Planning & Amenity Committee Meeting Agenda

Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 15 August, 2017 at 7.00pm

Chairperson: Cr Laurence Evans

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

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

4. Matters of Decision
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   4.2 25D Bolton Street, Beaumaris (Formerly Lot 14 - 489 Balcombe Road) Grant of a Planning Permit Application No: 2016/744/1 Ward: Southern ................................................................. 27
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   4.4 509 Balcombe Road BEAUMARIS Notice of Decision to Grant a Planning Permit Application No: 5/2017/164/1 Ward: Southern 81
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5. Confidential Business
   Nil
<table>
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<tr>
<th>Next Meetings 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuesday 12 September 2017</td>
</tr>
<tr>
<td>Thursday 28 September 2017</td>
</tr>
<tr>
<td>Tuesday 17 October 2017</td>
</tr>
<tr>
<td>Thursday 2 November 2017</td>
</tr>
<tr>
<td>Tuesday 14 November 2017</td>
</tr>
<tr>
<td>Thursday 30 November 2017</td>
</tr>
<tr>
<td>Monday 11 December 2017</td>
</tr>
<tr>
<td>Thursday 21 December 2017</td>
</tr>
</tbody>
</table>
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

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

4.1 SIGNIFICANT TREE NOMINATION - 9 RENO ROAD, SANDRINGHAM

City Planning & Community Services - Amenity Protection
File No: PSF/15/8764 – Doc No: DOC/17/159468

Executive summary

Purpose and background

To consider a nomination for a *Eucalyptus viminalis* (Manna Gum) tree at 9 Reno Road, Sandringham to be included within Council’s Significant Tree Register. The nomination was lodged by the owner of the property.

In 1996 Council established a Significant Tree Register that is maintained in accordance with the *Bayside Significant Tree Management Policy 2013*. There are currently seventy five (75) trees and two sites (2) (golf clubs boundary plantings) recorded as Significant on the Bayside Significant Tree Register, including one *Eucalyptus viminalis* (Manna Gum) tree on the basis of size and contribution to the landscape.

An arboricultural assessment and report written by Arbor Survey dated 10 November 2016 is attached to this report. The report includes digital images of the tree, tree location and recommendations.

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

Key issues

*Property Owner’s reason for tree significant listing*

On 1 July 2016 Council received a Significant Tree nomination from the owner of 9 Reno Road, Sandringham to place a *Eucalyptus viminalis* (Manna Gum) tree located in the rear open space of their property on Council’s Significant Tree Register.

The applicant believes the tree is a significant species and planted it approximately 44 years ago.

*Independent Arboriculture Assessment*

The assessment of the tree was undertaken on 6 October 2016 by Arbor Survey. The assessment of the tree considered the overall arboriculture characteristics, the growing environment and overall site conditions surrounding the tree.

- The subject tree is a native species, being *Eucalyptus viminalis* (Manna Gum) which has a known age of 43 years (planted in 1973). The overall condition of the tree is considered to be good with no signs of any major defects and there is evidence that the tree has good vitality based upon the wound or reaction wood that is forming over all pruning cuts and in various other parts of the tree.
The assessment of the tree for significance found that the tree meets the National Heritage Trust criteria 5 and 6:

5. ‘Social’ criteria for its contribution to the landscape; and

6. ‘Aesthetic Value’ for its outstanding size based on its trunk circumference and overall Canopy dimensions.

The rating criteria aligned to the National Heritage Trust met ‘Social’ for its contribution to the landscape and ‘Aesthetic’ for its size based on its trunk circumference and overall canopy dimension. It must be noted that this assessment is based on a local context within the City of Bayside and the tree only met the Local and Neighbourhood Significance ratings within Council’s Significant Tree Management Policy 2013.

**Significant Tree Management Policy 2013**

The assessment focused on the ten criteria in the *Significant Tree Management Policy 2013* which is based upon the National Heritage Trust agreed criteria for assessing significant tree. These criterion were used to assess the tree for significance in the local context within the City of Bayside, needing to meet at least one of the ten criteria to be considered significant.

The independent assessment concluded that the tree met criteria 6 ‘Aesthetic Value’, for its aesthetic significance to the site and the immediate local area.

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

**Council’s Arborist’s Assessment:**

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

**Recommendation**

That Council grant significant tree status for a *Eucalyptus viminalis* (Manna Gum) tree located at 9 Reno Road, Sandringham, and include on Council’s Significant Tree register.

**Support Attachments**

1. Arbor Survey, 9 Reno Road Sandringham, Significant Tree Report ↓
Considerations and implications of recommendation

Liveable community

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

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

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

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

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

Legal
Tree 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 Tree 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 Tree Management Policy 2013 is that tree that are included on the register can only be added or removed from it by a Council resolution.
SIGNIFICANT TREE ASSESSMENT
EUCALYPTUS VIMINALIS (MANNA GUM)

Site Address:
9 Reno Road, Sandringham

Report Prepared for:
Bayside City Council

Prepared by:
Mark Reynolds
Arboricultural Consultant

Prepared 10 November 2016
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1. SUMMARY

The scope of the arboricultural assessment is to undertake a Significant Tree Assessment of a *Eucalyptus viminalis* (Manna Gum) located in the rear open space of 9 Reno Road, Sandringham. This assessment has been undertaken at the request of Bayside City Council.

The assessment of the tree was undertaken on 6 October 2016. 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*) and an assessment of the risk using the Quantified Tree Risk Assessment methodology (QTRA).

The assessment also focused on the ‘Significance’ of the tree based upon the National Heritage Trust agreed criteria for assessing significant trees. The significance of the tree is assessed based on four overall categories, being ‘Scientific’, ‘Social’, ‘Historic’ and ‘Aesthetic’. These 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, then consideration should be given to including the tree on the Bayside Significant Tree Register.

The subject tree is a native species, being *Eucalyptus viminalis* (Manna Gum) which has a known age of 43 years (planted in 1973). The overall condition of the tree is considered to be good with no signs of any major defects and there is evidence that the tree has good vitality based upon the wound or reaction wood that is forming over all pruning cuts and in various other parts of the tree.

The assessment of the tree for significance found that the tree meets the ‘Social’ criteria for its contribution to the landscape and the ‘Aesthetic’ criteria for its outstanding size based upon 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.

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 9 Reno Road, Sandringham. The objectives of the assessment are:

- Provide an assessment of the site conditions surrounding the subject tree
- Undertake an assessment of the health, structure and overall condition of the subject tree
- Determine the tree protection zone of the tree based upon the Australian Standard AS4970–2009 Protection of Trees on Development Sites
- Undertake a Quantified Tree Risk Assessment of the subject tree
- Investigate any historic significance of the subject tree (where possible)
- Undertake an assessment of the Significance of the tree based upon the 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 9 Reno Road, Sandringham. The site is a relatively flat parcel of land with a very minor incline to the east of the site. 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 Thursday 6 October 2016. 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 8.3. Physical tree dimensions were used to assess the tree protection and structural root zones based upon the Australian Standard AS4970:2009 – Protection of Trees on Development Sites.
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 the National Heritage Trust agreed criteria for assessing significant trees. The significance of the tree was assessed based on four overall categories, being ‘Scientific’, ‘Social’, ‘Historic’ and ‘Aesthetic’. These 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 a tree meets at least one of the criteria used, then consideration should be given to the inclusion of the tree on the Bayside Significant Tree Register.
4. **Significant Tree Assessment**

<table>
<thead>
<tr>
<th>Owners Name:</th>
<th>Pauline Reynolds</th>
<th>Date Inspected:</th>
<th>6/10/2016</th>
<th>Time Inspected:</th>
<th>4:30pm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Address:</td>
<td>9 Reno Road</td>
<td>Suburb:</td>
<td>Sandringham</td>
<td>Post Code:</td>
<td>3191</td>
</tr>
</tbody>
</table>

**Site Conditions**

<table>
<thead>
<tr>
<th>Topography:</th>
<th>Flat</th>
<th>Slope</th>
<th>Change in level (m):</th>
<th>Less than 0.5 metres over site</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soil Conditions:</td>
<td>Sandy Loam</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Prevailing wind and Environmental conditions:** South Easterly/ Westerly. No other environmental conditions are of concern.

**Private or Public Land?** Private land – North East corner of property, located 7.9 metres from northern boundary and 3.3 metres from east boundary (from edge of trunk to the boundary fence), measured using a laser rangefinder.

**Other Comments:** Situated in garden area, with lawn to the east.

**Species Profile**

<table>
<thead>
<tr>
<th>Tree Number or ID:</th>
<th>1</th>
<th>Genus/ Species</th>
<th>Eucalyptus viminalis</th>
<th>Common Name</th>
<th>Manuka Gum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Height (m):</td>
<td>19</td>
<td>Spread (N – S):</td>
<td>18</td>
<td>Spread (E – W):</td>
<td>17</td>
</tr>
<tr>
<td>DBH (cm):</td>
<td>141</td>
<td>Basal Dia (DAB) (cm):</td>
<td>171.5</td>
<td>Trunk Circumference (cm) at breast height:</td>
<td>445</td>
</tr>
<tr>
<td>Origin:</td>
<td>Native</td>
<td>Age Class:</td>
<td>Mature</td>
<td>Estimate of Age (years):</td>
<td>43 Years</td>
</tr>
<tr>
<td>Type of Planting:</td>
<td>Specimen</td>
<td>Deciduous/ Evergreen?</td>
<td>Evergreen</td>
<td>In Active Growth or Dormant on Inspection?:</td>
<td>Active Growth</td>
</tr>
<tr>
<td>Health Rating:</td>
<td>Good</td>
<td>Structure Rating:</td>
<td>Fair - Good</td>
<td>Form Rating:</td>
<td>Good</td>
</tr>
</tbody>
</table>

**Overall health and canopy Condition:** Live crown ratio approximately 80% (Good), crown density of approximately 80%. Tree is in good health with signs throughout the crown of extension growth. Very minimal deadwood in the crown (most less than 20mm diameter).

**Trunk and Structural condition:** Tree may have lost central leader in the past 3 metres from base. 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 and previous fungal disease. Possible necrosis on east side of tree and hollow sound heard (with sounding hammer) however, this is not considered a major structural defect.

**Rooting Environment and root condition:** No signs of any damage or decay to root buttress – sounding hammer used.

**Pests and Disease Presence:** No signs of symptoms present during inspection.

**Past Management:** Tree has been regularly pruned. Last pruning was approximately 5 years ago. Only one branch to the south has been pruned in recent years.

**History within root zone:** No major changes. Possible proposed development to the east in future, potentially within tree protection zone.

**Are there any known threats to this tree?** Possible development threat to tree from works within tree protection zone to the east.

**Tree Protection Zones**

| Trunk Diameter (DBH) (cm): | 141cm | Basal Diameter (DAB) (cm): | 171.5cm | Tree Protection Zone (TPZ) (m): | 15 (actual 16.9m) | Structural Root Zone (SRZ) (m): | 4.2m | Crown Protection Radius (CPR) (m): | 10m | Tree Protection Area (m²): | 707m² |

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*Document Ref: Reno Road Significant Tree Report | Version: 1 | Uncontrolled when printed | Issue Date: 10/11/2018*
Bayside City Council  
Planning & Amenity Committee Meeting - 15 August 2017

**Quantified Tree Risk Assessment (QTRA)**

<table>
<thead>
<tr>
<th>Target Range</th>
<th>Size Range</th>
<th>Prob. Failure Range</th>
<th>Reduced Mass</th>
<th>Risk Index</th>
<th>Review Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>3</td>
<td>6</td>
<td>N/A</td>
<td>&gt;1/1,000,000</td>
<td>Annually</td>
</tr>
</tbody>
</table>

**Comments:** No signs of any major defects. Assessment made on non-specific small branch failure, target would be humans only as minimal structures within failure zone

**Management & Recommendations:** Monitor only

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**History**

- **Planting Date:** 1973 (By Owner)
- **Planted for an occasion or event?** None
- **Any other historic information known?** None
- **Describe history of the tree where known:** No significant event associated with this tree. Discussion with the property owner revealed that the tree was planted in or around the year that they moved into the house.
- **How does this tree compare to other trees in the area (where known)?** There is another tree of this species on the Bayside Council Significant Tree Register at 55 Vincent Street, Sandringham which is now of smaller size due to lopping. This specimen at 9 Reno Road, Sandringham is considered to be in better condition in comparison to the tree already on the Register.

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**Scientific Significance Categories**

<table>
<thead>
<tr>
<th>Scientific Category</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>No</td>
<td></td>
</tr>
<tr>
<td>Species or variety that is rare or of a very localised distribution</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Remnant native vegetation</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Outstanding for its size</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>An outstanding example of the species</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>Social Significance Categories</td>
<td>Yes/No</td>
<td>Reasoning</td>
</tr>
<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>
<tr>
<td>Historical Significance Categories</td>
<td>Yes/No</td>
<td>Reasoning</td>
</tr>
<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>
<tr>
<td>Aesthetic Significance Categories</td>
<td>Yes/No</td>
<td>Reasoning</td>
</tr>
</tbody>
</table>
| Outstanding size (height or spread) or form for species within local area | Yes | The tree does have an outstanding size for the age of the tree (both in trunk circumference, height and spread) within the...
4.1. Recommendation

The assessment of the tree for significance found that the tree meets 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.

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**

![Photograph 1](image1)

![Photograph 2](image2)

![Photograph 3](image3)

![Photograph 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 Tridimensional Consulting
- Treescapes 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).

Compartmentalisation
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 tree’s natural range is within the study area), Native (the tree’s 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 excursive or decurrent 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 excursive or decurrent 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 may show signs of normal growth but it is not consistent throughout the crown. Some foliage discoloration may be 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.

Age Class is rated according to the following categories:

<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>

6.1.6. Quantified Tree Risk Assessment (QTRA) Methodology

Quantified Tree Risk Assessment (QTRA) is an internationally recognised tree risk management framework for the assessment of the three primary components of tree failure risk. The assessment involves the estimation based on broad ranges of potential target, the size of the part of a tree that may potentially fail and the likelihood of failure to calculate the Risk of Harm (RoH). The risk assessment methodology is based around an assessment of the risk that may or may not happen within the coming 12 month period (QTRA Ltd, 2015). It is not an assessment of the Risk of Harm over a longer time period (such as 5 or 10 years).

Quantified Tree Risk Assessment Ltd (2015) provides a non-technical summary of the system as:

Tree safety management is a matter of limiting the risk harm from tree failure while maintaining the benefits conferred by trees. Although it may seem counter-intuitive, the condition of trees should not be the first consideration. Instead, tree managers should first take account of the usage of the land on which the trees stand, which in turn will inform the process of assessing the trees.

The Quantified Tree Risk Assessment (QTRA) system applies established and accepted risk management principles to tree safety management. Firstly, the targets (people and property) upon which trees could fail are assessed and quantified, thus enabling tree managers to determine whether to assess trees and to what degree of rigor a survey or inspection of the trees is required. Where necessary, the tree is then considered in terms of both size (potential impact) and probability of tree or branch failure. Values derived from the assessment of these three components (target, size and probability of failure) are combined to calculate the probability of significant harm occurring.

The system moves the management of tree safety away from labelling trees as either 'safe' or 'unsafe' and requiring definitive statements of tree safety from either tree surveyors or tree managers. Instead, QTRA quantifies the risk of harm from tree failure in a way that enables tree managers to balance safety with tree value and operate to predetermined risk thresholds. (QTRA Ltd 2015)

The three primary components of the risk assessment are defined and quantified below.

Target

Persons or property or other things of value which might be harmed by mechanical failure of the tree or by objects falling from it. The target is defined by the average occupation over a 24 hour period. The target assessment must take into
account a number of factors such as seasonal variation in numbers within the fall zone, the rate of occupation within the fall zone and the weather affected nature of targets (such as lower occupation in a park during storm conditions).

There are six ranges of value that are given to the various targets such as human occupation, vehicle traffic movements and the cost of repair or replacement of property. The following table provides an overview of how the target range is determined.

<table>
<thead>
<tr>
<th>Target Range</th>
<th>Property repair or replacement cost</th>
<th>Human (incl. vehicles)</th>
<th>Vehicle Traffic (number per day)</th>
<th>Ranges of Value (probability of occupation or fraction of $3,000,000)</th>
</tr>
</thead>
</table>
| 1 $300,000 - $300,000  
   (1500 000 - $150 000) | Occupation: 2.5 hours/day  
   Pedestrians & cyclists: 24-hour  
   72-hour - 73-hour | 1510 - 1/60 | |
| 2 $300,000 - $300,000  
   (1500 000 - $150 000) | Occupation: 2.4 hours/day - 15 min/day  
   Pedestrians & cyclists: 24-hour  
   72-hour - 8 hour | 2600 - 1/100 | |
| 3 $300,000 - $300,000  
   (1500 000 - $150 000) | Occupation: 14 min/day - 2 min/day  
   Pedestrians & cyclists: 24-hour  
   7 hour - 2 hour | 1/100 - 1/1000 | |
| 4 $300,000 - $300,000  
   (1500 000 - $150 000) | Occupation: 1 min/day - 2 min/day  
   Pedestrians & cyclists: 1 hour - 3 day | 1/1000 - 1/100 000 | |
| 5 $300,000 - $300,000  
   (1500 000 - $150 000) | Occupation: 1 min/day - 1 min/month  
   Pedestrians & cyclists: 2 day - 2 week | 1/100 000 - 1/100 000 | |
| 6 $300,000 - $300,000  
   (1500 000 - $150 000) | Occupation: None | None | |

Size

Size takes into account the potential failure of a tree or by objects falling from it. Size takes into account the tree or branch size as well as the distance and orientation of the fall which influences the force of impact. The size may be discounted where they have undergone a significant reduction in weight due to degradation or shedding or subordinate branches referred to as 'Reduced Mass'. There are four size ranges that are determined from the part of the tree that is most likely to fail based on arboricultural knowledge and experience. The following table provides an overview of how the size range is determined.

<table>
<thead>
<tr>
<th>Size Range</th>
<th>Size of tree or branch</th>
<th>Range of Probability</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>&gt; 4050mm (16&quot;) dia.</td>
<td>8/1 - 1/2</td>
</tr>
<tr>
<td>2</td>
<td>2550mm (10&quot;) dia. - 4050mm (16&quot;) dia.</td>
<td>8/2 - 1/8.5</td>
</tr>
<tr>
<td>3</td>
<td>1100mm (4&quot;) dia. - 2550mm (10&quot;) dia.</td>
<td>8/8 - 1/182</td>
</tr>
<tr>
<td>4</td>
<td>25mm (1&quot;) dia. - 100mm (4&quot;) dia.</td>
<td>1/82 - 1/2 500</td>
</tr>
</tbody>
</table>

Probability of Failure

The probability of tree or branch failure within the coming year is estimated and recorded as a range of seven (7) values. It is a comparison of the assessment of a tree or branch against a benchmark of a non-compromised tree at Probability of Failure Range 7, or a tree or branch that is expected to fail within the year - Probability of Failure Range 1. The Probability of Failure Range is based upon the risk assessors’ knowledge of tree biology and structure. The following table provides an overview of how the Probability of Failure range is determined.

<table>
<thead>
<tr>
<th>Probability of Failure Range</th>
<th>Probability</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1/1 - &gt;1/10</td>
</tr>
<tr>
<td>2</td>
<td>1/10 - &gt;1/100</td>
</tr>
<tr>
<td>3</td>
<td>1/100 - &gt;1/1000</td>
</tr>
<tr>
<td>4</td>
<td>1/1000 - &gt;1/10000</td>
</tr>
<tr>
<td>5</td>
<td>1/10 000 - &gt;1/100 000</td>
</tr>
<tr>
<td>6</td>
<td>1/100 000 - &gt;1/1 000 000</td>
</tr>
<tr>
<td>7</td>
<td>1/1 000 000 - &gt;1/10 000 000</td>
</tr>
</tbody>
</table>

The probability that the tree or branch will fail within the coming year.

**QTRA Calculation**

The range of values for each of Target, Size and Probability of Failure are used to calculate the Risk of Harm. These components are entered into a specific calculator to determine the Risk of Harm (Ron) which is expressed as an overall probability (i.e. 1/100,000). The term ‘ALARP’ means ‘As low as reasonably practical’. By definition this means that the risk should only be controlled if there will be significant benefit or a reduction in risk at a reasonable cost. For example, there may be a high cost to prune or undertake maintenance on a tree, however there will be no benefit in risk reduction if there is very minimal target occupation (i.e. target range 6 as above).

The table to the right provides an overview of the probability thresholds and where risk management actions should be undertaken.

<table>
<thead>
<tr>
<th>Thresholds</th>
<th>Description</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unacceptable</td>
<td>Risks will not ordinarily be tolerated</td>
<td>Control the risk</td>
</tr>
<tr>
<td>Unacceptable (where imposed on others)</td>
<td>Risks will not ordinarily be tolerated</td>
<td>Control the risk</td>
</tr>
<tr>
<td>Tolerable (by agreement)</td>
<td>Risks may be tolerated if those exposed to the risk accept it, or the tree has exceptional value</td>
<td>Evaluate the risk</td>
</tr>
<tr>
<td>Tolerable (where imposed on others)</td>
<td>Risks are tolerable if ALARP</td>
<td>Assess costs and benefits of risk control</td>
</tr>
<tr>
<td>Broadly Acceptable</td>
<td>Risk is already ALARP</td>
<td>No action currently required</td>
</tr>
</tbody>
</table>

4.2 25D BOLTON STREET, BEAUMARIS  
(FORMERLY LOT 14 - 489 BALCOMBE ROAD)  
GRANT OF A PLANNING PERMIT  
APPLICATION NO: 2016/744/1 WARD: SOUTHERN

This matter has been reported to the Planning and Amenity Committee for a decision as a result of Councillor call-in.

1. Purpose and background
To report a planning permit application for the construction of a double storey dwelling on a lot with an area of 434 square metres (refer Attachment 1) at 25D Bolton Street, Beaumaris (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr M Shaw</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>20 January 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>2 March 2017</td>
</tr>
</tbody>
</table>

Site History
Planning permit 2014/516 was granted on the 17 March 2015 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) for the subdivision of the former Beaumaris RSL site at 489 Balcombe Road into 20 lots, removal of vegetation, alteration of access to a Category 1 Road Zone and variation and removal of easements.

The permit was amended via Section 72 of the Planning and Environment Act 1987 on the 13 October 2015 for minor amendments to the conditions. The permit was amended again via Section 71 of the Planning and Environment Act 1987 on the 5 November 2015 to correct a minor clerical error in the original drafting of the conditions.

Individual titles for the 20 lots have been issued. A number of the conditions of the subdivision permit, the endorsed plans and a Section 173 agreement lodged on all titles across the site place restrictions on the development of each site. These are discussed later in the report.

Subdivision plans have been endorsed that direct a number of aspects of the development of individual sites, including the provision of building envelopes and maximum building heights.

A landscape concept plan has also been endorsed for the larger site. All landscape plans for individual lots must be consistent with the landscape concept plan.

The section 173 agreement on each title imparts obligations on the owner in relation to the building envelope, height of development and tree protection fencing, and requires landscape plans to be prepared for each site and arborist reports where trees are to be retained.

It is noted the original Section 173 agreement did not allow works outside of the building envelope. This prohibited all works that would normally be associated with a dwelling including site cuts, driveways and letterboxes from occurring outside the building envelope. It is acknowledged this was over and above the intent of the building envelopes as decided by the VCAT decision and an amended Section 173 agreement was re-drafted that reflects the intent of the VCAT decision and community expectations for the development of the site, while enabling landowners to reasonably develop each site. The amended section 173 was signed by all owners and Council and registered on all titles on the 21 June 2017 (Dealing No. AN936521R).
2. **Policy implications**

   **Planning permit requirements**

   Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of a single dwelling on a lot less than 500 square metres.

   **Planning scheme amendments**

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

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

3. **Stakeholder Consultation**

   **External referrals**

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

   **Internal referrals**

   The application was referred to the following Council departments for comment

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Changes requested to landscape plan. Addressed via condition.</td>
</tr>
<tr>
<td>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

   **Public notification**

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

4. **Recommendation**

   That Council:

   Issues a **Planning Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application 2016/744/1** for the land known and described as **25D Bolton Street, Beaumaris**, 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 from the standard conditions:

   1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of
the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the amended plans (Drawing No: 2 – 6 (all Rev A and dated 7/11/2016) and the Landscape Concept Plan (dated 17/3/2016)) but modified to show:

a) The dwellings entrance relocated to the buildings frontage and oriented toward Bolton Street.

b) The street setback of the dwelling at ground and first floor increased to a minimum of 7 metres.

c) Overall height of the proposal lowered by 700mm.

d) Rear facing first floor windows to bedroom two and three to be obscure glazed, screened or have raised sill heights in accordance with Standard A15 of the Bayside Planning Scheme.

e) A longitudinal section of the driveway showing the grades and lengths of grades in accordance with AS2890.1.

f) Sightlines where the driveway meets the crossover in accordance with Clause 52.06-9 of the Bayside Planning Scheme.

g) A rainwater tank or tanks with a combined capacity of 7,000 litres in accordance with the Water Sensitive Urban Design Report prepared by Latitude 37 Projects Pty Ltd (undated).

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

i) A Landscape Plan in accordance with Condition 10 of this permit.

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

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

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

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

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

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

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

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

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape plan, prepared by Greendaze Garden Design and dated 17 March 2016) and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) Quantities of shrubs, climbers and ground covers to be detailed.

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

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

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

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

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

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

Permit notes

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

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

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

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

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

Council Plan 2017-2021

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 12 Environmental and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct H3)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.03 Vegetation Protection Overlay (Scheduled 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 54 Single dwelling on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.
The proposal is considered to achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area. The proposal retains sufficient space around the dwelling to accommodate this level of vegetation.

Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to establish a useable area of private open space to the rear of the dwelling is also acknowledged. The proposed site cuts are not considered excessive in this context.

The proposed design is typical of a number of contemporary properties in the area. The proposal is considered to contribute an acceptable level of visual interest to the streetscape. The proposed double garage would project forward of the remaining ground floor frontage but would be set behind the first floor level. In this context the garage would not dominate the frontage of the property.

The dwelling would utilise selected stone, render and vertical timber cladding. Window joinery would be in aluminium. The materials proposed are in keeping with a number of similar developments in the surrounding area and the proposal is considered to respond to the existing neighbourhood character. Two low stone front boundary walls are proposed to a height of 900mm on the landscape plan. The height of the proposed boundary walls would not disrupt the openness of the front garden to the street.

6.2. Compliance with Clause 55 (ResCode)

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

Integration with street (Standard A2)

The proposal does not employ high front fencing and the dwelling design generally provides for the observation of Bolton Street with first floor living spaces overlooking Bolton Street. However, at ground floor level the connection with the street is limited and the front entrance is located down the side of the property. As such the proposal is not considered to be well oriented to the street. The objective of this standard is to integrate the layout of development with the street.

The proposals integration with the street would be substantially improved by relocating the dwellings entrance to the frontage of the property and orienting the entrance to the street. A condition of approval is recommended to improve the dwellings integration with the street.

Site coverage (Standard A5)

<table>
<thead>
<tr>
<th>Maximum</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>50.9%</td>
<td>0.9%</td>
</tr>
</tbody>
</table>

The proposal would vary the maximum site coverage control by 0.9%. The objective of the standard is to ensure that the site coverage respects the existing or preferred neighbourhood character and responds to the features of the site.

The proposed variation to the site coverage standard of approximately four square metres is minor. A consequential impact of the condition of approval recommended in relation to the Bolton Street setback would be that the dwelling complies with this standard.
Side and rear setbacks (Standard A10)

<table>
<thead>
<tr>
<th></th>
<th>Ground floor up to 3.6m</th>
<th>Ground floor above 3.6m</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
<td>Requirement</td>
</tr>
<tr>
<td>West (Side)</td>
<td>0m</td>
<td>0m</td>
<td>N/A</td>
</tr>
<tr>
<td>East (side)</td>
<td>2m</td>
<td>2m</td>
<td>2.045m – 2.459m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>4m</td>
<td>4m</td>
<td>N/A</td>
</tr>
</tbody>
</table>

The proposal would vary the side and rear setbacks as detailed in the table above. The objective of Standard A10 is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings. It is acknowledged that given the slope of the site and the objective of the neighbourhood character precinct to minimise site disturbance, compliance with the side and rear setback standard is a challenge.

At ground floor level the proposal would vary the side setback standard in relation to the eastern boundary. While being setback from the boundary 2 metres, the ground floor level exceeds 3.6 metres in height which requires a setback greater than 2 metres. In this context the variation is not considered to prejudice the accommodation of vegetation around the proposal and would not be overtly visible from the street. No application has been submitted for the development of No.25E Bolton Street. Due to the building envelope provided for the property by the subdivision permit it can be reasonably assumed the built form will be setback 2 metres from the boundary with No.25D Bolton Street and the primary open space will be located to the rear. The ground floor side setback variation would not have an amenity impact on this neighbouring property and would not compromise the future development of the site.

The proposed first floor would vary the rear setback standard by between 73mm and 259mm. No.10 and 11 Ruxton Rise to the rear of the subject site are vacant; however a concurrent application has been submitted for No.10 Ruxton Rise (2017/383/1). Given the building envelope provided for the development of these site, it is reasonable to assume regardless of the application submitted that the rear of these two properties will be developed as secluded private open space. The proposed variation would be to the south of these neighbouring properties and would have only a limited impact on the aspect from the rear of these properties. The setback variation to the rear of the property would not be visible from the street and would have no impact on the neighbourhood character of the area.

The proposed first floor would vary the side setback in relation to the eastern boundary by between 720mm and 1.92 metres. The proposed variation increases as the site slopes down towards the road. The adjacent property, No.25E Bolton Street, is vacant and no application has been received as yet for the development of this property. Given the small size of the site and the building envelope established through the subdivision permit, it can reasonably be assumed No.25E Bolton Street will be developed with a number of western facing ground floor windows setback two metres from the boundary with the subject site. It can also reasonably be assumed the primary secluded private open space for No.25C Bolton Street will be located at the rear of the site. The proposed variation would have only a limited impact on this private open space, which would be afforded a west, north and east aspect.
The proposed first floor would vary the side setback in relation to the western boundary by between 198mm and 2.36 metres. The proposed variation increases as the site slopes down towards the road. The adjacent property, No.25C Bolton Street, is vacant and no application has been received as yet for the development of this property. Given the small size of the site and the building envelope established through the subdivision permit, it can reasonably be assumed that the site will be developed with built form adjoining the majority of the boundary with No.25D Bolton Street within the building envelope. A dwelling that adjoins the boundary at ground floor level and has a similar first floor setback to the proposal, would not be significantly impacted by the proposal. It is also reasonable to assume the primary secluded private open space for No.25C Bolton Street will be located at the rear of the site. The proposed variation would have only a limited impact on this private open space, which would be afforded a west, north and east aspect.

The proposed first floor variations to the eastern and western side setbacks would be highly visible from the street and are not considered to accord with the anticipated rhythm and spacing of buildings in the streetscape envisaged for the overall former Beaumaris RSL site. Requiring increased setbacks of the first floor from the side boundaries would constrain a number of the rooms proposed and would likely result in poor internal amenity outcomes. The size of the variations results in large part because of the overall height of the parapet. It is noted the internal ground floor level would protrude approximately 1 metre above natural ground level at the frontage of the dwelling.

A condition of approval is recommended to require the overall height of the proposal to be reduced by 700mm. This could be achieved with a further site cut and lowering the ground level of the proposal. It is acknowledged an objective of the preferred future character statement is to minimise the disturbance of the site; however the recommended condition of approval is considered to strike a reasonable balance between achieving the rhythm of the street scene envisaged by the subdivision permit and minimising site disturbance.

Subject to the recommended conditions of approval, the proposal is considered to achieve the objective of this standard.

**Overlooking (Standard A15)**

All side and rear ground floor windows proposed would face a boundary fence to a minimum height of 1.8 metres. The ground floor internal floor height does not exceed 800mm above natural ground level at any point and as such the proposal complies with the overlooking standard at ground floor level.

The first floor side facing habitable room windows in the east and west elevations would have sill heights raised to 1.921 metres above internal finished floor level. It is noted the two windows with lower sill heights serve a hallway and a void adjacent to the staircase. Neither space is a habitable room and as such would not require screening in relation to Standard A15.

A first floor balcony is proposed to the frontage of the dwelling with an adjustable louvre screen facing west. No detail has been provided in relation to this screening to ascertain whether it would meet the overlooking standard. No.25C Bolton Street is vacant and no application has been received as yet for the development of this property. Given the building envelope provided for the development of this site, it is reasonable to assume the area adjacent to the balcony proposed at No.25D Bolton Street would be built form. Any windows or balconies at this property could be adequately screened to avoid overlooking between the two properties.

The proposed first floor rear facing windows serving bedroom two and three would be within 9 metres of the No.10 and 11 Ruxton Rise to the rear. While No.10 and 11 Ruxton Rise are vacant, a concurrent application has been submitted for No.10 Ruxton Rise (2017/383/1). Given the building envelope provided for the development of these site, it
is reasonable to assume regardless of the concurrent application that the rear of these two properties will be developed as secluded private open space.

The applicant has demonstrated on the northern elevation that the rear boundary fence and trellis would obscure views within 9 metres from the rear first floor windows to the natural ground level of properties to the rear. This would not prevent a clear view of any person standing in the rear private open space of the two properties to the rear. A condition of approval is recommended to ensure the first floor rear facing windows proposed are appropriately screened to avoid overlooking of these areas.

6.3. Bolton Street setback

The original subdivision permit issued at the direction of VCAT did not include a condition to alter the setback of building envelopes to Bolton Street; despite commentary in the decision indicating that a 9 metre setback would be appropriate. Subdivision plans were correctly endorsed by Council with a six metre setback to Bolton Street on this basis. Council wrote to VCAT in November 2016 to bring this discrepancy to the Tribunal’s attention; however following a review by the Deputy President, VCAT declined to amend the 2015 permit or the endorsed plans.

There are a range of setbacks in the area typified by the large setback to No.25 Bolton Street and the relatively smaller setbacks on the southern side of Bolton Street, opposite the former Beaumaris RSL site. Officers consider the existing and preferred neighbourhood character of the surrounding area supports a street setback from Bolton Street larger than six metres. It is acknowledged the development of the former Beaumaris RSL site is an unusual situation where a number of individual applications have been made for a row of properties all fronting Bolton Street. Concurrent applications made for the other adjacent sites and the location of built form directed by the size and shape of the lots are all considerations in the appropriate street setbacks for each individual lot.

The ground floor of the proposal would be setback 6.214 metres and 6.83 metres from the street, while the first floor would be setback 6.014 metres. The lot boundaries of No.25B to 25F Bolton Street all align and as such a consistent street setback for these properties would be desirable. The properties either side, No.25C and 25E Bolton Street, are currently vacant and no applications have been received as yet for their development. Concurrent applications have been made for No.25B and 25F Bolton Street (2016/73 and 2016/166 respectively). The application for No.25B Bolton proposes a street setback of 6.2 metres at ground floor and 6 metres at first floor. The application at No.25F Bolton Street proposes a street setback of 7 metres at ground and first floor.

The objective of the street setback control (Standard A3) is to ensure that the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. The existing character of Bolton Street is considered to be a 9 metre street setback. It is noted a number of dwellings have lesser setbacks, notably the dwellings with side setbacks to Bolton Street directly west of Haydens Road. This is a position consistent with the findings of the VCAT members in Red Star Beaumaris Pty Ltd v Bayside CC [2015] VCAT P1885.

The preferred neighbourhood character precinct speaks to bushy gardens dominating the streetscape, dwellings set within the landscape, which are sometimes sited to take advantage of water views without dominating the streetscape, minimising impervious surfaces in front garden spaces to ensure space for planting and ensuring adequate space is provided around buildings for the planting of vegetation. In this context the level of planting achieved in the front setback is considered to be an important consideration of whether a sufficient setback has been achieved.

As discussed in the Vegetation and Landscaping section of this report, the landscape plan submitted in support of the application proposes four canopy trees in the front garden of the proposal; however a significant amount of hard surfacing in the form of the
driveway and large concrete and bluestone steppers are also proposed in the street setback. Given the level of hard surfaces, a condition of approval is recommended to require a minimum street setback of 7 metres at ground and first floor. This will also assist in achieving the level of vegetation and planting envisaged for the overall site. It is noted this is consistent with the proposal at No.25F Bolton Street.

6.4. Car parking and traffic

A double garage is proposed which accords with the car parking requirement for a single dwelling with three or more bedrooms pursuant to Clause 52.06. Council’s Traffic Engineer has reviewed the application and has requested minor conditions regarding the driveway grades, sightlines and crossover. The crossover has been constructed in accordance with the endorsed subdivision plans and the proposed driveway aligns with the existing crossover. Conditions of approval in relation to the driveway grades and sightlines are included in the recommendation.

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

6.5. Vegetation & Landscaping

A landscape concept plan, prepared by John Patrick Landscape Architects Pty Ltd, was endorsed in accordance with subdivision permit 2014/516/2. Pursuant to the Section 173 agreement all development applications for individual sites must be accompanied by a landscape plan that is generally consistent with the endorsed landscape concept plan. The landscape concept plan identifies a Black Sheoak (Allocasuarina littoralis) to be planted in the front setback of the site and provides a planting schedule with a series of shrub varieties.

A landscape plan for the site, prepared by Greendaze Garden Design and dated 17 March 2016, has been submitted in support of the application. Council’s Arborist has reviewed the application and advises that the proposed canopy tree planting accords with the endorsed landscape plan. It is noted the shrubs proposed are not in accordance with the planting schedule of the landscape concept plan. The wording “consistent with” is considered to be a higher test than the commonly used “generally in accordance with”.

In this context it is considered appropriate for the proposed canopy tree planting for the site to be in accordance with the landscape concept plan; however the shrubs may deviate from the planting palette in the endorsed landscape concept plan provided the alternative design achieves a sufficient bushy garden character with the use of a high level of native species.

The proposed landscape plan provides two Black She-oak, one Snow Gum (Eucalyptus pauciflora) and one Silver Banksia (Banksia marginata) in the front setback and one Silver Banksia and one Coast Banksia (Banksia integrifolia) in the rear setback. Council’s Arborist advises there is insufficient soil volume free from impervious surfaces surrounding the Coast Banksia in order for the tree to reach the height and width at maturity sought in the endorsed landscape concept plan. Council’s Arborist has advised a soil volume of 25sqm free from impervious surfaces is required to for the Coast Banksia to establish.

It is noted an area of 16 square metres of turf is proposed around the Coast Banksia and the adjacent paving would be permeable. Given the proposed location of the tree, the root growth is anticipated to cross into No.25C Bolton Street and No.10 Ruxton Rise. A concurrent application has been made for No.10 Ruxton Rise which proposes a garden bed adjacent to the proposed location of the Coast Banksia. No application has yet been submitted for No.25C Bolton Street. Given all of the above, the Coast Banksia is considered to have sufficient soil volume to reach the size at maturity anticipated by the landscape plan.
The proposed landscape plan also details a wide variety of shrubs and smaller planting that while not entirely in accordance with the planting palette in the endorsed landscape concept plan contains a significant number of native and indigenous species. Quantities of shrubs, climbers and groundcovers are not provided and a condition of approval is recommended to address this. Subject to the recommended conditions of approval, the proposed landscape plan would respond to the preferred bushy garden character sought for the area and be consistent with the endorsed landscape concept plan.

An Arborist report for the former 489 Balcombe Road, prepared by Greenwood Consulting dated 29 September 2015, was submitted to satisfy condition 6 of the original subdivision permit. The Section 173 agreement lodged on the title requires that an Arborist Report is submitted to Council prior to the commencement of any works where a tree protection zone extents into a site. There are no Tree Protection Zone’s relating to trees to be retained in accordance with the endorsed subdivision plans that extend into the subject site and as such an individual arborist report is not required.

Support Attachments

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character (Precinct H3) Assessment ↓
4. Clause 54 (ResCode) Assessment ↓
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
</tbody>
</table>
Figure 2 View of site from Bolton Street

Figure 3 View from Bolton Street across site and No.25E Bolton Street
Figure 4 View across site facing west with No.25 Bolton Street in background
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H3)

Preferred Future Character

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To strengthen the bushy garden character of the area through the planting of appropriate species.</td>
<td>• Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).&lt;br&gt;• Prepare a landscape plan to accompany all applications for new dwellings that utilises appropriate native, preferably indigenous, vegetation.&lt;br&gt;• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings.</td>
<td>Lack of landscaping and substantial vegetation.&lt;br&gt;Removal of large established trees.&lt;br&gt;Planting of environmental weeds.</td>
<td>Responds&lt;br&gt;A landscape plan has been submitted in support of the application. The trees to be retained and the level of planting across the site is informed by the original VCAT decision and endorsed landscape concept plan. The proposal is considered to achieve a level of planting across the site consistent with the endorsed landscape concept plan and the bushy garden character sought by the preferred future character for the area. This is discussed in greater depth in the report.</td>
</tr>
<tr>
<td>To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is</td>
<td>• Buildings should be sited to allow space for a garden, including trees and shrubs.</td>
<td></td>
<td>Responds&lt;br&gt;The footprint of the proposal would be located wholly within the building envelope established by the endorsed subdivision</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>provided around buildings for the retention and planting of vegetation.</td>
<td>• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation.</td>
<td></td>
<td>plans (Ref: 2014/516/2). This envelope ensures space is retained between the proposal and the development of 25G Bolton Street. Sufficient space is retained around the proposed dwelling to accommodate a level of vegetation consistent with the bushy character identified in the preferred neighbourhood character and endorsed concept landscape plan prepared by John Patrick Landscape Architects.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>• Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space.</td>
<td></td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed double garage would be project forward of the remaining ground floor frontage but would be set behind the first floor level. In this context the garage would not dominate the frontage of the property. The level of front garden space is considered in the Bolton Street Setback section of the report.</td>
</tr>
<tr>
<td>To minimise site disturbance and impact of the building on the landscape.</td>
<td>• Buildings should be designed to follow the contours of the site on sloping sites.</td>
<td>Major excavation works and site levelling.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Minimise the use of retaining walls and battering of slopes.</td>
<td>Buildings that protrude above the tree canopy height.</td>
<td>Given the slope and undulation of the existing site, a level of disturbance is unavoidable, particularly given the 8 metre height limit prescribed for the site in the endorsed subdivision plans. The need to establish a useable area of private open space to the rear of the dwelling is also acknowledged. The proposed site cuts are not considered excessive in this context.</td>
</tr>
<tr>
<td></td>
<td>• Design new buildings and extensions so as not to exceed the predominant tree canopy height.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure that new buildings provide an</td>
<td>• Incorporate design elements into the front façade design of new</td>
<td>Large, bulky buildings</td>
<td>The frontage of the proposal incorporates a projecting first floor and recessed</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
<tr>
<td>------------</td>
<td>------------------</td>
<td>-------</td>
<td>-----------------------------</td>
</tr>
</tbody>
</table>
| articulated and interesting façade to the street. | dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
- Recess upper levels from the front façade. | Poorly articulated front and side wall surfaces. | fenestration at ground floor level. The range of materials in addition to the projecting and recessed elements of the dwelling, would separate the mass of the dwelling. The proposed design is typical of a number of contemporary properties in the area. The proposal is considered to contribute an acceptable level of visual interest to the streetscape. |
| To use building materials and finishes that complement the natural setting. | Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | The dwelling would utilise selected stone, render and vertical timber cladding. Window joinery would be in aluminium. While a variety of materials are proposed no detail has been provided in regards to the actual finish or colour of the materials. A condition of approval is recommended to obtain these details. The materials proposed are in keeping with a number of similar developments in the surrounding area. In this context, the proposal is considered to appropriately respond to the existing neighbourhood character. |
| To maintain the openness of the front garden to the street. | Provide open style front fences, other than along heavily trafficked roads.  
- Use vegetation as an alternative where possible. | High or solid front fences. | The character of the area is typified by a range of front boundary treatment. Examples in the immediate surrounds range from no fencing and open front gardens to high solid fencing that obscures any visual connection between the street and front gardens. Two low stone front boundary wall are proposed to a height of 900mm on the |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>

Avoid

landscape plan. No front boundary walls are shown on the site plan. The height of the proposed boundary wall would not disrupt the openness of the front garden to the street.
## ATTACHMENT 4
### ResCode (Clause 54) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Requirement and Proposed</th>
</tr>
</thead>
</table>
| **A1 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 to Attachment 3. |
| **A2 Integration with Street**  
Integrate the layout of development with the street. | No | Refer to report. |
| **A3 Street Setback**  
Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site | Refer to report | **Required:** 6m  
**Proposed:** 6.014m  
Refer to Section 6.3 of report |
| **A4 Building Height**  
Building height respects the existing or preferred neighbourhood character. | Yes | **Maximum:** 8m  
**Proposed:** 7.83m  
Note: The height limit is specified in sheet 3 of 7 of the previously endorsed plans for the original subdivision permit (2014/516/2) |
| **A5 Site Coverage**  
Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | No | **Maximum:** 50%  
**Proposed:** 50.9%  
Refer to report |
| **A6 Permeability**  
Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | **Minimum:** 20%  
**Proposed:** 43.6% |
| **A7 Energy Efficiency**  
Achieve and protect energy efficient dwellings.  
Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located in relation to the orientation of the site. |
| **A8 Significant Trees** | Yes | Refer to report. |
Development respects the landscape character of the neighbourhood and retains significant trees on site.

### A10 Side and Rear Setbacks

Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings. No Refer to table below and report. Non-compliances are underlined below.

<table>
<thead>
<tr>
<th></th>
<th>Ground floor up to 3.6m</th>
<th>Ground floor above 3.6m</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (Side)</td>
<td>0m</td>
<td>0m</td>
</tr>
<tr>
<td>East (side)</td>
<td>2m</td>
<td>2m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>4m</td>
<td>4m</td>
</tr>
</tbody>
</table>

#### First Floor

<table>
<thead>
<tr>
<th></th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>West (Side)</td>
<td>3.698m – 5.86m</td>
<td>3.5m</td>
</tr>
<tr>
<td>East (side)</td>
<td>4.2m – 5.4m</td>
<td>3.48m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>4.5m – 4.686m</td>
<td>4.427m</td>
</tr>
</tbody>
</table>

### A11 Walls on Boundaries

Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings. Yes

**Maximum Height:** 3.6m
**Proposed:** 3.53m
**Maximum Average Height:** 3.2m
**Proposed:** 3.195m
**Maximum Length:** 14.75m
**Proposed:** 13.525m

1. **A12 Daylight to existing windows**
   To allow adequate daylight into existing habitable room windows. Yes
   
   All adjoining properties are currently vacant; however a concurrent application has been made at No.10 Ruxton Rise (2017/383/1).
   
   The proposal is well setback from property boundaries to ensure daylight to the proposed windows at No.10 Ruxton Rise would be consistent with the requirements of Standard B19.

### A13 North Facing Windows

Allow adequate solar access to existing north-facing habitable room windows. Yes

No north facing windows on adjoining properties are affected.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>A14 Overshadowing Open Space</td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>This standard requires 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. It is noted No.25C and 25E Bolton Street are vacant and no application has been received in relation to either property. The application would comply with this control in relation to all surrounding properties.</td>
</tr>
<tr>
<td>A15 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows</td>
<td>No</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>A16 Daylight to New Windows</td>
<td>Allows adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td>A17 Private Open Space</td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall Proposed: 111m² secluded</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>A19 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
</tr>
<tr>
<td>A20 Front Fences</td>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Maximum: 1.2m Proposed: 0.6 – 0.9m</td>
</tr>
</tbody>
</table>
4.3 117 LUDSTONE STREET, HAMPTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/826  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/142536

1. Purpose and background
To report a planning permit application for the construction of a new double storey dwelling (following demolition of existing dwelling) and erection of a new front fence in excess of 1.2m in height (following removal of existing fence) on a lot with an area of 283 square metres (refer Attachment 1) at 117 Ludstone Street, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Merrylees Architecture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>24 July 2017 (Amended)</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>23 September 2017 (not expired)</td>
</tr>
</tbody>
</table>

A brief description of the proposal is as follows:
- The dwelling would be double storey, with living space at ground floor and bedrooms (three) at first floor;
- The maximum building height would be 6.9m;
- The external appearance would be described as modern and contemporary, with large areas of glazed fenestration and a flat roof form;
- A double garage is provided adjacent the western boundary, access off the existing crossover;
- The minimum front setback would be 4.2m;
- A 1500mm high timber batten fence is proposed along the frontage, with a sliding gate providing for vehicle access; and
- Seven trees are being removed, however none of these are protected by any control (planning or local law).

2. Policy implications
Planning permit requirements
Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of a dwelling and erection of a front fence in excess of 1.2m in height on a lot of less than 500 square metres.

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

**External referrals**

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

**Internal referrals**

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions</td>
</tr>
<tr>
<td>Drainage Engineer</td>
<td>No objection, subject to plan variations</td>
</tr>
<tr>
<td></td>
<td>(conversion of garage to a carport to protect existing drainage infrastructure) and standard 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 two objections were received. The following concerns were raised:

- Overlooking;
- Overshadowing;
- Loss of daylight to existing windows;
- Impacts of demolition on neighbouring properties; and
- Property devaluation.

**Consultation meeting**

A consultation meeting was held on 22 May 2017 attended by the permit applicant and two objectors. As a result of this meeting, an amended scheme was submitted. An objector submitted a letter of withdrawal following the amendment, but this could not be accepted because it wasn’t unconditional.

4. **Recommendation**

That Council:

Issue **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning Application No. 2016/826/1** for the land known and described as **117 Ludstone Street, Hampton**, for the **construction of a new double storey dwelling and erection of a new front fence in excess of 1.2m in height** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans (drawn by JM, drawing no. TP-001 – TP-503, Rev D, dated 7 July 2017) but modified to show:
a) The removal of any permanent enclosed structure at ground level (to a height of 2.5m) within 1m of the drainage pipe running parallel to the western property boundary. Alternatively, the permit holder may submit a Consent to Build over an Easement granted by the Responsible Authority.

b) The eastern and northern wall of the laundry lowered to a maximum height of 2.8m, with the roof of a generally equivalent height.

c) A notation on the plans specifying the screen on the rear of the premises as being “no more than 25% transparent”, or other form of screening treatment, in accordance with Standard A15.

d) Removal of references to boundary fences (other than any fence within 3m of the front boundary).

e) Sight lines in accordance with AS2890.1 where the driveway intersects with the footpath.

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

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

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

i) A Landscaping plan in accordance with Condition 12 of this permit.

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

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

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

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

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

11. 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.

12. Prior to the endorsement of plans pursuant to Condition 1, a detailed Landscape Plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts, dated October 2016, Revision A, and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

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

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

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

e) Details of surface finishes of pathways and driveways.

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

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

15. Before the development starts, 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, Protection of trees on development sites. During construction of the crossover, tree protection fencing may be reduced to the edge of the Council approved crossover to facilitate the construction of the crossover. Prior to soil excavation for a Council-approved crossover within the TPZ, a trench must be excavated along the line of the crossover adjacent to the tree using root-sensitive, non-destructive techniques. Any installation of services and drainage with the TPZ must be undertaken using root-sensitive, non-destructive techniques.

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

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

Permit Expiry

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

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

Permit notes:

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

5. Council Policy

Council Plan 2017 - 2021

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.11 Local Areas
- Clause 22.04 Business Employment Area Policy
- Clause 22.06 Neighbourhood Character Policy G1
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 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.

6.1 Neighbourhood character

The site is located within Neighbourhood Character Precinct G1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The application provides sufficient space for landscaping to maintain the garden setting of the area while providing appropriate setbacks at first floor level to maintain the rhythm of visual separation between buildings at upper levels. The proposed front fencing as semi-transparent, aesthetically pleasing and will enhance the openness of the streetscape. The proposed building design, while contemporary, will provide visual interest and a striking juxtaposition between the more traditional house that it will adjoin to the east and the more recently constructed duplex development to the west.

6.2 Compliance with Clause 54 (ResCode)

An assessment against the requirements of Clause 54 is provided at Attachment 4.

Pursuant to Clause 54, 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 that the corresponding objectives have been achieved.

<table>
<thead>
<tr>
<th>Street Setback (Standard A3)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Existing Setback</strong></td>
</tr>
<tr>
<td>4.51m</td>
</tr>
</tbody>
</table>
The required street setback in this instance is 5.11m, as per the front of the adjoining property to the west.

It is noted that, in this case, the existing dwelling (to be removed) has a street setback of 4.51m and the proposed dwelling seeks a setback of 4.28m. Furthermore, the existing street setback applies to a wall with a breadth of 9.45m, while the proposed setback of 4.28m applies to a wall with a breadth of 7m. Consequently, although the proposed front wall is further forward than the existing front wall, this is mitigated to an extent by the lesser length of wall proposed.

In addition, the materials at the front are fairly lightweight and won't present a burdensome appearance to the street. It is considered that the proposed encroachment would enable the efficient development of the site without compromising the amenity of the streetscape.

Side and Rear Setbacks (Standard A10)

<table>
<thead>
<tr>
<th>Elevation</th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m or 2m</td>
<td>0m or 3.8m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
<td>0m or 3.1m</td>
</tr>
</tbody>
</table>

The encroachments into the side and rear setbacks are significant, but not unwarranted. The size constraints of the site would make it difficult to design a suitable upper floor component without some type of encroachment into these setbacks. It is noted that the objections to the development do not oppose the proposed setbacks.

Given that the two adjoining properties are constructed to the common boundary, the impact of the reduced setbacks on private amenity would be negligible and not unreasonable.

Walls on Boundaries (Standard A11)

<table>
<thead>
<tr>
<th>Component</th>
<th>Eastern Elevation</th>
<th>Western Elevation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Average Height</td>
<td>3.2m</td>
<td>3.2m</td>
</tr>
<tr>
<td>Proposed Average Height</td>
<td><strong>3.24m</strong></td>
<td><strong>3.42m</strong></td>
</tr>
</tbody>
</table>

These proposed walls would abut walls on adjoining sites. The proposed walls are of a lesser height than the existing walls. Consequently, it is considered that this won't have any amenity impacts on the neighbouring properties. The exception to this is the wall on the boundary to the laundry. This will abut part of the secluded private open space of 43 Earlsfield Road.

This formed part of the discussion held during the consultation meeting, where the applicant suggested it would be possible to reduce this section of wall to 2.8m in height. This equates to the height of the existing wall and trellis in this location and is considered an appropriate response. A condition has been included in the recommendation to this effect.

Overlooking (Standard A15)

The mesh screen proposed to be applied to the first floor rear elevation of the dwelling is intended to be 25% transparent to limit overlooking as per Standard A15. This meets
the requirements of the Standard and a condition is included in the recommendation to this effect.

**Front Fences (Standard A20)**

<table>
<thead>
<tr>
<th>Existing Height</th>
<th>Required Height</th>
<th>Proposed Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.7m</td>
<td>1.2m</td>
<td>1.5m</td>
</tr>
</tbody>
</table>

The proposed fence is a transparent batten fence, and not dissimilar to the existing picket fence. It is considered that it is an improvement over the existing arrangement and will provide appropriate visual surveillance over the front of the building and the front garden, while being appropriate for both the style of building and the streetscape.

**6.3 Car parking and traffic**

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

**6.4 Vegetation and landscaping**

The application plans show the removal of 7 trees from the site of which none are native. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with a ‘*’.

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

Council’s Arborist advised that the removal of the vegetation on-site, which is generally of a low-scale and all exotic, is acceptable if replaced by appropriate new plantings, meeting Council’s planting requirements. The Landscape Plan has been assessed and is considered to be acceptable.

Council’s Arborist advised that there is no vegetation on neighbouring sites which is likely to be affected by the proposal and that a tree protection plan is not required.

There is a tree within the nature strip that is proposed for retention. The existing crossover is proposed for retention, meaning that there should not be any impact on the tree.

**6.5 Objections received**

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

**Overshadowing**

The resident at 43 Earlsfield Road raises issue with additional overshadowing that will take place over an area of driveway fronting Ludstone Street. This driveway is not considered to be secluded private open space. Even if it were, the overshadowing is only minor and will have no effect on the main area of secluded private open space to the east of the dwelling at 43 Earlsfield Road. The proposal complies with Standard A14 of Clause 54.

**Daylight to Existing Windows**

Existing windows on neighbouring properties are setback far enough from property boundaries to ensure that access to sufficient daylight is achieved in accordance with Standard A12.
Overlooking

Appropriate screens are provided for all first floor windows that overlook sensitive interfaces. A condition has also been included on the permit (requiring full compliance with standard A15) to remove any ambiguity.

Property Devaluation

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

Concerns with Demolition

The potential for damage arising to the property during construction are outside the scope of the planning process and are not sufficient to warrant the refusal of the application. These matters are dealt with by the building surveyor.

Support Attachments

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment Precinct G1
4. Clause 54 (ResCode) Assessment
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

Legend

<table>
<thead>
<tr>
<th>Term</th>
<th>Symbol</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚪</td>
</tr>
<tr>
<td>Withdrawn</td>
<td>⬇️</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the southwest

Figure 3 View towards the site from the SSE
ATTACHMENT 3
NEIGHBOURHOOD CHARACTER ASSESSMENT – 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 proposal allows an appropriate area of soil volume for the planting of a canopy tree at the front of the site.</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>
<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></td>
<td>Although the development is side-to-side, the existing development is also side-to-side. Consequently, the proposal will not infringe neighbourhood character in this regard. The proposal allows the development of vegetation.</td>
</tr>
<tr>
<td>To ensure that new buildings provide an articulated and interesting façade to the street.</td>
<td>• Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind</td>
<td>Large, bulky buildings with poorly articulated</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposed building would be substantially different to anything else in</td>
</tr>
</tbody>
</table>

Item 4.3 – Matters of Decision
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.</td>
<td>front and side wall surfaces.</td>
<td>the streetscape. It is considered that it would provide an appropriate juxtaposition between the relatively new duplex development to the west and the older dwelling adjoining the site to the east. The design is contemporary in nature with a large proportion of vertical glazing on the front elevation framed by black powder-coated aluminium. Sections of wall are to be rendered grey, with other sections to have black timber-cladding. The design is considered to be high quality and should make a worthy contribution to the streetscape, despite its variance with existing dwellings on the street.</td>
</tr>
<tr>
<td></td>
<td>Use pitched roof forms with eaves.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>High, solid front fencing.</td>
<td>Responds</td>
<td>Although the fencing is high, it is not solid and has a degree of visual transparency. It will replace an existing fence of similar height and transparency.</td>
</tr>
</tbody>
</table>

Item 4.3 – Matters of Decision
### ATTACHMENT 4
### CLAUSE 54 ASSESSMENT

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Section 6.1.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>No</td>
<td>Minimum: 5.11m</td>
</tr>
<tr>
<td>Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td>Proposed: 4.28m</td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>Yes</td>
<td>Required: 9m</td>
</tr>
<tr>
<td>Building height respects the existing or preferred neighbourhood character.</td>
<td></td>
<td>Proposed: 6.97m</td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td>Proposed: 50%</td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td>Proposed: 25%</td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwelling.</td>
</tr>
<tr>
<td>Achieve and protect energy efficient dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Refer Section 6.6.</td>
</tr>
</tbody>
</table>

**A10 Side and Rear Setbacks**
Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

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

**A11 Walls on Boundaries**
Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

<table>
<thead>
<tr>
<th></th>
<th>Eastern Boundary</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Maximum Height: 3.6m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 3.47m</td>
</tr>
<tr>
<td></td>
<td>Maximum Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 3.42m</td>
</tr>
<tr>
<td></td>
<td>Maximum Length: 11.5m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 10m</td>
</tr>
<tr>
<td></td>
<td>Western Boundary</td>
</tr>
<tr>
<td></td>
<td>Maximum Height: 3.6m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 3.27m</td>
</tr>
<tr>
<td></td>
<td>Maximum Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 3.24m</td>
</tr>
<tr>
<td></td>
<td>Maximum Length: 11.5m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 6.75m</td>
</tr>
</tbody>
</table>

**A12 Daylight to existing windows**
Yes

The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>A13 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
<tr>
<td>A14 Overshadowing Open Space</td>
<td>Ensure buildings do not unreasonably overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</td>
</tr>
<tr>
<td>A15 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows</td>
<td>No</td>
<td>Refer to Section 6.2. Addressed via condition.</td>
</tr>
<tr>
<td>A16 Daylight to New Windows</td>
<td>Allows adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td>A17 Private Open Space</td>
<td>Provide adequate private open space for the recreation and service needs of residents.</td>
<td>Yes</td>
<td>Minimum: 25m² secluded, 40m² overall. Proposed: 50m² SPOS plus front garden</td>
</tr>
<tr>
<td>A18 Solar Access to Open Space</td>
<td>Allow solar access into secluded private open space of a new dwelling.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td>A19 Design Detail</td>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td>Refer Section 6.1.</td>
</tr>
<tr>
<td>A20 Front Fences</td>
<td>Encourage front fence design that respects the exiting or preferred neighbourhood character.</td>
<td>No</td>
<td>Required: 1.2m. Proposed: 1.5m</td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report a planning permit application for the removal of native trees in a Vegetation Protection Overlay (refer application plans) at 509 Balcombe Road BEAUMARIS (refer Attachment 1).

This application seeks approval for the removal of five (5) native trees in suburban Beaumaris. The details of the trees are outlined in section 6.1 of the report below.

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Livio &amp; Giuseppina Ciabotti</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>22 March 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>30 May 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

Planning permit requirements

Clause 42.02-2 (Vegetation Protection Overlay Schedule 3) – Removal of Native Vegetation.

3. **Stakeholder Consultation**

**External referrals**

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

**Internal referrals**

The application was referred to the following Council departments for comment

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Supportive of tree 1-4 removal, subject to conditions.</td>
</tr>
<tr>
<td></td>
<td>Not supportive of tree 5 removal.</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 8 submissions were received including 5 objections and 3 submissions of support. The following concerns were raised:

- Contradiction of vegetation protection objectives
- Reduction in privacy
- Cumulative reduction in surrounding native vegetation
- Unreasonable impact on neighbourhood character
- Contradiction of local planning policies
The Standards of ResCode must be enforced

Impacts on native fauna

Areas of support included:

- Improved landscaping
- Tree 5 is a slip hazard for pedestrians

Consultation meeting

A consultation meeting was held on 5 July 2017 attended by the permit applicant and 4 submitters including 3 objectors.

As a result of this meeting one objection was conditionally withdrawn — this withdrawal was not recognised as Council is unable to accept conditional withdrawals.

4. Recommendation

That Council:

Issues a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of the land known and described as 509 Balcombe Road BEAUMARIS, for the removal of native trees in a Vegetation Protection Overlay in accordance with the endorsed plans and subject to the following conditions:

1. Before the removal of the trees, 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 submitted 22 March 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a. Retention of Tree 5;
   b. A survey, including botanical names of all existing trees (native and exotic) to be retained on-site including Tree Protection Zones in accordance with AS4970-2009;
   c. Planting of two (2) indigenous canopy trees, which have the capacity to reach a mature height of 10m and spread of 6m at maturity. One tree to be planted in the front setback and a second tree should be planted in the rear yard;
   d. Planting of two (2) additional indigenous canopy trees, which have the capacity to reach a mature height of 8m and spread of 4m at maturity. One tree to be planted in the front setback and a second tree should be planted in the rear yard.

2. The canopy trees planted in the front setback should be sufficiently setback from the northern boundary so mature tree canopies will not require pruning for powerline clearance.

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

4. The landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority within 12 months of the removal of the trees.

5. 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.

6. This permit will expire if the tree removal has not been completed within two years of the date of this permit.
5. **Council Policy**

**Council Plan 2017 - 2021**

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 12 Environmental and Landscape Values
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.04 Environmental and Landscape Values
- Clause 22.06 Neighbourhood Character Policy – Precinct H2
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 42.02 Vegetation Protection Overlay (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)

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 and submissions of support received and the individual merits of the application.

6.1. **Vegetation & Landscaping**

<table>
<thead>
<tr>
<th>VPO3 protected trees</th>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Proposed for removal</strong></td>
<td><strong>Proposed for retention</strong></td>
<td><strong>Proposed for removal</strong></td>
</tr>
<tr>
<td>Trees 1, 2, 3, 4 &amp; 5</td>
<td><em>Not Shown</em></td>
<td>Nil</td>
</tr>
</tbody>
</table>

The objectives of the VPO3 are to retain the amenity, aesthetic character and habitat value of native vegetation by preventing the loss of native (particularly indigenous) vegetation and promoting the regeneration and replanting of indigenous species in the Beaumaris and Black Rock area.
This application has been submitted separate to any proposal for development on the subject land. The objectives of the VPO3 are therefore the primary assessment tool for native tree removal. These objectives must be considered in association with any other statutory controls governing the site and relevant State and Local Planning Policies. This includes the overarching purpose of the overlay and the need to ensure decisions reflect broader strategic policy objectives.

The applicant submitted a landscape plan demonstrating the native trees sought to be removed as a part of the application. The applicant’s Arborist has indicated that all five trees have low retention values due to poor health and poor structures. A number of other trees on-site are sought to be retained, although these are not clearly outlined on the landscape plan. An Arboricultural report – dated 31 January – was submitted with the application.

The applicant has applied for the following trees to be removed:

- Tree 1 – Brush Cherry (Syzygium paniculatum) with a height of 8 metres in the south-eastern corner of the site;
- Tree 2 – Brush Cherry (Syzygium paniculatum) with a height of 8 metres along the eastern site boundary in the rear yard;
- Tree 3 – Lilly Pilly (Syzygium smithii) with a height of 8 metres along the eastern site boundary in the front setback;
- Tree 4 – Lilly Pilly (Syzygium smithii) with a height of 8 metres along the eastern site boundary in the front setback;
- Tree 5 – Brush Cherry (Syzygium paniculatum) with a height of 12 metres along the northern site boundary fronting onto Balcombe Road;

Council's Arborist has reviewed the application and the submitted Arboricultural report and visited the subject site on 4 June 2017. Council’s Arborist found that trees 1-4 all had low amenity values and poor structures. Several of these trees were found to have termite damage. Their removal is supported by the vegetation protection objectives of the VPO3 if replaced with appropriate indigenous tree plantings.

Tree 5 was found to have high amenity value and is highly visible from Balcombe and Summerhill Roads. There was some evidence of decay in this tree and Council’s Arborist requested a non-invasive decay test to determine the extent of this – this was submitted on 5 July 2017. Council’s Arborist subsequently visited the site and found the health of the tree was found to be sound enough to support its ongoing retention.

The proposed removal of trees 1-4 is considered acceptable with respect to the decision guidelines of the VPO3 provided that indigenous replanting is undertaken. The character of the area is likely to be enhanced over time if successful and substantial new planting of indigenous vegetation is carried out and the plantings are maintained long-term.

Officers consider that the removal of tree 5 would contradict the vegetation protection objectives of the VPO3 given its reasonable health. The neighbourhood amenity and the aesthetic character of the area would be unreasonably impacted by the removal of Tree 5. The vegetation protection objectives of the VPO3 do not support the removal of this mature tree with high amenity value.

As such, the removal of trees 1-4 is recommended to be supported subject to conditions while the removal of tree 5 is not recommended for support. The conditions require replacement planting to be undertaken with the sought effect of delivering a net environmental benefit on the site. The recommendation is for 4 native canopy trees to be replaced with 4 indigenous canopy trees.
6.2. **Objections received**

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

**Reductions in privacy**

An objector raised a concern that a large native tree to the rear of the subject land would be removed, adversely impacting on the privacy of their secluded private open space. The tree in question is not sought for removal under this application and would require permission under the provisions of the Bayside Planning Scheme for future removal.

**Cumulative reduction in surrounding native vegetation**

The vegetation protection objectives allow for a site specific assessment of tree removal within the Beaumaris and Black Rock area. These objectives do not allow for an assessment of the cumulative reduction of native and indigenous vegetation in the VPO3 area and no additional evidence has been provided to this effect.

**Contradiction of Local Planning Policy Response**

The conditions within the recommendation requiring the planting of indigenous canopy trees is supported through the relevant sections of local planning policy. Further, no specific sections of local planning policy have been referenced and no additional evidence has been provided to this effect.

**Standards of ResCode must be enforced**

This application is for the removal of 5 native trees and at this stage no construction has been sought by the applicant. Therefore, the Standards of Clauses 54 and 55 of the Bayside Planning Scheme are not considered a relevant grounds for objection.

**Impacts on native fauna have not been considered**

Council’s Arborist has completed an assessment on the five trees proposed for removal. The habitat values of the trees were analysed as a part of this technical assessment. The Arborist’s assessment informed this recommendation presented to the committee and furthermore no additional evidence has been provided to this effect.

**Support Attachments**

1. Landscape Plan ⬇
2. Site Imagery and Surrounds ⬇
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds
*The objection received from 502 Balcombe Road BEAMARIS is not indicated above.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector</td>
<td>⬤</td>
</tr>
<tr>
<td>Support</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2 View from Balcombe Road looking South towards the front of 509 Balcombe Road

Figure 3 View from Balcombe Road footpath looking South-East towards Tree 5
Figure 4 Tree 5 looking North from inside 509 Balcombe Road

Figure 5 Trees 3 & 4 along the Eastern boundary of 509 Balcombe Road
4.5 43 GROUT STREET, HAMPTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2016/392/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/88056

1. Purpose and background
To report a planning permit application for the construction of two double storey dwellings on a lot in the Special Building Overlay with a site area of 622 square metres (refer attachment 1) at 43 Grout Street, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Mr Butler, Elevation 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>27 June 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>17 October 2016</td>
</tr>
</tbody>
</table>

2. Policy implications
Planning permit requirements
Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of two dwellings on a lot.
Clause 44.05-1 (Special Building Overlay) – Construct a building or carry out works.

3. Stakeholder Consultation
External referrals
The application was referred to the following authorities:

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne Water</td>
<td>Objection to proposal. Application was formerly amended and re-submitted to Melbourne Water who advised they had no objection to the amended plans subject to a number of 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>Drainage</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Traffic</td>
<td>No objection, subject to conditions.</td>
</tr>
</tbody>
</table>

Public notification
The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and five objections were received. The following concerns were raised:
- Inaccurate plans and omission of calculations / measurements;
- Side, rear and street setback variations;
- Privacy;
- Noise impacts;
- Overshadowing;
- Loss of outlook;
- Landscape plan omitted;
- Car parking/ traffic;
- Pedestrian safety;
- Request for works to crossing on Ludstone Street;
- Property values;
- Removal of tree in October 2015;
- Neighbourhood character;
- Permeability;
- Private open space provision;
- External storage/ bin location; and
- Theft and personal security.

Consultation meeting

The applicant was offered a meeting with Council officers to seek to invite objectors to discuss the proposal but the applicant declined a meeting.

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 2016/392/1** for the land known and described as **43 Grout Street, Hampton**, for the **construction of two double storey dwellings on a lot in the 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 amended plans (Drawing No: TP3 – TP8 and TP10 - all Rev B) but modified to show:

   a) The setback for bedroom four of dwelling one to be increased to a minimum of 7.2 metres.
   
   b) Any development changes recommended in the Tree Management and Tree Protection Plan prepared in accordance with Condition 13 of this permit.
   
   c) Sightlines where the driveway meets the crossover in accordance with Clause 52.06-9 of the Bayside Planning Scheme.
   
   d) No soil excavation within 2.5 metres of the street trees fronting the property.
   
   e) All site services to be located on plans, including bins, air conditioning and hot water systems. Plant and equipment should be located sensitively in relation to habitable room windows on the subject site and neighbouring properties.
   
   f) A Water Sensitive Urban Design response in accordance with Condition 7 of
this permit.

g) A Landscape Plan in accordance with Condition 10 of this permit.

h) A Tree Management (report) and Tree Protection Plan (drawing) in accordance with Condition 13 of this permit.

i) Compliance with Melbourne Water Conditions 17 – 24 of this permit and any other consequential changes to comply with the Special building Overlay requirements.

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

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

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

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

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

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

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

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

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

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

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

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

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance
with the site plan, prepared by Elevation 7 and dated March 2016) and be drawn to scale with dimensions and three copies must be provided. The plan must show:

a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

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

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

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

e) Details of surface finishes of pathways and driveways.

f) The canopy trees in the secluded private open space of both dwellings to be deleted.

g) One canopy tree in the south-east corner of the site with the capacity to reach a height and spread at maturity of 10 and 6 metres respectively.

h) One canopy tree in the south-west corner of the site with the capacity to reach a height and spread at maturity of 8 and 4 metres respectively.

i) One canopy tree in the May Street setback of dwelling two with the capacity to reach a height and spread at maturity of 10 and 6 metres respectively.

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

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

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

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

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

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

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

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

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

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

17. 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.

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

19. 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.

Melbourne Water

20. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water’s drains or waterways.

21. A minimum three (3) metre setback measured from the eastern boundary and maintained at natural surface levels is required for the conveyance of overland flow.

22. Finished floor levels of the dwelling must be constructed no lower than 22.22 metres to Australian Height Datum (AHD).

23. Finished floor levels of the garage and storage areas must be constructed no lower than 22.07 metres to AHD.

24. Imported fill required to achieve ramping to the garage must begin outside the minimum 3 metre setback.

25. Any new fencing must be open style (50%) of construction or timber paling to allow for the conveyance of overland flow.

26. The carport must be maintained at natural surface levels and must be constructed with two or more sides open to allow for the conveyance of overland flow. A garage door is not permitted to the structure.

27. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the dwelling, garage, storage area and driveway ramp.

28. The open space areas within the property must be constructed at natural surface levels and no fill or retaining walls should be used in the development of this land.

29. Any new or modified stormwater connection to Melbourne Water’s drainage system
must obtain separate approval from Melbourne Water’s Asset Services Team.

30. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water’s requirements.

**Permit notes**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- Council records indicate that there is 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 applicable flood level is 21.92 metres to Australian Height Datum (AHD).
- For the purpose of the Building Code of Australia - Building in Flood Hazard Areas, Melbourne Water has determined that during a flood event that has a probability of occurrence of 1% in any one year, the maximum flow rate of flood water (velocity) will be below 1.5 metres per second.
- The area of potential flooding covered by the Special Building Overlay relating to this site is the result of Melbourne Water modelling.
- Please note that flooding may be associated with the Melbourne Water regional drainage system and/or the local Council drainage systems. Melbourne Water does not have any information in relation to flow velocities associated with the local Council drainage system.
- If further information is required in relation to Melbourne Water’s permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water’s reference 274801.

**5. Council Policy**

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

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

Planning Scheme Amendment C153

The area of the site covered by the Special Building Overlay (SBO) has changed slightly due to Planning Scheme Amendment C153 which modified the boundaries of the SBO. However, the Melbourne Water conditions and Condition 1 changes proposed in the recommendation address the SBO requirements adequately.

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct D4. The proposal is assessed against the preferred future character statement and precinct guidelines in Attachment 3.

The existing double storey post-war dwelling is not subject to a heritage overlay or neighbourhood character overlay and as such could be demolished without planning permission. Its removal is considered appropriate in this context, subject to a suitable replacement.

No landscape plan has been submitted in support of the application; however the site plan indicates the position of eight canopy trees to be planted across the site. Subject to the recommended conditions of approval, sufficient space is considered to be retained around the dwellings to achieve a meaningful level of vegetation and planting.

While there is a predominance of pitched roofs and eaves for the period buildings in the area, there are a number of contemporary properties with flat roofs and no eaves (Refer to Attachment 2 for examples). In this context the proposal is considered to reflect an emerging character that forms a part of the existing neighbourhood character of the area. The garage and carport would be set behind the building line fronting May Street and would appear as subordinate elements in the appearance of the dwellings from the street.

The mix of materials and use of render, concrete and brickwork does not accord with the preferred neighbourhood character of the area. A number of contemporary properties in the area feature a similar reliance on render and metal cladding with timber often used as a highlight feature (Refer to Attachment 2 for a number of photos of these properties). In this context the proposal is considered to respond to an emerging character that forms
part of the existing neighbourhood character of the area.

The proposal would not employ front fencing within 3 metres of either Grout Street or May Street; however screening fencing to 1.6 metres in height is proposed around a courtyard area in the Grout Street setback. While not an ideal design outcome, it is acknowledged the proposal does result in an overall increase to the openness to the street of the site. In addition a number of properties in the area feature high front fences that are not visually permeable. The setback of the screening from the street frontages does not prejudice the planting of vegetation in the front setback. Conditions of approval are recommended to require canopy tree planting in the Grout Street setback.

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

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

Street setback (Standard B6)

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grout Street</td>
<td>9m</td>
<td>6.664m</td>
<td>2.336m</td>
</tr>
<tr>
<td>May Street</td>
<td>3m</td>
<td>3.008m</td>
<td>None</td>
</tr>
</tbody>
</table>

The proposal would vary the street setback standard in relation to Grout Street as detailed in the table above. The objective of the street setback standard is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

It is acknowledged corner sites require two street setbacks which can present a challenge to strict compliance with the street setback standard. Bedroom four at first floor level of the proposal would be setback 6.664m from Grout Street. The remainder of the frontage would be setback between 7.064m and 7.464m from Grout Street. The proposal would comply with the May Street setback requirement.

The neighbouring No.41 Grout Street is an outlier in the immediate area, being setback at 10.67 metres from the street; although a carport at the property would sit forward of this to be only 4.52 metres from the street. It is the setback of this property that the street setback standard for the Grout Street frontage is calculated.

The predominant street setback in the surrounding area is considered to fall somewhere between 7 metres and 8 metres. Bedroom four would project forward of this prevailing setback and would appear as a dominant element in the street scene.

It is considered appropriate for bedroom four to be setback a minimum of 7 metres from the street to ensure the proposal does not appear as an incongruous addition to the street scene. A condition of approval is recommended to reflect this. Subject to this condition, it is considered the proposal would sit comfortably in the streetscape and would achieve the objective of this standard.

Side and rear setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m or 2m</td>
<td>0m, 1.2m (Dwelling 1)</td>
</tr>
<tr>
<td></td>
<td>0m, 2m (Dwelling 2)</td>
<td>3.71m - 3.8m</td>
</tr>
<tr>
<td>North (rear)</td>
<td>0m or 3m</td>
<td>0m</td>
</tr>
</tbody>
</table>
The proposal would vary the ground and first floor western setback for dwelling one and the first floor western setback for dwelling two. The objective of the standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The proposed variation to the ground of dwelling one relates to the study and powder room. It is noted these rooms could be extended out to the boundary to align with the family room and would comply with this control. The variation would have no impact on the amenity of No.41 Grout Street and does not prejudice the level of planting in the Grout Street setback. The variation is considered acceptable in this context.

The first floor of dwelling one would vary the western side setback up to a maximum of 160mm. No habitable room windows at No.41 Grout Street directly face the first floor of dwelling one and the side yard is not the primary private open space of this neighbouring property. The setback variation would have limited impact on the character of the area.

The first floor of dwelling two would vary the western side setback by 200mm to 290mm. A habitable room window at No.41 Grout Street would directly face the proposed first floor; however this window serves a living room with a number of northern facing windows. As such the proposal is considered to have a limited impact on this window. The secluded open space to the rear of No.41 Grout Street is the primary open space for the property. The proposed variation to the first floor would be located to the southwest of this space. Given the scale of the variation to a maximum of 290mm and as the private open space at No.41 Grout Street has aspects to the north and east, the proposal is not considered to have a significant amenity impact on this property. The location of the variation toward the rear of the site ensures there would have only limited impact on the neighbourhood character of the area.

Given all of the above, the proposal is considered to achieve the objective of this standard of respecting the neighbourhood character of the area and limiting amenity impacts on neighbouring properties.

6.3. **Car parking and traffic**

Both dwellings would be provided with two on site car parking spaces which accords with the parking requirement of Clause 52.06. Council's Traffic Engineer has reviewed the application and requests a number of matters are addressed via condition, including the width and setback from the street of the garage and carport, crossover location, sightlines and the splay at the corner of Grout Street and May Street. It is noted the application was formerly amended in response to concerns raised by Melbourne Water and one of the garages has been amended to a carport.

The carport and garage both achieve the width required by Council’s Traffic Engineers. The proposed street setback of the garage and carport from the street is considered appropriate as both dwellings provide the required two car parking spaces without the need to park in the driveway. Parking over the crossover and footpath is a traffic enforcement issue and there will be no need to stop more than momentarily for the garage door to open given automatic garage door openers. This is not considered to represent a pedestrian safety issue. The applicant has indicated sightlines on the ground floor plan; however these do not comply with Clause 52.06-9 or AS2890.1. It is noted the existing corner splay is proposed to be retained. Conditions of approval are recommended in relation to sightlines and crossover location.

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

6.4. **Street tree removal**

The proposal includes two crossovers to the May Street frontage of the site. Council’s Open Space Arborists have reviewed the application and advise that subject to avoiding
soil excavation within 2.5 metres of the street trees fronting the property and standard tree protection measures, the proposal will not impact on the street tree assets. Conditions of approval are recommended that reflect the Open Space Arborist’s request.

6.5. Vegetation & Landscaping

Council’s Arborist has reviewed the application and advises the only significant tree on site is a semi-mature Jacaranda (*Jacaranda mimosifolia*) in the south-east corner of the site. This tree is considered to have a moderate amenity value and its replacement is acceptable subject to appropriate canopy tree planting.

No landscape plan has been submitted in support of the application; however the site plan (Drawing No. TP3) indicates eight canopy trees to be planted across the site, including one in each of the secluded private open space areas for dwellings. Council’s Arborist has requested the canopy trees in the secluded private open space areas be omitted due to the limited soil volume available and to avoid any future conflicts expected as the canopy trees mature in a confined space. A condition of approval is recommended for a landscape plan to be prepared to reflect the above.

Objectors has raised concerns with a tree at the northern-eastern end of the property that was removed in October 2015. There is no requirement for planning permission to remove a tree in this area; however local laws permits are required to remove significant trees. Council’s Arborists advise a Local Laws Permit was refused for the removal of a Silky Oak (*Grevillea robusta*) at No.43 Grout Street on 10 March 2015; however the tree was subsequently removed in October 2015. It is understood the property has since been sold to the new owners who are the applicants for this proposal.

Council’s arborist has requested a new canopy tree be secured by condition in a similar location to the Silky Oak. Local laws records indicate the tree was located approximately 6 metres from the northern boundary and 3 metres from the May Street boundary. It is considered this issue can be resolved by requiring a substantial canopy tree in the street setback of dwelling two. A condition of approval is recommended to reflect this.

The development plans do not accurately identify all vegetation on neighbouring properties. Council’s Arborist advises the proposal has the potential to impact on the health and longevity of a number of neighbouring trees, and has requested either a 1 metre setback along the western site boundary or an arborist impact assessment be conditioned. A condition of approval is recommended to require an Arborist report be provided and for any changes to the development recommended in the report to be made prior to the endorsement of plans. This will ensure the retention of neighbouring trees.

6.6. Objections received

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

Inaccurate plans and omission of measurements

A number of concerns have been raised in regards to the accuracy of information submitted and the omission of measurements and calculations on the development plans. It is noted a survey of the site, prepared by Victoria Survey Group, was submitted in support of the application.

The development plans included a combination of dimensions and heights of walls in AHD, which when read with the survey plan provides sufficient information to make a full and accurate assessment of the application against the suite of Clause 55 (ResCode) standards.

It is noted a ResCode assessment was provided by the applicant that was advertised.
Property values
The Victorian Civil and Administrative Tribunal has consistently found that property values are speculative and not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the Planning & Environment Act 1987, or the Bayside Planning Scheme.

Theft and personal security
There is no evidence to link an increased density of development with increased crime rates or reduced safety for residents.

Support Attachments
1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character (Precinct E3) Assessment ↓
4. Clause 55 (ResCode) Assessment ↓
Item 4.5 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds

Note: Objection from 71 Littlewood Street not shown above

Legend

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>🌟</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>📌</td>
</tr>
</tbody>
</table>

10 May Street
2B Teddington and 49 Kingston St
1A & 1B Raynes Park Road
Figure 2 View of subject site from Grout Street

Figure 3 View of subject site from May Street facing northwest
Figure 4 View of subject site from May Street facing southwest

Figure 5 View of site interface with No.3 May Street
Figure 6 View of site interface with No.41 Grout Street

Figure 7 View of No.10 May Street
Figure 8 View of No.40 Grout Street and No.5 May Street

Figure 9 View of No.10 Grout Street
Figure 10 View of No.2B Teddington Road and No.49 Kingston Street

Figure 11 View of 1A and 1B Raynes Park Road from May Street
ATTACHMENT 3
Neighbourhood Character Policy (Precinct D4)

Preferred Future Character

The low lying dwellings with pitched roof forms and articulated front wall surfaces sit within established garden settings. There is a continued frequent presence of Inter-War Californian Bungalow style dwellings that are united through similar building forms, use of materials and front and side setbacks. New buildings will respect, without replicating, this style. The lightness in the streetscapes is maintained by the use of lighter building materials in building facades, particularly in the streets dominated by timber materials. Medium height, open style front fences assist in retaining an open streetscape.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals.</td>
<td>• Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development. • Alterations and extensions should retain the front of these dwellings and be appropriate to the building era.</td>
<td>Demolition of dwellings that contribute to the valued character of the Precinct.</td>
<td>Responds</td>
</tr>
</tbody>
</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. | Lack of landscaping and substantial vegetation. | Responds | No landscape plan has been submitted in support of the application; however the site
### Objectives

<table>
<thead>
<tr>
<th>To provide space for front gardens.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings should be sited to allow space for the planting of trees and shrubs.</td>
</tr>
<tr>
<td>Loss of front garden space.</td>
</tr>
</tbody>
</table>

### Design Responses

- Buildings should be sited to allow space for the planting of trees and shrubs.

### Planning Officer Assessment

Plan indicates the position of eight canopy trees to be planted across the site. Council’s Arborist has reviewed the proposal and has requested alterations to the canopy planting. Conditions of approval are recommended for a landscape plan to be prepared which reflect the Council’s Arborist’s advice. Subject to recommended conditions, sufficient space is considered to be retained around the dwellings to achieve a meaningful level of vegetation and planting.

### Avoid

- To provide space for front gardens.
- To maintain the rhythm of spacious visual separation between buildings.

### Responds

- Responds
  - As discussed above, sufficient space is maintained around the dwellings to accommodate a meaningful level of vegetation across the site. The recommended conditions of approval seek canopy tree planting in the Grout Street and May Street setbacks.

### Responds

- The proposal would be built to the northern and western property boundaries; however being a corner site setbacks are provided to the eastern and southern boundaries. No.3 May Street and 41 Grout Street both have existing carports that adjoin the boundary with the proposal site.
  - The carport associated with dwelling two, while the built form on the boundary of two adjacent properties would also be carports. This would provide a degree of visual...
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Minimise paving in front garden areas including driveways and crossovers. | Car parking structures that dominate the façade or view of the dwelling.  
Front setbacks dominated by impervious surfaces. | Responds  
The garage and carport would be set behind the building line fronting May Street. The open appearance of the carport to dwelling two would present as subordinate elements in the appearance of the development from the street. In addition the first floor level of dwelling two would project forward of the carport. A significantly level of permeable surfaces is proposed in the Grout Street and May Street setbacks. |
| To ensure new development respects the dominant building scale and forms within the streetscape. | • Recess upper storey elements from the front façade.  
• Incorporate pitched roof forms with eaves. |                                                                                                                                 | Responds  
While not recessed from the front façade, the first floors to both dwellings would be recessed from the side and rear ground floor elevations and would appear as subordinate and recessive as elements in the context of the overall dwelling. While there is a predominance of pitched roofs and eaves in the period buildings in the area, there are a number of contemporary properties with flat roofs and no eaves (Refer to attachment 2 for examples). In this context the proposal is considered to reflect an emerging design that forms a part of the existing character of the area. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To use lighter looking building materials and finishes that complement weatherboard where it predominates in the streetscape.</td>
<td>• Incorporate timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing where weatherboard predominates (eg. Large masonry columns and piers)</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The proposal incorporates a range of materials including render, anthracite aluminium cladding, polished concrete, charcoal brickwork and cedar weatherboard with a natural stain. The mix of materials and use of render, concrete and brickwork does not accord with the preferred neighbourhood character of the area; however it is considered to respond to an emerging character in the area. A number of contemporary properties in the area feature a similar reliance on render and metal cladding with timber often used as a highlight feature (Refer to Attachment 2 for a number of photos of these properties). The dwellings at No.2B Teddington Road and 49 Kingston Street feature a very similar material palette. Given the above the proposal is considered to represent an alternative design that appropriately responds to an emerging character in the area.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Front fence style should be appropriate to the building era.</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Objectives</td>
<td>Design Responses</td>
<td>Avoid</td>
<td>Planning Officer Assessment</td>
</tr>
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<td>-----------------------------</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>openness to the street of the site. In addition a number of properties in the area feature high front fences that are not visually permeable.</td>
</tr>
<tr>
<td>Title and Objective</td>
<td>Complies with Standard?</td>
<td>Requirement and Proposed</td>
<td></td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>-------------------------</td>
<td>----------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer to Attachment 3.</td>
<td></td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The construction of a medium density dual lot development is supported by relevant policies for this site.</td>
<td></td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>The dwellings will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development.</td>
<td></td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The front entrance to Dwelling 1 would be orientated to Grout Street and the entrance to Dwelling 2 to May Street. The development will integrate appropriately with the street.</td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of development with the street</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Grout Street</td>
<td></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>Required: 9m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 6.664m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>May Street</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Required: 3m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 3.008m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Refer to report</td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 9m</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed: 6.42m</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
<td>Maximum</td>
</tr>
<tr>
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</tr>
<tr>
<td>4.5</td>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>B8</td>
<td>Site Coverage</td>
<td>Yes</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td></td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B9</td>
<td>Permeability</td>
<td>Yes</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td></td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B10</td>
<td>Energy Efficiency</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Achieve and protect energy efficient dwellings and residential buildings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B11</td>
<td>Open Space</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B12</td>
<td>Safety</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B13</td>
<td>Landscaping</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>To provide appropriate landscaping.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>To encourage:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Development that respects the landscape character of the neighbourhood.</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The retention of mature vegetation on the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B14</td>
<td>Access</td>
<td>Yes</td>
<td>Maximum: 33% of street frontage</td>
</tr>
<tr>
<td></td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development.</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**B15 Parking Location**
Provide resident and visitor vehicles with convenient parking.
Avoid parking and traffic difficulties in the development and the neighbourhood.
Protect residents from vehicular noise within developments.

| Yes | On site car parking is provided with a double garage for dwelling 1 and a double carport for dwelling 2. The proposed parking location is secure and convenient for future residents. |

**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.

| No | Refer to table below and report. Non-compliances are underlined below. |

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

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

| Yes | North |
| | Maximum Height: 3.6m |
| | Proposed: 3.6m |
| | Maximum Average Height: 3.2m |
| | Proposed: 3.2m |
| | Maximum Length: 11.3m |
| | Proposed: 6.18m |
| West | |
| Maximum Height: 3.6m |
| Proposed: 3.6m |
| Maximum Average Height: 3.2m |
| Proposed: 3.2m |
| Maximum Length: 18.7m |
| Proposed: 11.7m |
| Refer to report |

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

| Yes | All setbacks are consistent with the requirements of Standard B19. |

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

<p>| Yes | No windows surrounding the site are applicable to the standard. |</p>
<table>
<thead>
<tr>
<th>B21 Overshadowing Open Space</th>
<th>Yes</th>
<th>Shadow diagrams submitted with the application demonstrate that at least 75% of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 December.</th>
</tr>
</thead>
<tbody>
<tr>
<td>B22 Overlooking</td>
<td>Yes</td>
<td>Overlooking from west and north facing first floor windows has been addressed with either sill heights 1.7 metres above finished floor level or obscure glazing to 1.7 metres in above finished floor level.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Yes</td>
<td>All habitable room windows have been sited and screened appropriately in accordance with this Standard. Timber paling fencing to 1.8 metres in height will be constructed between the SPOS of both dwellings.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Yes</td>
<td>The level of noise associated with the two dwellings is not anticipated to exceed that expected of a residential use.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Yes</td>
<td>Both dwelling entries are accessible for people with limited mobility and both dwellings accommodate ground floor bedrooms.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Yes</td>
<td>The entrance to dwelling 1 and 2 would front Grout and May Street respectively. Both entrances would be clearly delineated by porches and pedestrian paths. Both entries are easily identifiable from the street and provide a sense of identity.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Yes</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
</tbody>
</table>
| B28 Private Open Space | Yes | Minimum: 25m² secluded, 40m² overall
Dwelling 1: 37m² secluded, 147m² overall
Dwelling 2: 36m² secluded, 77m² overall |
<p>| B29 Solar Access to Open Space | Yes | Both private open space areas comply with this standard. |
| B30 Storage | Yes | Designated 6m³ storage areas are provided in the garage and carport for the two dwellings. Both areas are externally accessibly. |</p>
<table>
<thead>
<tr>
<th>B31 Design Detail</th>
<th>Yes</th>
<th>Refer to Attachment 3.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>B34 Site Services</th>
<th>No</th>
<th>Addressed via conditions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
1. **Purpose and background**

To report a planning permit application for the alterations and additions to an existing 2 storey dwelling including the construction of a third storey within a mansard roof on a lot less than 500 square meters (refer to Attachment 1) at 3/40-42 Willis Street, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>Philip Crouch Architects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>1 December 2016</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>30 January 2017</td>
</tr>
</tbody>
</table>

2. **Policy implications**

**Planning permit requirements**

- Clause 32.09-5 (General Residential Zone Schedule 2) – A permit is required to extend a building on a lot less than 500 square meters.
- Clause 43.02-2 (Design and Development Overlay) – A permit is required to construct works as the building height exceeds 9 metres.

3. **Stakeholder Consultation**

**External referrals**

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

**Internal referrals**

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

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

**Public notification**

The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and 5 objections were received.

The concerns raised by the objectors can be summarised as follows:

- Adverse off site impacts including overlooking, overshadowing and loss of daylight.
- Neighbourhood character which includes the selected finish to the proposed second storey.
- Loss of daylight.

**Consultation meeting**

A consultation meeting was held on 24 May 2017 attended by the permit applicant and 2 objectors. As a resolution could not be reached, all objections remain outstanding.
4. **Recommendation**

That Council:

Issues a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of the land known and described as **3/40-42 Willis Street, Hampton**, for **alterations and additions to an existing 2 storey dwelling including the construction of a third storey within a mansard roof on a lot less than 500 square meters and in a DDO12** in accordance with the endorsed plans and subject to the following conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans prepared by Philip Crouch Architects dated 29 November 2016 but modified to show:
   a) Indication of compliance with Standard A15 in relation to all new windows
   b) Tree Protection Plan in accordance with Condition 5.
2. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason (unless the Bayside Planning Scheme specifies that a permit is not required) without the prior written consent of the Responsible Authority.
3. All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s) without the written consent of the Responsible Authority.
5. A Tree Protection Management Plan showing protection of the **Allocasuarina littoralis** located over the western boundary must be prepared and endorsed prior to the commencement of any works. The report must be in accordance with AS 4970 Australian Standard for the Protection of Trees on Development sites. The report must be specific to the tree and demonstrate how the trees canopy, trunk and its entire root area will be protected from compaction and disturbance from start to completion of this project.
6. The walls on the boundary of the adjoining properties shall be cleaned and finished to the satisfaction of the Responsible Authority.
7. Before the development starts, a schedule of construction materials, external finishes and colours (incorporating for example paint samples) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the schedule will be endorsed and will then form part of the permit.
8. 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.

The existing street trees must be retained.

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 9 599 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.

Relevant strategies of the Council plan include:

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

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (NCP F1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.08 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 12)
- 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.

6.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct F1 and the proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2.

The subject site is located within an area that presents with a varied architectural form, primarily derived from the being located adjacent to an established commercial zone and in part, reflecting the varied aspirational ideals of the developers.

The dwelling at the subject site was originally developed as part of a multi-unit development consisting of three dwellings with a shared driveway area from Willis Street and is the last dwelling in the series. The Neo Georgian dwellings have since been subdivided, with each dwelling being located on its own allotment. To the north, east and the south of the site are residential uses with a carpark located to the west, servicing the needs of the commercial area.

The addition of the third storey by way of an attic contained within a mansard roof, is considered to be architecturally compatible with the neo Georgian detailing of the dwelling and will provide a sensitive interface when viewed from both the public and the private realms alike.

The addition of the mansard roof containing the proposed third level, ensures that the existing streetscape presentation will be, to a large part, preserved and as such is respectful of the existing neighbourhood character. The mansard roof form has been placed to sit behind the existing parapet and has the traditional slight angle which ensures that the presentation of the built form is recessed and will ‘read’ as a secondary element to the dwelling it is proposed to service.

On balance, the proposal is considered to be respectful of both the existing and the preferred neighbourhood character and will sit comfortably within the scope of the original multi-unit development and when viewed from the public realm.

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

An assessment against the requirements of Clause 55 is provided at Attachment 3.

**Walls on boundaries (Standard A11)**

It is proposed to extend the existing 6.8 metre high parapet on the northern boundary by 2.9 metres. The proposal is considered to be acceptable as the wall is a parapet which delineates one property from the subject site itself, further, the wall is located adjacent to the neighbouring roof and as such, will not produce any adverse off site impacts in terms of overshadowing or visual bulk. The original two storey development uses double storey parapets to delineate each dwelling from the other.

On balance, the location of the wall is considered appropriate and is respectful of the preferred and existing neighbourhood character and complies with the overarching objective found at Clause 54.04-2.
6.3. **Design and Development Schedule 12 (DDO12)**

The subject site falls under Precinct ‘E’, which allows a maximum building height of 3 storey at not more than 11 metres high. A maximum height of 9.6 metres is proposed at the parapet facing Unit 2 40-42 Willis Street, Hampton. The maximum height to the ridge line of the mansard styled roof will not exceed a maximum height of 9.15 metres. The proposal is compliant with the provisions described under DDO12.

**Residential Precincts**

Attic styled development is encouraged pursuant to the requirements expressed under DDO12. Buildings in a Residential Zone should be set back in accordance with the relevant Clauses 54 except that the second floor should be set back a minimum of 4 metres behind the front wall of the floor immediately below, unless the second floor is an attic.

On land within a Residential Zone, design responses including recessed upper most levels and attic style development will be encouraged and although the proposed setbacks do not comply with the provisions of Clause 54 set out at Standard A10, they are considered acceptable taking into account that the original multi unit development was constructed using two storey parapets to delineate each dwelling from the other. Compliance with Standard A10 (Side and rear setbacks) is prohibitive of the development of the attic styled third floor as the proposal would be, at best, of an unusable dimension. The proposal is considered acceptable as the proposal is compatible with the existing and the emerging neighbourhood character and will not cause any adverse off site impacts to any adjoining neighbour.

6.4. **Car parking and traffic**

Clause 52.06 does not apply to one dwelling on a lot. Nonetheless, the proposal does not seek to alter the existing car parking arrangements and would comply with the car parking provisions.

6.5. **Street tree removal**

There are no works proposed within the nature strip.

6.6. **Vegetation & Landscaping**

The addition of the second floor will not result in any changes to the existing landscaping layout, which is sparsely planted with both exotic and native vegetation.

Council’s Arborist has attended the site and has advised that there is a large *Allocasuarina littoralis* located within the car park area that is adjacent to the western boundary, which may be impacted on by the proposed works. As such, a condition has been recommended for inclusion to any permit that may be issued to ensure that the tree is not adversely affected by the proposed works.

6.7. **Objections received**

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

**Overlooking**

Concerns have been raised with regard to potential overlooking from the windows located at the uppermost level with particular regard to the views gained from the west and the east elevations. Further concerns have been raised with potential for overlooking from the balcony area which faces the car park but from which abuts
residential properties to the north and the south. The permit applicant has advised in writing that they agree to have conditions placed on the permit, which includes a window treatment or screens to the living and ensuite windows on the east elevation. Taking into consideration the sensitive abuttals located to the north east and south of the site, a condition has been included in the recommendation requiring full compliance with Standard A15.

The two habitable room windows located on the east elevation and relating to the open plan kitchen/living area which overlook across an existing driveway towards residential properties to the east. As discussed, sensitive abuttals can also be found to the north and the south of the site, with potential views being gained into these areas, which fall within the 9 metre arc that the Planning Scheme seeks to protect. Again, a condition has been included as part of this recommendation requiring the applicant to demonstrate compliance with Standard A15.

Overshadowing

The shadow diagrams submitted with the planning application indicate that the majority of the shadow will fall over the car parking area during the morning period with the majority of the shadow falling over the decked area located at 1/5 and 2/5 Ocean Street, in the afternoon period. The additional show cast by the proposal complies with the provisions described under Standard A14, which amongst other things, states that if existing sunlight to the secluded private open space of an existing dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced. The proposal is fully compliant with the requirements of Standard A14 and as such, it is considered that the proposal will not generate any adverse off site impacts in terms of overshadowing.

Loss of daylight

Concerns have also been raised with regard to loss of daylight. There are no habitable room windows located within 3 metres of the proposed development. The proposal complies with Standard A12 Loss of daylight and will allow adequate daylight into existing habitable room windows.

Use of Colourbond roofing material to the mansard roof

A Colourbond roof finish in the nominated colour described as ‘monument’ is proposed to finish the mansard roof structure. Concerns have been raised as to the reflectivity of the proposed roof finish. The colour is best described as being dark grey. Although the material (sheet metal) may be reflective under certain circumstances, it is expected that the dark finish will not produce any glare or reflectivity when viewed from the surrounding area. The choice of colour will also assist in visually minimising the proposed third level.

Support Attachments

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment F1
4. ResCode Clause 54 Assessment
Item 4.6 – Matters of Decision
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

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

Figure 2 View of subject site as seen from Willis Street
Figure 3 View of subject site as seen from the car park to the west
ATTACHEMENT 3

Neighbourhood Character Precinct F1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | The proposal will retain the ground floor level including front of the dwelling contributing to the valued character of the Precinct. The proposed second floor addition will sit comfortably within the Neo Georgian architectural style of the building and will not appear architecturally anomalous when viewed in the context of the original multi-unit development. |
| To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character. | • Retain established trees and vegetation.  
• Replace any trees removed with species that will grow to a similar height.  
• Encourage replanting of indigenous sandbelt vegetation.  
• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation. | Lack of landscaping and substantial vegetation.  
Removal of trees.  
Planting of environmental weeds. | The alteration and additions will not alter the front garden setting. The proposal will not generate an impact on the existing garden areas. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting.                                                                 | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.                                                                                     | Loss of front garden space.                                                                                                                                                                                                                                                          | The existing setbacks will be maintained and the proposal will not result in the loss of any existing garden areas.                                                                                                          |
| To minimise the loss of front garden spaces and the dominance of car parking structures.                                                                                                                  | • Locate garages and carports behind the line of the dwelling.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not dominate the façade and the front setback area is retained as predominantly garden space. | Car parking structures that dominate the façade or view of the dwelling.                                                                                                                                                                                                                  | The existing car parking facilities will be retained.                                                                                                                                                                                                                                  |
| To ensure that new buildings and extensions do not dominate the streetscape.                                                                                                                                  | • Recess second storey elements from the front façade.                                                                                              | High pitched or mansard roof forms with dormer windows.                                                                                                                                                                                                                                | The proposed second floor addition is located within a roof space to reduce its visual impact to the streetscape and blend in with the predominantly two storey built form which surrounds it.                                               |
| To respect the identified heritage qualities of adjoining buildings.                                                                                                                                       | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.                                                                                           | Large bulky buildings with flat, poorly articulated front wall surfaces.                                                                                                                                                                                                               | The site is not a heritage building nor in a heritage overlay.                                                                                                                                                                                                                         |
| To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes.                                                                                   | • Incorporate a variety of timber or other non-masonry wall materials where possible.                                                                | Heavy materials and design detailing (eg. Large masonry columns and piers).                                                                                                                                                                                                           | The proposal will incorporate a variety of materials that will complement the existing dwelling. The Colourbond roofing is considered to be appropriate as the lightweight material and the dark grey colour will both assist in minimising the visual impact of a third storey in a context which is dominated by two storey built forms. |
### Objectives

**To maintain the openness of the streetscape and views to the dwellings.**

- Provide open style front fences, other than along heavily trafficked roads.
- Front fence style should be appropriate to the building era.

**To create a visually interesting and attractive built form interface with the foreshore reserve.**

- Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading.
- Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick.
- Provide articulated roof forms to create an interesting skyline when viewed from the beach.

### Design Responses

- Avoid high, solid front fencing.
- Avoid buildings that have no relationship to the foreshore setting.
- Avoid poorly articulated roof and building forms.
- Avoid highly reflective materials or glazing.

### Planning Officer Assessment

- No change to the existing fence.
- The development promotes an appropriate mix of materials for the area, and articulates well with surrounding built form. The roof form is appropriate with the surrounding character, and will not overly interfere with the streetscape. Glazing has been kept to a minimum, and the built form is adequately designed to assist in providing visual relief to the proposed built form.
### Attachment 4

#### Clause 54 Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer report.</td>
</tr>
<tr>
<td>Design respects existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contributes to a preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development responds to</td>
<td></td>
<td></td>
</tr>
<tr>
<td>features of the site and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are</td>
</tr>
<tr>
<td>Integrate the layout of</td>
<td></td>
<td>clearly identifiable from</td>
</tr>
<tr>
<td>development with the street.</td>
<td></td>
<td>either the streetscape.</td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong></td>
<td>N/A</td>
<td>Existing</td>
</tr>
<tr>
<td>Setbacks of buildings from a</td>
<td></td>
<td></td>
</tr>
<tr>
<td>street respect the existing or</td>
<td></td>
<td></td>
</tr>
<tr>
<td>preferred neighbourhood character</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and make efficient use of the site</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A4 Building Height</strong></td>
<td>N/A</td>
<td>Maximum: 11 meters</td>
</tr>
<tr>
<td>Building height respects the</td>
<td></td>
<td>Proposed: 9.15 meters</td>
</tr>
<tr>
<td>existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong></td>
<td>No</td>
<td>Existing</td>
</tr>
<tr>
<td>Site coverage should respect</td>
<td></td>
<td></td>
</tr>
<tr>
<td>the existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>neighbourhood character and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A6 Permeability</strong></td>
<td>No</td>
<td>Existing</td>
</tr>
<tr>
<td>Reduce the impact of stormwater</td>
<td></td>
<td></td>
</tr>
<tr>
<td>run-off on the drainage system and</td>
<td></td>
<td></td>
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<tr>
<td>facilitate on-site stormwater</td>
<td></td>
<td></td>
</tr>
<tr>
<td>infiltration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong></td>
<td>Yes</td>
<td>The proposal provides appropriate solar access to the dwelling.</td>
</tr>
<tr>
<td>Achieve and protect energy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>efficient dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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Item 4.6 – Matters of Decision
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.6</td>
<td>Ensure the development's orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A8</td>
<td>Significant Trees</td>
<td>N/A</td>
<td>Development respects the landscape character of the neighbourhood and retains significant trees on site.</td>
</tr>
<tr>
<td>A10</td>
<td>Side and Rear Setbacks</td>
<td>No</td>
<td>Proposed</td>
</tr>
</tbody>
</table>
|      | Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings. | | North: 0 meters  
East: 5.7 meters  
South: 0 meters  
West: 2.04 meters (existing)  
See report. |
| A11  | Walls on Boundaries | No | The walls on boundary are existing.  
The third level is essentially contained within the mansard roof structure.  
See report. |
| A12  | Daylight to existing windows | Yes | The proposal is well setback from property boundaries to ensure daylight to existing windows is maintained. |
| A13  | North Facing Windows | Yes | No north facing windows on adjoining properties are affected. |
| A14  | Overshadowing Open Space | Yes | Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September. |
| A15  | Overlooking | No | See report. |
### A16 Daylight to New Windows
Allows adequate daylight into new habitable room windows.

Yes

### A17 Private Open Space
Provide adequate private open space for the recreation and service needs of residents.

Yes | Existing

### A18 Solar Access to Open Space
Allow solar access into secluded private open space of a new dwelling.

Yes | Appropriate solar access to the private open space areas is provided.

### A19 Design Detail
Encourage design detail that respects the existing or preferred neighbourhood character.

Yes | Refer Attachment 2.

### A20 Front Fences
Encourage front fence design that respects the exiting or preferred neighbourhood character.

N/A | The existing front fence will remain.
4.7 31 ALICIA STREET, HAMPTON
SUPPORT THE GRANT OF A PLANNING PERMIT
APPLICATION NO: 2016/586/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/17/147164

1. Purpose and background

To report the outcome of a VCAT Compulsory Conference following the refusal by the
delegate of this proposal for the construction of a three storey building comprising three
dwellings and basement car parking on a lot with an area of 982.65 square metres (refer
Attachment 1) at 31 Alicia Street, Hampton (refer Attachment 2).

Council’s delegate determined to refuse an application for the construction of a three
storey building comprising three dwellings over basement car parking and a roof deck
on 16 March 2017.

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

At the VCAT Compulsory Conference held on 6 July 2017. It was attended by the permit
applicant, Council Officers and the three parties to the appeal (two in attendance and
one represented by one of the attendees).

The outcome was that an in-principle agreement was reached that the applicant would
amend the plans to the proposal (Attachment 1) to meet the objectors and Council’s
delegates concerns as follows:

- Deletion of the proposed roof deck and associated access points;
- Relocation of 6 air conditioning units from the roof to the basement level;
- Provision of 2 canopy trees within the front setback and 1 canopy tree within the
  rear setback;
- All side and rear setbacks amended to achieve compliance with Standard B17
  (Side and Rear Setbacks) of Clause 55;
- The proposed front fence to achieve a minimum 70% permeability; and
- The display of a variety of materials and finishes.

Should Committee resolve to endorse the in-principle decision reached by all parties at
the Compulsory Conference, these proposed plans and the conditions noted in the
recommendation to this report would form the permit.

These plans have not been formally substituted with VCAT and therefore these proposed
new plans have not been re-advertised to all the original objectors. The original
development plans refused by Council are included as Attachment 3.

If Council agrees to support the recommendation below then a planning permit will be
issued by VCAT which contains, unchanged, all of the conditions in the recommendation
section of this report. Condition 1 also refers directly to the without prejudice plans tabled
at the Compulsory Conference.

Alternatively, should Council determine to not support the issue of an amended permit,
then the application will proceed to a VCAT merits hearing based on the original
application plans.

2. **Policy implications**

**Planning permit requirements**

Clause 32.08-4 (General Residential Zone Schedule 2) – Construction of two or more dwellings on a lot.

Clause 43.02-2 (Design and Development Overlay Schedule 12) – Construction of buildings and works.

**Planning scheme amendments**

Planning Scheme Amendment C151 proposes to implement the Hampton East (Moorabin) Structure Plan, adopted by Council at its 23 February 2016 Ordinary Meeting. Amendment C151 underwent public exhibition in July / August 2016.

In February 2017 Council resolved to request the Minister for Planning to appoint a Planning Panel to consider submissions received for the amendment.

An independent Panel appointed by the Minister for Planning heard the submissions on the amendment in May 2017 and a Panel Report has been received by Council Officers.

The Panel Report and Officers Recommendation on progressing the Amendment is expected to be heard at the August 2017 Council Meeting. Council will then decide to adopt the Panel’s recommendations, change and reconsider or abandon the Amendment.

Planning permit applications will continue to be assessed against the current structure plan, zones and overlays of the Bayside Planning Scheme until such time as the changes proposed under Amendment C151 are considered to be ‘seriously entertained’.

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>Concerned with the extent of soil volume on the site, tree impacts to the adjoining eastern property and absence of appropriate canopy trees. These concerns have been addressed via the without prejudice amended plans and conditions.</td>
</tr>
<tr>
<td>Traffic Engineering</td>
<td>Concerned with the proposed ramp grade, access to the proposed car parking facilities and car parking layout. These concerns have been addressed via the without prejudice amended plans and conditions.</td>
</tr>
</tbody>
</table>

**Public notification**

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

- Loss of amenity due to excessive bulk and scale of development;
• Lack of transition of building scale;
• Excessive site coverage;
• Lack of landscaping;
• Inappropriate front setback;
• Ineffective vehicular access to the site (car lift);
• Habitable space in basement does not meet intent of precinct provisions (3 storey maximum);
• Intensification of infrastructure demands;
• Potential noise from plant and equipment;
• Loss of views;
• Overlooking;
• Overshadowing;
• Parking congestion and traffic safety issues; and
• Light glare from significant areas of glazing.

The applicant notified all objectors of the appeal and statements of grounds were received by three objectors. VCAT arranged and held a Compulsory Conference on 6 July 2017.

The applicant, Council’s representative and the three objecting parties to the VCAT proceedings were in attendance. The applicant tabled the without prejudice plans which were circulated to all parties on 30 June 2017. An in-principle agreement was reached by all parties in attendance.

4. **Recommendation**

That Council:

Determines to **Support** the agreement reached by all parties at the VCAT Compulsory Conference in respect of **Planning Application 2016/586/1** for the land known and described as **31 Alicia Street, Hampton**, for the **construction of a three storey building comprising three dwellings over basement car parking** 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 TP-06 Rev A, TP-07 Rev I, TP-08 Rev J, TP-09 Rev F, TP-10 Rev F, TP-11 Rev G, TP-12 Rev H, TP-13 Rev G, TP-14 Rev G and TP-23 Rev F, prepared by Classic Projects Design but modified to show:
   
a) The deletion of the roof deck and stair access and lowering of the lift overrun.
   
b) The relocation of 6 air conditioning units to the basement and the remaining 3 air conditioning units appropriately screened.
   
c) The proposed materials modified to incorporate a mix of building materials and finishes to reflect the lightness of the streetscape in accordance with
the Precinct F1 Guidelines of Clause 22.06 of the Bayside Planning Scheme.

d) The proposed side and rear setbacks modified to demonstrate compliance with Standard B17 (Side and Rear Setbacks) of the Bayside Planning Scheme.

e) The screening requirements of Standard B22 (Overlooking) of the Bayside Planning Scheme.

f) The location of site services in accordance with Standard B34 (Site Services) of the Bayside Planning Scheme.

g) The provision of an open style fence to a minimum of 70% of the length of the front fence in horizontal louvre or equivalent to maintain the openness of the streetscape and views to the dwellings.

h) A 3.6 metre wide new crossover to be constructed with a 0.8 metre offset from the western property boundary.

i) Adequate sightlines to be demonstrated on the plans to meet AS2890.1 where the ramp intersects with the footpath.

j) Water sensitive urban design measures in accordance with Condition 7 of this permit.

k) A Landscaping Plan in accordance with Condition 9 of this permit.

l) A Tree Management and Protection Plan in accordance with Condition 12 of this permit.

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

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

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

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

6. Before 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.

**Water Sensitive Urban Design**

7. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plans must show:
a) The type of water sensitive urban design stormwater treatment measures to be used.

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

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

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

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

Landscaping

9. Prior to the endorsement of plans pursuant to Condition 1, a detailed Landscape Plan generally in accordance with the advertised Landscape Plan prepared by Classic Projects Designs must be submitted to and be endorsed by the Responsible Authority. The plan must be drawn to scale with dimensions and three copies must be provided. The plan must be modified to show:

a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

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

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

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

e) Details of surface finishes of pathways and driveways.

f) The proposal modified to reduce the encroachment into the TPZ’s of Trees 2 and 4 to less than 10%. Encroachment calculations submitted by the applicant must include assessment of the angle repose and the extent of excavation required for the basement level.

g) The provision of sufficient soil volume and above ground space for the growth of two, 10 metre x 6 metre trees at maturity in the front setback and one 10 metre x 6 metre tree at maturity in the rear setback as well as the provision of rear boundary hedging selected from Council’s Landscape Guidelines.

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

11. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
12. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

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

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

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

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

13. All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction to 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. A tree protection fence is required to protect the tree’s canopy and root zone of all street trees fronting this property. Conditions for street tree fencing during development are as follows:

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

b) Fencing must be installed to comply with AS 4870-2009, Protection of Trees on Development Sites.

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

d) 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.

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

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

Drainage

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

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

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

Permit Expiry

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

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.

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
6. Considerations

On 16 March 2017 Council determined to refuse Planning Application 2016/586/1 based on the following grounds:

1. The proposed development of the land does not comply with the purposes of the General Residential Zone and fails to respond to the objectives of Clause 22.06 (Neighbourhood Character Policy, Precinct H1) of the Bayside Planning Scheme as it fails to respect the character of the neighbourhood and the streetscape nor maintain the garden setting of the area, on the following grounds:
   a) It constitutes a bulky, dominant addition to the streetscape that reduces the visual separation between buildings and does not feature design detail appropriate to the streetscape.
   b) It results in an actual and perceived loss of front garden space and does not maintain the openness of the streetscape nor provide views to the proposed dwellings.
   c) It fails to provide appropriate setbacks to side boundaries.
   d) It does not provide appropriate landscape treatments.

2. The proposed development fails to comply with the Objectives and Standards of Clause 55 of the Bayside Planning Scheme, in particular:
   a) B1 – Neighbourhood Character – The development fails to respond to the existing and preferred neighbourhood character for this precinct.
   b) B5 – Integration with the Street – The entry to the building is not clearly visible from the street and is potentially unsafe.
   c) B8 – Site Coverage – The development has site coverage that does not respect existing or preferred neighbourhood character.
   d) B13 – Landscaping – The proposal fails to provide appropriate landscape treatments would be applied.
   e) B15 – Parking Location – The proposal features car parking that is potentially inconvenient.
   f) B17 – Side and Rear Setbacks – The dwellings are insufficiently setback from the side boundaries.
g) **B22 – Overlooking** – There are elements of the development that overlook the secluded private open space of adjoining existing dwellings.

h) **B26 – Dwelling Entry** – The dwellings do not feature an easily identifiable entry from the street.

i) **B31 – Design Detail** – The design detail of the proposed building does not respect the character of the neighbourhood.

j) **B32 – Front Fences** – The proposed front fence design does not respect the existing and preferred neighbourhood character of the area.

k) **B34 – Site Services** – The proposal does not show provision of appropriate services.

3. The proposed development may cause harm to the amenity of neighbouring properties through increased light glare.

The assessment is based on the in-principle agreement reached between all parties at the VCAT Compulsory Conference held on 6 July 2017. In light of the without prejudice plans tabled by the applicant at the Compulsory Conference, combined with a variety of additional modifications reflected in recommendation of this report, an in-principle agreement on the development has been achieved which introduces a number of changes. The acceptability of these changes is discussed below:

**Deletion of the roof deck and stair access and lowering of the lift overrun**

The proposed roof deck demonstrated in the development plans will be removed as part of a condition of permit. This was agreed to by all parties in the Compulsory Conference.

The removal of this roof deck is an improvement to the original scheme as visual bulk will be substantially reduced, ensuring the development will sit comfortably within the streetscape context. While the provision of the roof deck itself was not raised as a significant concern by Council, the overall scale of the development was listed as a ground of refusal and the deletion of this structure will work to minimise the scale of the built form in the predominately single storey context.

Importantly, the revised scheme will achieve compliance with the relevant design objectives of the Design and Development Overlay (Schedule 12) which seeks to ensure that development conserves and enhances the valued character of the area.

Moreover, the principle motive for the deletion of the deck is to respond to concerns raised by residents with regards to building height, and off site amenity impacts including overlooking and visual bulk. The objecting parties have agreed to these amendments. On this basis, the proposed amendment is supported by planning policy and considered worthy of support.

**Streetscape integration**

The Without Prejudice plans have been modified to include a pedestrian entrance to the south eastern corner of the site, which promotes integration with the street and identifiable dwelling entries. This was previously raised as a ground of refusal by Council and in light of these design modifications, the proposal is considered worthy of support.

A condition of permit as agreed to by all parties requires the proposed solid front fence to be modified to include a minimum permeability of 70%. This outcome will further promote streetscape integration and maintain an openness of the streetscape, as encouraged by the objectives of the Precinct F1 guidelines.

**Relocation of air conditioning units**

A condition of permit requires the relocation of 6 air conditioning units to the basement and the remaining 3 air conditioning units appropriately screened. This was agreed to by all parties to reduce any off site noise and visual impacts to the adjoining properties.
This outcome is an improvement to the original scheme and is subsequently considered worthy of support.

**The development to incorporate a mixture of materials and finishes**

The Precinct F1 Guidelines of Clause 22.06 (Neighbourhood Character Policy) seeks to ensure that new buildings reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes. The use of heavy materials and design detailing is discouraged.

In its decision to refuse the application, Council noted that the proposed development failed to respond to the relevant Precinct Guidelines of Clause 22.06 given the proposal constitutes a ‘dominant addition to the streetscape that reduces the visual separation between buildings and does not feature design detail appropriate to the streetscape.’

As part of the in-principle agreement by all parties, a condition of permit is included to ensure the development incorporates a variety of materials and finishes to create visual interest and to ensure the excessive use of heavy materials in a single tone is avoided.

In light of this outcome, the proposal is considered worthy of support.

**The proposal to demonstrate compliance with the side and rear setbacks of Standard B17 of ResCode**

The original scheme proposed substantial variations to the minimum numerical requirements of Standard B17. These variations related to the first floor east and western elevations, along with the second floor east and western elevations.

While the Without Prejudice plans illustrate increased front and side setbacks, a condition of permit as agreed to by all parties will ensure the development meets the minimum side and rear setbacks requirements of Standard B17. This will further alleviate visual bulk impacts to the adjoining properties and will ensure the development responds appropriately to its context. This outcome is an improvement to the original scheme and is subsequently considered worthy of support.

**Landscaping**

The Without Prejudice plans show a reduction in the basement footprint to increase landscaping opportunities which was raised as a concern by Council and objecting parties. The increased front and side setbacks combined with a reduction of the basement boundary construction has increased opportunities for meaningful landscaping and results in an improved landscaped outcome for the site.

A condition of permit as agreed to by all parties requires a minimum of two canopy trees within the front setback and one canopy tree within the rear. This outcome aligns appropriately with the Neighbourhood Character Policy, the Design and Development Overlay (Schedule 12) and the General Residential Zone Schedule 2 of which, broadly seek to ensure new developments maintain a strong landscape character consistent with the character of the existing and preferred area. This outcome is an improvement to the original scheme and is subsequently considered worthy of support.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Without Prejudice Plans ↓
Item 4.7 – Matters of Decision
Item 4.7 – Matters of Decision
<table>
<thead>
<tr>
<th>Material</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>M1</td>
<td>Obscure Glass Screen</td>
</tr>
<tr>
<td>M2</td>
<td>Black Powder Coated Door Frames</td>
</tr>
<tr>
<td>M3</td>
<td>Timber Palisade Fence</td>
</tr>
<tr>
<td>M4</td>
<td>Black Powder Window Frames</td>
</tr>
<tr>
<td>M5</td>
<td>Colorbond Monopitch Metal Tray Roof</td>
</tr>
<tr>
<td>M6</td>
<td>Glass Railings with Black Powder Coated Handrail &amp; Supports</td>
</tr>
<tr>
<td>M7</td>
<td>Concrete Look Wall</td>
</tr>
</tbody>
</table>

Advertised Plan
ATTACHMENT 2
Site and Surrounds Imagery

Figure 1 Aerial overview of the site and surrounds

Legend

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

Figure 3 View towards the site from the south
30 June 2017

EXPRESS POST

Sarah Collins
Principal Planner
Bayside City Council
76 Royal Avenue
SANDRINGHAM VIC 3191

Also by email: scollins@bayside.vic.gov.au

Dear Sarah,

VCAT Reference No. P778/2017
Site Address: 31 Alicia Street, Hampton VIC 3188

We continue to act on behalf of the Applicant for Review, Amanda Lawrence in the above proceeding.

We enclose a copy of plans prepared for discussion purposes on a “without prejudice” basis at the Compulsory Conference scheduled 6 July 2017.

Also enclosed is a letter from the project architect containing a summary of changes between the Compulsory Conference plans and those considered by the Council.

These plans do not constitute amended plans in respect of the proceedings.

We await a copy of draft conditions prior to the Compulsory Conference, per Order 9 of VCAT’s Order dated 8 June 2017.

Should you have any questions, please contact me on 9691 0221.

Yours faithfully

BEST HOOPER

Panos Nickas
Senior Associate

Enc.

204523
30 06 2017

Re: VCAT reference: P778/2017 – 31 Alicia Street Hampton Vic 3188

VCAT compulsory conference (CC) – without prejudice drawing changes

The CC plans (June 2017) reflect changes made from the plans considered by Council (November 2016) and are summarised below:

Drawing:

TP-06 Rev A Site Plan
1 total site coverage reduced from 62.85% to 57.77%

TP-07 Rev I Level Basement Floor Plan (Landscape opportunity)
1 basement walls offset (in part) from east & west title boundaries (previously on boundary – 0 mm to new 2500mm on east – varies & 0 mm to 2000mm on west – refer to floor plan)
2 TPZ areas indicated (including additional TPZ)
3 in ground garden beds/planting troughs & soil zones indicated along east & west title boundaries for increased landscape opportunity & building area/form reduction

TP-08 Rev J Level Ground Floor Plan (Landscape opportunity)
1 ground floor walls offset (in part) from east & west title boundaries (previously on boundary – 0 mm to new 3153mm on east – varies & 0 mm to new 2000mm on west – varies – refer to floor plan)
2 apartment 1 east setback increased for a reduced building area / form
3 in ground garden beds/planting troughs & soil zones indicated along east & west title boundaries for increased landscape opportunity
4 pond relocated to apartment 1 rear (west) courtyard
5 apartment 2 swim spa relocated to rear
6 deletion of skylight to apartment 2
7 apartment 2 entry adjusted & apartment 1 kitchen/living area adjusted
8 street entry includes planter & garden beds along widened entry path
9 apartment 2 rear deck area has been reduced via increased setbacks from east & west (side) boundaries

TP-09 Rev F Level 1 Plan
1 apartment 1 front (east) wall setback increased to align with ground floor east wall
2 apartment 1 deck/void adjusted & apartment 2 bedrooms 1 & 2 adjusted with rear deck area reduced in size
3 horizontal louvre screening integrated to reduce extent of obscure glass screening

TP-10 Rev F Level 2 Plan
1 apartment 3 front deck roof overhang reduced
2 rear deck area & roof overhang reduced
3 horizontal louvre screening integrated to reduce extent of obscure glass screening
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.7</td>
<td><strong>TP-11 Rev G Level Roof &amp; Roof Deck Plan</strong></td>
</tr>
<tr>
<td>1</td>
<td>roof deck floor area reduced</td>
</tr>
<tr>
<td>2</td>
<td>roof overhangs reduced</td>
</tr>
<tr>
<td>3</td>
<td>roof deck floor plan adjusted, including relocation of smaller roof deck to</td>
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<tr>
<td></td>
<td>rear of lift access structure, stair access structure lowered &amp; constructed</td>
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<td></td>
<td>of glazed wall elements in lieu of solid walls</td>
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<tr>
<td>4</td>
<td>horizontal louvre screening integrated to reduce extent of obscure glass</td>
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<td></td>
<td>screening &amp; to screen plant and equipment</td>
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<tr>
<td></td>
<td><strong>TP-23 Rev F Landscape Plan</strong></td>
</tr>
<tr>
<td>1</td>
<td>refer to TP-08 Level Ground Floor Plan for listed changes</td>
</tr>
<tr>
<td>2</td>
<td>increased landscape opportunities &amp; areas</td>
</tr>
<tr>
<td></td>
<td><strong>TP-12 Rev H Elevations 01</strong></td>
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<tr>
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<td></td>
<td><strong>TP-14 Rev G Sections</strong></td>
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<tr>
<td></td>
<td>walls</td>
</tr>
</tbody>
</table>

Yours faithfully

Trevor Staley  
Architect
4.8 339-343 HAMPTON STREET, HAMPTON
NOTICE OF DECISION TO GRANT AN AMENDMENT TO A PLANNING PERMIT
APPLICATION NO: 2016/470/2 WARD: CENTRAL

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/17/142746

1. Purpose

To report a planning permit application for a Section 72 Amendment to Planning Permit 2016/470/2 (refer Attachment 1) which allows a General Liquor Licence at 339-341 Hampton Street, Hampton (refer Attachment 2).

<table>
<thead>
<tr>
<th>Applicant</th>
<th>PAJ Consultants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date application received</td>
<td>13 April 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>13 June 2017</td>
</tr>
</tbody>
</table>

The submitted amendment seeks to increase the red line area to incorporate the adjoining property at 343 Hampton Street and also amend condition 4 to increase the number of patrons to a maximum of 80 across the three premises.

Condition 4 of the permit currently states:

‘No more than 16 seats may be available for the consumption of liquor, unless with the prior written consent of the Responsible Authority.’

2. Background

Planning permit 2016/470/1 was issued under delegation on 17 October 2016. The permit allowed a General Liquor Licence for the premises at 339 and 341 Hampton Street, subject to conditions. Plans were endorsed on 17 October 2016. The permit was corrected under Section 71 of the Planning and Environment Act 1987 in relation to a clerical error in condition 3 (hours of operation).

This is the first request to amend the permit.

3. Policy implications

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

Planning permit requirements

Clause 52.27 (Licensed Premises) – sale and consumption of alcohol on and off the premises (General Liquor Licence)

Planning scheme amendments

Planning Scheme Amendment C139 has been prepared by Council and requires development to provide a financial contribution for drainage in this area. Council has adopted Amendment C139 and has submitted it to the Minister for Planning for approval. Whilst the Amendment is now considered ‘seriously entertained’, the Minister has not yet made a decision on the Amendment.
Planning Scheme Amendment C150 outlines the overall policy direction for the commercial areas in the Bayside Municipality. Amendment C150 was adopted by Council at its 16 August 2016 Ordinary Meeting. Case law confirms that proposed amendments to Planning Schemes are not considered to be ‘seriously entertained’ and applied in the assessment of permit applications until such time as they have progressed beyond a Panel and Adopted.

4. Stakeholder Consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Wellbeing</td>
<td>No objection</td>
</tr>
</tbody>
</table>

Public notification

The application was advertised pursuant to Section 52(1)(a) and (d) of the Planning and Environment Act 1987 and three (3) objections were received. The following concerns were raised:

- Adverse impact on neighbouring properties;
- Increase in traffic congestion; and
- Devaluation of property

Consultation meeting

A consultation meeting was scheduled to be held on 26 June 2017. The permit applicant attended however none of the objectors turned up to the meeting.

5. Recommendation

That Council:

Issues a Notice of Decision to Grant an Amended Planning Permit under the provisions of the Bayside Planning Scheme in respect of the land known and described as 339-343 Hampton Street, Hampton for a general liquor licence in accordance with the endorsed plans and subject to the following conditions:

1. The licenced area as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
2. The sale and consumption of liquor may only occur within the licenced area as shown on the endorsed plan.
3. The sale and consumption of liquor may only occur between the following hours:
   - ANZAC DAY 12 noon until 11pm
   - Any other day 7am to 11pm

No amendment to these hours of operation is to occur without the prior written
consent of the Responsible Authority.

4. **No more than 80 seats may be available for the consumption of liquor, unless with the prior written consent of the Responsible Authority.**

5. The service and consumption of liquor must remain ancillary to the primary purpose of the premises being the service and consumption of food.

6. This permit will expire if the premises are not licensed under the *Liquor Control Reform Act 1998* within two (2) years of the date of this permit.

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

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 December 2016</td>
<td>Permit Amended under Section 71 of the <em>Planning and Environment Act 1987</em> to:</td>
</tr>
<tr>
<td></td>
<td>Amend Condition 3 to read:</td>
</tr>
<tr>
<td></td>
<td>“The sale and consumption of liquor may only occur between the following hours:</td>
</tr>
<tr>
<td></td>
<td>• ANZAC Day 12 noon till 11pm</td>
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<td></td>
<td>• Any other day 7am to 11pm</td>
</tr>
<tr>
<td></td>
<td>No amendment to these hours of operation is to occur without the prior written consent of the Responsible Authority.”</td>
</tr>
<tr>
<td>3 August 2017</td>
<td>Amendment to the permit under Section 72 of the <em>Planning and Environment Act 1987</em> to:</td>
</tr>
<tr>
<td></td>
<td>• Increase red line area to include 343 Hampton Street, Hampton</td>
</tr>
<tr>
<td></td>
<td>• Amendment to condition 4 to change the number of patrons from 16 to a maximum of 80</td>
</tr>
</tbody>
</table>

6. **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.
Bayside Planning Scheme

- Clause 11 Settlement
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.07 Economic Development
- Clause 21.11 Local Areas
- Clause 34.01 Commercial 1 Zone
- Clause 43.01 Heritage Overlay (Schedule 748)
- Clause 43.02 Design and Development Overlay (Schedule 12)
- Clause 52.27 Licensed Premises

7. Considerations

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

7.1. Liquor Licence

This proposed amendment seeks to increase the red line area to allow the general liquor licence to include the adjoining property at 343 Hampton Street. In addition, condition 4 is proposed to be amended to increase the number of patrons covered by the liquor licence from 16 to 80 over the three addresses.

A food and drink premise is an as of right use in the Commercial 1 Zone and does not therefore require a planning permit to operate as such. It is only the liquor aspect that requires permission pursuant to Clause 52.27.

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

- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and Local Planning Policies
- The business objective of Clause 17.01 states that use and development should be managed to provide new commercial facilities for the needs of the local population in new residential areas and within, or immediately adjacent to existing commercial centres and to encourage development which meet the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability or commercial facilities.
- As defined by Clause 21.11 – Local Areas, the subject site is located within the Hampton Street Major Activity Centre. The liquor license will strengthen the provision of services offered to local residents in a convenient location to residential and commercial areas.
- The sale and consumption of liquor in association with a food and drink premises does not conflict with State and Local Planning Policy Frameworks and is considered to be appropriate.
- The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.

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

339 Hampton Street is a deli that sells packaged liquor for consumption off the premises. 341 Hampton Street is a café with seating for 16 patrons that sells liquor for consumption on the premises. It is proposed that 343 Hampton Street will operate as a food and drink premises. This property currently is used as a shop. The increase in number of patrons will allow a maximum of 80 patrons over the three premises.

Owing to the principal function of the three premises as either an eatery or delicatessen, it is considered that there will be less likelihood of "vertical drinking" which would foster excessive drinking and encourage more extreme behaviours.

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

The site is located within the Hampton Street Major Activity Centre and the existing permit has conditions restricting the hours of operation to no later than 11pm. Condition 5 of the permit states that:

‘The service and consumption of liquor must remain ancillary to the primary purpose of the premises being the service and consumption of food.’

The service of alcohol will therefore either be ancillary to food service and consumption or else taken away and consumed off premises.

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

There is no change proposed to the established hours of operation of the liquor licence, which fall within the Victorian Commission for Gambling and Liquor Regulation's (VCGLR) and Liquor Control Reform Act 1998.

The additional premise at 343 Hampton Street, Hampton will operate under the same hours as the other two properties. These hours are:

- ANZAC DAY 12 noon until 11pm
- Any other day 7am to 11pm

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

The applicant is seeking amend condition 4 of the existing permit to increase the number of patrons from 16 to 80. This number relates to all three premises as a whole and not for each individual premise. This level of patrons is considered to be appropriate given the location of the premises within a major activity centre.

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

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

The Council's Coordinator for Community Partnerships and Health Planning advises that there are an estimated 300 liquor licences within 500 metres of the proposed venue. This is well above the threshold, however the venue is within 100 metres of Hampton Train Station with ample public transport. Furthermore, alcohol will be served with food. Council’s Coordinator for Community Partnerships and Health Planning is satisfied that
the proposal will not result in an increase in alcohol related harms.

7.2 Parking and traffic

The existing use at 343 Hampton Street is a shop, which has a parking requirement of 4 spaces per 100 square metres of leasable floor area. A food and drink use also has the same parking requirement. Under Clause 52.06-3 (Car Parking), a permit is not required if:

- the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay for a new use of land is less than or equal to the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay for the existing use of the land; and

- the number of car parking spaces currently provided in connection with the existing use is not reduced after the new use commences.

There is currently no onsite parking provision, nor is it possible to provide any due to the extent of the built form. As there is no change to the parking requirements for the new use, nor any reduction in parking, there is no requirement for a planning permit in relation to parking provision.

7.3. Objections received

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

Adverse impact on neighbouring properties

343 Hampton Street is proposed to operate as a food and drink premises, which is an as of right use in the commercial zone. The surrounding area is wholly commercial and this type of activity is considered typical of such a zone. Condition 5 of the permit requires that the service of alcohol be ancillary to the service and consumption of food. This means that the premises cannot operate as a bar or late night venue. It is not considered that there will be any adverse impact on neighbouring properties that would justify refusing the application.

Increase in traffic congestion

Whilst it is acknowledged that the development will generate some additional vehicle movements on the local road network, it is not considered that such additional movements would necessarily be concentrated or conflict substantially with existing traffic. The site is located within the Hampton Street Major Activity Centre with good access to public transport and on-street parking.

Devaluation of property

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

Support Attachments

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Permit ↓
4. Endorsed plan ↓
ATTACHMENT 2
Site and Surrounds Imagery

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>★</th>
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<tbody>
<tr>
<td>Objectors</td>
<td>●</td>
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</table>
View towards the site from the east
PLANNING PERMIT NO: 5/2016/470/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address of the Land: 339 – 341 Hampton Street HAMPTON
The Permit Allows: General Liquor Licence in accordance with the endorsed plans and subject the following conditions.

The Following Conditions Apply To This Permit:

1. The licenced area as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
2. The sale and consumption of liquor may only occur within the licenced area as shown on the endorsed plan.
3. The sale and consumption of liquor may only occur between the following hours:
   - ANZAC Day 12 noon till 11pm
   - Any other day 7am to 11pm

No amendment to these hours of operation is to occur without the prior written consent of the Responsible Authority."

4. No more than 16 seats may be available for the consumption of liquor, unless with the prior written consent of the Responsible Authority.
5. The service and consumption of liquor must remain ancillary to the primary purpose of the premises being the service and consumption of food.
6. This permit will expire if the premises are not licensed under the Liquor Control Reform Act 1998 within two (2) years of the date of this permit.

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

Permit Notes

Date issued: 17 October 2016

Sarah Collins
Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 4
Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
<table>
<thead>
<tr>
<th>Date Amended</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 December 2016</td>
<td>Permit Amended under Section 71 of the Planning and Environment Act 1987 to: Amend Condition 3 to read: “The sale and consumption of liquor may only occur between the following hours: • ANZAC Day 12 noon till 11pm • Any other day 7am to 11pm No amendment to these hours of operation is to occur without the prior written consent of the Responsible Authority.”</td>
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</tbody>
</table>

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.
FORM 4

PLANNING PERMIT

Sections 63 and 86

IMPORTANT INFORMATION ABOUT THIS PERMIT

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

WHEN DOES A PERMIT BEGIN?
A permit operates:
  * from the date specified in the permit; or
  * if no date is specified, from:
    (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the
direction of the Tribunal;
or
    (i) 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 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 in the case of a subdivision or consolidation within 5 years of the
certification of the plan of subdivision or consolidation under the Subdivision Act 1988.

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

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

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances
mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use,
development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988,
unless the permit contains a different provision:
  * the use or development of any stage is to be taken to have started when the plan is certified; and
  * the permit expires if the plan is not certified within two years of the issue of the permit.

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

WHAT ABOUT APPEALS?

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