Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 14 November, 2017 at 7.00pm

Chairperson:

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

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies
2. Declarations of Interest
3. Adoption and Confirmation of the minutes of previous meeting
4. Matters of Decision
   4.1 Local Law Tree Removal Appeal 177 Thomas Street, Brighton East................................................................. 5
   4.2 Nomination for Significant Tree Register 13 Kinane Street, Brighton................................................................. 27
   4.3 6-8 Hemming Street, Brighton East Notice of Decision to Grant a Planning Permit Application No: 2017/56/1 Ward: Northern..... 45
   4.4 637 Hawthorn Road, Brighton East Notice of Decision to Grant a Planning Permit Application No: 2016/301/1 Ward: Northern... 73
   4.5 21 Raynes Park Road, Hampton Notice of Decision to Grant a Planning Permit Application No. 2017/140 Ward: Central ...... 109
   4.6 144 - 144A Esplanade, Brighton Notice of Decision to Grant a Planning Permit Application No: 2016/232/1 Ward: Northern. 141
   4.7 5 Wellington Street, Brighton Notice of Decision to Amend a Planning Permit Application No: 2016/248/2 Ward: Northern 169
5. Confidential Business
   Nil

Next Meetings 2017

Tuesday 28 November 2017
Monday 11 December 2017
Thursday 21 December 2017
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting
   3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 2 November 2017.
4. Matters of Decision

4.1 LOCAL LAW TREE REMOVAL APPEAL
177 THOMAS STREET, BRIGHTON EAST

City Planning & Community Services - Amenity Protection
File No: FOL/10/62259 – Doc No: DOC/17/207921

1. Purpose and background

The purpose of the report is to consider an appeal to Council to permit the removal of one Lilly Pilly (Syzygium paniculatum) tree from their property located at 177 Thomas Street, Brighton. The value of the tree using the Bayside Tree Valuation Calculator is estimated to be $19,000. The owner seeks removal of the tree to enable the placement of a trampoline to be used as a therapeutic aid for their child.

An application to remove one Lilly Pilly (Syzygium paniculatum) tree located in the front yard of the property was received on 7 November 2016. Attachment 1 includes photographs of the tree and its location on the property.

The tree is protected by Local Law No. 2 (Neighbourhood Amenity) and has been assessed in accordance with Council’s Management of Tree Protection on Private Property Policy 2015 (the Policy), see Attachment 2. The tree did not meet the criteria for removal in the Policy and the permit application was refused by Council’s delegate.

The property owner wrote to Council on 16 June 2017, seeking to appeal the decision not to grant a tree removal permit and requested to have the decision considered by Council in accordance with Clause 16 of Local Law No. 2 (“Neighbourhood Amenity”).

2. Key issues

Property Owner’s reason for tree removal:

The applicant has a number of concerns about the Lilly Pilly (Syzygium paniculatum) tree at 177 Thomas Street. The house is a small semidetached dwelling with a small front and rear yard and home to two growing children. The concerns include the following:

- The tree to be removed will allow the placement of a trampoline in the front setback to be used as a therapeutic aid for their child;
- There is not a safe and secure space in the rear setback for the trampoline;
- Currently a large trampoline occupies the rear yard leaving very little room for play other than on the well-used trampoline;
- There is insufficient space around the trampoline in its current location to provide a safe play environment i.e. a clear 1 metre all around the trampoline is recommended for safe use of the trampoline;
- The large Lilly Pilly tree in the front yard currently precludes the safe redeployment of the trampoline to the front yard;
- With the removal of the Lilly Pilly tree from the front yard the trampoline can be relocated and safely installed in the front with a safe clearance all around it. This will also free up the backyard to provide a small but secure playing area; and
- A new landscape design with replacement planting of a large tree elsewhere on the property is proposed.
Council’s Arborist’s Assessment:

Council’s Senior Investigations Arborist assessed the tree as being in good health, with fair structure and providing a high level of amenity.

The tree has a high amenity value as it can be seen from the streetscape and from neighbouring properties. Overall the tree is rated as having a high retention value.

In accordance with Council’s Policy, a tree removal permit is granted where two of the following criteria are met; the health of the tree is poor, the structure of the tree is poor, and the sustainable life expectancy of the tree is assessed at less than five years. As the Lilly Pilly (Syzigium paniculatum) tree did not satisfy this criteria a permit for removal was not granted.

Council’s arborist inspected the property in response to the concerns raised by the applicant. The inspection found that:

- The tree is large in size and confirmed that there was insufficient room to place a trampoline in the front setback whilst the tree remained.
- The trampoline in the rear setback precludes the use of the open space area for any other activity.

A tree risk assessment was calculated using the Quantified Tree Risk Assessment method. The calculation revealed that the likelihood of risk of harm from complete tree failure was greater than 1 in 50,000.

In accordance with Council’s Policy, a tree removal permit is granted where the likelihood of risk of harm from complete tree failure is less than 1 in 30,000.

Accordingly having regard to this assessment removal of the tree is not supported.

The current policy does not allow a favourable decision at officer level for the reasons detailed by the applicant.

3. Stakeholder Consultation

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Metro Access Officer - Open Space, Recreation &amp; Wellbeing Department</td>
<td>Officer requested the applicant contact an Occupational Therapist to give a more detailed analysis of the impact of the child’s behaviour is having and hence the need to have a safe space in the front yard.</td>
<td>Applicant was not able to provide a report.</td>
</tr>
</tbody>
</table>

4. Recommendation

That Council refuse to grant a permit for the removal of one Lilly Pilly (Syzigium paniculatum) tree 177 Thomas Street, Brighton.
Considerations and implications of recommendation

Liveable community

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

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

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

Customer Service and Community Engagement
The application has been considered against Council’s adopted policies and assessment criteria.

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

Legal
Trees meeting specific criteria as defined in Council’s Local Law No.2 Neighbourhood Amenity are protected and require Council’s permission to be removed.

Finance
Administering Local Law tree removal applications and permits is within Council’s approved budget.

If the tree is retained there may be costs to the owner for maintenance. If Council were to approve the issuing of a tree removal permit the tree owner would be obliged to cover the cost of the tree removal and any replacement planting required.

Links to Council policy and strategy
Protecting and expanding the tree canopy of the entire municipality is an integral part of neighbourhood amenity, natural beauty and a sustainable environment and is recognised in Council’s Tree Protection Policy within the Local Law No.2 Neighbourhood Amenity.

Support Attachments
1. 177 Thomas Street Attachment 1
Tree subject to application viewed from south-east.

Aerial image of tree subject to application.
1. **Policy Intent**

Protecting and expanding the tree canopy of the entire municipality is an integral part of neighbourhood amenity, natural beauty and a sustainable environment and identified in Goal 4.1.4 Protecting and enhancing vegetation (increase indigenous plant usage) on private and public land.

The Bayside Planning Scheme Vegetation Protection Overlay (VPO) and Local Law No. 2 ‘Neighbourhood Amenity’ assist Council to protect and expand the tree canopy of the entire municipality. Clause 36 in the Local Law No. 2 ‘Neighbourhood Amenity’, protects Significant and Protected Trees on private property.

This Policy is intended to provide guidance with regard to assessing Local Law permits for Protected Trees on private property in accordance with Local Law No. 2 – Neighbourhood Amenity, Clause 36 – Tree Protection. A person, without a permit, must not destroy, damage or remove or allow to be destroyed, damaged or removed protected or significant trees on any private property.

A permit is not required:
- where pruning is carried out by a qualified Arborist in accordance with the relevant Australian Standard (4373:2007) who certifies his work, including photographs before and after work; or
- in an emergency, any part of a tree that is an immediate threat to life and or property may be removed.

2. **Purpose/Objective**

The purpose of this Policy is to protect and enhance the urban character, by regulating tree removal and pruning of trees on private property. The replacement planting will be achieved using species that are suitable to the local vegetation character of the area and site constraints.

Protected trees can be very long-lived and provide a sense of character and identity to an area. They also contribute significantly to modifying the impacts of living in an urban environment, including reducing runoff into drains, reducing air temperatures, capturing dust particles and pollutants in the canopy, increasing property values, providing natural protection from the sun, contributing to psychological well-being and providing habitat for local fauna.
An increasing density of urban development means that the number of large trees on private land is decreasing, therefore the health and sustainability of these trees is becoming increasingly important.

Decisions made in respect to tree removal permits need to consider the property owner’s needs, any risk or damage to persons or property and the impact of the tree removal on the environment and local amenity.

**Objectives:**
- to guide the decision making for tree removal permits for protected trees on private property;
- to guide the selection of replacement planting on private property where tree removal permits are granted, in order to enhance local amenity and urban character; and
- to encourage all tree pruning works to comply with the appropriate Australian Standards.

3. **Scope**
This Policy is limited in its application to trees that are protected under Local Law No. 2 – Neighbourhood Amenity.

A protected tree is a tree with a single, or combined trunk circumference greater than 155 centimetres measured at one metre above ground level, excluding species which are declared Noxious Weeds or an immediate hazard.

This Policy does not apply to exemptions and determinations made by the Responsible Authority regarding trees protected by the Bayside Planning Scheme. This includes, but is not limited to:
- Heritage Overlay;
- Significant Landscape Overlays;
- Native vegetation (Clause 52.17 Planning Scheme);
- Vegetation Protection Overlay;
- Significant Trees on Council’s Significant Tree Register (refer instead Significant Trees Management Policy 2013); and
- Vegetation on land owned or managed by Council (refer instead Street and Park Tree Management Policy 2011).

4. **Roles & Responsibilities**

<table>
<thead>
<tr>
<th>Role</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy Development</td>
<td>Manager Amenity Protection</td>
</tr>
<tr>
<td>Policy Implementation</td>
<td>Coordinator Investigations</td>
</tr>
<tr>
<td>Policy Evaluation</td>
<td>Manager Amenity Protection</td>
</tr>
<tr>
<td>Policy Review</td>
<td>Manager Amenity Protection with Coordinator Investigations</td>
</tr>
<tr>
<td>Decision Making – Tree pruning and removal permits</td>
<td>As per section 7.5</td>
</tr>
<tr>
<td>Tree replacement</td>
<td>As per section 8</td>
</tr>
</tbody>
</table>

5. **Monitoring, evaluation & review**
The effectiveness of the Local Law Tree Permit Policy will be reviewed by the Amenity Protection Department and will consider input from community stakeholders. Information on applications and decisions will be maintained in Council’s record management system.

6. **Policy statement**
Bayside City Council has committed to providing high-quality living environments for residents, ratepayers and visitors.
Bayside’s vegetation makes an important contribution to local amenity, sense of place, neighbourhood character, landscape values and cultural heritage. It enhances local climatic conditions by providing shade, wind protection and relief from the urban heat island effect. In some locations, vegetation also contributes to native fauna habitat and local biodiversity.

Bayside City Council is committed to protecting and enhancing vegetation cover because it is regarded as integral to municipal identity and underlying land values. Recent research has confirmed that the tree canopy is gradually being eroded. Large trees are being lost due to land development, risk aversion, infrastructure and property maintenance, climate variability, natural attrition, pests and disease.

A proactive approach to protecting and enhancing vegetation cover is required in order to maintain the high levels of amenity and distinctive character of Bayside’s suburbs.

Council applies a range of regulatory and operational measures aimed at protecting vegetation on both private and public land. In relation to private land, two legal instruments facilitate vegetation protection and replacement:

- Local Law No. 2 – Neighbourhood Amenity (Clause 36 – Tree Protection)
- Bayside Planning Scheme (under provisions listed in Section 3 of this policy and through the use of planning permit conditions).

7. Tree removal permit

A Permit is required to remove a tree described in Clause 36(1) of the Local Law. Applications are made in writing using a standard template and must be adequately supported with the nominated information.

Tree removal applications need to include a plan for planting suitable replacement canopy tree or trees (information in section 8). Approved replacement trees may be subject to inspection by Council Officers after planting and failure to plant or removal shall be considered a breach of permit.

7.1 Assessment

The preliminary assessment includes inspection of the tree’s health and structure to determine if the tree is dead or structurally unstable. Permits are granted to remove dead or hazardous trees. Refer to Attachment A, Preliminary Assessment.

For trees not identified as structurally unstable or dead, a full tree removal assessment is undertaken. Refer to Attachment B, Tree Removal Assessment.

A Quantified Tree Risk Assessment (QTRA) is only completed to assess a tree’s risk where it is identified on the application form that the tree removal is required as it poses a danger to people or surrounding infrastructure. When a tree is assessed using the QTRA and an unacceptable risk of harm is identified, a Permit to remove the tree will be issued.

For a tree-failure hazard to exist there must be potential for failure of the tree and potential for injury or damage to result. The assessment will consider the likelihood of a combination of tree failure, harm to people and property and the likely severity of the harm. Refer to Attachment C.

Other considerations:

Officers assessing applications are to take into consideration all relevant matters, and specifically, any evidence supplied in the form of:

a) a report by a qualified Arborist where the report assesses the tree as posing an unacceptable risk;
b) a report by a Structural Engineer where the report assesses that the tree is the primary cause of damage to the structure; and
c) a landscaping proposal that includes suitable canopy tree replacements, for trees proposed to be removed.

When considering a) and b) above the report MUST contain verifiable information on which the conclusions are drawn.

**7.2 Pruning trees on private property**

Pruning should be carried out by a qualified Arborist in accordance with the relevant Australian standard (the current standard is Australian Standard 4373:2007 Pruning of Amenity Trees). This standard encourages pruning practices and procedures that reduce the potential for a tree hazard developing, branch failure, fungal infection or premature tree death. Local Law No. 2 states that a permit is required for a tree described in clause 36(1) of that local law to be cut, trimmed, lopped or pruned. Applications should be in the standard form and be adequately supported with relevant information.

A permit is not required:

- where pruning is carried out by a qualified arborist in accordance with the relevant Australian Standard (4373:2007) who certifies his work, including photographs before and after work; or
- in an emergency, any part of a tree that is an immediate threat to life and or property may be removed.

Lopping, topping or flush cutting are not promoted practices as the indiscriminate removal of trunks or leaders at internodal points in the crown may lead to the development of poorly attached epicormic growth.

**7.3 Tree pruning / removal in emergency circumstances**

In an emergency, that part of a tree that is an immediate threat to life and or property may be removed without a permit.

**7.4 Branches overhanging properties**

Where a permit is required to cut, trim, lop or prune limbs that overhang a property boundary, the owner of the tree (if not the applicant) will be provided with a copy of any permit issued.

It is noted that a permit does not change any common law rights and obligations relating to overhanging branches.

**7.5 Decision making for Tree Removal and Pruning Permits**

Tree assessments are undertaken by Council’s arborist in accordance with section 7.1, 7.2, 7.3 and 7.4. The Coordinator Investigations will inform the applicant of the decision made by Council.

If an applicant is dissatisfied with the decision in relation to the application, the applicant may apply in writing for an internal review of the decision. The internal review will be conducted by the Manager Amenity Protection.

The applicant can appeal the decision made by the Manager Amenity Protection not to grant a tree removal permit to Council under the Local Law No.2 clause 16.

**7.6 Tree Assessment Definitions**

The tree assessment definitions are provided in Attachment D and section 10 of this Policy.

**8. Replacement Planting**

In order to enhance the overall tree canopy cover, Council aims to:

- achieve a net increase in the number of canopy trees on both private and public land; and
- encourage the planting of canopy trees of sufficient scale to contribute to the diversity of the canopy.
Preferred tree planting ratios and scale

<table>
<thead>
<tr>
<th>Application type</th>
<th>Preferred number of canopy trees</th>
<th>Preferred scale of trees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Tree removal under Local Law No. 2 - Neighbourhood Amenity</td>
<td>A minimum of one canopy tree for every canopy tree removed.</td>
<td>Replace canopy trees with new trees expected to mature to achieve the heights specified below.</td>
</tr>
</tbody>
</table>

8.1 Tree Replacement Planting Height
- Where the existing tree is 20 metres or less, the existing tree will be replaced with a tree capable of achieving a minimum of 75% of the existing tree’s size; or
- Where the existing tree is 21 metres or greater, the existing tree will be replaced with one tree capable of achieving a minimum of 75% of the existing tree’s size, or with two trees, one of which is capable of reaching a minimum height of 15 metres at maturity.

Applications are assessed and consideration will be given to site constraints and available tree replacement planting zones (refer to information in section 8.2 and 8.3). Alternative canopy heights may be approved in exceptional circumstances, for example where there are existing medium to large trees (greater than eight metres) on the site or there is insufficient set back to accommodate the tree root zone of a larger canopy tree.

Replacement trees that have been approved by Council may be inspected. Failure to plant, or removal, of the approved replacement tree will be considered a breach of permit.

8.2 Site constraints
Canopy trees should be included on all Replacement Planting Plans unless evidence is provided by a suitably qualified professional to the satisfaction of Council, that:
- there is insufficient soil volume to support the long-term viability of a canopy tree suitable to the locality; and
- the planting of a tree in a particular location would likely cause damage to property or infrastructure services, a substantial nuisance to adjoining property owners, or a traffic hazard that cannot be avoided or mitigated without unreasonable expense.

8.3 Tree Planting Zone
New canopy trees need to be carefully located and managed in order to promote tree growth and vitality, and to reduce the likelihood of long-term damage to buildings and infrastructure.

In order to ensure optimal conditions a Tree Planting Zone must be identified around each proposed new canopy tree and around canopy trees that are to be retained. The size of the Tree Planting Zone is based on the tree canopy spread (width) at maturity.

Tree Planting Zones should be sited and designed in accordance with the following guidelines:
- trees should be planted in locations where they will have access to sunlight and water;
- trees should be centred within their Tree Protection Zones in order to encourage even growth;
- trees should be planted outside of easements and in accordance with service authority guidelines (e.g. near sewer and water mains and power lines);
- overlapping of Tree Protection Zones should be minimised;
- Tree Protection Zones should be clear of buildings, hard surfaces and clothes lines. Where buildings or hard surfaces do encroach, applicants must demonstrate how healthy tree growth will be promoted and structural damage avoided;
- paved surfaces should be constructed of water-permeable materials;
- mulching to a minimum depth of 50mm should be installed throughout the majority of Tree Protection Zones. Mulched areas may include understorey planting; and
- where tank water is available, the installation of automatic drip irrigation is encouraged.
8.4 Species selection
The structure and mass of a tree’s canopy is one of the most defining aspects of the character that it contributes to an area. Refer to Attachment E for a list of tree species.

Reports regarding vegetation character can be found at http://www.bayside.vic.gov.au/search_results.php?q=vegetation+character+assessment
These reports identify significant vegetation characteristics that form a major element of a distinctive urban character in the municipality, particularly in Beaumaris and Black Rock. Replacement trees are to be approved by the Manager Amenity Protection.

9. Related documents

<table>
<thead>
<tr>
<th>Policies</th>
<th>Significant Tree Management Policy 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal</td>
<td>Bayside City Council, Local Law No. 2 Neighbourhood Amenity</td>
</tr>
<tr>
<td></td>
<td>Victorian Human Rights Charter</td>
</tr>
<tr>
<td>Procedures</td>
<td></td>
</tr>
<tr>
<td>Guidelines</td>
<td>Customer Focus Guideline</td>
</tr>
</tbody>
</table>

10. Definitions & Abbreviations

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protected Tree</td>
<td>A Protected Tree is a tree with a single trunk circumference or combined trunk circumference greater than 155 centimetres measured at one metre above ground level but excluding species which are declared Noxious Weeds.</td>
</tr>
<tr>
<td>Significant Tree</td>
<td>Are located on private property and public land or a tree listed on the Significant Tree Register.</td>
</tr>
<tr>
<td>Tree</td>
<td>Any perennial plant having one or more permanent, woody, self-supporting trunks and with branches forming a crown, and includes all parts of the plant whether above or below ground.</td>
</tr>
<tr>
<td>Canopy tree</td>
<td>A tree which has, or at maturity is likely to have, sufficient height and canopy characteristics to make a positive contribution to local amenity, sense of place, microclimate and/or biodiversity. Minimum 8 x 4 metres.</td>
</tr>
<tr>
<td>Indigenous tree</td>
<td>Native species that were present in the original vegetation communities of the suburb, excluding cultivars and varieties thereof.</td>
</tr>
<tr>
<td>Native tree</td>
<td>Species that are endemic to Australia, may include indigenous (including cultivars and varieties of indigenous species).</td>
</tr>
<tr>
<td>Exotic tree</td>
<td>Species whose natural habitat is exclusively outside of Australia.</td>
</tr>
<tr>
<td>Weed species</td>
<td>Species identified as: (a) a State prohibited weed; (b) a regionally prohibited weed; (c) a regionally controlled weed; or (d) a restricted weed; under State catchment and land protection regulations.</td>
</tr>
</tbody>
</table>

Please note: This policy is current as at the date of approval. Refer to Council's website (www.bayside.vic.gov.au) or staff intranet to ensure this is the latest version.
Tree Removal Assessment

ATTACHMENT B

2. TREE REMOVAL ASSESSMENT

Building Permit
Does the building envelope meet criteria?
Yes

Tree Location
Does the tree location meet criteria?
Yes

Medical Condition
Is tree removal justified by a medical condition?
Yes

No

Tree Structure, Health & Impacts
No. of criteria met?
≥2

<2

Social Impacts
No. of criteria met?
≥2

<2

Does the application site risk or hazard as a reason for removal?
Yes

No

Recommend refusal of the application

Recommend removal of tree with conditions.

Proceed to Stage 3, QTRA Assessment
Additional Assessment Criteria for Tree Removal Permit Applications

1 Building Permits
Where a building permit has been issued under the Building Control Act 1993 and the permitted building(s) and/or construction works:

- are located in such a position that the subject tree is within the envelope of the permitted buildings or works;
- encroach on the tree protection zone of an existing tree by more than 40%; or
- encroach on the structural root zone of an existing tree.

A permit will be issued to remove the affected trees with Conditions, which include a requirement for replacement tree/s.

Where a Building Permit has been issued under the Building Control Act 1993 and the above criteria do not apply the application must be assessed in accordance with Table 1.

<table>
<thead>
<tr>
<th>Works proposed</th>
<th>Assessment</th>
<th>Recommendation</th>
</tr>
</thead>
</table>
| New dwelling, or alterations and additions to existing dwellings including extensions to the dwelling or garages built as part of the house. | The applicant can demonstrate to Council’s satisfaction that:  
• the proposed works cannot be redesigned;  
• appropriate arboricultural techniques as detailed in the submission of an arborist report cannot be employed in order to retain the tree; and  
• compensatory replacement planting can be established on site. | Approval  
Subject to a condition requiring replacement tree/s. |
|                                                                                  | The applicant cannot satisfy the above requirement.                                                                                         | Refusal                                                                        |
| Tennis courts, patios, decks, and carports.                                    | The proposed works cannot incorporate retention of the subject tree.                                                                        | Refusal  
Where Building Permit not granted. |

2 Tree Location
A Permit will be issued where a report from a licensed and/or qualified person in their field provides evidence that the tree is causing structural damage to a building, services or infrastructure or is a risk to people or property, which can only be overcome by implementing a remedy that is unreasonable or greatly disproportionate to the value of the tree or the risk posed by the tree (assessed by QTRA).

Trees located in close proximity to dwellings, garages, intersections and crossovers must be assessed in accordance with the criteria outlined in Table 2. The recommendation to the Coordinator Investigations should be consistent with the Table, unless subsequent steps in the procedure warrant a different recommendation.
Table 2

<table>
<thead>
<tr>
<th>Tree Location</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within two metres of a dwelling</td>
<td>Removal recommended if any part of the tree trunk is within two metres of an existing dwelling</td>
</tr>
<tr>
<td>Within one metre of a garage or carport</td>
<td>Removal recommended if the tree will outgrow the location and/or is causing damage to an existing garage or carport.</td>
</tr>
<tr>
<td>Crossover</td>
<td>Removal recommended if a crossover is approved within the structural root zone of the tree.</td>
</tr>
</tbody>
</table>

Conditions will include a requirement for replacement tree/s.

3 Medical condition

Where an application for tree removal:
- Where a medical certificate is provided from a doctor or specialist in the relevant field to certify that a specific tree is causing a specific allergenic problem for a resident that significantly diminishes the quality of life of that person and there is no other way of managing the problem.

A permit would be issued for removal under delegated authority, subject to referral to the relevant Manager Amenity Protection and the inclusion of appropriate conditions. Conditions will include a requirement for replacement tree/s.

4 Tree health, structure and impacts

A tree removal permit will be granted where a referral report by Council’s Environmental Health, Assets, Traffic or other relevant Council Employee at Coordinator or Management level, or higher, confirms the tree has a detrimental impact on the surrounding environment/public health.

If any two of the tree health, structure and impacts criteria nominated below apply a recommendation for tree removal should be made to the Coordinator Investigations by the Arborist assessing the tree. Conditions for replacement tree/s would be included.

If none of the criteria apply, a recommendation for refusal of the application should be made to the Coordinator Investigations.

Criteria

Tree health, structure and impacts criteria:
- the health of the tree is classified as poor (definition included in Attachment D);
- the structure of the tree is classified as poor (definition included in Attachment D);
- the sustainable life expectancy of the tree is assessed at less than 5 years.

5 Social considerations

If any two of the 'Social considerations' criteria apply a recommendation for tree removal should be made to the Manager Amenity Protection subject to conditions. Conditions should include a requirement for replacement tree/s.

If less than two of following criteria apply, a recommendation for refusal of the application should be made.
Criteria
Social considerations criteria:
• the amenity or character value of the tree is classified as moderate or low (definition included in Attachment D);
• there are at least two other trees on the property that:
  – require Council permission to remove;
  – are classified as having an amenity or character value of moderate or high;
  – have a sustainable life expectancy of more than 10 years;
  – are not subject to a current removal permit application or existing permit;
• there are written letters supporting tree removal from property owners/tenants and adjacent to and opposite the property (at least four individual properties);
• demonstrate financial hardship and inability to undertake routine maintenance - the applicant has no source of income to pay for the maintenance and is receiving Centrelink benefits.
Tree Removal Assessment

1. Quantify Tree Risk Assessment

- GFTA
  - Conduct QTRA
  - Does the risk of harm rate as less than 1:30,000?
  - Yes
    - Can the risk be mitigated with standard pruning?
      - Yes
        - Recommend refusal of the application
      - No
        - Recommend removing the tree with conditions
    - No
      - Recommend refusal of the application and offer pruning permit

ATTACHMENT C
Quantified Risk Assessment

Tree safety management involves limiting the risk of harm from tree failure while maintaining the benefits conferred by trees.

The Quantified Tree Risk Assessment (QTRA) system quantifies the risk of significant harm from tree failure in a way that enables tree managers to balance safety with tree values and operate to predetermine limits of tolerable or acceptable risk. Council’s Arborist’s have a licence to undertake a QTRA.

By quantifying the risk from tree failure as a probability, Quantified Tree Risk Assessment (QTRA) enables a tree owner or manager to manage the risk in accordance with widely applied and internationally recognised levels of risk tolerance. It provides a risk level against which mitigation strategies can be balanced to determine appropriate actions.

**QTRA advisory risk thresholds**

<table>
<thead>
<tr>
<th>Threshold</th>
<th>Description</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1-1/9,999</td>
<td>Unacceptable (where imposed on others) Risks will not ordinarily be tolerated</td>
<td>• Control the risk</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Review the risk</td>
</tr>
<tr>
<td></td>
<td>Tolerable (by agreement) Risks may be tolerated if those exposed to the risk accept it, or the tree has exceptional value</td>
<td>• Control the risk unless there is broad stakeholder agreement to tolerate it, or the tree has exceptional value</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Review the risk</td>
</tr>
<tr>
<td>1/10,000 – 1/999.999</td>
<td>Tolerable (where imposed on others) Risks are tolerable if as low as reasonably practical (ALARP)</td>
<td>• Assess costs and benefits of risk control</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Control the risk only where a significant benefit might be achieved at reasonable cost</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Review the cost</td>
</tr>
<tr>
<td>1/1,000,000 or less risk</td>
<td>Broadly Acceptable Risk is already ALARP</td>
<td>• No action currently required</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Review the risk</td>
</tr>
</tbody>
</table>
Tree assessment definitions

Origin
(I) Indigenous
The tree is endemic to the local area and has been naturally occurring since recordings of flora commenced.
(V) Victorian
The tree is endemic to the state of Victoria and has been naturally occurring since recordings of flora commenced.
(A) Australian
The tree is endemic to mainland Australia and has been naturally occurring since recordings of flora commenced.
(E) Exotic
The tree is not endemic to any part of mainland Australia.

Health
Tree health is based on vigour and vitality. In assessing health, observations are made of the following:
- foliage characteristics
- extension growth
- wound wood development
- extent of predation or disease

In many instances correct application of arboricultural management practices can revitalise a tree and extend its ability to provide a value to the community.

(G) Good
- Tree displays 71-100% live canopy mass
- Foliage exhibits near optimal foliage characteristics in size, colour and density
- Tree may have low levels of tip dieback
- Tree may exhibit low levels of pest/pathogen infestation that is not expected to have a significant impact on the long term health of the tree

(F) Fair
- Tree displays 51-70% live canopy mass
- Foliage may be stunted or discoloured
- Tree exhibits less than optimal extension growth
- Tree has moderate pest/pathogen infestation which may be retarding growth and impacting on health levels, it is expected that the tree can recover with or without intervention

(P) Poor
- Tree displays <50% live canopy mass
- Tree exhibits low levels of extension growth
- Tree has extensive pest/pathogen infestation and is not expected to recover from such infestation even with intervention
- Tree may be senescent

(D) Dead
- Tree has no live vascular tissue

Structure
Structure refers to the physical integrity of the tree. Natural species form may not constitute poor structure.
Pest/pathogen damage is not directly a structural issue, however may contribute to structural issues/faults.
In assessing structure, observations are made of the following:
- Branch attachment and union formation
- Damage to trunk/roots/unions/branches
- Trunk/scaffold/tertiary branch taper

In many instances correct application of arboricultural management practices can reduce the likelihood of failure to an acceptable level and extend a tree’s ability to provide a value to the community.

(G) Good
- Tree has good branch attachment and well-formed unions
- Tree has good trunk and scaffold branch taper
- Tree may have poor tertiary branch taper
- Tree may exhibit structural defects on tertiary branches and attachments
- Complete tree failure or major structural failure under normal environmental conditions is unlikely
- Remedial pruning works may improve the structural rating of the tree

(F) Fair
- Tree may have poor scaffold branch/stem taper
- Tree may have poor tertiary branch taper
- Tree may have minor structural root damage/severance
- Tree may exhibit structural defects to the trunk or scaffold branches
- Majority of structural defects may be managed through current recognised arboricultural practices

(P) Poor
- Tree may exhibit major structural defects to trunk and/or scaffold branch attachments and/or roots

(H) Hazardous
- Complete or major structural failure is imminent

Amenity Value
The visual contribution the tree makes to the neighbourhood character.

(L) Low
- Tree has poor health and/or
- Tree provides little visual contribution to the neighbourhood character

(M) Moderate
- Tree has fair/good/excellent health and/or
- Tree is easily viewed from the street

(H) High
- Tree has fair/good/excellent health
- Tree is highly visible from the street
- Tree is visible from other streets in the area

(N/A) Not Applicable

Useful Life Expectancy
The period of time that the tree is expected to maintain a positive contribution to the neighbourhood character.

20 yrs +
Tree is likely a semi-mature or mature tree that is in good health and structure and is expected to maintain current levels of amenity for a minimum of 20 years.

10-19 yrs
Tree is likely a mature tree that is in good health and/or structure and is expected to maintain current levels of amenity for a minimum of 10 years.
4-9 yrs
Tree is likely a mature tree that is in fair health and/or structure and is likely declining. It is expected that the tree is not likely to maintain current levels of amenity for more than 9 years.

0-3 yrs
Tree is likely a mature tree that is in poor health and/or structure and is likely declining. It is expected that the tree is not likely to maintain current levels of amenity for more than 3 years.

Retention Value
The value of the tree when considering the tree as a whole. The health, structure, amenity value and life expectancy are considered when determining this factor. The tree location on the subject site or a development proposal is not a consideration for determining retention value.

(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. Tree may have historic or cultural significance.

(M) Medium
The tree is generally in fair to good health and structure, provides high 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.

(N) None
The tree has no features that would promote retention for any reason, such as a dead tree or one that provides no amenity value.

(O) Trees on other property
Any tree located outside the subject site is to be retained and protected.
REPLACEMENT TREES – COMMONLY ACCEPTED HEIGHTS AND WIDTHS AT MATURITY IN THE BAYSIDE REGION

The structure and mass of a tree’s canopy is one of the most defining aspects of the character that it contributes to an area.

The Vegetation Character Assessment (March 2000) report identifies significant vegetation characteristics that form a major element of a distinctive urban character in the municipality, particularly in Beaumaris and Black Rock. These should be considered when selecting appropriate species.

### Indigenous

<table>
<thead>
<tr>
<th>Botanic Name</th>
<th>Common Name</th>
<th>Height</th>
<th>Width</th>
<th>Evergreen/Deciduous</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Acacia impexa</em></td>
<td>Lightwood</td>
<td>8</td>
<td>6</td>
<td>E</td>
</tr>
<tr>
<td><em>Acacia mearnsii</em></td>
<td>Black Wattle</td>
<td>8</td>
<td>6</td>
<td>E</td>
</tr>
<tr>
<td><em>Acacia melanoxylon</em></td>
<td>Blackwood</td>
<td>8</td>
<td>6</td>
<td>E</td>
</tr>
<tr>
<td><em>Allocasuarina littoralis</em></td>
<td>Black She-oak</td>
<td>8</td>
<td>6</td>
<td>E</td>
</tr>
<tr>
<td><em>Allocasuarina verticillata</em></td>
<td>Drooping She-oak</td>
<td>10</td>
<td>8</td>
<td>E</td>
</tr>
<tr>
<td><em>Banksia integrifolia</em></td>
<td>Coast Banksia</td>
<td>15</td>
<td>12</td>
<td>E</td>
</tr>
<tr>
<td><em>Eucalyptus camaldulensis</em></td>
<td>River Red Gum</td>
<td>15-25</td>
<td>12-18</td>
<td>E</td>
</tr>
<tr>
<td><em>Eucalyptus melliodora</em></td>
<td>Yellow Box</td>
<td>15-20</td>
<td>10-15</td>
<td>E</td>
</tr>
<tr>
<td><em>Eucalyptus ovata</em></td>
<td>Swamp Gum</td>
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<td>E</td>
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<tr>
<td><em>Eucalyptus pauciflora</em></td>
<td>Snow Gum</td>
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<td>8</td>
<td>E</td>
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<tr>
<td><em>Eucalyptus viminalis</em> subsp. Rough-barked Manna Gum*</td>
<td>15</td>
<td>10-15</td>
<td>E</td>
<td></td>
</tr>
<tr>
<td><em>Eucalyptus radiata</em></td>
<td>Narrow-leaved Peppermint</td>
<td>15</td>
<td>10</td>
<td>E</td>
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### Native

<table>
<thead>
<tr>
<th>Botanic Name</th>
<th>Common Name</th>
<th>Height</th>
<th>Width</th>
<th>Evergreen/Deciduous</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Acacia pendula</em></td>
<td>Weeping Myall</td>
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<td>6-7</td>
<td>E</td>
</tr>
<tr>
<td><em>Agonis flexuosa</em></td>
<td>Weeping Willow Myrtle</td>
<td>10-12</td>
<td>10-12</td>
<td>E</td>
</tr>
<tr>
<td><em>Allocasuarina torulosa</em></td>
<td>Rose She-oak</td>
<td>10</td>
<td>7</td>
<td>E</td>
</tr>
<tr>
<td><em>Angophora costata</em></td>
<td>Smooth-barked Apple</td>
<td>15-20</td>
<td>10-15</td>
<td>E</td>
</tr>
<tr>
<td><em>Angophora floribunda</em></td>
<td>Rough Barked Apple</td>
<td>12-15</td>
<td>10-12</td>
<td>E</td>
</tr>
<tr>
<td><em>Corymbia fiofolia</em></td>
<td>Red-flowering Gum</td>
<td>10-15</td>
<td>10-15</td>
<td>E</td>
</tr>
<tr>
<td><em>Corymbia exima</em></td>
<td>Yellow Bloodwood</td>
<td>15</td>
<td>10-12</td>
<td>E</td>
</tr>
<tr>
<td><em>Corymbia maculata</em></td>
<td>Spotted Gum</td>
<td>18-22</td>
<td>12-15</td>
<td>E</td>
</tr>
<tr>
<td><em>Elaeocarpus reticulatus</em></td>
<td>Blueberry Ash</td>
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<td>3-5</td>
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<td><em>Eucalyptus cephalocarpa</em></td>
<td>Silver-leaved Stringybark</td>
<td>8-15</td>
<td>8-12</td>
<td>E</td>
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<td><em>Eucalyptus crenulata</em></td>
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<td>E</td>
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<td><em>Eucalyptus largifolens</em></td>
<td>Black Box</td>
<td>10-15</td>
<td>8-12</td>
<td>E</td>
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<tr>
<td><em>Eucalyptus feoxygen</em></td>
<td>Yellow Gum</td>
<td>12</td>
<td>10</td>
<td>E</td>
</tr>
<tr>
<td>Botanic Name</td>
<td>Common Name</td>
<td>Height</td>
<td>Width</td>
<td>Evergreen/Deciduous</td>
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<tr>
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<tr>
<td><strong>subsp. connata</strong></td>
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<tr>
<td>Eucalyptus mannifera</td>
<td>Red Spotted Gum</td>
<td>12-15</td>
<td>8-12</td>
<td>E</td>
</tr>
<tr>
<td>Eucalyptus microcarpa</td>
<td>Grey Box</td>
<td>15</td>
<td>10</td>
<td>E</td>
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<tr>
<td>Eucalyptus nicholli</td>
<td>Narrow-leaved Black Peppermint</td>
<td>10-15</td>
<td>10</td>
<td>E</td>
</tr>
<tr>
<td>Eucalyptus polyanthemos</td>
<td>Red Box</td>
<td>15</td>
<td>8-12</td>
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<td>Eucalyptus pulchella</td>
<td>White Peppermint</td>
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<tr>
<td>Eucalyptus rubida</td>
<td>Candlebark Gum</td>
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<tr>
<td>Eucalyptus saligna</td>
<td>Sydney Blue Gum</td>
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<td>12-18</td>
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<td>Eucalyptus scoparia</td>
<td>Wallangarra White Gum</td>
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<td>Eucalyptus sideroxylon</td>
<td>Red Ironbark</td>
<td>12-18</td>
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<tr>
<td>Eucalyptus tereticornis</td>
<td>Forest red gum</td>
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<tr>
<td>Lophostemon confertus</td>
<td>Brush Box</td>
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<tr>
<td>Melaleuca quinquenervia</td>
<td>Broad-leaved paperbark</td>
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</tr>
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<td>Tristanopsis laurina</td>
<td>Water Gum</td>
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<td>6</td>
<td>E</td>
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<td>Waterhousia floribunda</td>
<td>Weeping Lilly Pilly</td>
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<tr>
<td><strong>Exotic</strong></td>
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<tr>
<td>Acer cultivars</td>
<td>Maple</td>
<td>10-20</td>
<td>10-15</td>
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<tr>
<td>Araucaria heterophylla</td>
<td>Norfolk Island Pine</td>
<td>20-25</td>
<td>10-20</td>
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<td>Arbutus unedo</td>
<td>Irish Strawberry Tree</td>
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<tr>
<td>Catalpa bignoniodes</td>
<td>Indian Bean Tree</td>
<td>10-12</td>
<td>10-12</td>
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<tr>
<td>Cedrus deodora</td>
<td>Deodar Cedar</td>
<td>15-25</td>
<td>12-18</td>
<td>E</td>
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<td>Celtis occidentalis</td>
<td>Hackberry</td>
<td>7-12</td>
<td>6-10</td>
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</tr>
<tr>
<td>Fraxinus ‘Raywood’</td>
<td>Claret Ash</td>
<td>12</td>
<td>9</td>
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<tr>
<td>Fraxinus excelsior ‘Aurea’</td>
<td>Golden Ash</td>
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<td>7</td>
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<td>Fraxinus pensylvanica</td>
<td>Green Ash</td>
<td>10-15</td>
<td>8-12</td>
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<tr>
<td>Gleditsia triacanthos</td>
<td>Honey Locust</td>
<td>10-15</td>
<td>8-15</td>
<td>D</td>
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<tr>
<td>Jacaranda mimosifolia</td>
<td>Jacaranda</td>
<td>8-12</td>
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<tr>
<td>Liquidambar styraciflua</td>
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<td>Pohutukawa</td>
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<td>London Plane</td>
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<td>Pyrus cultivars</td>
<td>Flowering Pear</td>
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<td>4-8</td>
<td>D</td>
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<td>Quercus cocinea</td>
<td>Scarlet Oak</td>
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<td>12-15</td>
<td>D</td>
</tr>
<tr>
<td>Quercus palustris</td>
<td>Pin Oak</td>
<td>15-22</td>
<td>12-18</td>
<td>D</td>
</tr>
<tr>
<td>Quercus rubra</td>
<td>Northern Red Oak</td>
<td>12-20</td>
<td>12-20</td>
<td>D</td>
</tr>
<tr>
<td>Schinus molle</td>
<td>American Pepper</td>
<td>8-15</td>
<td>10-15</td>
<td>E</td>
</tr>
<tr>
<td>Tilia cordata cultivars</td>
<td>Small-leaved Linden</td>
<td>15-20</td>
<td>12-20</td>
<td>D</td>
</tr>
<tr>
<td>Ulmus glabra ‘Lutescens’</td>
<td>Golden Elm</td>
<td>10-15</td>
<td>12-15</td>
<td>D</td>
</tr>
<tr>
<td>Ulmus parvifolia</td>
<td>Lacebark</td>
<td>12-15</td>
<td>10-15</td>
<td>D</td>
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<tr>
<td>Ulmus procera</td>
<td>English Elm</td>
<td>12-20</td>
<td>12-15</td>
<td>D</td>
</tr>
<tr>
<td>Zelcova serrata</td>
<td>Japanese Zelkova</td>
<td>15-20</td>
<td>12-15</td>
<td>D</td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To consider a nomination for a Red Flowering Gum (*Corymbia ficifolia*) tree at 13 Kinane Street, Brighton to be included within Council’s Significant Tree Register. The nomination was lodged by the owner of the property.

In 1996 Council established a Significant Tree Register that is maintained in accordance with the Bayside Significant Trees Management Policy 2013 (the Policy). There are currently seventy-nine (79) individual trees listed in the Bayside Significant Tree Register, including two (2) Red Flowering Gum trees (*Corymbia ficifolia*).

An arboricultural assessment and report provided by Arbor Survey is attached to this report and was evaluated against the criteria contained within Council’s Policy.

2. **Key Issues**

*Property Owner’s reason for trees significant listing*

On 10 April 2017 Council received a Significant Tree nomination from the owners of 13 Kinane Street, Brighton to place a Red Flowering Gum (*Corymbia ficifolia*), located in the rear yard of their property on Council’s Significant Tree Register.

The applicant advised that the tree is approximately 80 years old and attracts an abundant birdlife. The application is made to ensure its safety from any unauthorised pruning or removal.

*Independent Arboriculture Assessment*

An assessment of the tree was undertaken on 11 August 2017 by Arbor Survey. This assessment considered the overall arboriculture characteristics, the growing environment and overall site conditions which resulted in the following findings:

- The tree is a native species, being *Corymbia ficifolia* (West Australian Fred-Flowering Gum), estimated to be 70-80 years old.

- The overall condition is considered to be fair to good, with a reasonably dense crown and good extension growth. The structure does have some defects, such as decay in the stem/trunk however there is reaction wood around the old wood and the structure is not considered to be compromised.

- The tree is not overly large in terms of height however it is quite broad spreading and it does have a reasonably large trunk diameter.

- The property appeared in a 1942 edition of Home Beautiful magazine and in the article there is a diagram/landscape plan which shows a tree in the same location. It is unknown how large the tree was at that stage as it is not visible from the street (based on the photographs in within the magazine).

The assessment of the tree for significance found that the tree meets the following Policy criteria:

- Criteria 5: ‘Outstanding Size’ for its trunk circumference and overall canopy size;

- Criteria 6: ‘Aesthetic Value’ for its aesthetic significance to the site and immediate local area.

The assessment focused on the ten criteria within Council’s Policy, which is based upon the National Heritage Trust agreed criteria for assessing significant trees (Refer
attachment 2 ‘Significant Tree Criteria Assessment’). These criterion were used to assess the tree for significance in the local context within the City of Bayside, needing to meet at least one of the ten criteria to be considered significant.

As the tree met two of the Significant Tree Criteria it is recommended that the tree be included in the City of Bayside Register of Significant Trees.

**Council’s Arborist’s Assessment:**

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

3. **Considerations and implications of recommendation**

**Liveable community**

**Social**

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

**Natural Environment**

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

**Built Environment**

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

**Customer Service and Community Engagement**

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

**Human Rights**

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

**Legal**

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

**Finance**

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

**Links to Council Policy and Strategy**

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

Vegetation that has been identified as significant is one of the primary features of Bayside, contributing to the amenity of the residential environment and established land.
values. The benefit of the Significant Trees Management Policy 2013 is that trees that are included on the register can only be added or removed from it by a Council resolution.

4. **Recommendation**

   That Council:

   1. Grants significant status for a Red Flowering Gum (Corymbia ficifolia), located in the rear yard of 13 Kinane Street, Brighton.

   2. Writes to the applicants informing them of Council's decision.

**Support Attachments**

1. ArborSurvey ↓
SIGNIFICANT TREE ASSESSMENT
CORYMBIA FICIFOLIA (RED FLOWERING GUM)

Site Address:
13 Kinane Street, Brighton

Report Prepared for:
Bayside City Council

Prepared by:
Mark Reynolds
Arboricultural Consultant

Prepared 11 August 2017
<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. SUMMARY .......................................................... 3</td>
</tr>
<tr>
<td>2. SCOPE AND OBJECTIVES ........................................... 4</td>
</tr>
<tr>
<td>3. SITE LOCATION AND SURVEY METHODOLOGY ....................... 4</td>
</tr>
<tr>
<td>3.1. SITE LOCATION .................................................. 4</td>
</tr>
<tr>
<td>3.2. SURVEY METHODOLOGY ........................................... 5</td>
</tr>
<tr>
<td>4. SIGNIFICANT TREE ASSESSMENT .................................. 6</td>
</tr>
<tr>
<td>4.1. RECOMMENDATION ................................................ 8</td>
</tr>
<tr>
<td>4.2. PHOTOGRAPHS .................................................... 9</td>
</tr>
<tr>
<td>5. QUALIFICATIONS AND EXPERIENCE OF CONSULTANT ............... 10</td>
</tr>
<tr>
<td>6. APPENDICES ................................................................ 11</td>
</tr>
<tr>
<td>6.1. EXPLANATION OF TERMS ........................................... 11</td>
</tr>
<tr>
<td>6.1.1. Glossary of terms ............................................... 11</td>
</tr>
<tr>
<td>6.1.2. Origin ............................................................ 12</td>
</tr>
<tr>
<td>6.1.3. Health ............................................................ 13</td>
</tr>
<tr>
<td>6.1.4. Structure ........................................................ 13</td>
</tr>
<tr>
<td>6.1.5. Age Class ....................................................... 14</td>
</tr>
</tbody>
</table>
1. Summary

The scope of the arboricultural assessment is to undertake a Significant Tree Assessment of a *Corymbia ficifolia* (Red Flowering Gum) located in the rear open space of 13 Kinane Street, Brighton. This assessment has been undertaken at the request of Bayside City Council.

The assessment of the tree was undertaken on 11 August 2017. The assessment of the tree considered the overall arboricultural characteristics, the growing environment and overall site conditions surrounding the tree. The assessment also identified the tree protection zones (as based upon the *Australian Standard AS4970-2009—Protection of Trees on Development Sites*).

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

The subject tree is a West Australian native species, being a *Corymbia ficifolia* (Red Flowering Gum) which is estimated as being 70 – 80 years of age. The overall condition of the tree is considered to be fair - good with a reasonably dense crown and good extension growth. The structure of the tree does have some defects, such as decay in the stem/trunk however there is reaction wood around the old wound and the structure is not considered to be compromised.

The tree is not overly large in terms of height; however, it is quite broad spreading and it does have a reasonably large trunk diameter. There is limited history to the tree, however the property was noted in a 1942 edition of Home Beautiful magazine and in the article, there is a diagram/landscape plan which shows a tree in the same location. It is unknown how large the tree was at that stage as it is not visible from the street (based on the photographs within the magazine).

The assessment of the tree for significance found that the tree meets the Bayside Council’s Policy criteria 5: ‘Outstanding Size’ for its trunk circumference and overall canopy size and criteria 6: ‘Aesthetic Value’ for its aesthetic significance to the site and immediate local area. This rating is aligned to the National Heritage Trust criteria being the ‘Social’ criteria for its contribution to the landscape and the ‘Aesthetic’ criteria for its outstanding size based on its trunk circumference and overall canopy dimensions. It must be noted that this assessment is based on a local context within the City of Bayside and this tree only meets the Local and Neighbourhood Significance ratings within Council’s Significant Tree Management Policy 2013. There are two other trees on the register of the same species located at 43 Crisp Street, Hampton and 5 Tramway Parade, Beaumaris. In comparison to these two trees, this tree has a similar if not greater, trunk circumference.

As the tree meets at least one of the Significant Tree Criteria it is recommended that the tree be included in the City of Bayside Register of Significant Trees.
2. **Scope and Objectives**

Arbor Survey Pty Ltd was engaged by Bayside Council to prepare a Significant Tree Assessment (in line with the Guidelines of the National Heritage Trust for the assessment of Significant Trees) for one (1) tree located in the rear open space of 13 Kinane Street, Brighton. The objectives of the assessment are:

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

3. **Site Location and Survey Methodology**

3.1. **Site Location**

The subject tree is located in the rear open space of 13 Kinane Street, Brighton. The site is a relatively flat parcel of land with a very minor change in grade. The recent aerial photograph below shows the location of the tree and the approximate outline of the property boundaries.
3.2. **Survey Methodology**

The collection of data was undertaken by Mark Reynolds on 11 August 2017. The data was captured on site of the characteristics of the subject tree and is recorded in this report in a detailed table, located in Section 4.

The tree was assessed and the Genus/species, origin, estimated height and canopy width, calculated diameter at breast height (DBH) and the characters of health and structure were recorded. Additionally, age class and arboricultural value of the tree was assessed using the descriptors as set out in the explanation of terms in Appendix 6. Physical tree dimensions were used to assess the tree protection and structural root zones based upon the *Australian Standard AS4970:2009 – Protection of Trees on Development Sites*.

Data collected has been used to calculate the Structural Root Zone (SRZ) and the Tree Protection Zone (TPZ) and the total area of tree protection. These calculations are based upon the *Australian Standard AS 4970: 2009 - Protection of Trees on Development Sites*.

The survey and assessment undertaken of the subject tree was made from a visual inspection from ground level only. The trees were not climbed and no samples of soil, plant material or pest and disease infestation (if present) were taken for analysis. Species identification was carried out in the field and is considered as common; no samples have been taken to the National Herbarium of Victoria for accurate analysis and identification.

Defects not apparent from this ground-based visual inspection are excluded from the discussion within this report. Additionally, this report is based upon the condition of the trees at the date of assessment only.

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

**Owners Name:** Alison Monotti  
**Date Inspected:** 11/8/2017  
**Time Inspected:** 9:30am  
**Street Address:** 13 Kinane Street  
**Suburb:** Brighton  
**Post Code:** 3186

**Site Conditions**

<table>
<thead>
<tr>
<th>Topography:</th>
<th>Flat [ ]</th>
<th>Slope [x]</th>
<th>Change in level [m]: Less than 1.0 metre over site</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soil Conditions:</td>
<td>Sandy Loam</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prevailing wind and Environmental conditions:</td>
<td>South Easterly/ Westerly. No other environmental conditions are of concern.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Private or Public Land?</td>
<td>Private land – North East corner of property,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Comments:</td>
<td>Situated in garden area, infrastructure surrounding the tree with concrete driveway to the north, swimming pool to the west and dwelling and sheds to the east and south.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Species Profile**

<table>
<thead>
<tr>
<th>Tree Number or ID:</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Genus/Species</td>
<td>Corymbia ficifolia</td>
</tr>
<tr>
<td>Common Name</td>
<td>Red Flowering Gum</td>
</tr>
<tr>
<td>Height (m):</td>
<td>13</td>
</tr>
<tr>
<td>Spread (N – S):</td>
<td>11</td>
</tr>
<tr>
<td>Spread (E – W):</td>
<td>11</td>
</tr>
<tr>
<td>DBH (cm):</td>
<td>117</td>
</tr>
<tr>
<td>Basal Dia (DAB) (cm):</td>
<td>Over 125</td>
</tr>
<tr>
<td>Trunk Circumference (cm) at breast height:</td>
<td>367.6</td>
</tr>
<tr>
<td>Origin:</td>
<td>Native (Western Australian)</td>
</tr>
<tr>
<td>Age Class:</td>
<td>Mature</td>
</tr>
<tr>
<td>Estimate of Age (years):</td>
<td>70 - 80 Years</td>
</tr>
<tr>
<td>Type of Planting:</td>
<td>Specimen</td>
</tr>
<tr>
<td>Deciduous/ Evergreen?:</td>
<td>Evergreen</td>
</tr>
<tr>
<td>In Active Growth or Dormant on Inspection?:</td>
<td>Active Growth</td>
</tr>
<tr>
<td>Health Rating:</td>
<td>Good</td>
</tr>
<tr>
<td>Overall health and canopy Condition:</td>
<td>Live crown ratio approximately 80% (Good), crown density of approximately 90%. Tree is in good health with signs throughout the crown of extension growth. Very minimal deadwood in the crown (most less than 20mm diameter). Steel cable has been installed in the crown many years ago. Cable requires adjustment.</td>
</tr>
<tr>
<td>Trunk and Structural condition:</td>
<td>Tree may have a leader in the past as there is decay on one side of the trunk. Branching structure considered to be good with no signs of sunken areas below unions. Response growth evident on compression side of main leaders. Exceptional wound wood formation around old pruning wounds and tree has compartmentalised around old wounds. Response growth around old decay in trunk. Sounding hammer used and no other areas of decay found in trunk.</td>
</tr>
<tr>
<td>Rooting Environment and root condition:</td>
<td>No signs of any damage or decay to root buttress – sounding hammer used</td>
</tr>
<tr>
<td>Pests and Disease Presence:</td>
<td>No signs or symptoms present during inspection</td>
</tr>
<tr>
<td>Past Management:</td>
<td>Tree has been regularly pruned. Last pruning was approximately 1 – 2 years ago. The tree is regularly weight reduced.</td>
</tr>
<tr>
<td>History within root zone:</td>
<td>No major changes in recent years. In the past infrastructure has been installed within the tree protection zone. No signs of any impact to tree health.</td>
</tr>
<tr>
<td>Are there any known threats to this tree?</td>
<td>Possible development threat to tree from works within tree protection zone to the north</td>
</tr>
</tbody>
</table>

**Tree Protection Zones**

<table>
<thead>
<tr>
<th>Trunk Diameter (DBH) (cm):</th>
<th>117</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basal Diameter (DAB) (cm):</td>
<td>Over 125 cm</td>
</tr>
<tr>
<td>Tree Protection Zone (TPZ) (m):</td>
<td>14</td>
</tr>
<tr>
<td>Structural Root Zone (SRZ) (m):</td>
<td>3.6</td>
</tr>
<tr>
<td>Crown Protection Radius (CPR) (m):</td>
<td>6</td>
</tr>
<tr>
<td>Tree Protection Area (m²):</td>
<td>616m²</td>
</tr>
</tbody>
</table>
### History

<table>
<thead>
<tr>
<th>Planting Date:</th>
<th>Unknown – Possibly prior to 1942</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planted for an occasion or event?</td>
<td>Unknown</td>
</tr>
<tr>
<td>Covered by any other Heritage Control or Trust Tree?</td>
<td>Tree Protection Local Law at present as trunk circumference over 155 cm</td>
</tr>
<tr>
<td>Describe history of the tree where known:</td>
<td>No significant event associated with this tree. Discussion with the property owner revealed that the house and garden (landscape plan) was featured in a 1942 Edition of Home Beautiful magazine. The tree is not visible in the photographs, but in the landscape plan a tree is shown in the same location as the Red Flowering Gum.</td>
</tr>
<tr>
<td>Any other historic information known?</td>
<td>None</td>
</tr>
<tr>
<td>How does this tree compare to other trees in the area (where known)</td>
<td>There are two other trees of this species on the Bayside Council Significant Tree Register at 43 Crisp Street, Hampton and 5 Tramway Parade, Beaumaris. This tree is comparable in size in terms of trunk circumference (if not larger) although the height and spread dimensions are relatively similar.</td>
</tr>
</tbody>
</table>

### Scientific Significance Categories (National Trust Criteria)

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

### Social Significance

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

### Historic Significance

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

### Aesthetic Significance

<table>
<thead>
<tr>
<th>Aesthetic Feature</th>
<th>Yes/No</th>
<th>Reasoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outstanding size (height or spread) or form for species within local area</td>
<td>Yes</td>
<td>The tree does have an outstanding size for the age of the tree (both in trunk circumference and spread) within the local area and it is a better than average example of the species in the Bayside municipality.</td>
</tr>
<tr>
<td>Exhibits curious growth form or unusual physical features</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Is a better than an average example of: its species, it location in the urban environment and in the local context</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>
4.1. **Recommendation**

The assessment of the tree for significance found that the tree meets the Bayside Council’s Significant Tree Management Policy 2013 - Criteria 5: ‘Outstanding Size’ for its trunk circumference and overall canopy size and Criteria 6: ‘Aesthetic Value’ for its aesthetic significance to the site and immediate local area. It must be noted that this assessment is based on a local context within the City of Bayside.

As the tree meets at least one of the Significant Tree Criteria it is recommended that the tree be included in the City of Bayside Register of Significant Trees.

Yours sincerely,

Mark Reynolds  
B. App. Sci (Hort) (Melb)
4.2. **Photographs**

![Image of tree 1](image1)

![Image of tree 2](image2)

![Image of tree 3](image3)

![Image of tree 4](image4)
5. QUALIFICATIONS AND EXPERIENCE OF CONSULTANT

Qualifications
- Bachelor of Applied Science (Horticulture) - University of Melbourne (Burnley Campus)

Experience
- Senior Arborist – Boroondara Council
- Open Space Coordinator – Cardinia Shire Council
- Senior Arborist – City of Kingston
- Private arboricultural and vegetation consulting under Tri_dimensional Consulting
- Treescape Consulting Pty Ltd – Arboricultural Consultant
- Bayside City Council – Vegetation Planner/ Investigations Arborist
- Australian Landscape Management – Contract Support – City of Melbourne/ Port Phillip/ Kingston/ Bayside.

Professional Memberships
- Member of the International Society of Arboriculture (ISA)
- Member of Arboriculture Australia
- Member of the Victorian Tree Industry Association (VTIA)
- Member of the Victorian Environment and Planning Law Association (VEPLA)
6. APPENDICES

6.1. EXPLANATION OF TERMS

6.1.1. GLOSSARY OF TERMS

Amenity
Although difficult to quantify, the term as used in this report relates to the contribution given to the landscape or streetscape in terms of visual aesthetics. It may also relate to the contribution in terms of shade or protection from the elements.

Bifurcation
Forked or divided into two or more parts or branches. Used to describe a union point.

Branch Bark Ridge
Swelling of bark tissue on the upper side of the branch junction or union. Considered the normal pattern of development in contrast to included bark (from Matheny & Clark, 1994).

Branch collar
Trunk tissue that forms around the base of a branch between the main stem and the branch. As the branch decreases in vigour or begins to die, the branch collar becomes more pronounced. (AS4373).

Structural Root Zone (SRZ)
The Structural Root Zone (SRZ) is the calculated distance based on DBH only. The SRZ identifies the minimum radius at which the root plate cannot be disturbed. This measure only relates to the trees’ stability and does not take into account the implications of a decline in health. The measurement is given in metres in a radius from the tree trunk. (Coder, 1996). This area may also be referred to as the Root Plate Radius (RPR).

Chlorotic
Discolouration of the leaves, yellow in colour resulting from a lack of chlorophyll

Codominant
Generally relates to trunks/ stems (although it may relate to scaffold branches within the crown) of two or more and of equal or similar size and relative importance [from Matheny & Clark, 1994].

Compartamentalisation
Physiological process which creates the chemical and mechanical boundaries that act to limit the spread of disease and decay organisms (from Matheny & Clark, 1994).

Decay
Degeneration and de-lignification of plant tissue, including wood, by pathogens or micro-organisms (AS4373).

Diameter at Breast Height (DBH)
DBH is measured at 1.4m above ground level. In cases where the tree has up to four stems the diameter is calculated by taking the area of each stem at 1.4 metres and calculating the combined diameter. In trees with more than four stems
the measurement is provided as ‘Multi-stemmed’, however in some cases the diameter will be taken at the point below the multi-stemmed union. Note: the DBH measurement may not show individual stem measurements however the calculated measurement is shown. Where the tree has multiple stems this is noted within the notes within the tree data. Where the DBH is estimated this is also noted in the notes within the tree data table.

**Epicormic Shoots**
Shoots which arise from adventitious or latent buds (usually dormant). They are generally produced in response to environmental stress.

**Included Bark**
The pattern of development at a branch union where bark is turned inward rather than outward or pushed out. Relates to the branch bark ridge. (from Matheny & Clark, 1994)

**Live Crown Ratio**
Relative proportion of healthy crown in proportion to overall tree height. Often not used in isolation due to the different natural forms of many species.

**Lateral**
A branch arising from another branch or stem (AS4373)

**Lopping**
Cutting back a limb or stem at any point with no regard to natural target pruning. Random cutting of branches or stems between branch unions or at Internodes on young trees. Not considered an acceptable practice as part of the Australian Standard AS4373: Pruning of Amenity Trees.

**Tree Protection Zone (TPZ)**
The Tree Protection Zone (TPZ) (referenced from Australian Standard AS 4970 - 2009 - Protection of Trees on Development Sites; is the calculated distance based on the DBH of the tree. The TPZ addresses the physiological implications by retaining enough area around the tree not only to minimise the potential for complete tree failure but for the tree to survive in the landscape on a long-term basis. The measurement is given in metres in a radius from the centre of the trunk.

**Senescence**
The organic process of age and the deterioration of tissue within the tree.

**Stem bark ridge**
The ridge of bark that forms in the union between two codominant stems (AS4373).

**Wound wood**
Lignified, partially differentiated tissue which develops from the callus associated with wound or pruning cuts.

**6.1.2. Origin**
Origin is given as Indigenous (the trees’ natural range is within the study area), Native (the trees natural range is within Australia) or Exotic (the tree originates from outside of Australia).
6.1.3. Health

Health relates to the tree vigour, live crown ratio and canopy density.

Health is rated according to the following categories:

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>Crown is excroutant or decroutant with greater than 50% live crown ratio. Foliage density is greater than 70% at optimal growth. There is less than 10% canopy dieback present and foliage has no or very minor tip dieback. Tree may also have acceptable extension growth if it is in active growth and is showing no symptoms of nutrient deficiency. The tree also has good wound wood development.</td>
</tr>
<tr>
<td>Fair</td>
<td>Crown is excroutant or decroutant with 30-50% live crown ratio. Foliage density is between 50-70% at optimal growth for the species. There may be 10-30% canopy dieback present and foliage may have minor tip dieback. Tree maybe showing signs of normal growth but it is not consistent throughout the crown. Some foliage discoloration maybe present from possible nutrient deficiency or other cause.</td>
</tr>
<tr>
<td>Poor</td>
<td>The tree may have less than 30% live crown ratio and the canopy may be codominant or suppressed. There may be greater than 30% canopy dieback present and foliage density is below 50%. Stunted growth through leaf size or petiole extension and discoloration of the leaf may be present. Tree may be producing epicormic shoots as a stress response. Nutrient deficiency, lack of resources (water, light etc) or pathogens may be the causal agent in the tree's decline</td>
</tr>
</tbody>
</table>

6.1.4. Structure

Structure relates to the physical form of the tree, including the trunk(s), main scaffold branches and roots. Structure includes the attributes that may influence the probability of major trunk, limb or root failure.

Structure is rated according to the following categories:

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>The form of the tree is typical for the species and exhibits good symmetrical form. Major limbs are well formed with acceptable branch taper and unions appear to be strong with no signs of defects. The tree has minimal defects throughout the trunk and limbs. There is no sign of root plate heave or damage to the root system. The tree is unlikely to suffer branch or trunk failure under normal environmental conditions.</td>
</tr>
<tr>
<td>Fair</td>
<td>Tree has a fairly consistent form for the species. Tree may exhibit minor structural defects that may be managed through formative pruning. Only minor wounds are present that do not affect the overall stability or structural integrity of the tree. Minor root damage may have occurred in the past. Defects present are likely to cause only minor branch failure under normal environmental conditions.</td>
</tr>
<tr>
<td>Poor</td>
<td>Tree has a poorly formed crown that is not symmetrical. Branch and or trunk taper may be unacceptable and scaffold limbs may be overextended. Branch unions may exhibit significant defects that cannot be managed through formative pruning. Major root damage may have occurred and there may be evidence of root plate heave. Defects that are present may result in catastrophic failure of branches or trunk under normal environmental conditions.</td>
</tr>
</tbody>
</table>
### 6.1.5. Age Class

The age class is given as a guide to the current live stage of the tree. Ultimately, the level of maturity that a tree may reach is dependent on the growing environment.

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Planting</td>
<td>Planted within approximately 2 years</td>
</tr>
<tr>
<td>Juvenile</td>
<td>Generally less than 5 years old</td>
</tr>
<tr>
<td>Young</td>
<td>Estimated as less than 15 years old</td>
</tr>
<tr>
<td>Semi-mature</td>
<td>Estimated at between 15 – 25 years old, however, this may be species dependant</td>
</tr>
<tr>
<td>Mature</td>
<td>Estimated at over 25 years old or in a life stage that is considered at the peak of growth for the species.</td>
</tr>
<tr>
<td>Senescent</td>
<td>In the declining phase of the trees lifespan</td>
</tr>
</tbody>
</table>
4.3 6-8 HEMMING STREET, BRIGHTON EAST
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/56/1 WARD: NORTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/227198

1. Purpose and background
To report a planning permit application for the construction of 10 double storey dwellings on a lot with an area of approximately 1,970 square metres (refer Attachment 1) at 6-8 Hemming Street, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Hemming Street Development P/L</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>26 April 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>5 July 2017</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.08-4 (General Residential Zone) – Construction of two or more dwellings on a lot.

3. Stakeholder Consultation
External referrals
There were no external referrals required to be made in accordance with Clause 66 of the Bayside Planning Scheme.
Internal referrals
The application was referred to the following Council departments for comment:

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

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and two objections were received. The following concerns were raised:
- Location of utility services / meters
- Impact of noise on neighbouring dwellings
- Traffic concerns
- Clarification on terminology
- Proposed design and lack of detailing
- Overlooking, request adequate screening be provided
- Does not meet requirements of Clause 55 in relation to:
- Internal views;
- Private Open Space; and
- Storage.

- Waste Management;
- New boundary fencing should be provided at developer’s cost; and
- No landscaping plan provided.

Consultation meeting

A consultation meeting was held on 7 August 2017 attended by the permit applicant and two objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/56/1 for the land known and described as 6-8 Hemming Street, Brighton East, for the construction of 10 double storey dwellings in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

a) Significantly improved landscaping opportunities through the rear north-south accessway to the satisfaction of the Responsible Authority. This may require some reduction in the building footprint.

b) Dwelling A.05 to comply with Standard B17 at ground and first floor on the southern boundary.

c) The ground floor side setback of dwelling B.05 adjacent to the southern boundary to be increased to 2.0 metres from the boundary to avoid encroachment into the easement.

d) The provision of external security lighting through the communal vehicle access within the site.

e) The first floor windows on the northern elevation of units A.01 and B.01 to be obscure glazed below 1.7 metres from finished floor level.

f) The timber pergola screening to the balcony of unit B.01 to be a maximum transparency of 25% to a height of 1.7 metres above the balcony finished floor level.

g) The crossover for unit B.05 to have a minimum 0.5 radius between the side entry pit and the southern edge of the crossover.

h) Landscaping changes to include the provision of a canopy tree (8 metres by 4 metres) in the front setback of all of the B dwellings fronting Hemming Street.

i) Removal of the powder room to A.04 and replacement with a large glazed window providing surveillance into/from the entrance hall.
j) Location of all plant and equipment, including hot water services and air conditioners etc.

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

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

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

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

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

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

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

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

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

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

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

8. Before the development starts, a 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 Greenwood Consulting, dated 30 January 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

   a) Changes as required by condition 1(a).

   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.

9. 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.

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

11. Before the 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.

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

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

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

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

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

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

15. There is to be no soil excavation within 2 metres of all street tree assets measured from the edge of the trunk.

16. A tree protection fence is required 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 AS 4970-2009, Protection of trees on development sites.

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

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

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

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

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

19. 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.

20. 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.

21. 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.

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

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

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

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

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

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

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

- Before the vehicle crossing application will be approved, the applicant must pay $1,308.26 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.

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

- The Fraxinus Ornus (Tree 1) street tree asset can be removed under Clause 6.5 of the Street and Park Tree Management Policy (2016) to allow the development to proceed with the installation of the proposed southern vehicle crossing in the proposed location.

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 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
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 D2 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The development allows for spacing between the blocks of dwellings to retain a sense of spaciousness. The proposed dwellings are of a high quality contemporary design utilising a varied palette of materials that will complement the surrounding character and not dominate the streetscape. Council’s Arborist is satisfied that the proposed landscaping is appropriate for the area and will not impact on existing neighbouring trees. In summary, the proposal is considered acceptable in terms of the impact on neighbouring character.

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:

**Safety (Standard B12)**

External light bollards are proposed along the vehicular entranceway to the site. A condition is included in the recommendation requiring the provision of external security lighting through the internal vehicular accessway to ensure good lighting, visibility and surveillance is provided.

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

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0-0.2m or 2.0m</td>
<td>Dwelling B.01 – 0.2m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Dwelling A.01 – 2m</td>
</tr>
<tr>
<td>South(side)</td>
<td>0-0.2m or 2.0m</td>
<td>Dwelling B.05 – 1.2m</td>
</tr>
</tbody>
</table>
Underlined in bold indicate those non complying setbacks that would remain post conditional changes. The underlined non complying setbacks not in bold will be addressed through condition 1 changes to require compliance with standard B17.

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

On the southern boundary, dwelling B.05 is compliant with the required setbacks at first floor level. A condition is included in the recommendation requiring dwelling A.05 to comply with the required first floor setbacks. Full compliance will therefore be achieved for the setbacks along the southern boundary.

A variation is also sought to the required setbacks along the northern boundary at first floor level. The proposed setbacks vary between 3.16 metres (dwelling A.01) and 3.8 metres (dwelling B.01). The required setbacks are 3.84 metres (dwelling A.01) and 3.92m (dwelling B.01). There is a single dwelling on the adjoining lot, 10 Hemming Street. This property is single storey with several south facing habitable windows. Due to the narrow side setback, the first floor will not be readily visible from this neighbouring property. Furthermore, the proposal does not result in any overshadowing to this property given that it is to the north of the subject site.

Along the eastern (rear boundary), the setbacks at first floor level are 3 metres. The required setback is 4.8-4.98 metres. The side boundary of the two storey dwelling at 6/1 Barr Street abuts the majority of this boundary. There is a 6 metre separation distance between the built form on both the subject site and the neighbouring property. Whilst a variation is also sought for this elevation, there will be no overlooking or loss of privacy, nor will the proposed development impact on the private open space of this dwelling.

It is acknowledged that the proposed development seeks a variation to the side and rear setbacks at first floor level on the northern side and rear elevations. This is however the only standard of Rescode for which a variation is sought, the proposal showing full compliance will all the other standards. Furthermore, in terms of the impact on neighbouring amenity and neighbourhood character, the proposal is considered to be acceptable and compliant. As such, it is considered that the objective of this clause is achieved, even with the proposed variations.

**Overlooking (Standard B22)**

The submitted plans show that the proposal achieves full compliance in terms of overlooking to neighbouring properties. The applicant has however indicated that timber screening with a maximum opening of 25% and a height of 1.7 metres will be provided to the balcony to unit B.01 to further reduce the impact on 10 Hemming Street. A condition is included in the recommendation to this extent.

**Noise Impacts (Standard B24)**

The applicant has also indicated that no mechanical units will be mounted facing the neighbouring property at 10 Hemming Street. A condition is included in the recommendation that the location of all mechanical equipment be shown on the development plans.

**6.3 Car parking and traffic**

Each dwelling is provided with two car spaces in accordance with Clause 52.06. In addition, sufficient visitor parking is provide in line with the requirements of Clause 52.06.
Council’s Traffic Engineer has reviewed the application and raised no objection subject to minor conditions. All recommendations are included as conditions of approval.

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

**6.4 Street tree removal**

There are four street trees fronting the subject site. The proposed vehicle crossing conflicts with the location of Tree 1 *(Fraxinus ornus)*, however Council’s Open Space Arborist has advised that this tree can be removed under section 6.5 of the *Street and Park Tree Management Policy (2016)*. The other three street tree assets (trees 2, 3 and 4) are sufficiently distanced from the proposed central crossing. Conditions are included in the recommendation to ensure these trees are protected during construction works.

**6.5 Vegetation & Landscaping**

The application site is not affected by any tree controls under the Bayside Planning Scheme. Council’s Arborist has reviewed the submitted Landscaping Plan and has advised that the proposed development will not impact on trees on neighbouring properties, subject to appropriate protection methods. Conditions are therefore included in the recommendation requiring a Tree Protection Plan be submitted and the landscaping plan to show the planting of one canopy tree in the front setback of each dwelling. Landscaping improvements will also be required along the north-south accessway within the site.

**6.6 Objections received**

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

**Does not meet requirements of Clause 55**

The proposed development is compliant with all aspects of Clause 55 except for standard B17, which relates to side and rear setbacks. This issue has been addressed earlier in the report.

**Waste Management**

The applicant has submitted an indicative Waste Management Plan, which shows that the waste collection will be from a private contractor. Space has also been provided within the development for bin storage and the bins will be collected within the site, thereby avoiding the need to place bins on the street for kerbside collection. A condition will be included in the recommendation requiring the submission of a Waste Management Plan.

**Support Attachments**

1. Development Plans ▼
2. Site and surrounds imagery ▼
3. Neighbourhood Character Policy ▼
4. Clause 55 Assessment ▼
Item 4.3 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>Objector(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td><img src="image" alt="Subject site" /></td>
<td><img src="image" alt="Objector(s)" /></td>
</tr>
</tbody>
</table>
Figure 2 Subject site from the west.

Figure 3 Looking towards 10 Hemming Street to the north of the site.
Figure 4 Looking towards south-east corner of site
ATTACHMENT 3
Neighbourhood Character Policy (Precinct D2)

Preferred Future Character Statement
The simple, articulated dwellings sit within landscaped gardens. Buildings are occasionally built to the side boundary; however the overall impression of the streetscape is of buildings within a garden setting due to the regular front setbacks and additional tree planting within the area. New buildings blend with the existing, by following these patterns and using materials that harmonise, where brick colours are consistent in a street. Front fences are low or open retaining the openness of the streetscape and view of the front gardens. On properties that adjoin the golf course, buildings are sited and designed so as not to overwhelm the open space. Consistent street tree planting has assisted in unifying the appearance of the area.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain 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.  
Loss of front garden space | Responds, subject to conditions  
Council’s Arborist is satisfied that the landscaping plan showing one canopy tree in the front setback of each dwelling is appropriate and that there will be no adverse impact on neighbouring trees. |

| 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  
The proposed development is broken up into four blocks, two to the front and two to the rear of the site. This allows for spacing between the individual blocks as well as to the sides of the site. |

| To ensure that buildings do not dominate the streetscape. | • Incorporate articulated roof forms, plan form and wall surfaces in new buildings visible from the street. | Large bulky buildings with poorly articulated | Responds  
The development is set back from the streetscape in line with the requirements of Clause 55. The dwellings are two storey |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To reflect the building materials in locations where there is a particular consistency.</td>
<td>- Recess second storey elements from the front façade.</td>
<td>front or side wall surfaces.</td>
<td>with good articulation incorporated through varying setbacks and a varied palette of materials.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>- Where consistent brick colours are present in the streetscape, use similar tonings in the colours of new buildings.</td>
<td>Brightly coloured external building materials in areas of consistent brick materials.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposal is contemporary in design utilising a varied palette of material including render and timber cladding</td>
</tr>
<tr>
<td>To encourage development that responds to its location adjacent to the golf course.</td>
<td>- Where development directly borders the golf course, recess upper levels from the boundary nearest the open space.</td>
<td>Poorly articulated or dominating development fronting the golf course.</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No front fencing is proposed.</td>
</tr>
</tbody>
</table>

Item 4.3 – Matters of Decision
### BAYSIDE PLANNING SCHEME – CLAUSE 55

<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 contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>Whilst all ten dwellings will have three bedrooms, the layouts are varied, with both reverse and traditional living arrangements and provision of a kitchen, shower, toilet and wash basin on the ground floor in five of the dwellings.</td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>The site is located within a developed residential area and has existing utility provision which will be utilised.</td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td>Complies</td>
<td></td>
</tr>
<tr>
<td>Complies – the proposed development has five dwellings fronting onto Hemming Street, with both vehicular and pedestrian access.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complies - adjacent properties are</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Outcome</td>
</tr>
<tr>
<td>--------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>4.3</td>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>setback 3.7m and 6m. The setback at ground floor level of the dwellings fronting Hemming Street is 6 metres.</td>
</tr>
</tbody>
</table>
| B7     | **Building Height**  
Building height should respect the existing or preferred neighbourhood character.                                                                                                                     | Complies – the proposed dwellings are all less than 9 metres in height across the site.                                                                                                               |
| B8     | **Site Coverage**  
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.                                                                                     | Complies - allowed – 50% max  
Proposed – 49.24%                                                                                                                                                                                       |
| B9     | **Permeability**  
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.                                                                                             | Min required – 20%  
Proposed – submitted information states 29.87%                                                                                                                                                       |
| B10    | **Energy Efficiency**  
Achieve and protect energy efficient dwellings and residential buildings.  
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.                               | Dwellings oriented to receive either east or west sunlight and daylight.                                                                                                                                 |
| B11    | **Open Space**  
Integrate layout of development with any public and communal open space provided in or adjacent to the development.                                                                                           | N/A                                                                                                                                                                                                   |
| B12    | **Safety**  
Layout to provide safety and security for residents and property.                                                                                                                                                                                                    | Light bollards provided along entrance to site, condition to require within remainder of accessway.                                                                                                |
| B13    | **Landscaping**  
To provide appropriate landscaping  
To encourage:  
Development that respects the landscape character of the neighbourhood.  
Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
The retention of mature vegetation on the site.                                                                                                     | Complies – Council’s Arborist is satisfied subject to conditions.                                                                                                                                 |
| B14    | **Access**  
Ensure the safe, manageable and convenient vehicle access to and from the development.                                                                                                                   | One vehicle entrance to site for eight dwellings.                                                                                                                                                       |
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><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>North (side)</td>
<td>0-0.2m or 2.0m</td>
</tr>
<tr>
<td>South(side)</td>
<td>0-0.2m or 2.0m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3.0m</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. |
| B20 North Facing Windows | Allow adequate solar access to existing north-facing habitable room windows. |
| B21 Overshadowing Open Space | Ensure buildings do not significantly overshadow existing secluded private open space. |
| B22 Overlooking | Limit views into existing secluded private open space and habitable room windows. |

Complies.

Complies.

Complies.

Complies.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</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>
</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>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</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>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Item</th>
<th>Complies/Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>B23 Internal Views</td>
<td>Complies</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Complies – applicant will ensure no mechanical plant along north elevation by 10 Hemming Street – condition.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Complies.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Complies.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Complies.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Complies. Dwelling B01-B05 have balconies as well as front gardens. All other dwellings have rear gardens with SPOS.</td>
</tr>
<tr>
<td>B29 Solar Access to Open Space</td>
<td>Complies.</td>
</tr>
<tr>
<td>B30 Storage</td>
<td>Complies</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Complies</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>N/A – no front fencing proposed.</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Complies</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Complies.</td>
</tr>
</tbody>
</table>
1. Purpose and background

To report a planning permit application for the construction of two dwellings and alteration to a road in a Road Zone, Category 1 on a lot with an area of 608.77 square metres (refer Attachment 1) at 637 Hawthorn Road, Brighton East (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Alexandnou &amp; Associates Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>7 June 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>7 August 2017</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

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

Clause 52.29 (Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road) – A permit is required to create or alter access to a road in a Road Zone, Category 1.

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>VicRoads</td>
<td>No objection or 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>Street Addressing</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 three objections were received. The following concerns were raised:

- Overlooking;
- Visual bulk;
- Overshadowing;
- Insufficient side and rear setbacks;
- Noise issues.

**Consultation meeting**

A consultation meeting was held on 28 August 2017 attended by the permit applicant and two objectors. As a result of this meeting one objection was withdrawn. Two objections remain.

**4. Recommendation**

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2016/301/1** for the land known and described as **637 Hawthorn Road, Brighton East**, for the **construction of two dwellings and alteration 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 decision plans, prepared by Alexandrou & Associates and Council date stamped 7 June 2017, but modified to show:

   a) The proposed front porches of both dwellings to be reduced to 3.6m high measured from Natural Ground Level to comply with Standard B6 of the Bayside Planning Scheme.

   b) The proposed south side setback of Bedroom 2 and Bedroom 3 of Dwelling 2 to demonstrate compliance with (and if necessary be amended) Standard B17 of the Bayside Planning Scheme.

   c) The proposed rear setback to achieve full compliance in accordance with Standard B17 of the Bayside Planning Scheme.

   d) The proposed wall on boundary of Master Bedroom of Dwelling 1 to be redesigned to achieve full compliance in accordance with Standard B18 of the Bayside Planning Scheme.

   e) All the habitable room windows to demonstrate compliance in accordance with Standard B22 of the Bayside Planning Scheme.

   f) Provision of a dividing fence with a minimum height of 1.8 metres within the rear setback of the dwellings in accordance with the requirements of Standard B23 of the Bayside Planning Scheme.

   g) Provisions of clotheslines to each proposed dwelling.

   h) Deletion of first floor Bedroom 3 Balcony of Dwelling 1.

   i) Adequate sightlines to be demonstrated on the plans in accordance with the Design standards for car parking pursuant to Clause 52.06-8 (Car Parking) of the Bayside Planning Scheme for Dwelling 2.

   j) Water sensitive urban design measures in accordance with Condition 8 of this permit.

   k) Any consequential changes to the plans to comply with any conditions of this permit which must result in no increase in the built form and 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 (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

7. The proposed turntable must be remained functional and used for the vehicles exiting on to the Hawthorn Road at all time.

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.

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 openings 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 revised 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 Sun ‘n’ Shade, dated 12/04/2017 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 the proposed tree removal including Tree #20.

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) 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) A minimum of one large canopy tree must be provided in the front setback of each dwelling, and medium canopy trees within the proposed Alfresco Area and Secluded Private Open Space of each dwelling. Large trees are defined as having the capacity to reach a mature height of 10 m and spread of 6 m and medium trees are defined as having the capacity to reach a mature height of 8m and spread of 6m.

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.

Drainage

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

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

Development Contributions

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

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

Permit Expiry

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

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

b) The development is not completed within four years of the date of this permit.
In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

**Permit Notes**

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

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

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

- Council records indicate that there is no easement within the property.

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

5. **Council Policy**

Council Plan 2017-2021

Relevant 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 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.11 Local Areas
- Clause 22.06 Neighbourhood Character Policy (Precinct B5)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 52.29 Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road
- 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 D1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The proposed development includes the construction of two, double storey, side by side dwellings. The contemporary style dwellings feature a variety of rendered elements, and selected brick veneers to create a visually interesting design response to the streetscape.

The siting of the development is consistent in general with the existing and preferred character of the area through the provision of adequate boundary spacing and reasonable landscaping opportunities.

The proposed design response, through the use of varied materials and finishes and appropriate articulation will work to ensure the dwellings complement rather than overwhelm the streetscape context.

6.2. Compliance with Clause 55 (ResCode)

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

Front setback (Standard B6)

The Standard B6 requires 9m front setback from the front walls of new dwellings. It is noted the proposed bay windows encroaches to the required setback however they are technically not a front wall which shouldn't be taken into considerations.

The non-compliant section is the proposed porch of each dwelling is more than 3.6m high which will be conditioned to be reduced to achieve compliance to minimise the impacts on the streetscape.

Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>0m or 2m+</td>
</tr>
<tr>
<td>South (side)</td>
<td>2m</td>
<td>2m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>3m</td>
<td>2m – 3.644m</td>
</tr>
</tbody>
</table>
As noted above, the proposed first floor north and south (side) setbacks seek a minor variation to the minimum setback requirements of Standard B17 of just 200mm. This is acceptable and of little consequence (amenity wise) due to the abutting interface being a side service yard area.

The proposed rear setback does not comply with the standard at the ground floor and the first floor. The proposed ground floor garage of Dwelling 1 is setback 2m from the rear boundary which does not comply with the standard and the backyardscape in the broader neighbourhood, it will be conditioned to comply. The proposed first floor rear setback of Dwelling 1 and also the bathroom of Dwelling 2 are non-compliant sections. These sections will be conditioned to comply to protect the rear yard rhythm as well as the pattern of the neighbourhood. The proposed balcony at the rear of Dwelling 1 results in impacts on the backyard character and will be deleted as part of the conditions.

It is also noted the previous refusal 2013/239 raised the similar concerns of non-compliant rear setbacks.

**Wall on Boundaries (Standard B18)**

Standard B18 requires 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. The maximum and average height of the proposed of Master Bedroom of Dwelling 1 do not comply with the standard. It offers significant visual bulk issue to the streetscape when viewing from the north at Hawthorn Road. It will be conditioned in the permit to comply with the standard.

**Overlooking (Standard B22)**

Standard B22 requires the proposed habitable room windows limits views into existing schedule private open spaces and habitable room windows.

The proposed ground floor has not been screened accordingly given the existing fence is less than 1.8m high. A number of proposed first floor habitable room windows with views towards the adjoining secluded private open space areas have not been screened in accordance with this requirement. It will be dealt through the condition regarding a demonstration of compliance for all windows.

**Internal Views (Standard B23)**

Standard B23 requires windows and balconies to be designed to prevent overlooking of more than 50 per cent of the secluded private open space of a lower level dwelling or residential building directly below and within a development.

A condition of permit requires the provision of a 1.8 metre high dividing fence at ground floor level to meet the requirements of this standard.

**Site Services (Standard B34)**

Standard B34 requires site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. The proposed development includes all the required services in appropriate locations but not the clotheslines. It will be conditioned in the permit.

### 6.3. Car parking and traffic

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

Each dwelling proposed is provided with 4 bedrooms and accordingly, two on site car parking spaces are required.

The proposal offers the provision of two on site car parking spaces to each dwelling. The proposed Dwelling 1 garage will be accessed from the existing rear laneway and the
proposed basement garage of Dwelling 2 is accessed via the existing crossover off to Hawthorn Road.

Council’s Traffic Engineer has advised that the rear laneway is too narrow to be supported for the current garage arrangement at Dwelling 1. The applicant provided a traffic report including turning template assessment showing the vehicle can be accessed from the garage with a corrective manoeuvre. It is not acceptable and not supportive by Council’s traffic engineer given it does not comply with the Australian Standard.

Officers have reviewed the document provided and acknowledged that the rear laneway is tight however it is still functional with a corrective manoeuvre. The proposed corrective manoeuvre has been accepted by Tribunal in the case of Karl Degering & Associates Pty Ltd v Bayside CC [2017] VCAT 372, Paragraph 33:

‘In my view the confusion is resolved by an acknowledgement that the Australian Standards intends to allow for a corrective manoeuvre to occur, as is the evidence of Mr Robertson. When vehicles reverse either into or out of a car parking space (and they must always reverse when coming either in or out of a 90° car space), the use of a corrective manoeuvre must result in a total of four movements, otherwise the series of movements cannot be completed. For example, an expectation that a vehicle reversing out of a car space and performing a corrective manoeuvre that will only have three vehicle movements, would mean that the vehicle then has to reverse out of the car parking area and onto the street. That would be an absurd outcome. On that basis I interpret the Australian Standard as allowing four movements when reversing either into or out of a residential car space, as proposed on the review site.’

What is more important is whether the access is convenient, or, as set out under the decision guidelines at Clause 52.06-9 of the Bayside Planning Scheme:

*The ease and safety with which vehicles access and circulate within the parking area.*

As discussed above, the Condition will bring the rear setback of Dwelling 1 to 3m to comply with the standard rear setback which assists in resolving the current vehicle safety issues.

In addition, VicRoads did not object to the application given access to the site from Hawthorn Road is via a turntable. No permit conditions were requested by VicRoads, however they suggested a Section 173 agreement requirement ensuring use and ongoing maintenance of the vehicle turntable.

The proposal is a two dwelling development, where the proposed turntable will only be utilised by the future occupiers of Dwelling 2. A Section 173 agreement is too onerous to deal with this concern but a permit condition will still be enforceable in the future to protect the safety concerns to Hawthorn Road.

### 6.4 Vegetation & Landscaping

From an arboriculture perspective, Council’s Arborist has reviewed the application, visited the site and has raised no substantial concern with the proposed development.

The development plan shows the provision of canopy planting within the front and rear setback of each dwelling, combined with generous landscaping in the front setback and side boundaries. A landscaping plan has been submitted with the application and some changes will be requiring through condition.

Council’s Arborist has confirmed that no tree protection planning for neighbouring properties is required. Accordingly, no landscaping conditions are included in the associated recommendation.

However Council’s Arborist raises concerns regarding the removal of Tree #20, a large Cabbage Tree (Cussonia spicata) given its amenity value. However the subject tree is in
a deteriorating state which may cause potential safety issues in the future. Officers believed the proposed number of canopy plantings can adequately compensate for this trees removal.

It is also noted the previous Council’s decision does not raise this concern as a ground of refusal.

6.5. **Objections received**

All the issues raised by objectors that all have been addressed in the assessment above.

**Support Attachments**

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

*Additional objections located outside of the above aerial image. Objections are in relation to the ownership of the land.

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

---

Bayside City Council  Planning & Amenity Committee Meeting - 14 November 2017

Attachment 2
Figure 2. View of the existing conditions of the site from South
Figure 3. View of the existing conditions of the site from North

Figure 4. View of the existing conditions of the site from rear laneway.
Figure 5. View of the existing conditions of the site from rear laneway.
ATTACHMENT 3

Neighbourhood Character Policy (Precinct D1)

Preferred Future Character Statement

The dwellings sit within established gardens that contain substantial vegetation including trees. The area retains some dwellings from the Inter war era, along with new complementary development. The spaciousness of the area is maintained by setting buildings back from both side boundaries and keeping front fences low and appropriate to the era of the dwelling. The strong horizontality of the existing dwellings is respected by recessing upper levels of new dwellings, incorporating low pitched roof forms and articulating the front facades.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings.             | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and 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  
Loss of front garden space.                                           | Responds  
The existing dwelling does not significantly contribute to the valued character of the area. |
| To maintain a spacious visual separation between buildings.               | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |                                                                 | Responds  
Adequate boundary setbacks are provided to ensure the dwellings maintain the rhythm of spacious separate between buildings. |
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Minimise paving in front garden areas including driveways and crossovers. | Car parking structures that dominate the façade or view of the dwelling. | Responds  
A double garage is provided to Dwelling 2 and the remaining front setback offers landscaping opportunities to ensure car parking structure do not dominate the front façade. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that buildings respect the low scale, horizontal forms of the area.</td>
<td>• Recess two storey elements from the front façade.</td>
<td>Front setbacks dominated by impervious surfaces.</td>
<td>Responds The proposed first floor are recessed from ground floor for the façade design. The proposed dwellings are normal pitched roof form which respects the existing neighbourhood character.</td>
</tr>
<tr>
<td></td>
<td>• Incorporate low pitched roof forms with eaves.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that new dwellings present an interesting façade to the streetscape.</td>
<td>• Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.</td>
<td>Large, bulky buildings with poorly articulated front and side wall surfaces.</td>
<td>Responds The proposed façade are designed to incorporate different elements including recessed portions, projecting elements of bay windows, balcony as well the combinations of brick and render finishes to provide appropriate articulation.</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, in the new building design.</td>
<td>Buildings that dominate heritage buildings by height, siting or building massing. Period reproduction detailing.</td>
<td>Responds No adjoining property has been identified as a heritage property.</td>
</tr>
<tr>
<td>To reflect the building materials in locations where there is particular consistency.</td>
<td>• Where consistent brick colours are used in the streetscape, use similar toning in the colours of new buildings. • Use simple building details without replication of older styles.</td>
<td>Brightly coloured external building materials in areas of consistent brick materials.</td>
<td>Responds The proposal does not submit any material and colour schedules which will be dealt with condition.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Front fence style should be open and appropriate to the building era.</td>
<td>High front fencing.</td>
<td>Responds A new 0.9 metre high timber fence is proposed which will complement the</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>character of the dwellings, existing fencing featured throughout the immediate streetscape while maintain a level of permeability consistent with this objective.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Attachment 4

**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>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Yes | Refer Attachment 3. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Yes | The subject site is appropriately located with regard to services and facilities to support two dwellings. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | N/A |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Yes | Any upgrades required will be the responsibility of the developer. |
| **B5 Integration with the Street**  
Integrate the layout of development with the street. | Yes | The dwellings appropriately address the street and entries are clearly identifiable. |
| **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  
**Proposed:**  
**Dwelling 1:** 9.19m |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td>Yes</td>
<td><strong>Required:</strong> 8m</td>
<td><strong>Proposed:</strong> 7.61m</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>
<td><strong>Maximum:</strong> 50%</td>
<td><strong>Proposed:</strong> 50%</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>
<td><strong>Minimum:</strong> 20%</td>
<td><strong>Proposed:</strong> 37%</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>Yes</td>
<td>The proposal provides appropriate solar access to the dwellings.</td>
<td></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>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Yes</td>
<td>No safety issues are considered to be likely to arise.</td>
<td></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.</td>
<td>Yes</td>
<td>Refer report. No conditions required.</td>
<td></td>
</tr>
</tbody>
</table>

Dwelling 2: 9.19m
The proposed porch is more than 3.6m in height which will be conditioned to achieve compliant.
of habitat importance.
The retention of mature vegetation on the site.

**B14 Access**
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

Yes
The existing crossover at the Hawthorn Road is retained.

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

Yes
The proposed car parking areas are appropriately located.

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

No
Refer report and table below. Areas of non-compliance are underlined.

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North (side)</strong></td>
<td><strong>South (side)</strong></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>0m or 2m+</td>
</tr>
<tr>
<td>2m</td>
<td>2m</td>
</tr>
<tr>
<td>3m</td>
<td>2m – 3.644m</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.

No

- **Master of Dwelling 1**
  - **Maximum Height:** 3.6m
  - **Proposed:** 3.9m
  - **Maximum Average Height:** 3.7m
- **Garage of Dwelling 1**
  - **Maximum Height:** 3.6m
  - **Proposed:** 3.45m
  - **Maximum Average Height:** 3.45m
  - **Proposed:**
  - **Maximum Length:** 16.645m
  - **Proposed:** 12.65m
<table>
<thead>
<tr>
<th><strong>B19 Daylight to Existing Windows</strong></th>
<th>Yes</th>
<th>The proposal is well setback from property boundaries 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>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Yes</td>
<td>TP-07 indicates that the existing north facing habitable room windows of 639 Hawthorn Road are located within 3 metres of the common boundary. The proposed ground and first floor walls are setback to exceed the minimum requirements of this standard.</td>
</tr>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></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>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>No</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>No</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></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>Consider people with limited mobility in the design of developments.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td>Provide a sense of identity to each dwelling.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>Allow adequate daylight into new habitable room windows.</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>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</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>
</tr>
<tr>
<td>B30 Storage</td>
<td>Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>No</td>
</tr>
</tbody>
</table>
4.5  21 RAYNES PARK ROAD, HAMPTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO. 2017/140  WARD: CENTRAL

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/228507

1. Purpose and background

To report a planning permit application for the construction of two double-storey
dwellings on a lot with an area of 768 square metres (refer Attachment 1) at 21 Raynes
Park Road, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>N &amp; J Higham</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>12 September 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>11 November 2017</td>
</tr>
</tbody>
</table>

2. Policy Implications

Planning permit requirements

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

Clause 44.05 (Special Building Overlay) – Construction of a building.

3. Stakeholder Consultation

External referrals

There were no external referrals required to be made in accordance with Clause 66 of
the Bayside Planning Scheme, as the applicant voluntarily submitted written advice in
respect of the required flood level and flow paths from Melbourne Water.

Internal referrals

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

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

Public notification

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

- Development is inconsistent with existing and preferred neighbourhood character;
- Road congestion and on-street car parking;
- Insufficient stormwater management response;
- Removal of trees and consequential effects on native fauna;
- Excessive building height and bulk;
- Overlooking;
- Overdevelopment;
Consultation meeting

A consultation meeting was held on 31 July 2017 attended by the permit applicant and four objectors. As a result of this meeting no objections were withdrawn.

In response to concerns raised at the meeting the applicant submitted amended plans which introduced a number of changes. The amended plans at ground floor level generally reduce the front and rear setbacks to facilitate an increased in the side setbacks to the kitchen / living / meals and alfresco areas and provide for improved landscaping opportunities. At first floor level, the front, side and rear setbacks have increased and as a result provide a higher level of compliance with Standard B21, Overshadowing. The amended plans also detail screening measures in accordance with Standard B22, Overlooking and reduced decking areas to accommodate canopy tree planting.

Given that the amended plans are considered to provide for improved design outcomes and reduced adverse effects on the owners and occupiers of neighbouring properties and neighbourhood character, Council has not circulated the amended plans to the objectors. No additional comments have been received from the objectors at the time of publication.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/140/1 for the land known and described as 21 Raynes Park Road, Hampton, for the construction of two double-storey dwellings on a lot within a Special Building 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 plans dated stamped 12 September 2017 but modified to show:

a) Clearly defined paths from the subject site’s front boundary to the dwellings’ entries.

b) Decorative brick banding along the edges of the driveway.

c) Greater variation in the use of colours and/or materials at the upper floors of the dwellings.

d) The location of the step between the garages and living areas on the ground floors of the dwellings.

e) An amended landscape plan in accordance with Condition 8 of this permit.

f) The height of the divider between the dwellings’ driveways not exceeding 1m in height and set back a minimum 3.45m from the front property boundary.

G) A 4.8m driveway width where it intersects with the footpath, with a 5.2m offset from the western and eastern property boundaries.

h) Compliance with Clause 52.06 of the Bayside Planning Scheme (car parking) in respect of the maximum permitted gradient for an accessway.

i) All site services to be located on plans, including bins, air conditioning, hot
water systems, clothes lines and mail boxes. Plant and equipment should be located sensitively in relation to habitable room windows on the subject site and neighbouring properties.

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

k) A Tree Protection and Management Plan in accordance with Condition 11 of this permit.

l) Any changes to the development required to facilitate the recommendation of the Tree Protection and Management Plan outlined at Condition 11 of this permit.

All of the above 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 buildings without the written consent of the Responsible Authority.

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

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

7. Before occupation, screening of windows including fixed privacy screens, be designed to limit overlooking as required by Standard B22 and Standard B23 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

8. Prior to the endorsement of plans pursuant to Condition 1, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Faulkner & Chapman Landscape Design, titled “Proposed Residential Development, 21 Raynes Park Road, Hampton”, and be drawn to scale with dimensions and three copies provided. The plan must show:

a) A survey, including botanical names, of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009. This must include Trees #3 and #5 as described in the arboricultural report prepared by Glenn Waters, titled “Arboricultural Assessment & Report – 21 Raynes Park Road, Hampton”, dated 16 March 2017.

b) Pedestrian paths from the front boundary to the dwelling entries, in accordance with Condition 1(a).

c) A survey, including botanical names, of all existing protected vegetation to be removed from the site.

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

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

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

g) Details of surface finishes of pathways and driveways.

9. 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.

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

11. Before the 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 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) 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, including Trees #3 and #5 as described in the arboricultural report prepared by Glenn Waters, titled “Arboricultural Assessment & Report – 21 Raynes Park Road, Hampton”, dated 16 March 2017;

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

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

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

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

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

g) Stages of development at which inspections will occur.

Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist.

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

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

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

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

14. 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.

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

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

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

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

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

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

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

5. **Council Policy**

**Council Plan 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 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
- Clause 22.06 Neighbourhood Character Policy (Precinct 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
- Clause 45.06 Drainage Contributions Plan Overlay
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct G1 and the proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2.
The proposal is considered to achieve a sense of visual separation and will maintain the street rhythm along Raynes Park Road, especially when viewed in relation to the existing double-storey dwellings on the neighbouring sites to the east and west. The proposed building has a greater first-floor setback than the neighbouring dwelling to the east at 23 Raynes Park Road and has an equivalent average first-floor setback in respect of the neighbouring dwelling to the west at 23 Raynes Park Road (refer discussion in Section 6.2 below).

The proposed landscaping is considered acceptable subject to a condition requiring it be amended to show Tree #5, a large existing Spotted Gum (*Corymbia maculata*) located adjacent to the site’s north-west (rear) boundary, as being retained. The landscape plan proposes the planting of a native *Banksia integrifolia* canopy tree within the front setback of each new dwelling and a large *Pyrus* (pear) tree within the rear setback of Dwelling 2. Other shrubs, ground-covers and climbing species are also proposed to be planted.

The front facade of the development is highly detailed, with a cantilevered first floor, pitched roof forms and large window areas, and it is considered that the proposal provides for an articulated and interesting façade to the street. The proposal will sit comfortably directly adjacent to other double-storey dwellings at 19 and 23 Raynes Park Road. The design is considered to be well resolved and would maintain the openness of the streetscape, with no front fence proposed.

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

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

**Building Height (Standard B7)**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Height</td>
<td>8m</td>
</tr>
</tbody>
</table>

The proposed building has a maximum height of 8.44m. As the application was lodged with Council on 15 March 2017, some twelve days prior to the gazettal of Amendment VC110, the relevant transitional provisions apply to the proposal in respect of its maximum height. As such, the proposal requires assessment for a 0.44m infringement of the 8m building height standard.

The proposed 8.44m building height is considered satisfactory and to be consistent with both the existing and emerging neighbourhood character. New development occurring within the local area and the Neighbourhood Residential 3 Zone more widely is often in excess of 8m in height, and commonly up to 9m. Furthermore, in the context of the existing double-storey dwellings on either side of the subject site, at 19 and 23 Raynes Park Road, both of which are prominent dwellings with pitched roofs, the proposed building will not be visually dominant or incongruent.

It is also noted that each proposed building has its own pitched roof, with the result that only two more small triangular portions of the roofs will extend beyond the building envelope. The impact on the streetscape of these two small encroaching areas of roof will be so minor as to be indistinguishable from a complying development.

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

<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>East (side)</td>
<td>0, 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0, 2m</td>
</tr>
</tbody>
</table>
The proposal involves encroachments into the eastern and western side setbacks at both ground and first-floor levels.

At the ground floor the dwellings are to be located a minimum of 1.5m from the side boundaries, which represents a 0.5m infringement of the standard. The front portion of the dwellings will be set back a complying 2 metres. The ground-floor encroachments are considered acceptable as they apply to visually recessive portions of the dwelling, set back approximately 21m from the front boundary and largely screened by existing vegetation to be retained (Tree #3) and new vegetation to be planted within the front setback. It is also noted that the dwellings on the abutting sites to the west and east, being 19 and 23 Raynes Park Road respectively, are both sited very close to their side boundaries, such that the proposed ground-floor side setbacks would not be inconsistent with their immediate development context.

In respect of the dwellings’ upper floors it is considered that the 310mm encroachments into the side setbacks associated with Bedrooms 3 and 4 at the rear of the dwellings are appropriate, as these rooms are located adjacent to large areas of secluded private open space on the abutting properties, rather than habitable room windows which are more sensitive interfaces in terms of dominance and overshadowing by new development. Full compliance with the standard is made more difficult by the narrow (15.24m) width of the site. A reduction of the bedrooms by a further 310mm each would make these bedrooms unnecessarily cramped and reduce their liveability.

With regards to the lesser upper-floor setbacks, which range from 2.915m (Dwelling 2 retreat) to 3.3m (Dwelling 1 bathroom), these are considered acceptable due to the existing development context of reduced upper-floor side setbacks on the immediately abutting properties. The upper floor of the dwelling at 23 Raynes Park Road is located only 1.67m from the side boundary it shares with the subject site, while the upper floor of the dwelling at 19 Raynes Park Road is located a consistent 3.216m from the side boundary it shares with the subject site. Given this context it is considered that the proposed encroachments into the side setback will have only an insignificant impact on the owners and occupiers of the neighbouring properties.

When viewed from the street the proposal will not present as visually dominant or inconsistent with the existing or preferred character of the neighbourhood. As discussed above the upper floors of the proposed new dwellings will in fact be set back as far or further from the side boundaries than the neighbouring dwellings to the east and west.

**Overlooking (Standard B22)**

The application as originally submitted stated that the proposal complied with the requirements of the standard. In respect of the upper-storey Bedroom 4 window associated with Dwelling 2 as it related to the secluded private open space to the rear of 23 Raynes Park Road, it was stated that compliance was achieved due to the presence of a tall hedge located along that property’s western boundary. The applicant did not, however, provide any photographs of the hedge, so it is could not be stated with certainty that the hedge would be sufficient in terms of its height, density or location to meet the standard. The applicant subsequently amended the plans to screen the north-facing Bedroom 4 window associated with Dwelling 2 to comply with the standard. Obscure glazing to a height of 1.7m above the finished floor level is now proposed.

The application also stated that the proposal complied with the requirements of the standard in respect of the upper-storey Bedroom 4 window associated with Dwelling 1 as it related to the secluded private open space to the rear of 19 Raynes Park Road. Again, no evidence was provided to demonstrate that the overlooking would be “directed away from the primary SPOS and pool of 19 Raynes Park Road”, as was stated in the application. It appeared highly likely that the proposal would comply in respect of this
neighbouring property, but in the absence of certainty the applicant amended the plans to screen the north-facing Bedroom 4 window associated with Dwelling 2 to comply with the standard. Obscure glazing to a height of 1.7m above the finished floor level is now proposed.

Internal Views (Standard B23)

The original application stated that the proposal complied with the requirements of the standard, but did not provide any evidence to support their assertion in respect of the north-facing upper-storey Bedroom 4 windows associated with Dwellings 1 and 2. It appeared likely that the proposal would achieve compliance, but in the absence of certainty the applicant opted instead to amend the plans to comply with the standard. As discussed above, obscure glazing to a height of 1.7m above the finished floor level is now proposed.

6.3. Car parking and traffic

The application was reviewed by Council’s traffic engineer, who recommended a condition be imposed to ensure that the front setback is kept clear of obstructions. Specifically, the height of the divider between the dwellings’ driveways would need to be no more than 1m in height and set back a minimum 3.45m from the front property boundary. Other standard conditions relating to driveway gradients and the provision of complying driver/pedestrian sightlines are recommended.

Each dwelling is provided with two car spaces in accordance with Clause 52.06 of the Planning Scheme. Council’s Traffic Engineer has reviewed the application and raised no objection in this regard.

The level of increased traffic and parking demand 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.

All recommendations are included as conditions of approval.

6.4. Vegetation & landscaping

The proposal as originally submitted involved the removal of all the vegetation on the site. In response to objections received from the owners and occupiers of neighbouring and local properties the applicant amended the proposal to include the retention of Trees #3 and 5#, the former a 6.5m high Sweet Pittosporum located within the front setback of proposed Dwelling 1 and the latter a 15m high Spotted Gum located to the rear of proposed Dwelling 1. Council’s arborist also stated that the Spotted Gum should be retained, given that the tree’s position adjacent to the rear boundary meant that it presented no obstacle to more intensive development of the site. The arborist stated that it was reasonable for all the other trees on the site, including Tree #3 which is now to be retained, to be removed to provide for greater development opportunities.

6.5. Special Building Overlay

The applicant has provided correspondence received from Melbourne Water stating the minimum requirements in respect of flood flow (side setbacks) and freeboard (minimum finished floor levels) to be met when undertaking any new development of the property. The submitted plans indicate that the proposal complies with Melbourne Water’s requirements, which are as follows:

Freeboard

Melbourne Water requires that dwellings be constructed with finished floor levels set a minimum of 300mm above the applicable flood level, which for this property is 23.29 metres to Australian Height Datum (AHD). Garages must be constructed with finished floor levels set a minimum of 150mm above the flood level. The proposed levels of 23.59 metres and 23.44 metres respectively comply with Melbourne Water’s requirements.
Flood Flow

Melbourne Water requires that structures must not affect floodwater flow capacity or result in an increase of flood levels. A minimum 3.0 metres of open space between the eastern and western property boundaries set at the existing natural surface level for the passage of overland flows is required. The setback can be split between the eastern and western boundaries. The applicant has met this requirement by providing a minimum 1.5 metre unobstructed setback from each side boundary.

6.6. Objections received

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

Overdevelopment

‘Overdevelopment’ is a commonly used expression to dismiss development proposals which seek to remove existing buildings and to introduce new built forms into particular neighbourhoods. An assessment against State and local planning policies and the provisions of Clause 55 included in this report demonstrate that this proposal is not an overdevelopment despite being more intensive than what existed before.

Traffic congestion

Existing parking problems and traffic congestion in the area cannot be addressed through the current application, nor should the burden of relieving these existing problems be imposed on the developer of the subject land.

Drainage, flooding and inundation 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.

As discussed in this report, the current proposal has adequately responded to the constraints of the site imposed by its susceptibility to flooding. Melbourne Water has not objected to the application and conditions of any permit that may issue can ensure that all of Melbourne Water’s and Council’s drainage requirements are met, including a requirement for finished floor levels to be 300mm above the applicable flood level.

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Policy Assessment(Precinct G1) ↓
4. Clause 55 (ResCode) Assessment ↓
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>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2: View of the site from the eastern end of the road frontage.
Figure 3: View of the site from the western end of the road frontage.
Figure 4: Front-on view of the site.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct G1)

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>• To maintain and enhance the garden settings of the dwellings.</td>
<td>• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.</td>
<td>• Lack of landscaping and substantial vegetation.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Retain large, established trees and provide for the planting of new trees wherever possible.</td>
<td>• Removal of large trees.</td>
<td>The proposed landscaping is considered acceptable subject to a condition requiring it be amended to show Tree #5, a large existing Spotted Gum (<em>Corymbia maculata</em>) located adjacent to the site’s north-west (rear) boundary, as being retained. The landscape plan proposes the planting of a native <em>Banksia integrifolia</em> canopy tree within the front setback of each new dwelling and a large Pyrus (pear) tree within the rear setback of Dwelling 2. Other shrubs, ground-covers and climbing species are also proposed to be planted.</td>
</tr>
<tr>
<td></td>
<td>• Buildings should be sited to allow space for the planting of trees and shrubs.</td>
<td>• Planting of environmental weeds.</td>
<td></td>
</tr>
</tbody>
</table>

Other shrubs, ground-covers and climbing species are also proposed to be planted.
<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 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>The proposal is considered to achieve a sense of visual separation and will maintain the street rhythm along Raynes Park Road, especially when viewed in relation to the existing double-storey dwellings on the neighbouring sites to the east and west. The proposed building has a greater first-floor setback than the neighbouring dwelling to the east at 23 Raynes Park Road and has an equivalent average first-floor setback in respect of the neighbouring dwelling to the west at 23 Raynes Park Road.</td>
<td></td>
</tr>
</tbody>
</table>
| - To ensure that new buildings provide an articulated and interesting façade to the street. | - Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
- Use pitched roof forms with eaves.                                        | - Large, bulky buildings with poorly articulated front and side wall surfaces.                          | Responds                    |
|                                                                           |                                                                                                            | The front facade of the development is highly detailed, with a cantilevered first floor, pitched roof forms and large window areas, and it is considered that the proposal provides for an articulated and interesting façade to the street. The proposal will sit comfortably directly adjacent to other double-storey dwellings at 19 and 23 Raynes Park Road. The design is considered to be well resolved.  
Furthermore, in the context of the existing double-storey dwellings on either side of the subject site, at 19 and 23 Raynes Park Road, both of which are prominent dwellings with pitched roofs, |
<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 openness of the streetscape.</td>
<td>•</td>
<td>• High, solid front fencing.</td>
<td>Responds No front fence is proposed.</td>
</tr>
</tbody>
</table>

The proposed building will not be visually dominant or incongruent.
## 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>&lt;br&gt;Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.&lt;br&gt;Development responds to features of the site and surrounding area.</td>
<td>Yes, subject to condition(s)</td>
<td>Refer detailed discussion elsewhere in report, and Attachment 3.</td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong>&lt;br&gt;Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.&lt;br&gt;Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to the services and facilities required to support two dwellings.</td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong>&lt;br&gt;Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong>&lt;br&gt;Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong>&lt;br&gt;Integrate the layout of development with the street.</td>
<td>Yes</td>
<td>The proposed development is orientated to front the street and no front fencing is proposed.</td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong>&lt;br&gt;The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td>Yes</td>
<td>Exceeds the minimum setback required. The front setback of the development will range from 10.135m to the upper floor of Dwelling to 8.635m to the upper floor of Dwelling 2. The ground floor setbacks will be 10.590m and 8.95m for Dwellings 1 and 2 respectively.</td>
</tr>
</tbody>
</table>
## B7 Building Height
Building height should respect the existing or preferred neighbourhood character.

<table>
<thead>
<tr>
<th>Variation</th>
<th>Required</th>
<th>Proposal</th>
</tr>
</thead>
</table>

- **B7 Building Height**
  - Building height should respect the existing or preferred neighbourhood character
  - **Variation required**
  - **Required**: 8m
  - **Proposed**: 8.44m
  - Refer detailed discussion in report.

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

<table>
<thead>
<tr>
<th>Yes</th>
<th>Maximum: 50%</th>
</tr>
</thead>
</table>

- **B8 Site Coverage**
  - Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.
  - **Yes**
  - **Maximum**: 50%
  - **Proposed**: 48%

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

<table>
<thead>
<tr>
<th>Yes</th>
<th>Minimum: 20%</th>
</tr>
</thead>
</table>

- **B9 Permeability**
  - Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.
  - **Yes**
  - **Minimum**: 20%
  - **Proposed**: 45%

## B10 Energy Efficiency
Achieve and protect energy efficient dwellings and residential buildings.

- **Yes**
  - The proposal provides for adequate solar access to the dwellings.

- **B10 Energy Efficiency**
  - Achieve and protect energy efficient dwellings and residential buildings.
  - Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.
  - **Yes**
  - The proposal provides for adequate solar access to the dwellings.

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

<table>
<thead>
<tr>
<th>N/A</th>
</tr>
</thead>
</table>

- **B11 Open Space**
  - Integrate layout of development with any public and communal open space provided in or adjacent to the development.
  - **N/A**

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

<table>
<thead>
<tr>
<th>Yes</th>
<th>No safety issues are considered likely to arise.</th>
</tr>
</thead>
</table>

- **B12 Safety**
  - Layout to provide safety and security for residents and property.
  - **Yes**
  - No safety issues are considered likely to arise.

## B13 Landscaping
To provide appropriate landscaping. To encourage:

- Development that respects the landscape character of the neighbourhood.
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.
- The retention of mature vegetation on the site.

<table>
<thead>
<tr>
<th>Yes</th>
<th>Refer detailed discussion in report.</th>
</tr>
</thead>
</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.
  - **Yes**
  - Refer detailed discussion in report.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
</table>
| **B14 Access** | Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character. | Yes | Appropriate vehicular access is provided.  
**Maximum:** 40% of street frontage  
**Proposed:** 35% of street frontage |
<p>| <strong>B15 Parking Location</strong> | Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments. | Yes | The proposed car parking areas are appropriately located, in this instance in ground-level single garages with tandem car parking spaces. |
| <strong>B17 Side and Rear Setbacks</strong> | Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings. | Variation required | The application proposes ground and upper-floor encroachments into the side setbacks. Refer detailed discussion in report. |
| <strong>B18 Walls on Boundaries</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. | Yes | N/A. No walls on boundaries are proposed. |
| <strong>B19 Daylight to Existing Windows</strong> | Allow adequate daylight into existing habitable room windows. | Yes | The proposal is set back from property boundaries sufficiently to ensure daylight to existing windows is maintained. |
| <strong>B20 North Facing Windows</strong> | Allow adequate solar access to existing north-facing habitable room windows. | Yes | The subject is located on the north side of Raynes Park Road. |
| <strong>B21 Overshadowing Open Space</strong> | Ensure buildings do not significantly overshadow existing secluded private open space. | Yes | Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December. |
| <strong>B22 Overlooking</strong> | Limit views into existing secluded private open space and habitable room windows. | Yes | Where required to comply, all first-floor habitable room windows have sill heights of 1.7m above finished floor level. |</p>
<table>
<thead>
<tr>
<th>Item 4.5 – Matters of Decision</th>
<th>Bayside City Council Planning &amp; Amenity Committee Meeting - 14 November 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Provide reasonable recreation and service needs of residents by adequate pos.</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Provide adequate storage facilities for each dwelling.</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong></td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>4.5 – Matters of Decision</td>
</tr>
<tr>
<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>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
</tr>
</tbody>
</table>
4.6  144 - 144A ESPLANADE, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/232/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/16/1600 – Doc No: DOC/17/227716

1. Purpose and background

To report a planning permit application for building and works associated with two existing dwellings (refer Attachment 1) at 144 – 144A Esplanade, Brighton (refer Attachment 2) on a lot with an area of 966.92 square metres.

Those building and works comprise the construction of a two storey building within the rear garden of the dwellings to form a games room and studio.

Included on the application plans is the proposal to form an access and gates in and on the east property boundary with the right of way to the rear of the subject site. Those works do not require planning permission and as such, do not form part of this application.

Applicant | N. Chapman
Date application received | 1 April 2016
Statutory days expired | 4 June 2016

2. Policy implications

Planning permit requirements

Clause 32.09-5 (Neighbourhood Residential Zone) (Schedule 3) – A permit is required to extend two or more dwellings on a lot.

Clause 43.02-2 (Design and Development Overlay) (Schedule 1) – A permit is required as the building is 2 storeys in height with an upper floor greater than 3.5 metres in height measured from its finished floor level to its ceiling.

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

No internal referrals were undertaken 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 two objections were received. The concerns raised by the objectors are summarised as follows:

- Overlooking;
- Overshadowing;
- Building on boundary and associated safety issues when entering and exiting the building onto the adjacent laneway;
- Noise and disturbance from use of the games room component of the building; and
- There are safety issues as a result of the use of the laneway currently shared by a number of properties.
Consultation meeting
A consultation meeting was held on 1 September 2016 attended by the permit applicant and two objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation
That Council:
Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2017/232/1 for the land known and described as 144-144A Esplanade, Brighton for buildings and works comprising an extension to two dwellings on a lot 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 prepared by A.L. Drafting & Design dated 12 February 2016 and Council date stamped 1 April 2016 2016 but modified to show:
   a) Compliance with Standard B22 (Overlooking) in relation to the two southern-most windows of the first floor leisure room and the glazed doors of the first floor studio.

   All to the satisfaction of the Responsible Authority.

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

3. The building hereby approved shall only be used for purposes associated with the use and enjoyment of the dwellings of 144-144A Esplanade, Brighton and shall at no time form a separate residential unit or be used for any business, trade or commercial purpose.

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

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

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

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.

5. **Council Policy**

   **Council Plan 2017 - 2021**

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

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

   **Bayside Planning Scheme**
   - Clause 9 Plan Melbourne
   - Clause 11 Settlement
   - Clause 15 Built Environment and Heritage
   - Clause 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 (C1)
   - Clause 22.08 Water Sensitive Urban Design
   - Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
   - Clause 43.02 Design and Development Overlay (Schedule 1)
   - Clause 52.06 Car Parking
   - Clause 55 Two or more dwellings on a lot
   - Clause 65 Decision Guidelines

6. **Considerations**

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

The site is located within Neighbourhood Character Precinct C1 and 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 subject site is located in an area characterised by a variety of built form comprising a blend of architectural styles, including WW2 dwellings set within spacious gardens and modern infill development that has resulted in lot subdivision.

The existing dwellings on the subject site form part of that established character and make a positive contribution to the character and appearance of the area in their interface with Esplanade.

The studio and games room building proposed to be erected within the rear garden would form part of the sub-character of this part of Esplanade/Wellington Street which is characterised by single storey garaging and other garden setting development. It would have an interface with the laneway to the rear of the site shared, with amongst others, the development of infill housing, 1-3/2A Wellington Street.

The building would be two storeys in height with a dual component roof which would be partly flat enclosed by parapets and mono-pitched. Its ground floor would be finished in rendered brick and would have an east and south building line that would occupy parts of the east and south boundaries of the site respectively. Its upper floor component would be externally finished in a combination of horizontal matrix and timber cladding and would be recessed from the east and south boundaries of the site by some 1.5 metres. A number of glazed openings would be formed in each of the elevations of the building.

In its location the proposed building would be well contained within its backland setting with glimpsed views of it being afforded from Wellington Street to the north and in long views from the laneway to the south of the neighbouring property of 142 Esplanade to the south of the subject site. It would not impact on the streetscape setting of Esplanade.

The new fencing and gates to be erected along the remainder of the east boundary of the site would replace existing lengths of walling and vehicular access gates. They would facilitate access to a new area of hardstanding to be formed within the rear garden of the dwellings to be used as driveway parking. The rear fencing and area of hardstanding do not require planning permission and do not therefore form part of this application.

6.2 Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 4. Pursuant to Clause 55, a development must meet all of the objectives of this clause and should meet all of the standards of this clause.

Those non-compliant standards are discussed below, noting the corresponding objectives have been achieved.
Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
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</tr>
<tr>
<td>North (side)</td>
<td>0m or 2m</td>
<td>6.32m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2m</td>
<td>0m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3m</td>
<td>0m</td>
</tr>
</tbody>
</table>

The first floor south (side) and east (side) setbacks fail to meet the required minimum setbacks of 3.94 metres and between 3.94m and 6.096 metres from the south and east boundaries respectively. To the south, the proposed building would abut part of the mutual boundary with the neighbouring residential property of 142 Esplanade and as such, have an interface with the private open space and the detached garage associated with that neighbouring residential property. In this instance the setback of 1.5 metres proposed from the south boundary is considered acceptable as the development would not result in a loss of amenity to that neighbouring residential property as a result of overshadowing or overlooking.

The variation sought to the east (rear) elevation would be located opposite the laneway between the subject site and the neighbouring residential property of 3/2A Wellington Street beyond. At ground floor the building would almost be in alignment with the garage structure associated with 142 Esplanade to the south and the dwelling of 2 Wellington Street farther to the north. In this, it would not appear incongruous in its visual relationship with them. The first floor of the building would be sufficiently recessed from the east boundary to allow the laneway structures to be legible from the laneway and Wellington Street to the north and so as not to cause material detriment to the amenity of the neighbouring residential property of 3/2A Wellington Street. As the setback would have a non-sensitive interface and by its orientation would not have an amenity impact on any neighbouring residential property the variation sought are considered acceptable.

The proposed variations are considered to be appropriate as they would not negatively impact neighbouring residential properties and overall, the proposal has a high degree of compliance with ResCode.

Walls on Boundaries (Standard B18)

At some 7.45 metres long, the south boundary of the proposed building does not exceed the maximum length of 24.5 metres of wall permitted on the mutual boundary with 142 Esplanade to the south. It does however have an average height of 3.54 metres which exceeds the maximum average permitted by the Standard. Notwithstanding the variation being sought, the proposed building would have an immediate interface with the detached garage of 142 Esplanade and otherwise, the private open associated with that dwelling. It would not have an overbearing effect on that neighbouring residential property and would not result in a harmful loss of amenity to it.

Overlooking (Standard B22)

There is the potential that two of the windows associated with the first floor leisure room of the proposed building would allow for overlooking of two ground floor windows of neighbouring residential property of 3/2A Wellington Street to the east. Furthermore that the first floor glazed doors associated with the studio of the proposed building allow for harmful overlooking of the rear garden of the neighbouring residential property of 146 Esplanade to the north. In such circumstance it would be prudent to impose a condition on the approval of a permit that the relevant windows and doors of the leisure and studio
rooms of the development be screened or obscured in accordance with the requirements of Standard B22.

Any other glazed openings of the proposed building would be in excess of 9 metres from directly facing windows and balconies and would otherwise be positioned and orientated such that they would not face towards any neighbouring residential property. Accordingly they would not cause material detriment to those neighbouring residential properties as a result of overlooking.

6.3 Design and Development Overlay Schedule 1

Pursuant to Clause 43.02-2 a permit is not required under the Design and Development Overlay – Schedule 1 to construct or carry out works for a building with a building height of not more than 2 storeys provided that each storey is less than 3.5m measured from the floor level to the finished floor level of the floor above or if there is no floor above, to the ceiling (excluding staircases, architectural voids and light wells) and buildings which have a building height of not more than 6.0m. The exemptions do not include a roof deck above the second storey.

Notwithstanding the proposed building would not exceed two storeys in height, its first floor would exceed 3.5 metres in height when measured from its finished floor level to the highest part of its ceiling. In which case the requirement for a permit is triggered under the Schedule to the Design and Development Overlay.

The proposed building is respectful of scale and form of development which exists on the east side of Esplanade and as considered above, would not impact on the privacy or amenity of neighbouring residential properties.

On the foregoing considerations the proposed building does not conflict with the design objectives or decision guidelines of Schedule 1 of the Design and Development Overlay.

6.4 Car parking and traffic

The proposal includes the provision of one car parking space to serve the development in addition to the existing car parking provision on site. Such provision would be in excess of the existing over provision of car parking on the site.

6.5 Street tree removal

No works are proposed within the nature strip.

6.6 Vegetation & Landscaping

The proposed building would not result in the removal of vegetation on the site and would not encroach into an area of the garden that is vegetated. As such the development would not compromise the rear garden setting of the existing dwellings or the landscape character and appearance of the area.

Whilst the area of hardstanding shown on the application drawings would be adjacent to a tree in the southeast corner of the rear garden of 146 Esplanade such development does not require a planning permit and does not therefore form part of this application. The effect of that development on the adjacent tree is not a material consideration in the determination of this application for a planning permit.

6.7 Objections received

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

Overshadowing Open Space (Standard B21)

The shadow diagrams submitted as part of the application indicate that a part of the rear garden of the neighbouring residential property of 142 Esplanade would be overshadowed by the proposed building between the hours of 9am to 3pm on 22 September. However the degree of overshadowing would be to a decreasing extent and
would allow at least 75 per cent or 40 square metres to receive a minimum of 5 hours of sunlight.

The shadow diagrams also indicate that an area of private open space associated with the neighbouring residential property of 3/2A Wellington Street would be overshadowed by the proposed building at 3pm. Further analysis of the extent of overshadowing would also indicate that the private open space i.e. the front garden of that neighbouring residential property would be overshadowed at 2pm and thus would not overall receive a minimum of 5 hours of sunlight on 22 September. However, that area of private open space would be overshadowed at those times by an existing fence that encloses the west boundary of the private open space and therefore the degree of overshadowing would be no greater than can reasonably occur at present. Furthermore, the secluded open space to the rear of the 3/2A Wellington Street would not be overshadowed by the development and is, at being approximately 98 square metres in area, in excess of the 40 square metres with a minimum dimension of 3 metres that is required to receive sunlight on 22 September.

On these considerations the proposed building is consistent with Standard B21.

Building on boundary – safety issues when entering and exiting the building onto the adjacent laneway

It is the intention of the applicant to form a ground floor door opening in the east elevation of the building in its interface with the laneway. The application drawings submitted in support of the application indicate that this door open inwards into the games room of the building. The applicant in response to objector concerns advises that the door is for emergency egress from the building in the event of fire.

The relationship of the door to the laneway is little different to the gated pedestrian accesses and garage door openings that currently exist with the laneway. As the door of the games room is indicated to open inwards to the building it is considered that there would be no obstruction of the use of the laneway and the safety risk to the applicant in using this door would be little different from those persons egressing the subject site from the existing pedestrian/ vehicular access gates in the east property boundary. It would not be reasonable for the application to be refused on the consideration of safety associated with the use of the door.

Noise and disturbance from use of the games room component of the building

There would be nothing extraordinary in the use of the building to be used incidental to the enjoyment of the existing dwellings that would require Council to exercise control over any noise and disturbance which may result from it. Matters of noise and disturbance to residents as a result of the use of the building in a domestic setting are considered under separate legislation other than planning legislation and are not a material consideration in the determination of this application.

Existing safety issues associated with the use of the laneway by residents

Any safety issues that currently exist as a result of the use of the laneway by residents entitled to do so and any measures considered necessary by objectors to improve safety are not a material consideration in the determination of this application. They are civil matters to be resolved by the respective parties.

Support Attachments

1. Development Plans ▼
2. Site & Surrounds Imagery ▼
3. Neighbourhood Character Assessment C1 ▼
4. Clause 55 Assessment ▼
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>Subject site</td>
<td>🌟</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚪</td>
</tr>
</tbody>
</table>
Figure 2 Subject site from Esplanade to the west.

Figure 3 Laneway to east of subject site facing north towards Wellington Street.
Figure 4 3/2A Wellington Street to the east of the subject site beyond the laneway.

Figure 5 Laneway to southeast of subject site facing northeast towards 3/2A Wellington Street and 25 Manor Street.
Figure 6 Laneway to east of subject site facing north towards Wellington Street.

Figure 7 Garage to rear of 142 Esplanade and the east (rear) boundary wall of subject site.
Figure 8 Further garage and south boundary of 142 Esplanade at its juncture with the laneway.

Figure 9 Laneway to east of subject site facing south.
Neighbourhood Character Precinct C1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
Existing dwellings would be retained. |
| To maintain and enhance the spacious garden settings of the dwellings.     | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Lack of landscaping and substantial vegetation. | Responds  
No change is to be made to the existing landscaping on the site. |
| To enhance the bayside vegetation character of the area.                   | • Retain large trees and established native and traditional coastal vegetation and provide for the planting of new indigenous coastal trees where possible. | Removal of large native and coastal trees.  
Planting of environmental weeds. | Responds  
The development will not compromise the vitality of any existing vegetation to be retained on or adjacent to the site. |
| To retain the sense of spaciousness in the area and provide adequate 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. | | Responds  
The spacious garden setting of the dwellings would not be compromised as a result of the development. A large garden would be retained.  
Spatial separation between boundaries would be maintained to the north of the building and afforded by the laneway to the east. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the dominance of car parking facilities, driveways and crossovers. | • Locate garages and car ports at or behind the line of the dwelling.  
• Minimise hard paving in front yards.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, 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.  
Loss of front garden space. | Responds  
Additional parking is proposed to the north of the building. Although not forming part of the application, it would be concealed from public views within the rear garden behind the high east boundary enclosure.  
There would be no loss of front garden space as a result of the overall development. |
| To ensure that new buildings and extensions do not dominate the streetscape. | • Recess upper level elements from the front façade.  
• Where adjoining an identified heritage building, respect the height, building forms, siting and materials, of the heritage building/s in the new building design. | High pitched roof forms with dormer windows. | Responds  
The upper floor would be recessed from the laneway façade of the building which will provide visual relief in its interface with the laneway. |
| To respect the identified heritage qualities of adjoining buildings. | • Use a mix of materials including timber or other non-masonry wall materials in building design.  
• Use simple building details and articulate roof forms. | Large, poorly articulated external wall surfaces of one material only.  
Heavy materials and design detailing (eg. large masonry columns and piers). | Responds  
The proposed building would be far enough removed from Heritage assets in the area so as not to compromise their special architectural or historic interest. |
| To encourage the use of a variety of building materials, finishes and design detail that complement the coastal setting. | • Provide open style fencing, other than along heavily trafficked roads. | High, solid front fencing. | Responds  
No change is proposed to the existing front fence arrangements. |
| To encourage the openness of the streetscape. | • Articulate the form of buildings and elements, particularly front facades, and include elements that lighten the building form | Buildings that have no relationship to | Responds  
The building would form part of the backland setting of this part of Esplanade |
<p>| To create a visually interesting and attractive built form interface with the |                                                                                   |                                                                      |                                                                                               |</p>
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| foreshore reserve, on properties fronting the reserve and visible from the reserve. | such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.  
- Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.  
- Provide a fence or landscaping treatment to delineate the property boundary fronting the foreshore reserve.  
- Provide articulated roof forms to create an interesting skyline when viewed from the beach. | the foreshore setting.  
- Poorly articulated roof and building forms.  
- Highly reflective materials or glazing.  
- Blank walls facing the foreshore.  
- Lack of distinction between public and private spaces along the foreshore. | and would not have an interface with the foreshore. |
### Attachment 3

**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 the development.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
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<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 development would be in a back land location which would present to a laneway access with neighbouring infill development. It would be appropriate in its location relative to the existing dwellings and within its laneway setting.</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>N/A</td>
<td>Minimum: N/A</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>Proposed: N/A</td>
<td></td>
<td></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 neighbourhood character</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 7.958M</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Item</strong></td>
<td><strong>Description</strong></td>
<td><strong>Status</strong></td>
</tr>
<tr>
<td>----------</td>
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</tr>
</tbody>
</table>
| **B8 Site Coverage** | Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | Yes | **Maximum:** 50%  
**Proposed:** 31.14% |
| **B9 Permeability** | Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | **Minimum:** 20%  
**Proposed:** 49.27% |
| **B10 Energy Efficiency** | Achieve and protect energy efficient dwellings and residential buildings.  
Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | The proposal provides appropriate solar access to the building. |
| **B11 Open Space** | Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A |  |
| **B12 Safety** | Layout to provide safety and security for residents and property. | Yes | No safety issues are considered to be likely to arise. |
| **B13 Landscaping** | To provide appropriate landscaping. To encourage:  
Development that respects the landscape character of the neighbourhood.  
Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
The retention of mature vegetation on the site. | Yes | Refer report. |
| **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. | N/A | Appropriate vehicular access is provided.  
**Maximum:** 33% of street frontage  
**Proposed:** N/A  |
| **B15 Parking Location** | Parking is proposed in addition to the existing over | Yes |  |
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>North (side)</strong></td>
<td><strong>South (side)</strong></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>6.32m</td>
</tr>
<tr>
<td>0m</td>
<td>3.94m</td>
</tr>
<tr>
<td>0m</td>
<td>3.94m – 6.096m</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>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>South boundary</strong></td>
<td><strong>East boundary</strong></td>
</tr>
<tr>
<td>Maximum Height: 3.6m</td>
<td>Maximum Length: 24.5m</td>
</tr>
<tr>
<td>Proposed: 3.54m</td>
<td>Proposed: 7.35m</td>
</tr>
<tr>
<td>Maximum Average Height: 3.2m</td>
<td>Proposed: N/A as abuts laneway and not a neighbouring lot</td>
</tr>
</tbody>
</table>

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

Yes

The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.

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

Yes

No north facing windows on adjoining properties are affected.

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

Yes

Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>No</td>
<td>Refer report. Addressed via conditions.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>N/A</td>
<td>N/A</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 building incidental to an existing 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>N/A</td>
<td>N/A</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>Minimum: 25m² secluded, 40m² overall. Proposed: 68.86m² maintained as private open space with more than 25m² set aside as secluded private open space.</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>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B31 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Attachment 1.</td>
</tr>
<tr>
<td>Item</td>
<td>Action</td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>------------</td>
<td>---------------------------------</td>
<td>----------------</td>
<td>--------------</td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>N/A</td>
<td>Required: 1.2m Proposed: N/A</td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>N/A</td>
<td>N/A – No changes to existing arrangements.</td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report a Section 72 Amendment application to Planning Permit 2016/284/2 (refer Attachment 1) issued on 14 February 2016 for the construction of a double storey dwelling on a lot less with an area of 495 square metres (refer Attachment 2) at 5 Wellington Street, Brighton (refer Attachment 3).

This application seeks approval to vary permit Condition 1(j) to allow the front of the garage to be setback a minimum of 3 metres in lieu of 5.5 metres as previously required.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>St Wise Pty Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>1 May 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>30 June 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Original planning permit requirements**

Clause 32.09-4 (Neighbourhood Residential Zone Schedule 3) – a permit is required for the construction of one dwelling on a lot less than 500 square metres.

Clause 43.02-2 (Design and Development Overlay Schedule 1) – a permit is required for the construction of a roof deck.

**New planning permit requirements**

There are no new permit triggers relevant to this application.

3. **Stakeholder Consultation**

**External referrals**

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

**Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic Engineer</td>
<td>Objection to the proposed amendment for the following reasons:</td>
</tr>
<tr>
<td></td>
<td>• The reduction of the setback to the garage will allow vehicles to be parked on the footpath, obstructing pedestrians and access.</td>
</tr>
</tbody>
</table>

**Public notification**

The application was advertised pursuant to Sections 52(1) (a) and (d) of the Planning and Environment Act 1987 and three objections were received. The following concerns were raised:
• Overlooking;
• Visual bulk;
• Neighbourhood Character;
• Setbacks;
• Traffic and safety issues due to the removal of Condition 1(j);
• Design and materials;
• Impact to the Heritage Place;

Consultation meeting
A consultation meeting was held on 30 August 2017 attended by the permit applicant and three objectors. As a result of this meeting no objections were withdrawn.

4. Recommendation

That Council:

Issues a **Notice of Decision to Grant an Amended Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application No. 5/2016/284/2** of the land known and described as **5 Wellington Street, Brighton**, for the **construction of a double storey dwelling on a lot less than 500 square metres** in accordance with the endorsed plans and subject to the following conditions and the following table inserted at the end of the permit as a record of amendments:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with Sky-line Design Studio plans Council date stamped 14 June 2017, drawings no 2-7 of 7 and Point Five Landscape Council date stamped 1 September 2016 and Environmental Design, Landscape Concept Plan, Sheet 1 of 1 but modified to show:

   a) The overall building height in accordance with Standard A4.
   b) Western first floor wall setback in accordance with Standard A10.
   c) Northern first floor wall setback in accordance with Standard A10.
   d) Maximum average height of the north wall on boundary to be built in accordance with Standard A11.
   e) Habitable room windows designed in accordance with Standard A15.
   f) The terrace entrance/lobby built in accordance with Design and Development Overlay Schedule 1.
   g) Increase to the side setbacks of the roof terrace in accordance with Design and Development Overlay Schedule 1.
   h) A schedule of materials, external finished and colours.
   i) A detailed amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be in accordance with the landscape plan drawn by Point Five.
Landscape and Environmental Design, Landscape Concept Plan, dated June 2016, sheet 1 of 1, but amended to show:

i. one Eucalyptus proryiana or Banksia integrifolia.

ii. one tree capable of reaching 12 metres in height at maturity.

j) **The garage to be setback a minimum 3 metres from Albert Street.**

k) The double garage must be 5.5 metres wide and 6 metres long, with a 4.8 metre wide door.

l) All pedestrian doors to swing outwards from the garage.

m) The driveway grade must not exceed more than 1 in 10 complying with Clause 52.06-8.

n) The new crossover must be offset a minimum of 1 metre from the existing power pole to the south and must be offset a minimum of 3 metres from the street tree to the north.

o) Adequate sight lines must be provided where the proposed driveway intersects with the front footpath as per AS2890.1.

p) The existing 2.8m x 2.8m asphalted corner splay at the southeast corner of the property must be retained with no change. No foliage or structures to be allowed within the splay.

q) A Tree Management Plan and Tree Protection Plan in accordance with condition 8.

r) Details of the water sensitive urban design elements in accordance with condition 12.

s) A construction management plan in accordance with condition 19.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

7. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and
maintained to the satisfaction of the Responsible Authority thereafter for the life of
the building.

8. Before the development starts, 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 Management 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 on
neighbouring properties and the nature strip, where any part of the Tree
Protection Zone falls within the subject site.

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

9. 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.

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

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, 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. 16.

13. 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.

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

15. 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.

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

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

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

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) Protection of the gas line located at 1A Albert Street.

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

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

In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.
Permit notes:
- 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 must be notified of the vehicular crossing and reinstatement works.
- 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.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- The applicant must clearly identify what impact, if any, the proposed vehicle crossing or footpath construction will have on Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

<table>
<thead>
<tr>
<th>Date</th>
<th>Brief description of amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 November 2017</td>
<td>Amendment to the permit under Section 72 of the Planning and Environment Act 1987 to:</td>
</tr>
<tr>
<td></td>
<td>Condition 1(j) to be amended to allow the garage to be setback from the street 3 metres in lieu of 5.5 metres.</td>
</tr>
</tbody>
</table>

5. **Council Policy**

Section 73(1) of the Planning and Environment Act 1987 states that Sections 47 to 62 apply to an application to amend a permit as if the application were an application for a permit and any reference to a permit were a reference to the amendment to the permit.

Therefore, the amendments to the permit and plans are to be assessed against the relevant planning controls affecting the proposal.

Note: Only the changes to the approved proposal are considered as part of this application for amendment.

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (C1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 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.

In light of the changes proposed, a Clause 54 assessment and neighbourhood character assessment were not required.

6.1. **Car parking and traffic**

In the approved original application the dwelling provided two car spaces in accordance with Clause 52.06-5 in the form of a double garage.

As part of the original application, Council’s Traffic Engineer in their referral response, requested a number of conditions including the requirement to increase the front setback of the garage to 5.5 metres. The intent of this condition was to prevent vehicles from overhanging the footpath when entering the property.

Council’s Traffic Engineer has reviewed this amendment application and advises that Condition 1(j) should be maintained to prevent vehicles overhanging the public footpath. However regardless of the setback proposed, vehicles will by default overhang the public footpath whilst waiting for the vehicle gate to open.

Importantly, the number of onsite car parking spaces complies with the statutory car parking rate outlined in the Planning Scheme and there are no requirements specified in the Planning Scheme to require garages to be setback 5.5 metres.

The small setback will not encourage users to park in front of the garage because they
will be aware they will overhang the footpath and the area is not a dedicated car parking space. Therefore, it is considered appropriate to support this application.

6.2. **Objections received**

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

**Overlooking**

Overlooking was considered and assessed in the original approved application. As such, this is not a relevant consideration in the decision making for this planning application.

**Visual bulk**

Concerns regarding the bulk and mass of the built form was considered and assessed in the approved application. As such, this is not a relevant consideration in the decision making for this planning application.

**Neighbourhood Character**

Neighbourhood character was considered and assessed in the original approved application. As such, this is not a relevant consideration in the decision making for this planning application.

**Setbacks**

The issues regarding the setbacks were considered and assessed in the approved application. As such, this is not a relevant consideration in the decision making for this planning application.

**Traffic and safety issues due to the removal of Condition 1 (i)**

In the approved original application the dwelling provided two car spaces in accordance with Clause 52.06-5. The level of increased traffic generated by the proposed development will not adversely impact parking and traffic in the area this was not raised as a concern by Council’s Traffic Engineer.

**Design and materials**

The issues regarding the design and materials of the proposal were considered and assessed in the approved application. As such, this is not a relevant consideration in the decision making for this planning application.

**Impact to the Heritage Place**

The variation to the setback will not adversely impact the character and appearance to the heritage place and to the heritage significance to no. 3 Wellington Street because the variation is to the side boundary on Albert Street.

**Support Attachments**

1. Permit and Decision Plans ↓
2. Amended Plans ↓
3. Site and Surrounds Imagery ↓
**PLANNING PERMIT**

**2016/248/1**

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

**Address Of The Land:** No. 5 Wellington Street BRIGHTON  
**The Permit Allows:** Construction of a double storey dwelling on a lot less than 500 square metres in accordance with the endorsed plans and subject to the following conditions.

**The Following Conditions Apply To This Permit:**

1. 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 Sky-line Design Studio plans Council date stamped 1 September 2016, drawings no 2-7 of 7 and Point Five Landscape and Environmental Design, Landscape Concept Plan, Sheet 1 of 1 but modified to show:
   a) The overall building height in accordance with Standard A4.
   b) Western first floor wall setback in accordance with Standard A10.
   c) Northern first floor wall setback in accordance with Standard A10.
   d) Maximum average height of the north wall on boundary to be built in accordance with Standard A11.
   e) Habitable room windows designed in accordance with Standard A15.
   f) The terrace entrance/lobby built in accordance with Design and Development Overlay Schedule 1.
   g) Increase to the side setbacks of the roof terrace in accordance with Design and Development Overlay Schedule 1.
   h) A schedule of materials, external finished and colours.
   i) A detailed amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be in accordance with the landscape plan drawn by Point Five Landscape and Environmental Design, Landscape Concept Plan, dated June 2016, sheet 1 of 1, but amended to show:
      i. one Eucalyptus proryiana or Banksia integrifolia.
      ii. one tree capable of reaching 12 metres in height at maturity.
   j) The front of the garage to be setback a minimum of 5.5 metres from Albert Street.
   k) The double garage must be 5.5 metres wide and 6 metres long, with a 4.8 metre wide door.
   l) All pedestrian doors to swing outwards from the garage.
   m) The driveway grade must not exceed more than 1 in 10 complying with Clause 52.06-8.

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**Date issued:** 22 March 2017  
**Signature for the Responsible Authority**

Sarah Collins

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**Planning and Environment Regulations 2005 Form 4**

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
n) The new crossover must be offset a minimum of 1 metre from the existing power pole to the south and must be offset a minimum of 3 metres from the street tree to the north.

o) Adequate sight lines must be provided where the proposed driveway intersects with the front footpath as per AS2890.1.

p) The existing 2.8m x 2.8m asphalted corner splay at the southeast corner of the property must be retained with no change. No foliage or structures to be allowed within the splay.

q) A Tree Management Plan and Tree Protection Plan in accordance with condition 8.

r) Details of the water sensitive urban design elements in accordance with condition 12.

s) A construction management plan in accordance with condition 19.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

7. Before occupation, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

8. Before the development starts, 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 on neighbouring properties and the nature strip, where any part of the Tree Protection Zone falls within the subject site.

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

9. 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.

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

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, 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. 16.

13. 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.

14. Before the occupation of the development starts, the area(s) set aside for vehicle parking and access ways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times.
15. 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.

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

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

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

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) Protection of the gas line located at 1A Albert Street.

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

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

Permit notes:

- 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 must be notified of the vehicular crossing and reinstatement works.
- 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.

Date issued: 22 March 2017

Sarah Collins

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.
PLANNING PERMIT
2016/248/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.
- The applicant must clearly identify what impact, if any, the proposed vehicle crossing or footpath construction will have Council assets such as pits and trees, power poles etc. Such items must be accurately shown on the plan.
- The applicant is to bear the cost to reinstate/relocate the Council assets to provide the required access to the proposed development.

Date issued: 22 March 2017

Signature for the Responsible Authority

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

PLANNING PERMIT

Sections 83 and 86

IMPORTANT INFORMATION ABOUT THIS PERMIT

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

WHEN DOES A PERMIT BEGIN?
A permit operates:
* from the date specified in the permit; or
* 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 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 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
ATTACHMENT 2
Aerial Surrounds and Imagery

Aerial overview of the site and surrounds

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

Legend:
- Star indicates the subject site.
- Circle indicates objectors.
Figure 2 View towards the site from Albert Street – East Elevation.

Figure 3 View towards the site from the corner of Wellington Street and Albert Street.
Figure 4 View towards the site from the north – Wellington Street.
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