue.
Internal Views (Standard B23)

Windows and balconies are designed to prevent overlooking into secluded private open space and habitable room windows of dwellings within the development by using screening and other measures to comply with the requirements of B23. Internal fencing details at the ground floor are required to be included.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>St Andrews Street</td>
<td>1.5m</td>
<td>1.8m</td>
</tr>
</tbody>
</table>

A number of different type of front fences of 1.8 metres in height is proposed to the front boundary of the site on St Andrews Street. Pursuant to Standard B32 a front fence to a maximum of 1.5 metres in height is provided preferred. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

While it is acknowledged that the fence exceeds the 1.5m requirement, the variety design treatment of the proposed fence ensure it will not appear visually dominant while also responding to the typical fence heights in the immediate area.

The 1.8m front fence is considered to be in keeping with the existing fence heights found throughout St Andrews Street.

6.5. Landscaping

The application plans show the removal of 10 trees from the site including 2 native trees. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with a ‘*’.

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for retention</td>
</tr>
<tr>
<td>Tree 4, 5, 7, and 12,</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Council’s Arborist in their referral response advised that:

- Support for proposed tree removals based on health and structure excluding Tree #7.
- Tree #7 is a Quercus robur with good structure, with a 20 years plus life expectancy. It has a high amenity value to the existing neighbourhood. Given the submitted information does not contain an Impact Assessment Report for this particular tree, retention of the tree may impact on the proposed built form, especially the basement car park. A condition is included that a report is provided which demonstrates retention and any modifications to the built form as necessary.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable however the proposed plant schedule is not in keeping with Bayside Landscape Guidelines. Appropriately sized canopy trees in accordance with Bayside Landscape Guidelines for selection and soil
volume requirements. The revised landscape plan is also required to be updated to illustrate retention tree #7.

6.6. Street tree(s)

Tree No. 2 and 3 are located within the nature strip and is proposed for retention. Council’s Street Tree Arborist advised that the proposed ‘1.8m solid/slatted fence’ within the TPZ of Tree 2 does not provide details for excavation for foundations, therefore a tree impact assessment, tree management plan and a tree protection plan are required to ensure the trees viability both during and post construction.

A further note from the arborist that the Tree 2 does not meet criteria for removal.

6.7. Car parking and traffic

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

The development proposes the following:

<table>
<thead>
<tr>
<th>Use</th>
<th>Size</th>
<th>Planning Scheme Parking Rate</th>
<th>Car Parking Requirement</th>
<th>Car Parking Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>3 x Bedroom</td>
<td>2 spaces to each 3 bedroom dwelling</td>
<td>6 spaces</td>
<td>6 spaces</td>
</tr>
<tr>
<td>Dwelling (resident)</td>
<td>2 x Bedroom</td>
<td>1 space to each 2 bedroom dwelling</td>
<td>2 spaces</td>
<td>4 spaces</td>
</tr>
<tr>
<td>Dwelling (visitor)</td>
<td>5 dwellings</td>
<td>1 space for visitors to every 5 dwellings</td>
<td>1 visitor spaces</td>
<td>0 visitor spaces</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>9 SPACES</strong></td>
<td><strong>10 SPACES</strong></td>
</tr>
</tbody>
</table>

The application was referred to Council’s Traffic Engineer who expressed concerns in relation to the proposed waiver of visitor car parking space. Having considering the on-street car spaces in the immediate vicinity (i.e. timed parking restrictions) and with no entitlement for parking permits for the proposed development, the car parking should be provided on-site. This is further compounded that no on-street parking occupancy survey data has been provided to support this application.

It is acknowledged that the proposed eight car parking spaces for residential dwellings exceeds the standard requirement by two, and as such there is surplus car parking on the site to meet the Clause 52.06 minimum standards. It is considered that one of these spaces can be allocated to the visitor car parking to ensure the proposal complies with Clause 52.06. A condition is included in the recommendation requires this.

Council’s Traffic Engineer expressed no other concerns with the development subject to the inclusion of permit conditions relating to vehicle access, driveway gradients, sightlines, turning assessment and internal parking dimensions. These are included as recommended conditions.

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

**Inadequate respect for abutting heritage place**

An independent heritage consultant has been engaged by Council to provide comments in relation to the potential heritage impacts of the proposed development on the abutting significant heritage property, known as 6 Black Street. In general, the heritage advisor is of the opinion that the proposed building will sit forward of the house at 6 Black Street, it has a setback of between 4.6 to 4.8m (increasing to over 5.8m at the top level) from the common side boundary for most of its length, which will provide appropriate visual separate.

While some oblique views of the house looking from the corner of St Andrews Street may be affected, the heritage advisor noted that views in this direction are already limited by the double garage built hard form to the boundary at the rear of the existing house at 16 St Andrews Street. As such the proposal is not considered to have an adverse impact on the adjacent heritage property.

**Inadequate notice for demolition**

The site is not covered by an overlay which triggers planning permit for demolition, therefore Council’s planning department has no control over the timing of development.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
5. 3D Perspective Drawing ↓
Item 4.8 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds, two objections were received from properties located outside of this map.

Legend

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

Other objectors are not listed

Ask Planning Services Pty Ltd PO Box 505 Port Melbourne

O’Neill Consulting PO Box 2195 Hawthorn
Figure 2 View towards the site from the north

Figure 3 View towards the site from the Black Street
Figure 3 View towards the site from the north to Black Street.
Attachment 2

Neighbourhood Character 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. &lt;br&gt; • 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>Responds: The subject site is not covered by heritage overlay. Noted the building has been demolished.</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Responds: There is sufficient space to provide substantial trees to maintain and enhance the garden settings of the dwellings.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens.</td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs. &lt;br&gt; • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td>Loss of front garden space.</td>
<td>Responds: There is sufficient area for the provision of landscaping to occur within the front setback of the proposed development.</td>
</tr>
<tr>
<td>To minimise the loss of front garden space and the dominance of car parking facilities.</td>
<td>• Locate garages and carports behind the line of the dwelling. &lt;br&gt; • Provide only one vehicular crossover per typical site frontage. &lt;br&gt; • Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td>Car parking facilities that dominate the façade or view of the dwelling.</td>
<td>Responds: Basement parking is proposed with a single vehicular access.</td>
</tr>
<tr>
<td>To ensure new development respects the dominant buildings.</td>
<td>• Articulate the form of buildings and elevations, particularly front façades.</td>
<td>Large buildings with poorly</td>
<td>Responds: St Andrews Street contains various forms of development including contemporary</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>forms and scale of buildings in the Precinct, through the use of innovative architectural responses.</td>
<td>• Recess upper storey elements from the front façade.</td>
<td>articulated facades.</td>
<td>design. The proposed development will enhance the existing and emerging character of the area by utilising similar forms of materials, finishes; and, landscaping. The dwellings feature articulated forms and second storey elements will be recessed from the side walls and surfaces. The recessed upper storey elements from the front façade response to the neighbourhood character of the Black Street. It is considered that due to the architectural design found throughout St Andrews Street, the proposed development is considered to be appropriate as it meets the existing and emerging neighbourhood character of the street.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>• Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage building/s, in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or massing. Imitation or reproduction of historic building styles and detailing.</td>
<td>Responds An independent heritage consultant has been engaged by Council to provide comments in relation to the potential heritage impacts of the proposed development on the abutting significant heritage property, known as 6 Black Street. In general, the heritage advisor believes that the proposed building will sit forward of the house at 6 Black Street, it has a setback of between 4.6 to 4.8m (increasing to over 5.8m at the top level) from the common side boundary for most of its length, which will provide appropriate visual separate. While some oblique views of the house looking from the corner of St Andrews Street may be affected, the heritage advisor noted that views in this direction are already limited by the double garage built hard form to the boundary at the rear of the existing house at 16 St Andrews Street.</td>
</tr>
<tr>
<td>To use a variety of building materials and finishes that provide visual</td>
<td>• Incorporate a variety of building materials such as brick, render, Exclusive use of one material on external wall facades.</td>
<td>Responds The proposal utilises a variety of materials, including render</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>
<tr>
<td>interest in the streetscape.</td>
<td>timber and non-masonry into the building design.</td>
<td></td>
<td>and timber cladding. The palette of colours is considered appropriate and assists in reducing visual bulk.</td>
</tr>
<tr>
<td></td>
<td>• Use simple building details.</td>
<td></td>
<td></td>
</tr>
<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>Responds</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td>The front fencing would be of a height up to 1.8 metres with different designs. It is considered the fence does not present as a dominant feature as it is in keeping with the surrounding area.</td>
</tr>
</tbody>
</table>
ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer 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>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to the services and facilities required to support the proposed residential development.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/a</td>
<td>The proposed development is less than 10 dwellings.</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 are appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 5.76m</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: 5.885m</td>
<td>Proposed: 5.885m</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Required: 11m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Proposed: 10.9m</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B14 Access</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td></td>
<td>Yes</td>
</tr>
</tbody>
</table>
Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
<th>Yes</th>
<th>The proposed development is considered to be highly compliant with Standard B17.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North-east (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>South-west (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>North-east (rear)</td>
<td>0m or 1m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
</tr>
<tr>
<td>North-east (side)</td>
</tr>
<tr>
<td>South-west (side)</td>
</tr>
<tr>
<td>North-east (rear)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>No</th>
<th>Refer Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td></td>
<td>Maximum Height: 3.6m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 3.588m and 3.597m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maximum Length: 18.16m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 18m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B19 Daylight to Existing Windows</th>
<th>Yes</th>
<th>The proposal is set back from property boundaries sufficiently to ensure daylight to existing windows is maintained.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>N/A</th>
<th>Given the site orientation, the windows on the north-eastern façade of 14 St Andrews do not have an axis perpendicular to its surface oriented north 20 degrees west to north 30 degrees east, therefore the standard does not apply.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Question</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>----------</td>
<td>----------</td>
</tr>
<tr>
<td>B21</td>
<td>Overshadowing Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>B22</td>
<td>Overlooking</td>
<td>No</td>
</tr>
<tr>
<td>B23</td>
<td>Internal Views</td>
<td>No</td>
</tr>
<tr>
<td>B24</td>
<td>Noise Impacts</td>
<td>Yes</td>
</tr>
<tr>
<td>B25</td>
<td>Accessibility</td>
<td>Yes</td>
</tr>
<tr>
<td>B26</td>
<td>Dwelling Entry</td>
<td>Yes</td>
</tr>
<tr>
<td>B27</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
</tr>
<tr>
<td>B28</td>
<td>Private Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>B29</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>B30</td>
<td>Storage</td>
<td>Yes</td>
</tr>
<tr>
<td>B31</td>
<td>Design Detail</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### B32 Front Fences
Encourage front fence design that respects the existing or preferred neighbourhood character.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Refer to report.</td>
</tr>
</tbody>
</table>

### 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.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Complies, all common areas including pathways and basement car parking are easily delineated. These area can be managed by an Owners Corporation.</td>
</tr>
</tbody>
</table>

### B34 Site Services
Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>There is adequate space in and around the development for required services and facilities.</td>
</tr>
</tbody>
</table>
1 CENTRE ROAD, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/686  WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/37236

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Little Projects Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive</td>
</tr>
<tr>
<td></td>
<td>covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>31 October 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>111 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone, Schedule 3</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay, Schedule 3</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Overlay, Schedule 1</td>
</tr>
<tr>
<td>Number of objections</td>
<td>11</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the construction of two, two storey buildings comprising a total of 14 dwellings above a basement level, a reduction in the visitor car parking requirements and alteration of access to a Road in a Road Zone, Category 1 on a lot with an area of 2,359 square metres.

Key details of the proposal are as follows:

- 14 dwellings
- Building height in 7.1 metres (two storeys above basement level)
- Site coverage 50%
- Permeability 22%
- Vehicle access via Hampton Street.
- Basement car parking with 28 resident car spaces (reduction of two residential visitor car spaces sought)

The application plans are provided at Attachment 1.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 52.06 (Car parking) – reduction in the residential visitor car parking requirements
- Clause 52.29 – Land adjacent to a Road in a Road in a Road Zone, Category 1

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

3. Stakeholder consultation

External referrals
The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport for Victoria</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>VicRoads</td>
<td>No objection, subject to conditions</td>
</tr>
</tbody>
</table>

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

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

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 11 objections were received. The following concerns were raised:

- Traffic and car parking
- Reduction in car parking requirements
- Overlooking
- Height
- Waste management

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

Consultation meeting
A consultation meeting was held on 24 January 2018 attended by the permit applicant and the objectors.

As a result of the meeting, without prejudice plans and an updated traffic report were circulated to Council and all objector parties on 13 February 2018 (see Attachment 3). The without prejudice plans included the following changes:

- Provision of two residential visitor car spaces (therefore, satisfying the statutory car parking requirement),
- Modifications to the basement layout, and
- Additional stairwell to basement level accessed via Centre Road.
It is noted that the without prejudice plans have no formal status with the application, however they do provide an understanding of how two residential visitor car spaces would work in relation to the proposed development.

The without prejudice plans were forwarded onto Council’s Traffic Engineers who advised support of the application, subject to conditions (discussed below).

Therefore, it is considered appropriate that the planning recommendation turn its mind to the without prejudice position.

4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/686 for the land known and described as 1-1A Centre Road, Brighton for the construction of two, two storey buildings comprising a total of 14 dwellings above a basement level and alteration of access to a Road in a Road Zone, Category 1 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application) prepared by Addarc TP01-TP13 dated 19.10.17 but modified to show:

   a) Provision of two residential visitor car spaces (and associated layout changes) in accordance with the without prejudice plans circulated to Council on 9 February 2018, identified as SK01 and SK02.

   b) Provision of root sensitive footings and root sensitive construction techniques where any of the proposed basement comes within the TPZ of the street trees.

   c) A longitudinal section of the ramp to detail compliance with AS2890.1.

   d) Provision of a convex mirror at the bottom of the basement ramp.

   e) The first floor north facing habitable room windows of TH07 to be designed to avoid any overlooking of secluded private open space and habitable room windows of 828 Hampton Street. Cross sections are required to detail any potential for overlooking.

   f) The first floor northern elevation of terrace area of TH14 to be designed to avoid any unreasonable overlooking of 828 Hampton Street in accordance with ResCode Standard B22 (overlooking).

   g) The height of the internal fence along the eastern boundary of the secluded private open space areas of TH01-TH07 to be a maximum 2.1 metres.

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

   i) Deletion of existing and proposed boundary fence notations.

   j) Deletion of indicative landscaping from the development plans.
k) The paving within the eastern boundary setback associated within TH08-14 to be permeable.

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

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

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

o) Any modifications to the plans arising from the VicRoads conditions 20-24.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

Water Sensitive Urban Design

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

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

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan, reference TP01-TP03 Revision D prepared by Jack Merlo 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 paving within the eastern boundary setback associated within TH08-14 to be permeable.
   g) Deletion of existing and proposed boundary fence notations.

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.

Street tree protection

13. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:
   a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
   b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.
f) Provision of root sensitive footings and root sensitive construction techniques where any of the proposed basement comes within the TPZ of the street trees.

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

**Waste Management Plan**

15. Prior to the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:

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

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

**Construction Management Plan**

16. 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.

Drainage

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

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

Development Contributions

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

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

VicRoads Conditions

20. Prior to the endorsement of plans, amended plans must be submitted to and approved by VicRoads. Once approved, the plans may then be endorsed by the Responsible Authority and will form part of the permit. The plans must be generally in accordance with the submitted plans (Ref: TP03, TP04 (Ground & basement level floor plan) dated: 19.10.2017, Rev:01, Prepared by ADDARC) and amended to show:

a) A fully dimensioned Layout Plan showing the proposed access arrangement on to Hampton Street including features along 100 m either side of the site access including existing kerb and channel, bus stop, power poles, trees and other road assets.

b) Passing area at the entrance to the site. Width of the crossover at the site boundary to allow concurrent movement of a B99 and a B85 vehicles at the entrance to the site from the kerbside using swept path analysis.

c) Prior to the commencement of use or occupation, a sealed access crossover at the property boundary with the crossover angled at 60 degrees to the road reserve boundary, at least for the first 3 metres from the edge of the road with 3.0 metres radial turnouts.

21. Prior to the commencement of the use or occupation of the development, vehicle crossing on Centre Road must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.

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

23. Vehicles must enter and exit the land in a forward direction at all times.

24. The level of the footpaths must not be lowered or altered in any way to facilitate access to the site.

Transport for Victoria Conditions

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

26. The existing bus stop and associated infrastructure on Hampton Street must not be altered with 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.

Permit Expiry

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

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

**Permit Notes:**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
- Before the development starts the applicant must pay $3,038.88 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Councils 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.
- No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Refer page 12-14 of Goal 3 and ensure you use the correct one. Please check website.
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 D3. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 4.

It is considered that the proposed development will provide for an appropriate replacement to the existing nursery building and deliver a high level post-construction landscaping outcome.

The design response delivers a high quality urban design outcome, which provides for an improved response to a prominent intersection.

The development reinstates the existing crossovers and incorporates a suitable range of materials and finishes to ensure that it is compatible with the existing character.

6.2. Compliance with Clause 55 (ResCode)

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

<table>
<thead>
<tr>
<th>Street setback (Standard B6)</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Centre Road</td>
<td>9m</td>
<td>7.5m</td>
<td>1.5m</td>
</tr>
<tr>
<td>Hampton Street</td>
<td>4.6m</td>
<td>4.7m</td>
<td>No variation</td>
</tr>
</tbody>
</table>

A street setback to Hampton Street of 7.5 metres is proposed, while a setback of 9 metres is required to achieve this standard.

The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.
Due to the sites corner location, and the proximity to other nearby intersections (Grant Street and Centre Road, Halifax Street and Centre Road, Stanley Street and Hampton Street, Bright Street and Hampton Street) the street setbacks in the immediate context are varied.

Having regard to the objective of the standard and the context of the area, it is considered that a varied street setback requirement is appropriate. The setback still allows for a suitable level of landscaping opportunities to ensure the garden character of the area is maintained, while also providing for an appropriate transition in built form towards the corner of Centre Road and Hampton Street.

Walls on boundaries (Standard B18)

<table>
<thead>
<tr>
<th></th>
<th>Average height allowed</th>
<th>Average height proposed</th>
<th>Length allowed</th>
<th>Length proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern elevation (TH07)</td>
<td>3.2</td>
<td>3.6m</td>
<td>20.67m</td>
<td>6.1m</td>
</tr>
</tbody>
</table>

A variation to the average wall height along the northern elevation with 828 Hampton Street is sought as part of this application.

The common boundary fence with 828 Hampton Street is a timber paling fence with trellis to a height of approximately 2.7 metres. Beyond the fence, the interface with 828 Hampton Street is a vehicle accessway, carport and outbuildings (see figure 4 of Attachment 2). The wall is proposed to be constructed partially adjacent the carport and outbuilding.

Noting that the proposed boundary wall construction is along the northern boundary, the overshadowing impacts to the adjoining property are negligible, while the secluded private open space areas of 828 Hampton Street are towards the rear of the property (away from the boundary wall construction).

Having regard to the minor length of the wall (which is well below the permissible length) and the non-sensitive interface to the north, it is considered that a variation to the average wall height is acceptable and will not result in any unreasonable amenity to the adjoining property.

Overlooking (Standard B22)

All first floor east facing terraces of TH08-TH04 are screened to 1.7 metres.

However, the screening of habitable room windows and the terrace area TH07 and TH14 is unclear. Although it appears that no unreasonable overlooking will occur from habitable room windows, it is recommended that this be clarified via a condition of permit.

Further, the terrace area to TH14 appears to be screened to its eastern elevation (interface with 7 Centre Road), however no screening is proposed across its northern elevation. This is recommended to be addressed via a condition of permit.

Private open space (Standard B28)

<table>
<thead>
<tr>
<th></th>
<th>Private open space required</th>
<th>Private open space provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>TH1-8, TH14</td>
<td>40 square metres</td>
<td>72-141 square metres</td>
</tr>
<tr>
<td>TH9-13</td>
<td>40 square metres</td>
<td>27 square metres</td>
</tr>
</tbody>
</table>

The central townhouses located within the eastern building require a 13 square metre variation to the total private open space provisions.

The private open space areas of these dwellings have minimum dimensions of 6.4 x 4.2 metres. The private open space areas of these dwellings are fully secluded and
practical. All the private open space areas are accessed via the living areas and are provided with a northern orientation, thereby ensuring a high level of solar access.

The private open space provisions of these dwellings is considered acceptable as they provide for adequate post construction landscaping opportunities, will meet the future needs of the residents and provide for a high level of amenity.

6.3. **Landscaping**

The application plans show the removal of all existing vegetation form the subject site.

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

*Note: Trees 1-4 are the street trees and are discussed in Section 6.4 below.*

Council’s Arborist in their referral response advised that the removal of all existing vegetation form the subject site was supported due to the low amenity value they provide and the lack of any statutory mechanism to require their retention.

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

Council’s Arborist has recommended that any paving within the eastern boundary setback utilise permeable paving to ensure the future growth of post-construction landscaping.

6.4. **Street tree(s)**

Four street trees are located across the property frontages (x2 along Centre Road and x2 along Hampton Street). These trees are identified as trees 1-4 within the accompanying arborist report.

Council’s Open Space Arborist has advised that the removal of street tree 4 (Manchurian Pear), subject to payment for the tree removal and post-construction planting and maintenance, is appropriate having regard to its proximity to the proposed vehicle crossover. This is recommended to form a condition of permit.

6.5. **Car parking and traffic**

<table>
<thead>
<tr>
<th>Use</th>
<th>Size/No.</th>
<th>Requirement</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident</td>
<td>14 x 3 bedroom dwellings</td>
<td>2 car spaces per dwelling</td>
<td>2 car spaces per dwelling</td>
</tr>
<tr>
<td>Residential visitor</td>
<td>-</td>
<td>1 per 5 dwellings, equalling two car spaces</td>
<td>0</td>
</tr>
</tbody>
</table>

Each dwelling is provided with two car spaces is accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme. These car spaces are provided within the basement level.

Based on the provision of 14 dwellings, two residential visitor car spaces are required to be provided onsite. Council’s traffic engineers did not support the reduction of two residential visitor car spaces.

After the consultation meeting with objectors, the permit applicant circulated ‘without prejudice’ plans which showed the provision of two residential visitor car spaces at the southern end of the basement level.

These plans were referred to Council’s Traffic Engineers who found the provision of two
residential visitor car spaces and the minor modifications to the revised layout of the basement car park as acceptable.

In addition to this, the reinstatement of the existing crossover along Centre Road will allow for additional on-street car parking within the immediate vicinity.

Therefore, it is recommended that the provision of two residential visitor car spaces be recommended as a condition of permit.

It is noted that the objectors raised issues with the location of the vehicle accessway being from Hampton Street, in lieu of Centre Road and wider traffic implications associated with the development.

Council has not been made aware of any other design concepts which proposed an alternative vehicle access location. Nonetheless, the proposed scheme which shows vehicle access via Hampton Street, has been referred internally to Council’s traffic engineers and externally to VicRoads and Transport for Victoria, none of which raised issues with the location of the vehicle accessway or the wider traffic implications that may occur as a result of the development.

6.6. **Objector issues not already addressed**

**Waste Management**

Should a planning permit be issued, a waste management plan has been recommended as a condition of permit (see condition 15 above). The management plan will be reviewed by Council’s Traffic Engineering prior to endorsement to ensure it is an appropriate outcome.

**Support Attachments**

1. Application Plans ↓
2. Site and surrounds ↓
3. Without prejudice plans ↓
4. Neighbourhood Character Assessment ↓
5. ResCode Assessment ↓
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

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

Note: Note all objectors provided a residential address for service or appear within the aerial image.
Figure 2 View towards the sites frontage from the south (along Centre Road)

Figure 3 View towards the sites frontage from the west (along Hampton Street)
Figure 4 adjoining interface to the North with 828 Hampton Street
Neighbourhood Character Precinct D3

Preferred Future Character Statement

The dwellings sit within established gardens with occasional canopy trees. The area retains a proportion of pre WWII dwellings, along with new complementary development. Buildings do not dominate the streetscape, with second storeys recessed from the front, simple detailing and articulated front wall facades. The frequent use of weatherboard creates a sense of lightness in the streetscapes and this is strengthened by the use of low to medium front fences of open styles.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The demolition of the nursery (and associated outbuildings) are not identified within the Heritage Overlay or a Neighbourhood Character Overlay. |
| To maintain and enhance the garden settings of the dwellings.    | • Prepare a landscape plan to accompany applications for new dwellings that includes substantial trees and shrubs.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds respond  
The proposed development will allow for an acceptable level of post-construction landscaping opportunities. |
| To maintain the rhythm of visual separation between buildings.  | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds respond  
Only a 6.1 metre long section of built form is proposed to be built adjacent a boundary (northern property boundary).  
Two detached buildings are proposed in a linear arrangement (north-south). The buildings have an internal setback of 5.6 metres.  
This design outcome ensures an adequate level of visual separation across the site. |
| To minimise the loss of front garden space and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Minimise paving in front garden areas including driveways and crossovers. | Car parking structures that dominate the façade or view of the dwelling. | Responds  
Vehicle access to the site is proposed adjacent the northern property boundary (from Hampton Street), leading to a basement car park. This is considered |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure that buildings and extensions do not dominate the streetscape. | - Recess second storey elements from front façade.  
- 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. | Front setbacks dominated by impervious surfaces.                                               | an appropriate outcome that limits the dominance of car parking/vehicle access.                                                                                                                                               |
| To reflect the lightness of the streetscape through the use of appropriate building materials and finishes. | - Incorporate weatherboard or a combination of masonry and non-masonry wall materials where possible, or render or paint large brick surfaces. | Large bulky buildings with poorly articulated front wall facades. Period reproduction detailing. | Responds  
The development is adequate articulated and incorporates a suitable level of design elements to ensure that a non-dominant streetscape outcome.                                                                                     |
| To maintain the openness of the streetscape.                             | - Front fences should be open, other than along heavily trafficked roads.                                                                                                                                     | High and solid front fences.                                                                  | Responds  
The application proposes a variety of materials and design elements across its front                                                                                                                                     |
### RESCODE CLAUSE 55 - TWO OR MORE DWELLINGS ON A LOT AND RESIDENTIAL BUILDINGS

<table>
<thead>
<tr>
<th>Application type</th>
<th>Applicable clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>To construct or extend a dwelling (other than a dwelling in or forming part of an apartment development); or To construct or extend a residential building.</td>
<td>All of Clause 55 except Clause 55.07-1 to 55.07-15 (inclusive).</td>
</tr>
<tr>
<td>To construct or extend an apartment development; or To construct or extend a dwelling in or forming part of an apartment development.</td>
<td>All of Clause 55 except Clause 55.03-5, Clause 55.03-6, Clause 55.04-8, Clause 55.05-1, Clause 55.05-2 and Clause 55.05-6.</td>
</tr>
</tbody>
</table>

### CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong> Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Complies</td>
<td>Refer to Attachment 2.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong> Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Complies</td>
<td>Refer to ‘Strategic Justification’ section of the report for an assessment of the proposal against the relevant policy context. The subject site is appropriately located with regard to services and facilities to support the construction multiple dwellings on a lot of this size.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong> Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>Complies</td>
<td>The application proposes a variety of dwelling types, layouts and configurations.</td>
</tr>
</tbody>
</table>
### B4 Infrastructure

**Provides appropriate utility services and infrastructure without overloading the capacity.**

**Complies**

The proposal will make use of existing infrastructure servicing the site. It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.

### B5 Integration with the Street

**Integrate the layout of development with the street**

**Complies**

The development appropriately integrates with each street frontage, with pedestrian and vehicle links suitably sited and designed.

---

**CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Centre Road</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Required: 9.0 metres</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 7.5 metres</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Hampton Street</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Required: 4.6 metres</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 4.7 metres</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Complies</td>
<td>Maximum: 9.0 metres</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Proposed</strong>: 7.3 metres</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Complies</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Proposed</strong>: 50%</td>
</tr>
</tbody>
</table>
| **B9 Permeability** | Complies | Minimum: 20%  
Proposed: 22.8% |
---|---|---|
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. |

| **B10 Energy Efficiency** | Complies | All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources. |
---|---|---|
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. |

| **B11 Open Space** | Complies | The communal walkway (between the two buildings) is appropriately sited and design to ensure an appropriate level of amenity for future residents. |
---|---|---|
Integrate layout of development with any public and communal open space provided in or adjacent to the development. |

| **B12 Safety** | Complies | The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street. |
---|---|---|
Layout to provide safety and security for residents and property. |

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

| **B14 Access** | Complies | An appropriate vehicle access is provided via Hampton Street (adjacent the northern property boundary). The application was referred to Council’s traffic engineers, VicRoads and Transport for Victoria who did not raise objection to the location of the vehicle access point. |
---|---|---|
Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. |

| **B15 Parking Location** | Complies | On site car parking is provided in the form of a basement carpark. Standard traffic conditions are included as permit conditions.  
Refer to Section 6.5 of the report for further discussion. |
---|---|---|
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.

### CLAUSE 55.04 AMENITY IMPACTS

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong>&lt;br&gt;Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td>Yes</td>
<td>Refer to Section 6.3 of the Report.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>0-2m</td>
<td>0-5m</td>
<td>2m</td>
</tr>
<tr>
<td>East (side)</td>
<td>0-2m</td>
<td>4.1m</td>
<td>2.5m</td>
</tr>
</tbody>
</table>

| **B18 Walls on Boundaries**<br>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. | No | The living area associated with TH07 is sited adjacent the northern property boundary for a length of 6.1 metres, below the permissible 20.67 metres. The wall has an average height of 3.6 metres, which exceeds the 3.2 metre average. |

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B19 Daylight to Existing Windows&lt;br&gt;Allow adequate daylight into existing habitable room windows.</td>
<td>Complies</td>
<td>The development has been sufficiently setback from all habitable room windows to abutting the subject site.</td>
<td></td>
</tr>
</tbody>
</table>

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

| B21 Overshadowing Open Space<br>Ensure buildings do not significantly overshadow existing secluded private open space. | Complies | Additional overshadowing will occur over the adjoining property to the east at 7 Centre Road. However, overshadowing is minimal and the Mayflower Estate is not classed as a dwelling. |

| B22 Overlooking<br>Limit views into existing secluded private open space and habitable room windows. | No | All first floor east facing terraces of TH08-TH04 are screened to 1.7 metres, while the screening to the north facing habitable room windows and terrace areas is unclear. |
### B23 Internal Views
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.

**Complies**

No unreasonable overlooking for dwellings within the development will occur.

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

**Complies**

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

### CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B25 Accessibility</td>
<td>Complies</td>
<td>Entries are accessible for people with limited mobility with a lift provided from the basement car park to first floor level. The development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Complies</td>
<td>TH01-TH0 have direct access via Hampton street, TH08 has direct access via Centre Road, while dwellings TH09-TH14 have access via a communal walkway. This is considered an acceptable outcome.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Complies</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
</tbody>
</table>
| B28 Private Open Space    | No                      | **Minimum:**
                             | 25m² secluded, 40m² overall with a minimum dimension of 3 m;
                             | A balcony of 8m² with a minimum width of 1.6m.
                             | **Proposed:**
                             | TH1-8 and TH14 are provided with in excess of the minimum requirements. TH9-13 are provided with 27 square metres of private open space, thereby seeking a 13 square metre reduction. |
| **B29 Solar Access to Open Space** | **Yes** | The solar access to the private open space areas is appropriate. |
| **Allow solar access into the secluded private open space of new dwellings/buildings.** |  |
| **B30 Storage** | **Complies** | Storage facilities are located within the basement garages of each dwelling. |
| **Provide adequate storage facilities for each dwelling.** |  |

### CLAUSE 55.06 DESIGN DETAIL

<table>
<thead>
<tr>
<th><strong>Title and Objective</strong></th>
<th><strong>Complies with Standard?</strong></th>
<th><strong>Comments</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Complies</td>
<td>Refer to Section 6.1 of the report for further discussion.</td>
</tr>
<tr>
<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>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Complies</td>
<td>Both Centre Road and Hampton Street are classified Road Zone, Category 1, thereby a front fence to a height of 2.0 metres is permissible. The application proposes 2.0 metre high front fencing to Centre Road and Hampton Street. The front fencing height and design is considered an acceptable outcome.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>Complies</td>
<td>All areas of common property have been designed to clearly delineate public, communal and private areas. Common property is functional and capable of efficient management.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td>Complies</td>
<td>All appropriate site services can be easily catered for on-site. Mails boxes are shown to adjoin the pedestrian entry with waste provisions being provided within the basement level. A condition has been included requiring the location of solar hot water systems and air conditioning units to be located away from adjoining habitable room windows.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.10 49 - 51 WARLEIGH GROVE, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/176/1 WARD: NORTHERN

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Keen Planning</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>13 November 2017 (Amended)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>119 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 10)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>12</td>
</tr>
</tbody>
</table>

Proposal

The application seeks construction of a three (3) storey building containing five (5) dwellings with basement car parking and construction of a front fence exceeding 1.5 metres on a lot with an area of 799 square metres. Key details of the proposal are as follows:

- 5 dwellings;
- Building height of 10.3 metres (3 storeys);
- Site coverage 53.9%;
- Permeability 20%; and
- 10 resident car spaces and 3 visitor car spaces (a total of 13 car spaces).

The application plans are provided at Attachment 1.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.08-6 (General Residential Zone Schedule 2) – Construction of two or more dwellings on a lot and a front fence exceeding a height of 1.5 metres.
- Clause 43.02-2 (Design and Development Overlay 10) – Construction of buildings and works.
Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

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

Public notification

The application was advertised pursuant to Sections 52(1) (a) and (d) of the Planning and Environment Act 1987 and 12 objections were received. The following concerns were raised:

- Out of character with neighbourhood;
- Insufficient side setbacks;
- Excessive visual bulk;
- Overlooking;
- Precedent;
- Loss of views;
- Traffic / parking;
- Loss of views
- Insufficient parking; and,
- Property devaluation.

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

Consultation meeting

A consultation meeting was held on 22 January 2018 attended by the permit applicant and a total of 11 objectors. No objections were withdrawn.

As a result of the consultation meeting, the applicant submitted a formal amendment under Section 57A of the Planning and Environment Act 1987. Council’s decision is based on these plans. The changes to the plans are summarised below:

**Ground Level**

- Provision of a 0.3 metre increase to the rear setback of bedroom 2 and the bathroom of Unit 1 and associated reduction in the size of the unit;
- Provision of a 0.3 millimetre increase to the rear setback of bedroom 2 of unit 2 and associated reduction in the size of the unit;
- Provision of a wider landscaping strip along the rear boundary;
• Provision of a 2.3 metre high rear boundary fence (timber paling and lattice);

First Floor

• Provision of a 0.3 metre increase to the rear setback of bedroom 2 and the ensuite of Unit 3 and associated reduction in the size of the unit;
• Provision of a 0.8 metre increase to the rear setback of the master bedroom of Unit 3 and associated reduction in the size of the unit;
• Provision of a 300 millimetre increase to the rear setback of the master bedroom of Unit 4 and associated reduction in the size of the unit;

Second Floor

• Provision of a 0.150 metre increase to the northern side setback of the living area and study of Unit 5 and associated reduction in the size of the unit;
• Provision of a 0.130 metre increase to the southern side setback of the master bedroom of unit 5 and associated reduction in the size of the unit;
• Provision of a 0.50 metre increase to the southern side setback of bedroom 3 of unit 5 and associated reduction in the size of the unit;
• Provision of a 0.20 metre to 500 millimetre increase to the southern side setback of the balcony of unit 5;
• Provision of a 0.190 metre increase to the rear setback of bedrooms 2 and 3 (including ensuites) of unit 5 and associated reduction in the size of the unit;
• Reduction in the size of the service area located to the east of unit 5, this setback was increased from 2.6 metres to 3.55 metres

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2017/176 for the land known and described 49 – 51 Warleigh Grove, Brighton for the Construction of a three (3) storey building containing five (5) dwellings with basement car parking and construction of a front fence exceeding 1.5 metres in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

   a) Full compliance with Standard B6 (Street Setback) of the Bayside Planning Scheme.

   b) Full compliance with Standard B22 (Overlooking) of the Bayside Planning Scheme along all elevations of the development.

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

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

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

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

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

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

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

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

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick, dated October 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

   c) Provision of an additional 4 small canopy trees (greater than 8 metres in height and greater than 4 metres canopy spread) throughout the site;

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

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

g) The removal of the existing trees along the western boundary, replaced with new screen trees to the satisfaction of the Responsible Authority.

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

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

12. Before the development starts, a construction impact report and tree protection methodology for trees on neighbouring properties must be provided in relation to the Date Palm (*phoenix canariensis*) which is located within the side setback of 49-51 Warleigh Grove (southeast), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority. The report should be in accordance with the Australian Standard Protection of Trees on Development Sites and should identify impacts that may be detrimental to the tree and include any design responses required to reduce any identified negative impact.

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

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

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

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

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

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

14. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.
15. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project Arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

16. Any pruning that is required to be done to the canopy of any tree to be retained is to be done by a qualified Arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified Arborist.

17. A tree protection fence is required for the protection of any remaining street tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:
   a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
   b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
   e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

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

19. Before the development, detailed plans indicating, but not limited to, the method of 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. 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.

21. All ancillary works and features associated with car parking as shown on the endorsed plans (i.e. convex mirror) must be installed and fully maintained at all times.

22. 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.

23. Before the endorsement of plans, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:
   a) Dimensions of storage waste areas.
   b) Storm water drains in storage areas should be fitted with a litter trap.
   c) The number and size of bins to be provided.
Item 4.10 – Matters of Decision

24. 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.

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

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

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

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

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

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

Permit Notes:

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

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

- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
• A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

• Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.

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

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

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

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**Bayside Planning Scheme**

• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 17 Economic Development
• Clause 18 Transport
• Clause 19 Infrastructure
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.04 Environmental and Landscape Values
- Clause 21.06  Built Environment and Heritage
- Clause 21.07  Economic Development
- Clause 21.09  Transport and Access
- Clause 21.10  Infrastructure
- Clause 21.11  Local Areas (Bay Street)
- Clause 22.06  Neighbourhood Character Policy (Precinct B5)
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.08  General Residential Zone (Schedule 3)
- Clause 43.02  Design and Development Overlay (Schedule 10)
- Clause 45.06  Development Contribution Plan Overlay (Schedule 1)
- Clause 52.06  Car Parking
- Clause 55  Two or more dwellings on a lot
- Clause 65  Decision Guidelines

6. Considerations

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

6.1. Strategic Justification

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

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

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

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

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

The themes contained in Clause 21 are further reinforced through clause 21.09 (Transport and Access), that encourages high density development close to Activity Centres to then encourage more sustainable transport modes (i.e. public transport).

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

6.2. Design and Development Overlay – Schedule 10 (DDO10)
The subject site is covered by Schedule 10 to the Design and Development Overlay, that controls built form standards for Bay Street Major Activity Centre.

The design objectives of this schedule are as follows:

- To ensure that the height of new development is compatible with the preferred future role and character of the Bay Street Major Activity Centre.
- To develop the centre in a way that conserves and enhances its valued urban character and heritage places.
- To ensure that new development contributes to safe and active streets.
- To maintain a strong landscape character with residential buildings set within vegetated front gardens and streetscapes in the residential precincts.

The site is identified as being located within the Bay Street Major Activity Centre and identified as been within Precinct E of the Schedule.

Precinct E has the following build form provisions:

- A permit is required under this overlay for buildings and works.
- The site sits within Precinct E in Map 1 at subsection 5, where the maximum building height is 11m (3 storeys). Evidence of this is detailed below:

<table>
<thead>
<tr>
<th>Precinct</th>
<th>Preferred building height</th>
<th>Maximum building height</th>
</tr>
</thead>
<tbody>
<tr>
<td>E</td>
<td>-</td>
<td>11.0m (3 storeys); or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more</td>
</tr>
<tr>
<td>E1</td>
<td>11.0m (3 storeys); or</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>12.0m (3 storeys) where the slope of the natural ground level at any cross section of the site of the building wider than 8m is 2.5 degrees or more</td>
<td></td>
</tr>
</tbody>
</table>
The proposed development complies with the Design and Development Overlay – Schedule 10 for the following reasons:

- The proposed development consists of a maximum height of 10.3 metres (above NGL) / three storeys development. There are no portions that exceed the 10.3 metres;
- The bulk, location and appearance of the development is considered to be in keeping with the emerging character and appearance of adjacent buildings located within close proximity and is considered to enhance the streetscape;
- The proposed use of a mixture of building materials provides a level of articulation and breaks up the perceived bulk from all abutting allotments;
- The subject is located within walking distance to North Brighton Station which encourages the use public transport and furthers The Bay Street Centre
Framework Plan;

- The proposed development will contribute to creating a vibrant residential activity centre;
- The proposed development is considered to be consistent with the Bay Street Centre Framework Plan;
- The layout and appearance of areas set aside for car parking is considered sufficient as it will not be dominant to the streetscape due to the location (basement).

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

With respect to the setback requirements of Clause 55, it is important to note that there are no variations to the side and rear setback requirements (Standard B17). The non-compliant standard is discussed below. The variation to the DDO10 is as follows:

- The second floor should be setback a minimum of 4 metres behind the front wall of the floor immediately below.

The proposed development does not meet the above requirement as the proposed development provides a 3.8 metre setback. A variation to this requirement is considered to be appropriate as the second floor is sufficiently recessed from the side boundaries from the level below, thus allowing the second floor to appear as a centrally recessed element. The proposed use of mixed building materials allows for sufficient articulation to occur along the streetscape.

It is considered that a proposed 0.2 metre variation will not be detrimental to the abutting allotments as the proposed second storey will not be visually intrusive to the streetscape of Warleigh Grove. It is noted that the proposed development provides a high level of compliance with B17 – side and rear setbacks.

In principle, the proposed development and the diversity of the housing stock is supported. The precinct as a whole offers a variety of dwelling sizes and types therefore the increase in assortment of dwellings for the subject site is an appropriate outcome for the precinct. In general, this form of medium density development is encouraged under the Church Street Centre Framework Plan therefore, the proposed development is considered to be consistent with the objectives of the DDO10.

6.3. **Neighbourhood character**

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

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

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

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

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

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

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

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

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

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

Notwithstanding the above, an assessment has been undertaken against Neighbourhood Character Precinct B5, and an appropriate level of compliance has been achieved with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposed development contains generous areas of landscaping for a development of this type, allowing for an appropriate natural frame of the building. Car parking is located at basement level and hence would be largely hidden from the public realm. The building contains good levels of articulation and would not unreasonably overwhelm any of the adjacent properties.

### 6.4. Compliance with Clause 55 (ResCode)

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

#### Street setback (Standard B6)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Warleigh Grove</td>
<td>6.8m</td>
<td>6.5m</td>
<td>0.4m</td>
</tr>
</tbody>
</table>

A street setback from Warleigh Grove of 6.5 metres is proposed, when a setback of 6.8 metres is required to achieve this standard. The objective of the standard is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site. The setbacks along Warleigh Grove are consistent, it is for this reason that a condition will be placed on any permit issued requiring full compliance with Standard B6.
Overlooking (Standard B22)

The proposal includes a number of first and second floor windows serving habitable rooms that are within 9 metres of the secluded private open space (SPOS) and habitable room windows. However there is insufficient information annotating full compliance with Standard B22 (Overlooking). It is for this reason that a condition will be placed on any permit issued requiring full compliance with Standard B22 along all elevations.

Front Fences (Standard B32)

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>49-51 Warleigh Grove</td>
<td>1.2m</td>
<td>1.4m – 2.1m</td>
</tr>
</tbody>
</table>

A 0.4m – 2.1m fence is proposed, therefore a variation of 0.2m – 0.9m is sought. The reason for the 1.9m – 2.4m fence is due to the slope of the land at street frontage. The variation is considered to be appropriate as:

- There are various examples of similar fencing heights throughout Warleigh Grove;
- Landscaping within the front setback will assist in softening its appearance when viewed from the street; and,

The proposed fence will not appear to be at odds with the immediate area as there are several examples of similar fence heights.

6.5. Landscaping

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

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

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

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

Council’s Arborist advised that the Date Palm (*phoenix canariensis*) is located within the rear setback of 49-51 Warleigh Grove (southeast), therefore it was recommended that a construction impact report and tree protection methodology be provided as part of any permit issued in order to protect their health. This is included in the recommendation.

With regards to the future planting on the site, the proposed development incorporates landscaping opportunities to achieve an outcome consistent with the existing and preferred character of the area. The Bayside City Council Landscape Guidelines (2015) specify that for medium density applications (three to ten units) 1 small tree for each dwelling should be provided (small canopy tree are greater than 8 metres tall / greater than 4 metres canopy spread).

Council arborist advised that the site should either accommodate 5 small trees or 2 large
trees. The development proposes 1 large tree and one small tree (located at street frontage). The provision of one small and one large at frontage is considered to assist in screening the development and further contributes to the neighbourhood character of the area. It is for this reason that a condition is included in the recommendation requiring the provision of an additional 4 small trees throughout the site. Sufficient soil volume has been provided for the additional 4 small trees to grow to their full potential. The provision of landscaping will reduce and soften the built form when viewed from abutting properties.

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

6.6. Car parking and traffic

The purpose of Clause 52.06 (Car Parking) is to:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The development proposes the following:

<table>
<thead>
<tr>
<th>Use</th>
<th>Size</th>
<th>Planning Scheme Parking Rate</th>
<th>Car Parking Requirement</th>
<th>Car Parking Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>5 x 3 Bedroom</td>
<td>2 spaces to each 3 bedroom dwelling</td>
<td>10 spaces</td>
<td>13 spaces</td>
</tr>
<tr>
<td>Dwelling (visitor)</td>
<td>5 dwellings</td>
<td>1 space for visitors to every 5 dwellings</td>
<td>1 visitor spaces</td>
<td>3 visitor spaces</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>11 SPACES</strong></td>
<td><strong>13 SPACES</strong></td>
</tr>
</tbody>
</table>

Pursuant to Clause 52.06 a minimum of 10 spaces are required to be provided for the proposed development with an additional 1 visitor spaces. The proposal provides a surplus of 2 visitor parking space. Accordingly, the proposed development is considered to comply with Clause 52.06.

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

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.
6.7. **Objector issues not already addressed**

**Property values**

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

**Precedent**

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

**Loss of view**

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

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision
Item 4.10 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds. Three objections sit outside the above map 1 Nannoon Close, Brighton, 37 Valley Parade, Glen Iris and 207/32 Warleigh Grove.

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

Figure 3 View towards the site from the east (frontage).
**Figure 4** View towards the site from the Southeast (frontage).

**Figure 5** Similar development within close proximity to the subject site (northwest)
Neighbourhood Character Precinct B5

Preferred Future Character Statement

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>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings and be appropriate to the building era.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds</td>
</tr>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Responds</td>
</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>Responds</td>
</tr>
</tbody>
</table>

The existing dwelling is not considered to hold such significance that retention would be warranted, particularly given the planning controls applicable to the site that encourage redevelopment.

The proposed garden setting is acceptable for a development of this type, with sufficient open space at ground floor to provide for various planting, including canopy trees and screen vegetation. A landscape plan has been prepared, and been reviewed by Council’s Arborist who has stated that it meets the Landscape Guidelines.

The proposed development provides sufficient landscaping opportunities within the front setback in order to provide canopy tree and understorey shrubs.
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain the 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>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The development will be appropriately setback from the side boundaries to maintain the rhythm of visual separation between buildings.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>It is noted that the proposed development does not request any variations the side and rear setbacks (Standard B17 – Side and rear Setbacks).</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>Responds</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>All parking is proposed to be located at basement level and therefore outside the public realm. Only one single width crossover is proposed.</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>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed building is of a large scale, however it will not seem at odds with the immediate area. As mentioned above proposed development does not request any variations the side and rear setbacks (Standard B17 – Side and rear Setbacks). The development is generally in accordance with the DDO10 and appropriate levels of articulation have been provided at each remaining elevation of the building through a variety of material, colour and setbacks.</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>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed developments architecture is considered to be modern and contemporary. The proposed development responds to the</td>
</tr>
</tbody>
</table>

Item 4.10 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To 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>N/A The proposed development does not adjoin an identified heritage building.</td>
</tr>
</tbody>
</table>
| To use a variety of building materials and finishes that reflect those in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Roof materials should generally be terracotta, red black or subdued coloured tiles or similar.  
• Use simple building details. | Exclusive use of one material on external wall surfaces.  
Period reproduction detailing. | Responds The proposed development incorporates a mixture of building material such as timber, corrugated iron; and, render. The colours are considered to compliment the streetscape of Warleigh Grove. |
| To maintain the openness of the streetscape. | • Provide open style front fences, other than along heavily trafficked roads.  
• Front fence style should be appropriate to the building era. | High, solid front fencing. | Responds The development proposes an open style fence that is sympathetic to the development and the immediate area. |
### ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer 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>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to the services and facilities required to support the proposed aged care facility.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>Yes</td>
<td>Refer report.</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 development addresses the street and entries are clearly identifiable from the road.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes, subject to conditions</td>
<td>The required setback is 6.8m, the proposed setback is 6.5m.</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td><strong>Required:</strong> 11m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td></td>
<td><strong>Proposed:</strong> 10.3m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------------------------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
</tr>
<tr>
<td>B14 Access</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>Refer report.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
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.

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

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td><strong>North (side)</strong></td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td><strong>South (side)</strong></td>
<td>0-0.2m or 1m</td>
</tr>
<tr>
<td><strong>East (rear)</strong></td>
<td>0-0.2m or 1m</td>
</tr>
</tbody>
</table>

**Second floor**

<table>
<thead>
<tr>
<th><strong>Required</strong></th>
<th><strong>Proposed</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North (side)</strong></td>
<td>4.4m – 4.5m (walls) + 2.1m – 2.2m (balcony)</td>
</tr>
<tr>
<td><strong>South (side)</strong></td>
<td>4.5m – 4.67m (walls) + balcony 2.1m – 2.38</td>
</tr>
<tr>
<td><strong>East (rear)</strong></td>
<td>4.36m – 4.45m (walls) + 2.13 (service screen)</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.

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

---

Item 4.10 – Matters of Decision
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>There are no north facing windows within 3 metres of the boundary.</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes, subject to condition</td>
<td>Although it appears that the proposed development complies with overlooking, limited detail is provided on the plans showing window / balcony screening. It is for this reason that a condition will be placed on any permit issued requiring full compliance with B22.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>All measures have been incorporated in order to minimise internal overlooking.</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>Plant room have been incorporated into the design of the building and is located in the basement and subsequently away from the sensitive boundary interfaces.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>The development has been designed to accommodate people with limited mobility.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The building has been designed with a sense of address to the street and allowing for shelter and a transitional space around the entry.</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 room windows have direct access to daylight.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
<td>All dwellings provide sufficient private open space for future residents.</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>Where practicable, private open space for each bedroom is located on the northern elevation (or east or west).</td>
</tr>
<tr>
<td>B30 Storage</td>
<td></td>
<td>Yes</td>
<td>All units are provided with sufficient storage.</td>
</tr>
<tr>
<td>Item</td>
<td></td>
<td></td>
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<tr>
<td>4.10 – Matters of Decision</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>B32 Front Fences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>B34 Site Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
</tr>
<tr>
<td>Yes</td>
</tr>
</tbody>
</table>
4.11 9 TEDDINGTON ROAD, HAMPTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/505/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/35270

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>RK Tech Studio</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant 1661068. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>18 August 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>149 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Special Building Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
</tr>
</tbody>
</table>

Proposal
The application seeks approval for the construction of two dwellings on a lot with an area of 762.47 square metres. Key details of the proposal are as follows:

- 2 dwellings,
- 2 storeys in height with an overall height of 7.025m,
- Site coverage 47.5%,
- Permeability 37.2%, and
- 2 car parking spaces per dwelling.

The application plans are provided at Attachment 1.

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

History
On 5 October 2015 planning permit application 2015/646/1 was lodged with Council for the construction of two dwellings on a lot and in a Special Building Overlay at the subject site. On 7 July 2016 planning permit application 2015/646/1 was refused under delegation for the reasons that:

1. The proposal fails to respond to the objectives of Clause 22.06 (Neighbourhood Character Policy, Precinct G1) of the Bayside Planning Scheme, on the following grounds:
   a) The development does not provide suitable vegetation including canopy trees to replace the loss of existing trees on site.
b) The continuous built form of across the width of the site does not maintain the visual separation between buildings and will be visually intrusive on the streetscape and the adjoining properties.

c) The development lacks articulation to the front façade given it proposes only one building material (render finish) and one colour for the whole development.

d) The first floor is not recessed at the front façade and this creates the appearance of visual bulk in the street.

2. The proposal fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:

a) Standard B1 – Neighbourhood Character – The development fails to respond to the existing and preferred neighbourhood character for this precinct.

b) Standard B6 – Street setback – The street setback of the garage of Dwelling 2 will dominate the street given it is located in front of Dwelling 2.

c) Standard B12 – Safety – The front entry of Dwelling 1 is hidden behind a wall and the front window of the sitting room of Dwelling 2 is a highlight window. Both of these elements provide unsafe outcomes for future residents given they lack views of visitors and the street.

d) Standard B13 - Landscaping – The development does not provide suitable replacement trees including canopy trees to compensate for the loss of existing trees on the site.

e) Standard B22 – Overlooking – The first floor west facing window of Bedroom 3 of Dwelling 1 has the potential to overlook the existing habitable room windows of the adjoining dwelling to the west given it is a full length window.

f) Standard B26 – Dwelling entry – The front entry of Dwelling 1 does not provide its own sense of identity given it is located behind a brick wall and not visible from the street.

g) Standard B31 – Design details – The development lacks articulation at first floor level to the front and side facades. The first floor is not recessed from the front façade. The front entry of Dwelling 1 is not visible from the street. The highlight window to the sitting room of Dwelling 2 is not proportion with existing windows of other adjoining dwelling fronting the street.

At the direction of VCAT no permit was granted relative to planning permit 2015/646/1 and thus the Council’s decision to refuse the permit was affirmed.

This application has been prepared and submitted in response to the previous concerns raised by Council.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.
- Clause 44.05-1 (Special Building Overlay) – Construct a building or to construct or carry out works.

Planning Scheme Amendments

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

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

3. **Stakeholder consultation**

   **External referrals**

   The application was referred to the following authorities:

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

   **Internal referrals**

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

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

   **Public notification**

   The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and four objections were received. The following concerns were raised:
   - Neighbourhood character;
   - Loss of amenity to adjoining properties;
   - Removal of trees and inadequate landscaping on site;
   - Overlooking;
   - Inadequate side and rear setbacks;
   - Retention of boundary fencing; and
   - Loss of street parking.

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

   **Consultation meeting**

   A consultation meeting was held on 8 January 2018 attended by the permit applicant and objectors. As a result of this meeting no objections were withdrawn.
4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/505** for the land known and described as **9 Teddington Road, Hampton**, for the **construction of two dwellings** on a lot in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the Council advertised plans dated 6 October 2017 prepared by RKTech Studio but modified to show:
   a) The first floor south facing circular window to Dwelling 2 replaced with a rectangular shaped window;
   b) The driveway of each dwelling paved to the satisfaction of the Responsible Authority;
   c) Each dwelling provided with a 3m wide garage door;
   d) The proposed vehicle crossing to be constructed with a 7.2m offset from the new vehicle crossing to the western end unit to allow one on street car space;
   e) Sight-line visibility from each access in accordance with Clause 52.06 of the Bayside Planning Scheme;
   f) 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.
   g) A schedule of construction materials, external finishes and colours (incorporating for example paint samples);
   h) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

Water Sensitive Urban Design

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

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

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

Traffic

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

Drainage

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

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

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

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

**Landscaping**

14. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by RKTech Council date stamped 6 October 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) Within the front setback of each dwelling either two (2) small canopy trees of a species that will grow to a minimum 8 metres in height at maturity or one (1) large canopy tree species that will grow to a minimum of 12 metres in height at maturity in accordance with the Bayside Landscape Design Guidelines (2016);

b) Within the private open space of each dwelling either two (2) small canopy trees that will grow to a minimum 6 metres in height at maturity or one (1) large canopy tree species that will grow to a minimum of 10 metres in height at maturity in accordance with the Bayside Landscape Design Guidelines (2016);

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

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

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

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

g) Details of surface finishes of pathways and driveways

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

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

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

The Tree Management Plan 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.

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

Permit Expiry

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

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

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

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

Permit Notes:

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

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

- 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.

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

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

- Before the vehicle crossing application will be approved, the applicant must pay $2,481.37 to the Responsible Authority for the removal and replacement of the existing street tree(s). This amount has been determined in accordance with Council’s current policy for the removal of street trees. This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the responsible authority.

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

- Council records indicate that there is no easement within the property.
• If the offset between the proposed vehicle crossover to Dwelling 1 and the power pole is less than 1m, approval needs to be sought from United Energy at the applicant’s cost.
• The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:
• Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.
• Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
• With village-style activity centres, combining retail at ground floor with increased opportunities for apartment-style living above.
• Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
• Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:
• Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.
• Ensure new development responds to preferred neighbourhood character in activity centres.

Bayside Planning Scheme
• Clause 11 Settlement
• Clause 13 Environmental Risks
• 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 21.05 Environmental Risks
• Clause 21.06 Built Environment and Heritage
• Clause 22.06 Neighbourhood Character Policy 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 44.05 Special Building Overlay
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 proposed development incorporates boundary setbacks to reflect the pattern of built form in the area whilst allowing adequate visual separation between dwellings. The area is characterised by a variety of built form, consisting of single and double storey dwellings set within spacious gardens.

At first floor level, Dwelling 2 incorporates two small windows including a circular window and rectangular window. It is considered that the design detail would be largely improved by the replacement of the circular window with a rectangular window. Condition 1a) is included as part of the recommendation to replace the small circular window with a rectangular window consistent with the remaining windows featured throughout the proposed design response.

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

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

6.2 Clause 44.05 (Special Building Overlay)

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

6.2. Compliance with Clause 55 (ResCode)

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

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>Teddington Road (DW1)</td>
<td>9m</td>
</tr>
<tr>
<td>Teddington Road (DW2)</td>
<td>9m</td>
</tr>
</tbody>
</table>

The proposed ground floor street setback to Dwelling 1 ranges between 7.72m – 8.6 metres when a setback of 9 metres or more is required to achieve this standard. The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.
The proposal would for the most part be respectful of the established street setback in the area and would be an appropriate design outcome that would not appear incongruous within its streetscape setting or conflict with the existing or preferred neighbourhood character of the area. It is noted that a 400mm variation to the standard is proposed which is associated with the garage of Dwelling 2. This outcome would be discernible and would not have a detrimental impact on the streetscape character. The proposed dwelling entry seeks a 1.28m variation to the setback requirement. The dwelling entry forms a small portion of the overall façade and the variation works to create a visually interesting and well-articulated façade. It is for these reasons that the variation is supported.

6.3. **Landscaping**

It is proposed to remove all trees from the site with the exception of Tree #2 which is located within the private open space of Dwelling 2. The proposed deck is within the tree protection zone (TPZ) of this tree. Tree Protection Measures are included as a condition of permit (Condition 17).

Council’s Arborist advises that the trees to be removed are of low amenity value and raises no objection to their removal being satisfied that the landscaping scheme submitted in support of the application will sufficiently mitigate for their loss.

The Council’s Arborist also advises that the existing trees located at 7 Teddington are unlikely to have significant roots growing under the brick wall and concrete floor of the existing garage and so should not be impacted by the proposal. There is an existing mature Sweet Gum located within the front setback of 7 Teddington. No impact to this tree is expected as the existing concrete driveway within its TPZ is to be retained. The Council’s Arborist has advised that other neighbouring vegetation is clear of proposed works and should not be affected by the proposal.

It was also advised that the proposed landscape plan is generally acceptable however the selection of Kings Park Bottlebrush as replacement canopy trees is not supported. The provision of replacement canopy trees in accordance with the Bayside City Council Landscape Guidelines (2016) is included as a condition of permit (Condition 14a).

6.4. **Street tree(s)**

The Council’s Open Space Arborist confirms there is a *Lophostemon confertus* street tree asset fronting the property. The plans show the removal of the street tree to facilitate the construction of a new vehicle crossing.

The Council’s Open Space Arborist raises no objection to the removal of the street tree confirming it can be removed under Clause 6.5 of the Street and Park Tree Management Policy (2016).

6.5. **Car parking and traffic**

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

Each dwelling incorporates two on site parking spaces in a tandem arrangement. The proposed on site car parking meets the requirements of Clause 52.06-5.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to vehicle access, driveway gradients, sightlines and internal parking dimensions. These are included as conditions of the permit (Conditions 1b-e).

It is considered that the proposed development will not unreasonably impact on the car parking network in the street. In addition, car parking congestion was not raised as a concern by Council’s Traffic Engineer.
6.6. **Objector issues not already addressed**

   **Retention of boundary fencing**

   Boundary fencing is considered under the Fences Act 1968 and is not a relevant planning consideration.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
Item 4.11 – Matters of Decision
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 of the subject site from Teddington Road

Figure 3 View of the 7 Teddington (shown left) and existing vehicle crossover to the subject site
Figure 4 View of 11 Teddington Road to the east of the subject site

Figure 5 View of 14 Teddington Road to the south west of the site
Figure 6 View of 8 Teddington to the south (opposite) the site
ATTACHMENT 3
Neighbourhood Character Policy (Precinct G1)

Preferred Future Character

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.

<table>
<thead>
<tr>
<th>Objective</th>
<th>Design Response</th>
<th>Avoid</th>
<th>Comments</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 shrubs.  
• Retain existing large 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. | The proposed development, by way of its siting and design response, subject to conditions, will complement the garden character of the precinct. |
<p>| To maintain the rhythm of visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |                                                                      | The proposed dwellings incorporate reasonable visual separation consistent with the existing and preferred character of the area. |
| 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 | Large, bulky buildings with poorly articulated front and side wall surfaces. | The dwellings are adequately recessed to ensure the built form will sit comfortably within its context. Subject to conditions, the proposed dwellings incorporate a visually appealing design response. |</p>
<table>
<thead>
<tr>
<th>Objective</th>
<th>Design Response</th>
<th>Avoid</th>
<th>Comments</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><em>elements providing appropriate articulation.</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• <em>Use pitched roof forms with eaves</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><em>To maintain the openness of the streetscape.</em></td>
<td><em>High, solid front fencing.</em></td>
<td><em>N/A</em></td>
<td></td>
</tr>
</tbody>
</table>

**Item 4.11 – Matters of Decision**
### ATTACHMENT 4
**RESCODE CLAUSE 55 ASSESSMENT**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong> Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong> Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support the development.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong> Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong> Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong> Integrate the layout of development with the street.</td>
<td>Yes</td>
<td>Each dwelling incorporates a clearly defined entry and layout consistent with the character of dwellings in the street.</td>
</tr>
</tbody>
</table>
| **B6 Street Setback** The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. | No | Refer to report.  
**Minimum:** 9m  
**Dwelling 1:** 10.1m  
**Dwelling 2:** 7.7m-8.6m |
| **B7 Building Height** Building height should respect the existing or preferred neighbourhood character | Yes | **Required:** 8m  
**Proposed:** 7m |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>Yes</td>
<td>Maximum: 50%</td>
<td>Proposed: 47.5%</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>
<td>Minimum: 20%</td>
<td>Proposed: 37.2%</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the building.</td>
<td></td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td>No safety issues are considered to likely arise.</td>
<td></td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: Development that respects the landscape character of the neighbourhood. Development that maintains and enhances habitat for plants and animals in locations of habitat importance. The retention of mature vegetation on the site.</td>
<td>Yes</td>
<td>Refer report.</td>
<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>
<td>Yes</td>
<td>Appropriate vehicular access is provided. Maximum: 40% of street frontage Proposed: 39%</td>
<td></td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td></td>
<td>Yes</td>
<td>Proposed car parking for each dwelling is</td>
<td></td>
</tr>
</tbody>
</table>
Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.

<table>
<thead>
<tr>
<th>B17 Side and Rear Setbacks</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</strong></td>
<td>Refer to table below. Areas of non-compliance are underlined.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td><strong>East (side)</strong></td>
<td>0m-2m (D2)</td>
</tr>
<tr>
<td><strong>West (side)</strong></td>
<td>0m or 2m (D1)</td>
</tr>
<tr>
<td><strong>North (rear)</strong></td>
<td>0m or 3m</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B18 Walls on Boundaries</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>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.</strong></td>
<td></td>
</tr>
</tbody>
</table>

**East boundary:**
- **Maximum Height:** 3.2m
- **Proposed:** 3.2m
- **Maximum Length:** 20m
- **Proposed:** 7m

**West boundary:**
- **Maximum Height:** 3.2m
- **Proposed:** 3.2m
- **Maximum Length:** 20m
- **Proposed:** 16.56m

<table>
<thead>
<tr>
<th>B19 Daylight to Existing Windows</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Allow adequate daylight into existing habitable room windows.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Allow adequate solar access to existing north-facing habitable room windows.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>No north facing windows on adjoining properties are affected.</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B21 Overshadowing Open Space</th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ensure buildings do not significantly overshadow existing secluded private open</strong></td>
<td></td>
</tr>
<tr>
<td><strong>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.</strong></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</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>
</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>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
</tbody>
</table>
| B28 Private Open Space | Provide reasonable recreation and service needs of residents by adequate pos. | Yes | Minimum: 25m² secluded, 40m² overall  
Proposed: Dwelling 1 – 103m² SPOS  
Dwelling 2 – 99.7m² SPOS |
| 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. | Yes | Storage is provided within the garage of each dwelling. |
| B31 Design Detail | Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer to report. Conditions require alteration to façade window fenestration. |
| B32 Front Fences | N/A | Required: 1.2m  
Proposed: N/A |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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