Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 15 May, 2018 at 7:00pm

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

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

Section 92 The Chair's Duties and Discretions

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

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

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

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

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

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

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

Your cooperation is appreciated

Chairperson of Council
Planning & Amenity Committee Meeting

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

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

Membership of the Committee
All Councillors

Order of Business

1. Apologies
2. Declarations of Interest
3. Adoption and Confirmation of the minutes of previous meeting
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   4.8 2-4 Littlewood Street, Hampton Secondary Consent - Approve Application No: 2015/533/3 Ward: Central ..................... 259
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   4.10 150 Esplanade, Brighton (Brighton Savoy Hotel) Notice of Decision to Amend a Planning Permit Application No: 2012/369/1 Ward: Northern ................................................................. 291
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5. Confidential Business

Nil

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**Next Meetings 2018**

- Tuesday 12 June 2018
- Tuesday 17 July 2018
- Tuesday 14 August 2018
- Tuesday 28 August 2018
- Tuesday 11 September 2018
- Tuesday 16 October 2018
- Tuesday 13 November 2018
- Monday 10 December 2018
- Thursday 20 December 2018
1. Apologies

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

3.1 Confirmation of the Minutes of the Planning & Amenity Committee Meeting held on 1 May 2018.
4. Matters of Decision

4.1 LOCAL LAW TREE REMOVAL APPEAL
30 CUMMINS ROAD, BRIGHTON EAST
WARD: CENTRAL

City Planning & Community Services - Amenity Protection
File No: PSF/18/95 – Doc No: DOC/18/90044

1. Executive summary

The purpose of the report is to consider an appeal to Council to permit the removal of one Liquidambar (Liquidambar styraciflua) tree from 30 Cummins Road, Brighton East. The value of the tree using the Bayside Tree Valuation Calculator is estimated to be $93,000. The owner seeks removal of the tree due to infrastructure damage caused by tree roots.

An application to remove the Liquidambar (Liquidambar styraciflua) tree located in the front yard of the property was received on 1 November 2017. Attachment 1 and 2 includes photographs of the tree and its location on the property.

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

The property owner wrote to Council on 13 March 2018, seeking to appeal the decision not to grant a tree removal permit and requested to have the decision considered by Council in accordance with Clause 16 of Local Law No. 2 (“Neighbourhood Amenity”).

2. Key issues

Property Owner’s reason for tree removal:

The applicant has a number of concerns about the Liquidambar (Liquidambar styraciflua) tree at 30 Cummins Road which are:

- The house is an original circa 1950’s dwelling.
- The large Liquidambar tree in the front setback is causing structural damage to the house and neighbour’s garage.
- There are falling heavy limbs from the tree that have broken roof tiles and resulted in water damage.
- Roots from the tree have extended across the front yard causing damage to the driveway.
- Damaged copper water and gas pipes.
- Damaged concrete garden bed.
- Exposed tree roots are a tripping hazard.
- The tree has blocked the North West sunlight form the main living area and bedroom.
- The tree has blocked the visibility of the house from the street.
- The house has been vacant for two months because the leasing agent has suggested that potential tenants argue that the tree is a safety hazard due to falling limbs and a tripping hazard.
• Potential tenants are concerned that they are unable to use the driveway and inability to use the front yard as grass can barely grow, creating a muddy quagmire.

• Tree root suckers are all over the front setback, including under the dwelling and Council’s footpath.

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

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

• The tree is large in size, good health, structure and condition and provides a high level of amenity to the neighbourhood.

• Infrastructure damage raised by the applicant was evident, however it should be noted that the damage would have occurred over a very long period of time without any evidence of maintenance.

• Tree roots from the tree are exposed on the front lawn area. The exposed roots would have been cause over a long period of time by the parking of vehicles in the front setback adjacent the tree. The exposed tree roots can be shaved or pruned to beneath surface level to allow top soil to be levelled over the roots to accommodate the growth of a lawn area.

• Tree root suckers can be treated with readily available non-translocating herbicides.

• Tree root pruning and the installation of a tree root barrier will minimise any future infrastructure damage to the dwelling.

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

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

The infrastructure damage has occurred over a lengthy period of time, it is considered that the value of the tree, $93,000 far outweighs the cost of the infrastructure repair $53,000.

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

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

3. Stakeholder Consultation
Internal referrals
The application (and associated supporting documents) were referred to the Municipal Building Surveyor for comment:

<table>
<thead>
<tr>
<th>Supporting Documents</th>
<th>Response</th>
</tr>
</thead>
</table>
| Building Inspection Report by Architect Marius Vogl | • The defects described in the report as "major" was a questionable categorisation of the defects.  
• Does not fully support the recommendations of |
underpinning the dwelling.

- Estimate of costs to address the structural defects “seems excessive.”

### D&A Consulting Group Report

The report provides options to enable retention of the tree. These options are not included in the final recommendation to remove the tree.

### Apex Soil Testing

The report suggests removal of the tree to allow the soil to rehydrate, but the report does not recommend other options that would allow tree retention e.g.; water reticulation system to balance soil conditions and/or the installation of a tree root barrier.

## 4. Recommendation

That Council refuse to grant a permit for the removal of one Liquidambar (*Liquidambar styracifula*) tree at 30 Cummins Road, Brighton East.

## Support Attachments

1. Tree Location - 30 Cummins Road, Brighton East
2. Photos of Infrastructure damage and exposed tree roots
Tree subject to application viewed from south.

Aerial image of tree subject to application
Image “A” (various) showing damage to dwelling
Image “B” showing damage to driveway

Image “C” showing exposed tree roots in front yard
4.2 65 WELL STREET, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/706  WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/91474

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>The Brighton Well 65 Well Trust &amp; Brighton Residential Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>24 October 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>153 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone, Schedule 2</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay, Schedule 11 Development Contributions Plan</td>
</tr>
<tr>
<td>Number of objections</td>
<td>12</td>
</tr>
</tbody>
</table>

Proposal
The application seeks the construction of a three storey building (above basement level) comprising five dwellings on land affected by the Design and Development Overlay (Schedule 11) on a lot with an area of 806 square metres. Key details of the proposal are as follows:

- 5 dwellings, being:
  - 3 x two bedroom dwellings
  - 2 x three bedroom dwellings
- 10.8 metre building height
- Site coverage 56%
- Permeability 22%
- 38% garden area
- 10 residential car spaces (oversupply of three car spaces)
- 1 residential visitor car space

The application plans are provided at Attachment 1.

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

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

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:
• Clause 32.08-6 (General Residential Zone) – Construction of two or more dwellings on a lot.
• Clause 43.02-1 (Design and Development Overlay) – construct a building or construct or carry out works

**Planning Scheme Amendments**

There are no Planning Scheme Amendments relevant to this application.

3. **Stakeholder consultation**

**External referrals**

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

**Internal referrals**

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

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

**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and 12 objections were received. The following concerns were raised:

• Neighbourhood character;
• Overlooking;
• Overshadowing;
• Overdevelopment; and
• Parking / Traffic.

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

**Consultation meeting**

A consultation meeting was held on 14 March 2018 attended by the permit applicant and one objector. No objections have been withdrawn subsequent to the meeting.

It is noted that the objector and applicant have been in discussions about conditions of permit that could be adopted to resolve objector concerns. These conditions have been included within the recommendation of officers and are identifiable at condition 1a-1c and condition 13.

**NB:** There is a current planning application at 67-69 Well Street which seeks the construction of a three storey building comprising 10 dwellings above a basement level on public notice (advertising). At the time of writing, no objections have been received for this application.
4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/706** for the land known and described as **65 Well Street, Brighton**, for the **construction of a three storey building (above basement level) comprising five dwellings on land affected by the Design and Development Overlay (Schedule 11)** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

   a) The habitable room window to the master bedroom of dwelling 5 to be a highlight window with a minimum sill height of 1.7 metres above finished floor level.

   b) The balconies of dwellings 4 and 5 to be screened in accordance with the requirements of Standard B22 of ResCode (overlooking).

   c) A schedule of construction materials, external finishes and colours (incorporating for example paint samples). The colour palate is to include lighter and finishes to all elevations.

   d) The maximum height of the development reduced by 0.2 metres.

   e) The setback of basement envelope from the bottom of the ramp increased to two metres from the common boundary with 67 Well Street for a length of five metres.

   f) The utility service areas, bicycle storage areas, storage areas of dwellings four and five and the bin storage area to be consolidated (as appropriate) to allow for a reduced basement envelope.

   g) All air conditioning units to be located within the basement level.

   h) The front fence to dwelling 1 reduced to height of 1.5 metres (measured from the finished floor level of the dwelling), to incorporate a minimum 25% transparency above 1.2 metres and be constructed with timber (or similar).

   i) Deletion of indicative landscaping from development plans.

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

   k) A Landscaping Plan in accordance with Condition 10 of this permit.

   l) Payment of the development contributions levy in accordance with Condition 23.

   All to the satisfaction of the Responsible Authority.

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

3. Before the occupation of the site commences or by such later date as is
4. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building(s) without the written consent of the Responsible Authority.

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

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

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

Water Sensitive Urban Design

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick, dated 24.11.2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) Tree’s capable of reaching the following height:
      i. Front setback – 1 x 14m and 1 x 12m
      ii. Rear setback – 2 x 10m
b) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

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

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

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

f) Details of surface finishes of pathways and driveways

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. The rooftop garden area above the master bedroom of dwelling 2 to be used as garden area only and be maintained by the owner’s corporation.

Tree Management and Protection Plan

14. 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.

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

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

Street tree protection
17. Soil excavation must not occur within 3 metres from the edge of the two existing street trees without the written consent of the Responsible Authority.

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

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

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

Drainage

21. 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.

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

Development Contribution

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

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

Permit Expiry

24. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.
In accordance with Section 69 of the Planning and Environment Act 1987, a request may be submitted to the Responsible Authority within the prescribed timeframes for an extension of the periods referred to in this condition.

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

5. Council Policy

Council Plan 2017-2021

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

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.

Refer page 12-14 of Goal 3 and ensure you use the correct one. Please check website.

Bayside Planning Scheme

Update the text below as required and relevant to your proposal.
- 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 21.11 Local Areas (Church Street activity centre)
- Clause 22.06 Neighbourhood Character Policy (Precinct B2)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 General Residential Zone (Schedule 2)
- Clause 43.02 Design and Development Overlay (Schedule 11)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

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

The proposed development is appropriately sited and designed to ensure that the garden character of Well Street will be retained. Notwithstanding this, conditions of permit have been recommended to lower the fence height, soften the material palette that presents to Well Street and reduce the extent of the basement envelope.

It is considered that the introduction of these conditions will ensure that the preferred neighbourhood character of the precinct is satisfied.

6.2. Compliance with Clause 55 (ResCode)

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

<table>
<thead>
<tr>
<th>Standard B17 – side and rear setbacks</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ground floor</strong></td>
</tr>
<tr>
<td><strong>Requirement</strong></td>
</tr>
<tr>
<td>North-east (rear)</td>
</tr>
<tr>
<td>North-west (side)</td>
</tr>
<tr>
<td>South-east (side)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirement</strong></td>
</tr>
<tr>
<td>North-east (rear)</td>
</tr>
<tr>
<td>North-west (side)</td>
</tr>
<tr>
<td>South-east (side)</td>
</tr>
</tbody>
</table>

It is important to note the significant rise/fall across the land, with the site rising approximately 3.2 metres from front to back. Therefore, a substantial amount of cut-fill
is proposed across the land to ensure that the building is constructed without split levels and on an even foundation. This construction technique has had implications on the wall heights when measured against natural ground level.

As a result of this, a couple areas of non-compliance with the prescriptive setback requirements of ResCode are sought as part of this application. Generally, these areas are proposed towards the front of the site, where the greatest level of fill is proposed and the interface is less sensitive due to the interface with front-yards and side service areas.

As the built form extends into the side (from front to back), the building heights when measured from natural ground level become less and less. Therefore, a holistic review of the wall heights in the context of the proposed built form and natural topography of the land is required.

The first floor north-western non-compliance is associated with the living room of dwelling 3. It is considered that the variation of 0.2 metres is acceptable as the area of non-compliance is limited to an expanse of 4 metres (associated with the living room of dwelling 3) and is adjacent a non-sensitive interface (as discussed above).

At second floor, variations are in the order of 0.2-0.7 metres across when interfacing with both side boundaries. It is considered that the variations are acceptable in this instance, as the variations occur towards the front of the site and are considered to be generally minor.

Further to this, the uppermost floor is setback from the level below across all boundaries, and are also set behind a balcony/terrace area. This design response therefore ensures that the uppermost level is a recessive element.

Notwithstanding the above, it is considered that there are opportunities to reduce the building height of the development, without compromising the amenity of future residents. Therefore, a condition of permit is recommended to reduce the height of the development by 0.2 metres to limit the amenity impacts on adjoining properties.

6.3. Landscaping

The application plans show the removal of 15 trees from the site including two native trees. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with a "*":

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed removal for retention</td>
<td>Proposed removal for retention</td>
</tr>
<tr>
<td>n/a</td>
<td>3, 4, 5, 6*, 8, 9, 10, 11, 12*, 13, 14, 17, 18, 20, 21</td>
</tr>
</tbody>
</table>

Council’s Arborist in their referral response advised that removal of the vegetation is not opposed due to the small size of the vegetation, that none is protected by the Local Law, the largest pieces on size being the palm trees do not provide a high level of amenity to the area and nothing fits the Neighbourhood Character provisions.

Tree Nos. 7, 15 and 16 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. As such consideration must be given to the impact of the development upon these trees. Council’s Arborist has advised that Tree Impact Assessment is undertaken prior to any built form being approved.

It is noted that a rooftop garden is proposed above the ground floor master bedroom of dwelling 2. Council’s arborist has supported this design as it delivers an improved post-construction landscaping outcome. The objector from 178 Church Street has raised concern with this element, due to the ability for it to be converted into habitable space.
However, it is considered that this concern can be dealt with as a condition of permit, to ensure that the landscaping remains.

It is noted that a condition of permit is recommended to reduce the basement envelope to ensure greater post-construction landscaping opportunities.

6.4. **Street tree(s)**

Council’s open space arborist has reviewed the application and advised that no excavation is to come within three metres of the trunk of the existing street trees. This is included as a condition of permit.

6.5. **Car parking and traffic**

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

The application proposes an oversupply of residential car parking requirements of three car spaces, while one residential visitor car space is provided in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.

The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to vehicle headroom clearance along the accessway.

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

It is noted that there are several inefficiencies with the basement design, which can be remediated by way of a smaller basement footprint without compromising vehicle manoeuvrability. This will also ensure greater post-construction landscaping opportunities.

6.6. **Design and Development Overlay, Schedule 11**

The site is identified within Precinct E of the Design and Development Overlay, Schedule 11. Precinct E has a 12 storey maximum building height. Therefore the proposed 10.8 metre maximum building height satisfies this requirement.

The design and development overlay also seeks that the uppermost floor be setback a minimum of 4 metres behind the front wall of the floor immediately below. The first floor is setback 7.4 metres from Well Street, while the uppermost floor is setback 10.6-13.0 metres.

The application proposes an articulated façade across the uppermost floor, through the use of planter boxes, terrace areas and a stepped building form. This design outcome is considered to meet the overriding objectives of the Design and Development Overlay by enhancing the urban character of the area.

6.7. **Development contributions levy**

The subject site is located within catchment area 11A.

Based on the proposed application and the below recommendation, a payment of $8,000 is required. The payment of the development contributions will be recommended as a condition of permit.

6.8. **Objector issues not already addressed**

The objections raised have been addressed and considered throughout the report.
Support Attachments

1. Development plans ↓
2. Site & Surrounds Imagery ↓
3. Neighbourhood Character Precinct B2 ↓
4. Clause 55 Assessment ↓
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

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>
Figure 2 View of subject site from Weli Street
Neighbourhood Character Precinct B2

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</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 those dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds
The proposed dwelling is not affected by the Heritage Overlay and does not contribute to the valued character of the Precinct. |
| 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, subject to conditions
A landscape plan was submitted with the application which details an appropriate post-construction landscaping outcome. Notwithstanding this, conditions of permit have been recommended to reduce the basement footprint to allow greater landscaping opportunities. |
| To maintain the rhythm of spacious visual separation between buildings and provide space for front gardens. | • Buildings should be sited to allow space for the planting of trees and shrubs. • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Loss of front garden space. | Responds
The proposed development is setback from one of its boundaries to ensure a level of visual permeability through the site is maintained. Further, the adequate areas are set aside within the front setback to ensure a garden setting. |
| To minimise the loss of front garden space and the dominance of car parking facilities. | • Locate garages and carparks behind the line of the dwelling. • Provide only one vehicular crossover per typical site frontage. | Car parking facilities that dominate the façade or view of the dwelling. | Responds
A basement carpark is proposed to be utilised by all dwellings. The siting and design of the basement carpark |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To ensure new development respects the dominant buildings forms and scale of buildings in the Precinct, through the use of innovative architectural responses. | • Articulate the form of buildings and elevations, particularly front facades.  
• Recess upper storey elements from the front facade. | Large buildings with poorly articulated facades. | Responds, subject to conditions  
The built form is suitably articulated and recessed to ensure it results in an appropriate form and scale to the streetscape. However, it is recommended that the use of render and concrete across the streetscape is excessive be reduced to ensure an appropriate character outcome. This is recommended to be rectified as a condition of permit. |
| To respect the identified heritage qualities of adjoining buildings. | • Where adjoining an identified heritage building, respect the height, building forms, siting and materials of the heritage buildings in the new building design. | Buildings that dominate heritage buildings by height, siting or massing. Imitation or reproduction of historic building styles and detailing. | Responds  
Neither the subject land nor adjoining properties are affected by the Heritage Overlay. |
| To use a variety of building materials and finishes that provide visual interest in the streetscape. | • Incorporate a variety of building materials such as brick, render, timber and non-masonry into the building design.  
• Use simple building details. | Exclusive use of one material on external wall facades. | Responds, subject to conditions  
As detailed above, a greater variety of materials across the streetscape is recommended to break up the excessive use of render and concrete. This is to be rectified as a condition of permit. |
| To improve the visual connection between the dwellings and the streetscape and | • Provide open style front fences, other than along heavily trafficked roads. | High, solid fences | Responds, subject to conditions  
Owing to the significant rise/fall across the land, a |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>encourage views to</td>
<td>- Front fence style should be appropriate to the</td>
<td>2.3 metre high fence is proposed to the secluded private open space</td>
<td>2.3 metre high fence is proposed to the secluded private open space area of dwelling 1. The</td>
</tr>
<tr>
<td>front gardens.</td>
<td>building era.</td>
<td>area of dwelling 1. The secluded private open space area is setback</td>
<td>secluded private open space area is setback 3.0 metres from Well Street.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3.0 metres from Well Street.</td>
<td>It is recommended that the fence height be lowered to 1.8 metres, if include a level of</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>transparency (minimum 25%) be constructed with a material other than render to allow it to</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>integrate into the landscape setting.</td>
</tr>
</tbody>
</table>

Item 4.2 – Matters of Decision
### Attachment 4

**ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)**

<table>
<thead>
<tr>
<th>Application type</th>
<th>Applicable clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>To construct or extend an apartment development; or</td>
<td>All of Clause 55 except Clause 55.03-5 (energy efficiency), Clause 55.03-6 (open space), Clause 55.04-8 (noise impacts), Clause 55.05-1 (accessibility), Clause 55.05-2 (dwelling entry) and Clause 55.05-6 (storage).</td>
</tr>
<tr>
<td>To construct or extend a dwelling in or forming part of an apartment development.</td>
<td></td>
</tr>
</tbody>
</table>

### CLAUSE 55.02 NEIGHBOURHOOD CHARACTER AND INFRASTRUCTURE

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1 Neighbourhood Character</td>
<td>Complies</td>
<td>Refer to Attachment 3.</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>B2 Residential Policy</td>
<td>Complies</td>
<td>The subject site is appropriately located with regard to services and facilities to support the</td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td>construction of two dwellings.</td>
</tr>
<tr>
<td>consistent with housing</td>
<td></td>
<td></td>
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<tr>
<td>policies in the SPPF, LPPF</td>
<td></td>
<td></td>
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<tr>
<td>including the MSS and local</td>
<td></td>
<td></td>
</tr>
<tr>
<td>planning policies.</td>
<td></td>
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<tr>
<td>Support medium densities in</td>
<td></td>
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<tr>
<td>areas to take advantage of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>public transport and</td>
<td></td>
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<tr>
<td>community infrastructure and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B3 Dwelling Diversity</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling</td>
<td></td>
<td></td>
</tr>
<tr>
<td>sizes and types in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>developments of ten or more</td>
<td></td>
<td></td>
</tr>
<tr>
<td>dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B4 Infrastructure</td>
<td>Complies</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will</td>
</tr>
<tr>
<td>Provides appropriate utility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services and infrastructure</td>
<td></td>
<td></td>
</tr>
<tr>
<td>without overloading the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>capacity.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>The developer will be responsible for upgrading this infrastructure if necessary to accommodate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>the development. Council’s drainage engineers have reviewed the application and raise no</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Complies</td>
<td>The development will integrate appropriately with Well Street. Clearly identifiable vehicle and pedestrian links are proposed. A reduction in height for the fence surrounding the secluded private open space area of Dwelling 1 will further enhance the integration.</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>----------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
</tbody>
</table>

### CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B6 Street Setback** | Complies | Minimum: 7.7 metres  
Proposed: 7.7 metres |
| The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. |
| **B7 Building Height** | Complies | Maximum: 12 metres  
Proposed: 10.8 metres |
| Building height should respect the existing or preferred neighbourhood character. |
| **B8 Site Coverage** | Complies | Maximum: 60%  
Proposed: 56% |
| Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. |
| **B9 Permeability** | Complies | Minimum: >20%  
Proposed: 22% |
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td>N/A</td>
</tr>
<tr>
<td>B11 Open Space</td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td>N/A</td>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</td>
<td>Complies</td>
</tr>
<tr>
<td>B13 Landscaping</td>
<td>To provide appropriate landscaping. To encourage: • Development that respects the landscape character of the neighbourhood. • Development that maintains and enhances habitat for plants and animals in locations of habitat importance. • The retention of mature vegetation on the site.</td>
<td>Complies</td>
</tr>
<tr>
<td>B14 Access</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Complies</td>
</tr>
<tr>
<td>B15 Parking Location</td>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td>Complies</td>
</tr>
</tbody>
</table>
### Clause 55.04 Amenity Impacts

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>No</td>
<td>Refer to Section 6.2 of the Report.</td>
</tr>
</tbody>
</table>

#### Ground floor

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North-east (rear)</td>
<td>0m or 1m</td>
<td>0-4.6m</td>
<td>1.78m</td>
</tr>
<tr>
<td>North-west (side)</td>
<td>0m or 1m</td>
<td>2m</td>
<td>1.8-2.4</td>
</tr>
<tr>
<td>South-east (side)</td>
<td>0m or 1m</td>
<td>0-2m</td>
<td>1.6-1.9</td>
</tr>
</tbody>
</table>

#### First floor

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North-east (rear)</td>
<td>3.8m</td>
</tr>
<tr>
<td>North-west (side)</td>
<td>3.9-5.6</td>
</tr>
<tr>
<td>South-east (side)</td>
<td>3.6-4.9</td>
</tr>
</tbody>
</table>

#### Second floor

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North-east (rear)</td>
<td>5.0m</td>
</tr>
<tr>
<td>North-west (side)</td>
<td>4.1-5.0m</td>
</tr>
<tr>
<td>South-east (side)</td>
<td>4.1m</td>
</tr>
</tbody>
</table>

### B18 Walls on Boundaries

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

<table>
<thead>
<tr>
<th>Yes</th>
<th>South-east boundary</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Maximum Height: 3.6m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 3.1m</td>
</tr>
<tr>
<td></td>
<td>Average Height: 3.2m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 3.0m</td>
</tr>
<tr>
<td></td>
<td>Maximum Length: 17.4m</td>
</tr>
<tr>
<td></td>
<td>Proposed: 12.5m</td>
</tr>
<tr>
<td>Item 4.2 – Matters of Decision</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>

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

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

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

**B22 Overlooking**
Limit views into existing secluded private open space and habitable room windows.

**B23 Internal Views**
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.

**B24 Noise Impacts**
Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Complies</td>
<td>The development has been sufficiently setback from all habitable room windows to abutting properties.</td>
</tr>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>N/A</td>
<td>There are no north facing windows within 3m of the shared boundary.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Complies</td>
<td>Additional overshadowing will occur over the adjoining private open space areas. However, the overshadowing requirements are satisfied.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Complies</td>
<td>All first and second floor habitable room windows and balconies are appropriately screened to ensure no unreasonable overlooking of adjoining secluded private open space areas and habitable room windows.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Complies</td>
<td>No internal overlooking will occur as a result of this development.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>N/A</td>
<td>Assessed below within the apartment Standards (Standard 40)</td>
</tr>
</tbody>
</table>

**CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>N/A</td>
<td>Assessed below within the apartment Standards (Standard B41)</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>N/A</td>
<td>Assessed below within the apartment Standards (Standard B42)</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Complies</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
</tbody>
</table>
| **B28 Private Open Space** | Complies | Minimum (ground level dwellings): 40 square metres
Proposed:  
Dwelling 1: 40 square metres
Dwelling 2: 80 square metres
Minimum (upper level dwellings): 8 square metres
Proposed:  
Dwelling 3: 24 square metres
Dwelling 4: 25 square metres
Dwelling 5: 31 square metres |
| **B29 Solar Access to Open Space** | Complies | Appropriate solar access to the private open space areas is provided. |
| **B30 Storage** | N/A | Assessed below within the apartment Standards (Standard B44) |

### CLAUSE 55.06 DESIGN DETAIL

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B31 Design Detail**  
Encourage design detail that respects the existing or preferred neighbourhood character. | Complies | Refer to Attachment 3 for further discussion. |
| **B32 Front Fences**  
Encourage front fence design that respects the existing or preferred neighbourhood character. | N/A | As the fence to the secluded private open space area of dwelling 1 is setback in excess of 3.0 metres, an assessment against Standard B32 is not applicable. Notwithstanding this, issues surrounding the streetscape presentation are addresses within the Neighbourhood Character assessment. |
### B33 Common Property
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.
Avoid future management difficulties in common ownership areas.

| Complies | The common areas are suitable located and accessible for all residents. |

### B34 Site Services
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.

| Complies | All appropriate site services are nominated on the site. |

---

## CLAUSE 55.07 APARTMENT DEVELOPMENTS

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard B35 Energy efficiency objectives</strong></td>
<td>Complies</td>
<td>The site orientation maximises the solar access and does not unreasonably reduce energy efficiency and solar access to adjoining properties. Areas of open space facing north have been maximised where possible.</td>
</tr>
<tr>
<td>To achieve and protect energy efficient dwellings and buildings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To ensure dwellings achieve adequate thermal efficiency</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard B36 Communal open space</strong></td>
<td>N/A</td>
<td>This standards relates to developments with 40 or more dwellings.</td>
</tr>
<tr>
<td>To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Developments with 40 or more dwellings should provide a minimum area of communal open space of 2.5 sq metres per dwelling or 250 sq metres, whichever is lesser.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard B37 Solar access to communal outdoor open space</strong></td>
<td>N/A</td>
<td>There is no communal outdoor open space provided within this development. Communal areas within this development at ground floor level to do constitute recreational outdoor open space.</td>
</tr>
<tr>
<td>To allow solar access into communal outdoor open space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard B38 Deep soil areas and</strong></td>
<td>Complies</td>
<td>Required: 5% of the site area with a</td>
</tr>
<tr>
<td>Item 4.2 – Matters of Decision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------</td>
<td>----------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>canopy trees objective</strong></td>
<td>minimum dimension of 3 metres and 1 small tree (6-8 metres) per 30 square metres of deep soil. <strong>Proposed:</strong> 78 square metres of deep soil planting within the front setback. Please refer to Section 6.3 of this report for further discussion regarding landscaping.</td>
<td></td>
</tr>
<tr>
<td><strong>Standard B39 Integrated water and stormwater management</strong></td>
<td><strong>Complies</strong> The supporting Planning Report notes the provision of a 2500L rainwater tanks located below the basement.</td>
<td></td>
</tr>
<tr>
<td>To encourage the use of alternative water sources such as rainwater, stormwater and recycled water. To facilitate stormwater collection, utilisation and infiltration within the development. To encourage development that reduces the impact of stormwater run-off on the drainage system and filters sediment and waste from stormwater prior to discharge from the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard B40 Noise impacts</strong></td>
<td><strong>Complies</strong> No unreasonable noise impacts will result as a consequence of the development.</td>
<td></td>
</tr>
<tr>
<td>To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard B41 Accessibility</strong></td>
<td><strong>Complies</strong> <strong>Requirement:</strong> 50 per cent of dwellings should have:  - A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom.  - A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom and the living area.  - A main bedroom with access to an adaptable bathroom.  - At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table B7. <strong>Proposed:</strong> Two (50%) of the proposed dwellings meet this standard.</td>
<td></td>
</tr>
<tr>
<td>To ensure the design of dwellings meets the needs of people with limited mobility.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Standard B42 Building entry and circulation</strong></td>
<td><strong>Complies</strong> The building entry and foyer area provides a clearly identifiable area which benefits from direct solar access and natural ventilation. Stair</td>
<td></td>
</tr>
<tr>
<td>Standard B43 Private open space above ground floor</td>
<td>Complies</td>
<td>Requirement: A balcony with an area of 12m² with a minimum dimension of 2.4 metres. Proposed: As discussed above within Standard B28, all dwellings have adequate provisions of private open space.</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
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<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Standard B44 Storage</td>
<td>Complies</td>
<td>Required: 3 bed apartments require 18m² total minimum storage volume and 12m² minimum storage volume with the dwelling. Provided: a minimum of 12m² has been provided internally for all apartments. Refer to Standard B30 for external storage provisions.</td>
</tr>
<tr>
<td>Standard B45 Waste and recycling</td>
<td>Complies</td>
<td>The proposal provides for appropriate and conveniently located areas for waste collection on site. A waste management Plan has been included as a condition of permit requiring on-site waste collection services.</td>
</tr>
<tr>
<td>Standard B46 Functional layout</td>
<td>Complies</td>
<td>Requirement: Bedrooms should provide for a main bedroom with a minimum dimensions of 3mx 3.4m. All other bedrooms should have a minimum dimension of 3m x 3m. 2 or more bedroom dwellings should have a minimum living area width of 3.6m with a minimum area of 12m². Proposed: All apartments comply with the minimum widths and area.</td>
</tr>
<tr>
<td>Standard B47 Room depth</td>
<td>Complies</td>
<td>Requirement: Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.</td>
</tr>
</tbody>
</table>
| **Standard B48 Windows**  
To allow adequate daylight into new habitable room windows. | Complies | **Proposed**: Many rooms have double aspects but all single aspect rooms comply with this standard. |
| --- | --- | --- |
| **Requirement**: Habitable rooms should have a window in an external wall of the building. A window may provide daylight to a bedroom from a smaller secondary area within the bedroom where the window is clear to the sky. The secondary area should be:  
  - A minimum width of 1.2 metres.  
  - A maximum depth of 1.5 times the width, measured from the external surface of the window.  
**Proposed**: All rooms have a window in an external wall of the building. |

| **Standard B49 Natural ventilation**  
To encourage natural ventilation of dwellings.  
To allow occupants to effectively manage natural ventilation of dwellings. | Complies | **Requirement**: At least 40 per cent of dwellings should provide effective cross ventilation that has:  
  - A maximum breeze path through the dwelling of 18 metres.  
  - A minimum breeze path through the dwelling of 5 metres.  
  - Ventilation openings with approximately the same area.  
**Proposed**: All dwellings are provided with natural ventilation. |
1. **Application details**

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<td>Number of objections</td>
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</table>

**Purpose & History**

The purpose of this report is to determine a position for the above application.

At the Planning and Amenity Committee meeting on 13 March 2018, Council determined to defer the application on the following basis:

> That this item be deferred for further consideration following VicRoads assessment if access from Centre Road is appropriate for the development, noting the accessway is to be located approximately 30 metres from the Hampton Street intersection.

The previous officer recommendation is included as **Attachment 1**, while the minutes of the Agenda are included at **Attachment 2**.

Subsequent to this, correspondence from VicRoads has been received that has determined that vehicle access from Centre Road could be achieved.

However, the 30 metre setback from the Hampton Street intersection sought (as detailed within the Council deferral) would place the vehicle crossover beyond the eastern most edge of the existing vehicle crossover and would therefore be sited adjacent the trunk of the existing street tree.

A referral to Council’s Open Space Arborist to review the street tree determined that it is a significant tree and for the proposed crossover to be sited approximately 30 metres from the intersection, the health of the tree would be unviable and would have to be removed. Council’s Open Space Arborist detailed that due to the significance of the street tree, the associated removal and replanting costs of the street tree would be $28,639.26.

It is considered that the street tree is of high amenity value and delivers a strong landscape presence to the streetscape as sought by Council Policy. The loss of the tree is considered to be contrary to Council’s objectives and would unnecessarily compromise the landscape character of the area.

On the basis of the above, it is considered that vehicle access 30 metres from the...
Hampton Street intersection along Centre Road is inappropriate and therefore not supported. Therefore, it is recommendation of Council officers that the recommendation put to the Planning and Amenity Committee on 13 March 2018 be adopted.

The without prejudice application plans are included as Attachment 3, while the subject site and surrounds photograph is included as Attachment 4.

VCAT

In the intervening period between the deferral of the application by Council’s Planning and Amenity Committee on 13 March 2018 and the on-going correspondence with VicRoads and Council’s Open Space Arborist, an Application for Review against Council’s failure to grant a permit has been lodged with VCAT pursuant to Section 79 of the Planning and Environment Act 1987.

If Council had determined the application at the Planning and Amenity Committee on 13 March 2018, an appeal against Council’s failure to grant a permit would have been avoided.

In accordance with an appeal lodged with VCAT pursuant to Section 79 of the Planning and Environment Act 1987, Council is liable for costs for the application fees made by the applicant in the proceeding.

The application is listed for a Compulsory Conference on 20 June 2018 and a full hearing on 15 August 2018 for two days.

Conclusion

Having regard to the above, the recommendation of Planning Officer’s from the 13 March 2018 is maintained. The original assessment is provided at Attachment 1.

2. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Grant a Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/686** for the land known and described as **1-1A Centre Road, Brighton** for the **construction of two, two storey buildings comprising a total of 14 dwellings above a basement level and alteration of access to a Road in a Road Zone, Category 1** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application) prepared by Addarc TP01-TP13 dated 19.10.17 but modified to show:

   a) Provision of two residential visitor car spaces (and associated layout changes) in accordance with the without prejudice plans circulated to Council on 9 February 2018, identified as SK01 and SK02.

   b) Provision of root sensitive footings and root sensitive construction techniques where any of the proposed basement comes within the TPZ of the street trees.

   c) A longitudinal section of the ramp to detail compliance with AS2890.1.

   d) Provision of a convex mirror at the bottom of the basement ramp.
e) The first floor north facing habitable room windows of TH07 to be designed to avoid any overlooking of secluded private open space and habitable room windows of 828 Hampton Street. Cross sections are required to detail any potential for overlooking.

f) The first floor northern elevation of terrace area of TH14 to be designed to avoid any unreasonable overlooking of 828 Hampton Street in accordance with ResCode Standard B22 (overlooking).

g) The height of the internal fence along the eastern boundary of the secluded private open space areas of TH01-TH07 to be a maximum 2.1 metres.

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

i) Deletion of existing and proposed boundary fence notations.

j) Deletion of indicative landscaping from the development plans.

k) The paving within the eastern boundary setback associated within TH08-14 to be permeable.

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

m) A Landscaping Plan in accordance with Condition 10 of this permit.

n) Payment of the development contributions levy in accordance with Condition 19.

o) Any modifications to the plans arising from the VicRoads conditions 20-24.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

Water Sensitive Urban Design

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

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

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

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan, reference TP01-TP03 Revision D prepared by Jack Merlo and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

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

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

e) Details of surface finishes of pathways and driveways

f) The paving within the eastern boundary setback associated within TH08-14 to be permeable.

g) Deletion of existing and proposed boundary fence notations.

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

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

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

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

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

Waste Management Plan

15. Prior to the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:

   a) Dimensions of storage waste areas.
   b) Storm water drains in storage areas should be fitted with a litter trap.
   c) The number and size of bins to be provided.
   d) Facilities for bin cleaning.
   e) Method of waste and recyclables collection.
   f) Types of waste for collection, including colour coding and labelling of bins.
   g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).
   h) Method of hard waste collection.
   i) Method of presentation of bins for waste collection.
   j) Sufficient headroom within the basement to accommodate waste collection vehicles.
   k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
   l) Strategies for how the generation of waste and recyclables will be minimised.
   m) Compliance with relevant policy, legislation and guidelines.
When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

Construction Management Plan

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

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

r) Details of crane activities, if any.

Drainage

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

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

Development Contributions

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

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

VicRoads Conditions

20. Prior to the endorsement of plans, amended plans must be submitted to and approved by VicRoads. Once approved, the plans may then be endorsed by the Responsible Authority and will form part of the permit. The plans must be generally in accordance with the submitted plans (Ref: TP03, TP04 (Ground & basement level floor plan) dated: 19.10.2017, Rev:01, Prepared by ADDARC) and amended to show:

a) A fully dimensioned Layout Plan showing the proposed access arrangement on to Hampton Street including features along 100 m either side of the site access including existing kerb and channel, bus stop, power poles, trees and other road assets.

b) Passing area at the entrance to the site. Width of the crossover at the site boundary to allow concurrent movement of a B99 and a B85 vehicles at the entrance to the site from the kerbside using swept path analysis.

c) Prior to the commencement of use or occupation, a sealed access crossover at the property boundary with the crossover angled at 60 degrees to the road reserve boundary, at least for the first 3 metres from the edge of the road with 3.0 metres radial turnouts.

21. Prior to the commencement of the use or occupation of the development, vehicle crossing on Centre Road must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.

22. Prior to the commencement of the use or the occupation of the buildings or works hereby approved, the access crossover and associated works must be provided and available for use.

23. Vehicles must enter and exit the land in a forward direction at all times.
24. The level of the footpaths must not be lowered or altered in any way to facilitate access to the site.

**Transport for Victoria Conditions**

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

26. The existing bus stop and associated infrastructure on Hampton Street must not be altered with the prior consent of Public Transport Victoria. Any alterations including temporary works or damage during construction must be rectified to the satisfaction of Public Transport Victoria and at the cost of the permit holder.

**Permit Expiry**

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

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

**Permit Notes:**

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

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

- Before the development starts the applicant must pay $3,038.88 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Council’s current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.

- No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant acts or regulations created under those Acts.

**Support Attachments**

1. Previous officer recommendation
2. Previous committee minutes
3. Without Prejudice Plans
4. Site and surrounds
4.9 1 CENTRE ROAD, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/686  WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8765 – Doc No: DOC/18/37236

1. Application details

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Proposal
The application seeks the construction of two, two storey buildings comprising a total of 14 dwellings above a basement level, a reduction in the visitor car parking requirements and alteration of access to a Road in a Road Zone, Category 1 on a lot with an area of 2,359 square metres.

Key details of the proposal are as follows:
- 14 dwellings
- Building height in 7.1 metres (two storeys above basement level)
- Site coverage 50%
- Permeability 22%
- Vehicle access via Hampton Street.
- Basement car parking with 28 resident car spaces (reduction of two residential visitor car spaces sought)

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

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

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:
- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot.

Item 4.9 – Matters of Decision
3. Stakeholder consultation

**External referrals**

The application was referred to the following authorities:

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<th>Response</th>
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<td>Transport for Victoria</td>
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</tr>
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<td>VicRoads</td>
<td>No objection, subject to conditions</td>
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**Internal referrals**

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

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<td>Drainage</td>
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<tr>
<td>Open Space Arborist</td>
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<td>Traffic Engineer</td>
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**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and 11 objections were received. The following concerns were raised:

- Traffic and car parking
- Reduction in car parking requirements
- Overlooking
- Height
- Waste management

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

**Consultation meeting**

A consultation meeting was held on 24 January 2018 attended by the permit applicant and the objectors.

As a result of the meeting, without prejudice plans and an updated traffic report were circulated to Council and all objector parties on 13 February 2018 (see *Attachment 3*).

The without prejudice plans included the following changes:

- Provision of two residential visitor car spaces (therefore, satisfying the statutory car parking requirement),
- Modifications to the basement layout, and
Bayside City Council  Planning & Amenity Committee Meeting - 13 March 2018

- Additional stairwell to basement level accessed via Centre Road.

It is noted that the without prejudice plans have no formal status with the application, however they do provide an understanding of how two residential visitor car spaces would work in relation to the proposed development.

The without prejudice plans were forwarded onto Council's Traffic Engineers who advised support of the application, subject to conditions (discussed below).

Therefore, it is considered appropriate that the planning recommendation turn its mind to the without prejudice position.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/686 for the land known and described as 1-1A Centre Road, Brighton for the construction of two, two storey buildings comprising a total of 14 dwellings above a basement level and alteration of access to a Road in a Road Zone, Category 1 in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application) prepared by Addarc TP01-TP13 dated 19.10.17 but modified to show:

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   c) A longitudinal section of the ramp to detail compliance with AS2890.1.

   d) Provision of a convex mirror at the bottom of the basement ramp.

   e) The first floor north facing habitable room windows of TH07 to be designed to avoid any overlooking of secluded private open space and habitable room windows of 828 Hampton Street. Cross sections are required to detail any potential for overlooking.

   f) The first floor northern elevation of terrace area of TH14 to be designed to avoid any unreasonable overlooking of 828 Hampton Street in accordance with ResCode Standard B22 (overlooking).

   g) The height of the internal fence along the eastern boundary of the secluded private open space areas of TH01-TH07 to be a maximum 2.1 metres.

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

j) Deletion of indicative landscaping from the development plans.

k) The paving within the eastern boundary setback associated within TH08-14 to be permeable.

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

m) A Landscaping Plan in accordance with Condition 10 of this permit.

n) Payment of the development contributions levy in accordance with Condition 19.

o) Any modifications to the plans arising from the VicRoads conditions 20-24.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

Water Sensitive Urban Design

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

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

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

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

These plans must be accompanied by a report from an industry accepted performance measurement tool which details the treatment performance achieved and demonstrates the level of compliance with the Urban

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan, reference TP01-TP03 Revision D prepared by Jack Merlo and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   d) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   e) Details of surface finishes of pathways and driveways
   f) The paving within the eastern boundary setback associated with TH08-14 to be permeable.
   g) Deletion of existing and proposed boundary fence notations.

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

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

Street tree protection

13. A tree protection fence is for the protection of a tree’s canopy and root zone. Conditions for street tree protection fencing during development are as follows:
   a) Fencing is to be secured and maintained prior to demolition and until all site works are complete.
   b) Fencing must be installed to comply with AS4970-2008, Protection of trees on development sites.
   c) Fencing should encompass the Tree Protection Zone (TPZ) for all street trees adjacent to the development.
   d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.
e) If applicable, prior to construction of the Council approved crossover, TPZ fencing may be reduced to the edge of the new crossover to facilitate works.

f) Provision of root sensitive footings and root sensitive construction techniques where any of the proposed basement comes within the TPZ of the street trees.

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

Waste Management Plan

15. Prior to the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:

a) Dimensions of storage waste areas.

b) Storm water drains in storage areas should be fitted with a litter trap.

c) The number and size of bins to be provided.

d) Facilities for bin cleaning.

e) Method of waste and recyclables collection.

f) Types of waste for collection, including colour coding and labelling of bins.

g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines).

h) Method of hard waste collection.

i) Method of presentation of bins for waste collection.

j) Sufficient headroom within the basement to accommodate waste collection vehicles.

k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.

l) Strategies for how the generation of waste and recyclables will be minimised.

m) Compliance with relevant policy, legislation and guidelines.

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

Construction Management Plan

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

a) A detailed schedule of works including a full project timing.

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

c) The location for the parking of all construction vehicles and construction worker vehicles during construction.

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

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

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

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

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

i) Site security.

j) Public safety measures.

k) Construction times, noise and vibration controls.

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

m) Protection works necessary to road and other infrastructure (limited to an area reasonably proximate to the site).

n) Remediation of any damage to road and other infrastructure (limited to an area reasonably proximate to the site).

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


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

r) Details of crane activities, if any.

Drainage

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

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

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

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

VicRoads Conditions

20. Prior to the endorsement of plans, amended plans must be submitted to and approved by VicRoads. Once approved, the plans may then be endorsed by the Responsible Authority and will form part of the permit. The plans must be generally in accordance with the submitted plans (Ref: TP03, TP04 (Ground & basement level floor plan) dated: 19.10.2017, Rev:01, Prepared by ADDARC) and amended to show:

a) A fully dimensioned Layout Plan showing the proposed access arrangement on to Hampton Street including features along 100 m either side of the site access including existing kerb and channel, bus stop, power poles, trees and other road assets.

b) Passing area at the entrance to the site. Width of the crossover at the site boundary to allow concurrent movement of a B99 and a B85 vehicles at the entrance to the site from the kerbside using swept path analysis.

c) Prior to the commencement of use or occupation, a sealed access crossover at the property boundary with the crossover angled at 60 degrees to the road reserve boundary, at least for the first 3 metres from the edge of the road with 3.0 metres radial turnouts.

21. Prior to the commencement of the use or occupation of the development, vehicle crossing on Centre Road must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the RA.

22. Prior to the commencement of the use or the occupation of the buildings or works hereby approved, the access crossover and associated works must be provided and available for use.

23. Vehicles must enter and exit the land in a forward direction at all times.

24. The level of the footpaths must not be lowered or altered in any way to facilitate access to the site.

Transport for Victoria Conditions

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

26. The existing bus stop and associated infrastructure on Hampton Street must not be altered with the prior consent of Public Transport Victoria. Any alterations including temporary works or damage during construction must be
rectified to the satisfaction of Public Transport Victoria and at the cost of the permit holder.

**Permit Expiry**

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

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

**Permit Notes:**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council's supervision for which 24 hours notice is required.
- Before the development starts the applicant must pay $3,038.88 to the Responsible Authority for the removal and replacement of an existing street tree. This amount has been determined in accordance with Council's current policy for the removal of street tree(s). This amount may be increased by the Responsible Authority if an extension of time to commence work is granted and the amenity value of the street tree has increased. The Responsible Authority, or a contractor or agent engaged by the Responsible Authority, must undertake the removal and replacement of the street tree. Any replacement planting will be at the discretion of the Responsible Authority.
- No work must be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1988, and any other relevant acts or regulations created under those Acts.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.
Relevant strategies of the Council plan include:
- Make discretionary planning controls stronger, by advocating for Council’s planning and urban design objectives to state government.

Refer page 12-14 of Goal 3 and ensure you use the correct one. Please check website.

**Bayside Planning Scheme**
- Clause 16 Housing
- Clause 18 Transport
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 21.09 Transport and Access
- Clause 22.06 Neighbourhood Character Policy (Precinct D3)
- 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 52.27 Land adjacent to a Road in a Road Zone, Category 1
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Neighbourhood character**

The site is located within Neighbourhood Character Precinct D3. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 4.

It is considered that the proposed development will provide for an appropriate replacement to the existing nursery building and deliver a high level post-construction landscaping outcome.

The design response delivers a high quality urban design outcome, which provides for an improved response to a prominent intersection.

The development reinstates the existing crossovers and incorporates a suitable range of materials and finishes to ensure that it is compatible with the existing character.

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

An assessment against the requirements of Clause 55 is provided at Attachment 5. Those non-compliant standards are discussed below:

<table>
<thead>
<tr>
<th>Street setback (Standard B6)</th>
<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Centre Road</td>
<td>9m</td>
<td>7.5m</td>
<td>1.5m</td>
</tr>
<tr>
<td>Hampton Street</td>
<td>4.6m</td>
<td>4.7m</td>
<td>No variation</td>
</tr>
</tbody>
</table>
A street setback to Hampton Street of 7.5 metres is proposed, while a setback of 9 metres is required to achieve this standard.

The objective of the street setback is to ensure the setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of a site.

Due to the sites corner location, and the proximity to other nearby intersections (Grant Street and Centre Road, Halifax Street and Centre Road, Stanley Street and Hampton Street, Bright Street and Hampton Street) the street setbacks in the immediate context are varied.

Having regard to the objective of the standard and the context of the area, it is considered that a varied street setback requirement is appropriate. The setback still allows for a suitable level of landscaping opportunities to ensure the garden character of the area is maintained, while also providing for an appropriate transition in built form towards the corner of Centre Road and Hampton Street.

Walls on boundaries (Standard B18)

<table>
<thead>
<tr>
<th></th>
<th>Average height allowed</th>
<th>Average height proposed</th>
<th>Length allowed</th>
<th>Length proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern elevation</td>
<td>3.2</td>
<td>3.6m</td>
<td>20.67m</td>
<td>6.1m</td>
</tr>
<tr>
<td>(TH07)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A variation to the average wall height along the northern elevation with 828 Hampton Street is sought as part of this application.

The common boundary fence with 828 Hampton Street is a timber paling fence with trellis to a height of approximately 2.7 metres. Beyond the fence, the interface with 828 Hampton Street is a vehicle accessway, carport and outbuildings (see figure 4 of Attachment 2). The wall is proposed to be constructed partially adjacent the carport and outbuilding.

Noting that the proposed boundary wall construction is along the northern boundary, the overshadowing impacts to the adjoining property are negligible, while the secluded private open space areas of 828 Hampton Street are towards the rear of the property (away from the boundary wall construction).

Having regard to the minor length of the wall (which is well below the permissible length) and the non-sensitive interface to the north, it is considered that a variation to the average wall height is acceptable and will not result in any unreasonable amenity to the adjoining property.

Overlooking (Standard B22)

All first floor east facing terraces of TH08-TH04 are screened to 1.7 metres.

However, the screening of habitable room windows and the terrace area TH07 and TH14 is unclear. Although it appears that no unreasonable overlooking will occur from habitable room windows, it is recommended that this be clarified via a condition of permit.

Further, the terrace area to TH14 appears to be screened to its eastern elevation (interface with 7 Centre Road), however no screening is proposed across its northern elevation. This is recommended to be addressed via a condition of permit.

Private open space (Standard B28)

<table>
<thead>
<tr>
<th>Private open space required</th>
<th>Private open space provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>TH1-8, TH14</td>
<td>40 square metres</td>
</tr>
<tr>
<td></td>
<td>72-141 square metres</td>
</tr>
</tbody>
</table>
The central townhouses located within the eastern building require a 13 square metre variation to the total private open space provisions.

The private open space areas of these dwellings have minimum dimensions of 6.4 x 4.2 metres. The private open space areas of these dwellings are fully secluded and practical. All the private open space areas are accessed via the living areas and are provided with a northern orientation, thereby ensuring a high level of solar access.

The private open space provisions of these dwellings is considered acceptable as they provide for adequate post construction landscaping opportunities, will meet the future needs of the residents and provide for a high level of amenity.

6.3. Landscaping

The application plans show the removal of all existing vegetation form the subject site.

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed for removal</td>
<td>Proposed for removal</td>
</tr>
<tr>
<td>n/a</td>
<td>Trees 5, 7, 8, 9, 10, 11</td>
</tr>
<tr>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>

*Note: Trees 1-4 are the street trees and are discussed in Section 6.4 below.*

Council’s Arborist in their referral response advised that the removal of all existing vegetation form the subject site was supported due to the low amenity value they provide and the lack of any statutory mechanism to require their retention.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is acceptable.

Council’s Arborist has recommended that any paving within the eastern boundary setback utilise permeable paving to ensure the future growth of post-construction landscaping.

6.4. Street tree(s)

Four street trees are located across the property frontages (x2 along Centre Road and x2 along Hampton Street). These trees are identified as trees 1-4 within the accompanying arborist report.

Council’s Open Space Arborist has advised that the removal of street tree 4 (Manchurian Pear), subject to payment for the tree removal and post-construction planting and maintenance, is appropriate having regard to its proximity to the proposed vehicle crossover. This is recommended to form a condition of permit.

6.5. Car parking and traffic

<table>
<thead>
<tr>
<th>Use</th>
<th>Size/No.</th>
<th>Requirement</th>
<th>Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident</td>
<td>14 x 3 bedroom</td>
<td>2 car spaces per dwelling</td>
<td>2 car spaces per</td>
</tr>
<tr>
<td></td>
<td>dwellings</td>
<td></td>
<td>dwelling</td>
</tr>
<tr>
<td>Residential visitor</td>
<td>-</td>
<td>1 per 5 dwellings,</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>equalling two car spaces</td>
<td></td>
</tr>
</tbody>
</table>

Each dwelling is provided with two car spaces is accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme. These car spaces are provided within the basement level.

Based on the provision of 14 dwellings, two residential visitor car spaces are required to
be provided onsite. Council's traffic engineers did not support the reduction of two residential visitor car spaces.

After the consultation meeting with objectors, the permit applicant circulated ‘without prejudice’ plans which showed the provision of two residential visitor car spaces at the southern end of the basement level.

These plans were referred to Council’s Traffic Engineers who found the provision of two residential visitor car spaces and the minor modifications to the revised layout of the basement car park as acceptable.

In addition to this, the reinstatement of the existing crossover along Centre Road will allow for additional on-street car parking within the immediate vicinity.

Therefore, it is recommended that the provision of two residential visitor car spaces be recommended as a condition of permit.

It is noted that the objectors raised issues with the location of the vehicle accessway being from Hampton Street, in lieu of Centre Road and wider traffic implications associated with the development.

Council has not been made aware of any other design concepts which proposed an alternative vehicle access location. Nonetheless, the proposed scheme which shows vehicle access via Hampton Street, has been referred internally to Council’s traffic engineers and externally to VicRoads and Transport for Victoria, none of which raised issues with the location of the vehicle accessway or the wider traffic implications that may occur as a result of the development.

6.6. Objector issues not already addressed

Waste Management

Should a planning permit be issued, a waste management plan has been recommended as a condition of permit (see condition 15 above). The management plan will be reviewed by Council’s Traffic Engineering prior to endorsement to ensure it is an appropriate outcome.

Support Attachments

1. Application Plans
2. Site and surrounds
3. Without prejudice plans
4. Neighbourhood Character Assessment
5. ResCode Assessment
4.9 1 CENTRE ROAD, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/686 WARD: NORTHERN
City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/37236

It is recorded that Ms Joanne Grace, Mr Bryan Huntley, Mr Joe Breitenfeld and Mr Shem Curry spoke for three minutes each on this item.

Moved: Cr del Porto    Seconded: Cr Castelli
That this item be deferred for further consideration following VicRoads assessment if access from Centre Road is appropriate for the development, noting the accessway is to be located approximately 30 metres from the Hampton Street intersection.

CARRIED
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

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

Note: Note all objectors provided a residential address for service or appear within the aerial image.
Figure 2 View towards the sites frontage from the south (along Centre Road)

Figure 3 View towards the sites frontage from the west (along Hampton Street)
Figure 4 adjoining interface to the North with 828 Hampton Street
4.4 39 OLYMPIC AVENUE, CHELTENHAM
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/235/1 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/99837

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Shangri-La Construction</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant 2176772. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>1 May 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>352 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 1)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 2)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>9</td>
</tr>
</tbody>
</table>

Proposal
The application seeks approval for the construction of three dwellings on a lot with an area of 711 square metres. Key details of the proposal are as follows:

- 3 dwellings
- 2 x 2 storey dwellings and 1 x 1 single storey dwelling
- Maximum building height of 7.8 metres
- On-site car parking is provided in the form of either a single or double garage, respectively as follows:
  - 1 car space is provided for Dwelling 1 (2 bedroom dwelling)
  - 2 car spaces are provided for Dwelling 2 (3 bedroom dwelling)
  - 1 car space is provided for Dwelling 3 (2 bedroom dwelling)
- Site coverage is 48%
- Permeability is 30.65%
- Garden area is 35.2% (250.29m²)
- All existing native and exotic trees are proposed to be removed from the site

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

History
A previous proposal to construct 4 dwellings on the site was refused by Council and upheld at VCAT in its Order dated 21 December 2016 (P1298/2016).
2. Planning controls
   
   Planning Permit requirements
   
   A planning permit is required pursuant to:
   
   - Clause 32.08-6 (General Residential Zone Schedule 1) – Construction of two or more dwellings on a lot.

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

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

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

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

   Public notification
   
   The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 9 objections were received. The following concerns were raised:
   
   - Loss of vegetation
   - Overdevelopment
   - Neighbourhood character
   - Lack of detail – external materials and finishes
   - Minimal open space
   - Turntable – inadequate vehicle access
   - On-street parking/Traffic congestion
   - Overshadowing
   - Inadequate setbacks, particularly to Unit 1 & 2’s bedrooms
   - Minimal permeability

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

   Consultation meeting
   
   A consultation meeting was held on 13 November 2017 attended by the permit applicant and 7 objectors. As a result of this meeting no objections were withdrawn.
4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 5/2017/235/1 for the land known and described as 39 Olympic Avenue, Cheltenham for the construction of three dwellings on a lot in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by Shangri-La Construction Sheets TP-04, TP-05, TP-06, TP-10, TP-11 (all Rev.C) dated 13 July 2017 but modified to show:

   a) The vertical metal cladding (at first floor only), replaced with a timber or similar finish to the north, east and west facing façade treatments.

   b) The front fence height as shown on the plans and elevations to match.

   c) Screening between the secluded private open space of each dwelling in accordance with Standard B23 of Clause 55 of the Bayside Planning Scheme.

   d) The provision of a 2.6m x 4.9m tandem car space in front of the garage to Dwelling 1 in accordance with Clause 52.06 of the Bayside Planning Scheme.

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

   f) Water Sensitive Urban Design measures in accordance with Condition 8.

   g) A Landscaping Plan in accordance with Condition 10.

   h) A Tree Management and Protection Plan in accordance with Condition 13.

   i) Provision of the development contributions fee in accordance with Condition 20.

All to the satisfaction of the Responsible Authority.

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

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

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

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden.
6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard B22 and be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

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

Water Sensitive Urban Design

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The Landscape Plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
    a) A minimum of four (4) medium to large canopy trees planted throughout the site of a species that will grow to a minimum height of 8 metres – 12 metres at maturity in accordance with the Bayside Landscape Design Guidelines (2016);
    b) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
    c) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
    d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
e) Landscaping and/or planting within all areas of the site not covered by
buildings or hard surfaces.

f) Details of surface finishes of pathways and driveways

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

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

Tree Management and Protection Plan

13. 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.

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.

Street tree protection

16. Soil excavation must not occur within 2 metres from the edge of the street tree
asset’s stem at ground level.

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

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

b) Fencing must be installed to comply with AS4970-2009, Protection of
trees on development sites.

c) Fencing should encompass the Tree Protection Zone (TPZ) for all street
trees adjacent to the development.
d) Fencing is to be constructed and secured so its positioning cannot be modified by site workers.

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

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

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

**Development Contribution**

20. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy of $4000.00 with the amount specified under the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

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

**Drainage**

21. 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.

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

**Permit Expiry**

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

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

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

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

**Permit Notes:**

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

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

- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
• A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

• Clause 9 Plan Melbourne
• Clause 11 Settlement
• Clause 12 Environmental and Landscape Values
• Clause 14 Natural Resource Environment
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 18 Transport
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.03 Settlement and Housing
• Clause 21.04 Environmental and Landscape Values
• Clause 21.06 Built Environment and Heritage
• Clause 21.08 Open Space
• Clause 21.09 Transport and Access
• Clause 22.06 Neighbourhood Character Policy (Precinct H5)
• Clause 22.08 Water Sensitive Urban Design
• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
• Clause 43.02 Design and Development Overlay (Schedule 3)
• Clause 52.06 Car Parking
• Clause 55 Two or more dwellings on a lot
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, VCAT Order dated 21 December 2016, objections received and the individual merits of the application.

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H5. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The development has been carefully designed to respond to the recommendations outlined by Member Margaret Baird within her VCAT Order dated 21 December 2016. On balance, it is considered that the proposal to construct 3 dwellings (2 double storey dwellings towards the front and a single storey dwelling to the rear) achieves an appropriate outcome that generally respects and enhances the preferred character of Olympic Avenue and Neighbourhood Character Precinct H5.

The proposal seeks the removal of existing on-site vegetation, none of which appear to be protected by the VPO or any Local Law. Originally Council was reluctant to remove the existing Coast Tea Tree, however Member Baird found the removal of this tree to be acceptable based on the expert evidence, provided new landscaping makes a contribution to the streetscape. A condition of permit can achieve this aim.

The proposed 7.6m front, side (east) and rear setbacks provide space for sufficient landscaping opportunities to maintain and enhance the garden setting prevalent within Precinct H5. In addition, the render and vertical and horizontal cladding and chosen external colours Surfmist and Windspray reflects the weatherboard features and muted tones evident within Olympic Avenue, particularly towards the eastern end of the street and wider surrounds.

However, the extensive use of the vertical metal cladding at first floor is considered too hard and contrary to the preferred neighbourhood character H5. A condition requiring the replacement of the vertical metal cladding with a softer timber or timber like material/finish is recommended to improve the developments integration within the streetscape and response to the objectives outlined in Neighbourhood Character Precinct H5.

The overall design incorporating 2 double storey dwellings towards the frontage and a single storey dwelling to the rear respect the rhythm and visual separation between dwellings within the streetscape and preferred pattern of development within the area.

Unit 1 & 2’s modulated first floor envelopes and proposals pitched roof form picks up key elements of development to the immediate east and west resulting in an acceptable articulated built form outcome.

The proposed maximum 7.8m building height which reduces to a single storey built form towards the rear of the site and generous side setbacks, particularly at first floor satisfy planning scheme requirements and are supported.

Walls constructed to boundaries have been kept to a minimum and are primarily located towards the rear of the site to minimise the dominance of car parking structures to the streetscape. Further, the height and length of these walls comply with ResCode requirements and pose minimal unreasonable visual bulk amenity impacts to adjoining properties, including private open space areas.

Finally, the proposed 1m or 1.2m high render with timber look infill front fence is considered appropriate and respects the generally low to medium front fence heights, styles and materials evident within Olympic Avenue. However a condition will require the proposed height of the front fence to be clarified.
6.2. **Compliance with Clause 55 (ResCode)**

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

**Street Setback (Standard B6)**

Dwelling 1’s front setback fails the numerical requirement by 1m. However, the front setback satisfies the objective by maintaining a generous space to accommodate meaningful landscaping opportunities, including canopy tree planting which responds and enhances the rhythm of visual separation between dwellings within the streetscape and is considered acceptable in this instance.

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

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirement</strong></td>
<td><strong>Proposed</strong></td>
</tr>
<tr>
<td>East (side)</td>
<td>0m - 2m (D1/D2/D3)</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m - 2m (D1/D2/D3)</td>
</tr>
<tr>
<td>South (rear)</td>
<td>3m (D3)</td>
</tr>
</tbody>
</table>

It is noted that the design ensures walls constructed to side boundaries is minimised to respond to the preferred pattern of development within Precinct H5.

However, as underlined in the table above, the proposed 3.7m setback to Dwelling 2’s bedroom 3 to the eastern boundary fails to comply with the numerical side setback standard required by the schedule to the zone. 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 100mm transgression is considered very minor and poses no adverse visual bulk, massing or overshadowing impact to the adjacent non-sensitive driveway interface located at 37 Olympic Avenue. The proposed 3.7m side setback provides a good separation between buildings and responds to the open built form character of the neighbourhood. Therefore, given the existing site context full compliance with the schedule side setbacks is not considered warranted in this instance.

**Internal Views (Standard B23)**

The submitted planning drawings do not indicate how inter-visibility between the rear garden of each dwelling is to be limited. A condition of permit can resolve this concern and is included as part of the recommendation of this report.

**Solar Access (Standard B29)**

Dwelling 3’s private open space setback to the southern boundary ranges from 3m – 4.7m. Whilst these dimensions provide reasonable useable private open space for future residents it fails the 4.8m setback required by the standard, resulting in poor solar access. A clear private open space corridor is not evident in the immediate vicinity of the site, particularly to the east, yet in order to improve solar access for future residents a condition of permit is recommended to increase the rear setback of the family room and ensuite to a minimum of 4m from the southern boundary.

6.3. **Landscaping**

The proposal seeks to remove all existing native and exotic vegetation on the site, including the existing Coast Tea Tree and proposes future planting of appropriate
landscaping. It is understood from the VCAT Order dated 21 December 2016 that all existing on-site vegetation has a low amenity value and is not protected by the VPO or under a local law, and that the proposal would have a minimal impact on trees on adjoining sites.

A concept landscape plan was not submitted as part of this application, however the issue of removing the Coast Tea Tree was resolved by Member Baird whereby she determined that the removal of this tree was not a reason to refuse a permit, [yet] it is important that a landscape outcome is achieved that reflects the ambitions of the scheme for this character precinct. Therefore, a condition of permit is recommended requiring a Landscape Plan to be submitted to Council that ensures new landscaping includes canopy tree planting that contributes to the streetscape character in accordance with the Bayside City Council Landscape Guidelines (2016).

6.4. **Street tree(s)**

The application was not referred to Councils Street Tree Arborist, yet the design seeks to relocate the existing crossover approx. 1m towards the east to improve sightlines, whilst locating the new crossover accessing Dwelling 1 adjacent to the western boundary. This arrangement poses minimal impact to the existing street tree and is supported subject to a condition requiring no soil excavation within 2m of the street tree.

6.5. **Car parking and traffic**

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

Adequate car parking has been provided to Dwellings 2 and 3 in accordance with Clause 52.06-5, however the submitted plans only show 1 car space within the single garage facing Olympic Avenue. There is sufficient space in front of the garage to accommodate a 2.6m x 4.9m tandem car space, as such a condition of permit will suffice.

The application was referred to Council’s Traffic Engineer who generally supports the proposal.

6.6. **Development contributions levy**

The subject site is located within catchment area 15B.

Based on the proposed application and the below recommendation, a payment of $4,000 is required. The payment of the development contributions will be recommended as a condition of permit.

6.7. **Objector issues not already addressed**

The objections raised have been addressed and considered throughout the report.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
Item 4.4 – Matters of Decision
Item 4.4 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

Note: Objections received from 10 and 17 Heather Grove, Cheltenham and 41a Stuart Avenue, Cheltenham and are located outside of the above map.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐️</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2 View of the subject site from Olympic Avenue, Cheltenham.

Figure 3 View of the adjoining properties to the west of the subject site.
Figure 4 View of the properties to the east of the subject site.

Figure 5 View of the existing properties to the north of the subject site.
ATTACHMENT 3
Neighbourhood Character Policy (Precinct H5)

Neighbourhood Character Precinct H5

Preferred Future Character Statement
The low scale dwellings, with pitched roof forms, sit within established gardens with large native and exotic trees providing a backdrop. The dwellings have a strong horizontality to their form, which ensures buildings do not dominate the streetscape. Consistent front and side setbacks create a cohesiveness, along with the low front fences.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings.             | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation (locate footings outside root zone).  
• Minimise impervious surfaces, particularly in front yard spaces.    | Lack of landscaping and vegetation.                                               | Responds  
The proposal seeks to remove all existing native and exotic vegetation on the site, including the existing Coast Tea Tree and proposes future planting of appropriate landscaping. A concept landscape plan was not submitted as part of this application, however conditions of permit are recommended to ensure new landscaping includes canopy tree planting that contributes to the streetscape character and accords with the Bayside City Council Landscape Guidelines (2016). |
| To maintain the rhythm of spacious visual separation between buildings.   | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Responds  
The proposal will present as a single double storey dwelling to Olympic Avenue. Ground and first floor setbacks provide a good level of compliance to respond and enhance the rhythm of visual separation between dwellings within the streetscape. |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To minimise the dominance of car parking structures.                      | • Locate garages and carports behind the line of the dwelling.                   | Car parking structures that dominate the façade or view of the dwelling.                          | Responds  
Proposed car parking in the form of a single width garage facing Olympic Avenue with a double garage hidden behind Dwelling 1 and a further single width garage to the rear of the site ensures parking facilities do not dominate the preferred streetscape character and comply with Council objectives. |
| To ensure that buildings and extensions respect the low scale forms of the streetscape. | • Recess second storey elements from the front façade.  
• Use low pitched roof forms with eaves. |                                                                                                  | Responds  
The proposed development is modest and limited to two storeys with a pitched roof form to each dwelling. In addition, the development will present as a single, double storey dwelling when viewed from the street.  
A varied mix of external materials and finishes have been used to articulate façade treatments. However the extensive use of vertical metal cladding (shown as M-01 in the finishes schedule) fails to integrate with the preferred streetscape character sought by Neighbourhood Character Precinct H5. Therefore, a condition requiring the replacement of this |
<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 building materials and finishes that complement the natural setting</td>
<td>• Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick.</td>
<td>Period reproduction styles and detailing.</td>
<td>Does not Respond</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The chosen colour and varied mix of external materials is supported, however the extensive use of metal finishes eg. vertical metal cladding, particularly at first floor level is considered contrary to the preferred neighbourhood character sought by the objectives of Neighbourhood Character Precinct H5. A condition of permit will require the vertical metal cladding be replaced by a timber or similar material to complement the streetscape setting and soften the appearance of the development to the street.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape.</td>
<td>• Provide open style front fencing, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>Responds</td>
</tr>
<tr>
<td></td>
<td>• Use vegetation as an alternative where possible.</td>
<td></td>
<td>Front fence heights within the streetscape are generally low and constructed with various styles and materials. The submitted plans and elevation offer suggesting either a 1m or 1.2m high rendered front fence with timber look infill is proposed. Either height is considered to be an appropriate response to the streetscape and will allow views of landscaping within the front setback. However, a condition of permit will require the height of the front fence to be clarified.</td>
</tr>
</tbody>
</table>
### ATTACHMENT 4
**RESCODE CLAUSE 55 ASSESSMENT**

#### ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Clause 55.02 Neighbourhood Character and Infrastructure</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title and Objective</strong></td>
</tr>
<tr>
<td><strong>B1 Neighbourhood Character</strong></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>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></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>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
</tr>
</tbody>
</table>
### B5 Integration with the Street
Integrate the layout of development with the street

<table>
<thead>
<tr>
<th>Item</th>
<th>Compliance</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The development will present as a single double storey dwelling to the street, and therefore will successfully integrate appropriately within Olympic Avenue. The façade treatment is articulated, resulting in appropriate separation between ground and first floors and provides an appropriate level of transition to the setbacks of the adjoining properties. The side setback of Dwelling 2's bedroom 3 to the eastern boundary, whilst non-compliant with the varied numerical standards of Standard B17 at (first floor only) reflects the pattern of development within the area and poses no unreasonable visual bulk impact to streetscape and/or non-sensitive driveway interface located to the east. The overall 7.8m building height is well under the allowed max. 9m and reduces to a single storey dwelling towards the rear of the site, therefore minimising any perception of dominance, mass or bulk to immediately adjoining residential properties. See Neighbourhood Character at Attachment 3 for further discussion.</td>
<td></td>
</tr>
</tbody>
</table>

### CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>No</td>
<td>Requirement: 8.6m. Proposed: 7.6m Whilst, Dwelling 1’s front setback fails the numerical requirement, it provides a good level of compliance with the objective to respond and enhance the rhythm of visual separation between dwellings within the streetscape and maintains space for meaningful landscaping, including canopy trees planting within the front setback and is considered acceptable in this instance.</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Maximum: 9m. Design and Development Overlay, Schedule 2 also identifies a max. building height of 2 storeys excluding a basement. No basement is proposed. Proposed: 7.8m (2 storeys)</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Yes</td>
<td>Maximum: 50% Proposed: 48%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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**Item 4.4 – Matters of Decision**
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
</table>
| B9 Permeability | Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | Yes | Minimum: 20%  
Proposed: 30.65% |
| B10 Energy Efficiency | Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy. | Yes | All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources. |
| B11 Open Space | Integrate layout of development with any public and communal open space provided in or adjacent to the development. | N/A | There is no communal open space in or adjacent to the development. |
| B12 Safety | Layout to provide safety and security for residents and property. | Yes | The pedestrian entry points of all dwellings are clearly recognisable while the upper level of Dwelling 1 allows for the passive surveillance of the street. |
| B13 Landscaping | To provide appropriate landscaping. To encourage:  
- Development that respects the landscape character of the neighbourhood.  
- Development that maintains and enhances habitat for plants and animals in locations of habitat importance.  
- The retention of mature vegetation on the site. | Yes | The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions. A condition of permit will require an amended landscape plan to be submitted to the satisfaction of the Responsible Authority.  
See the report for further discussion. |
| B14 Access | Ensure the safe, manageable and convenient vehicle access to and from the development.  
Ensure the number and design of vehicle crossovers respects neighbourhood character. | Yes | The communal crossover and accessway to Dwellings 2 & 3 seeks to utilise the existing crossover and move it approx. 1m towards the west to improve sightlines. This is supported.  
Similarly, the new 3m wide crossover accessing Dwelling 1 abutting the western boundary provides appropriate vehicular access to/from Olympic Avenue and is also supported. |
<p>| B15 Parking Location | Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. | Yes | On-site car parking is provided in the form of a single width garage facing Olympic Avenue for Dwelling 1 to minimise the dominance of parking facilities to the streetscape. A further double garage and single width garage are located towards the rear of the site to provide adequate car parking for |</p>
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.4</td>
<td>Matters of Decision</td>
</tr>
</tbody>
</table>

### CLAUSE 55.04 AMENITY IMPACTS

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>No</td>
<td>Refer to the report for further discussion.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>East (side)</td>
<td>0m - 2m</td>
</tr>
<tr>
<td>West (side)</td>
<td>0m - 2m</td>
</tr>
<tr>
<td>South (rear)</td>
<td>3m (D3)</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

- **East & West boundaries**
  - **Maximum Height**: 3.6m
  - Proposed East: 2.8m (D3 scaled off plans)
  - Proposed West: 3.2m average (with no part more than 3.6m) (D1 & D3)
  - Proposed: 3.6m (D1)
  - **Maximum Length**: 18.93m
  - Proposed: East 6.4m (D3 scaled off plans)
  - Proposed West: 16.9m (D1 & D3)

#### B19 Daylight to Existing Windows

Allow adequate daylight into existing habitable room windows.

Yes

- Dwelling 3's garage wall constructed to the eastern boundary is less than 3m in height in accordance with the standard. Similarly, Dwelling 1's garage and Dwelling 3's kitchen, dining and family wall constructed to the western boundary have been sufficiently setback from all habitable room windows to the abutting property at 41 Olympic Avenue to allow a minimum 1m clear to the sky in accordance with the standard.
<table>
<thead>
<tr>
<th>Item 4.4 – Matters of Decision</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B20 North Facing Windows</strong></td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
</tr>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong></td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
</tr>
<tr>
<td><strong>CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Title and Objective</strong></td>
<td>Complies with Standard?</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
</tr>
<tr>
<td>B28 Private Open Space</td>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Private Open Space</th>
<th>Secluded Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling 1</td>
<td>116m²</td>
<td>25.91m²</td>
</tr>
<tr>
<td>Dwelling 2</td>
<td>48.17m²</td>
<td>48.17m²</td>
</tr>
<tr>
<td>Dwelling 3</td>
<td>57.64m²</td>
<td>57.84m²</td>
</tr>
</tbody>
</table>

<p>| B29 Solar Access to Open Space | Allow solar access into the secluded private open space of new dwellings/buildings. | No | Dwellings 1 &amp; 2 have adequate solar access to their west facing private open space areas in accordance with the standard. However, the southern boundary of Dwelling 3’s private open space should be setback 4.8m to achieve the standard. The rear setback of Dwelling 3 ranges from 3m – 4.7m, whilst these dimensions provide useable private open space for future residents it fails the standard and resulting in poor solar access. Therefore, a condition of permit is recommended to increase the rear setback of the family room and ensuite to 4m from the southern boundary to improve solar access to this private open space. |</p>
<table>
<thead>
<tr>
<th>B30 Storage</th>
<th>Yes</th>
<th>The submitted plans indicate that each dwelling will be provided with a 6m³ storage shed located in each rear yard to comply with the standard.</th>
</tr>
</thead>
</table>

**CLAUSE 55.06 DESIGN DETAIL**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B31 Design Detail</td>
<td>Yes</td>
<td>Refer to the report for further discussion.</td>
</tr>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B32 Front Fences</td>
<td>Yes</td>
<td>The submitted plans and elevations differ suggesting the applicant proposes either a 1m - 1.2m high rendered with timber look infill front fence facing Olympic Avenue. Either front fence height will compliment the streetscape, yet a condition of permit is recommended to clarify the front fence height.</td>
</tr>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B33 Common Property</td>
<td>Yes</td>
<td>All areas of common property have been designed to clearly delineate public, communal and private areas. Common property is functional and capable of efficient management.</td>
</tr>
<tr>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B34 Site Services</td>
<td>Yes</td>
<td>All appropriate site services can be easily catered for on-site. Mails boxes are shown towards the frontage of the site adjacent to the common driveway for convenient access. Bin storage has also been conveniently provided outside of garages in accordance with the standard.</td>
</tr>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.5 38 TIBROCKNEY STREET, HIGHETT
SUPPORT THE GRANT OF A PLANNING PERMIT
APPLICATION NO: 2017/299/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/100028

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of a Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Shangri-La</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>24 August 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>133 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Drainage Contribution Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>8</td>
</tr>
</tbody>
</table>

Proposal

To report an in-principle agreement reached by all parties at a VCAT Compulsory Conference held on the 27 April 2018, for the construction of three dwellings on a lot and a front fence exceeding 1.2 metres in height with an area of 785 square metres at 38 Tibrockney Street, Highett.

The original application plans are provided at Attachment 1.

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

History

Council considered the application for a planning permit for the construction of three dwellings on a lot and a front fence exceeding 1.2 metres in height and determined to refuse the application under delegation on 29 December 2017, in accordance with the officer's recommendation on the following grounds:

1. The proposal does not provide the required 35% garden area as required at clause 32.09-4, as driveway areas appear to have been included in the calculation.

2. The proposed development does not comply with clause 22.06 of the Bayside Planning Scheme, or the objectives of Neighbourhood Character Precinct G2, as the proposed built form is excessive in size and scale, and would dominate the area at the expense of a spacious and vegetated character that is sought to be retained.

3. The development does not comply with clause 52.06, as the entering and exiting movements associated with garage 1 are extremely inefficient, particularly when an adjacent car space is occupied.

4. The proposal does not comply with clause 55 (ResCode), specifically:
   a) Standard B1 (Neighbourhood Character) for reasons outlined at point 2;
b) Standard B2 (Residential Policy) for reasons outlined at points 2, in addition to the development being excessive in size and scale for an area designated for ‘minimal residential growth’ at clause 21.02 (Bayside Key Issues and Strategic Vision)

c) Standard B13 (Landscaping) as the proposed landscape plan does not provide for an appropriate level of landscaping, in particular canopy trees.

d) Standard B17 (Side and Rear Setbacks) as the first floor setbacks from the south boundary are inadequate.

e) Standard B31 (Design Detail) as the size and scale of the built form is excessive, and the roof form does not respect the existing or preferred character.

5. The proposal is an overdevelopment.

The Delegate Report for the Refusal to Grant a Permit is provided in Attachment 3.

VCAT

The applicant lodged an appeal under Section 77 of the Planning and Environment Act 1987 with the Victorian Civil and Administrative Tribunal (VCAT) against Council’s refusal to grant a permit on 28 December 2017.

VCAT directed a Compulsory Conference be held on 27 April 2018. The Compulsory Conference was attended by the permit applicant, a Council Officer and 3 objector parties.

An in-principle agreement was reached between all parties and the permit applicant gave an undertaking that amended plans to reflect in-principal changes reached by all parties were to be circulated.

Plans were circulated to all parties on 2 May 2018.

The amended application plans are provided at Attachment 4.

If council agrees to support the amended recommendation below than a planning permit will be issued by VCAT which contains, unchanged, all of the conditions contained in the recommendation of this report. Failure to support the application will result in Council attending the hearing listed for 12 June 2018.

The list of all changes are summarised as follows;

- Garden Area correctly designated to comply with the minimum 35% requirement.
- All dwellings modified to pitched roofs.
- The addition of eaves to the front of dwelling 1 and rear of dwelling 3.
- Dwelling 1 cantilevered element to front porch modified and ground floor raked roof to northern boundary modified to a flat roof form.
- Dwelling 2 garage shifted 1 metre off the northern title boundary.
- First floor separation between dwellings 2 and 3 increased from 1.0 metre to 2.0 metres.
- Dwelling 3 first floor walk in robe deleted and subsequent cantilevered element over ground floor porch entry deleted.
- Dwelling 1 overall maximum height increased from 7.7 metres to 8.3 metres.
- Dwelling 2 overall maximum height increased from 8 metres to 8.1 metres.
- Dwelling 3 overall maximum height decreased from 8.3 metres to 8.2 metres.
- Minor ground floor internal modifications.
• Clothes lines added to secluded private open space of each dwelling.
• Fenestrations modifications to dwelling 1 first floor western elevation (front), and additional windows to side elevations (north and south).
• Modification to material schedule with the addition of block work and weatherboard.

2. **Planning controls**

   **Planning Permit requirements**

   A planning permit is required pursuant to:

   • Clause 32.09-6 (Neighbourhood Residential Zone) – The construction of two or more dwellings on a lot and construction of a front fence exceeding 1.2 metres in height.

   **Planning Scheme Amendments**

   There are no Planning Scheme Amendments relevant to this application.

3. **Stakeholder consultation**

   **External referrals**

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

   **Internal referrals**

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

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

   **Public notification**

   The original application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 8 objections were received. The following concerns were raised:

   • Out of character.
   • Overlooking.
   • Excessive site coverage.
   • Traffic congestion.
   • Overdevelopment.
   • Loss of trees.
   • Inadequate private open space.

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

   **Consultation meeting**

   The original consultation meeting was held on 8 November 2017 attended by the permit applicant and objectors. As a result of this meeting no objections were withdrawn.
4. Recommendation

That Council resolve to:

Determine to Support the application under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/299 for the land known and described as 38 Tibrockney Street, Highett, for the construction of three dwellings on a lot and construction of a front fence exceeding 1.2 metres 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 amended plans prepared by Shangri-La Construction referenced d – VCAT issue dated 30/04/2018 and revision number D but modified to show:

   a) The addition of eaves to all elevation of dwellings 1, 2 and 3.
   b) An additional material to the first floor side and rear elevations to dwelling 2 and 3 to provide further articulation.
   c) Relocation of gas and water metres away from the accessway site frontage or suitably concealed/treated.
   d) A notation that all obscure glass to prevent overlooking is no more than 25% transparent.
   e) All pedestrian doors to be provided outwards from the garages.
   f) Auto-turn swept-paths to demonstrate that cars can exit the garages in a forward direction.
   g) The width of the accessway and where the accessway intersects with the footpath to be 3 metres wide, offset 1 metre from the southern property boundary and a 1 metre wide separator to be installed between the new and existing neighbouring crossings. The redundant crossover to be removed.
   h) Provision of pedestrian sight lines in accordance with Clause 52.06-8 of the Bayside Planning Scheme.
   i) Indicative landscaping and TPZ’s removed from all development plans.
   j) Proposed boundary notations to be removed from all development plans.
   k) An updated Landscape Plan in accordance with Condition 9 of this permit.
   l) A Tree Management Plan (report) and Tree Protection Plan (drawing) in accordance with Condition 12 of this permit.
   m) Provision of the development contributions fee in accordance with Condition 20.

   All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

**Water Sensitive Urban Design**

8. 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, an amended detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the advertised landscape plan drawn by Harper Consultants, dated 23/8/17 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) Additional planting to the open space of dwelling 1 frontage to Tibrockney Street.
   b) Replacement canopy trees in accordance with Bayside City Council Landscape Guidelines (2016).
   c) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.

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

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

**Tree Management and Protection Plan**

12. Prior to the endorsement of plans pursuant to Condition 1, including any related demolition or removal of vegetation, an amended Tree Management Plan (report) and Tree Protection Plan (drawing) generally in accordance with the report by Tag Consulting Arbor, dated 5/10/2017 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, 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 Tree 2, a Box Elder (Acer negundo) and Tree 3, the Weeping Bottle-brush (Callistemon viminalis) as identified in the Tree management plan.

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

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

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

Street tree protection

15. Soil excavation must not occur within 2 metres from the edge of the Prunus cerasifera (Purple-leafed Cherry Plum) street tree asset’s stem at ground level.

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

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

b) Fencing must be installed to comply with AS4970-2009, Protection of trees on development sites.

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

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

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

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

Drainage

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

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

Development Contribution

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

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

Permit Expiry

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

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

Permit Notes:

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

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

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

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

- Council records indicate that there is a 1.83m wide drainage and sewerage easement along the eastern property boundary as indicated on the drawings provided. The plans indicate that a decking shall be constructed over the easement. Any proposal to encroach into the easement will require Build Over Easement consent from the Responsible Authority/Authorities. The decking shall be partially demountable over the easement, and the proposal shall require a Section 173 agreement to be created on the property title to ensure the continuation of Council rights of drainage.

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

5. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

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

- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9  Plan Melbourne
- Clause 11  Settlement
- Clause 13  Environmental Risks
- Clause 15  Built Environment and Heritage
- Clause 16  Housing
- Clause 21.02  Bayside Key Issues and Strategic Vision
- Clause 21.03  Settlement and Housing
- Clause 21.05  Environmental Risks
- Clause 21.06  Built Environment and Heritage
- Clause 21.10  Infrastructure
- Clause 22.06  Neighbourhood Character Policy (Precinct D2)
- Clause 22.08  Water Sensitive Urban Design
- Clause 32.09  Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02  Design and Development Overlay (Schedule 3)
- Clause 45.06  Drainage Contributions Plan Overlay
- Clause 52.06  Car Parking
- Clause 55  Two or more dwellings on a lot
- Clause 65  Decision Guidelines

6. **Considerations**

This assessment is based on the amended plans as a result of the in-principle agreement reached between all parties following the VCAT Compulsory Conference held on 27 April 2018.

Justification in respect of the Strategic Considerations are detailed in the original Delegate Report as provided in Attachment 3.

6.1. **Amended Plans Assessment**

**Grounds for Refusal 1 and 2**

1. The proposal does not provide the required 35% garden area as required at clause 32.09-4, as driveway areas appear to have been included in the calculation.

2. The proposed development does not comply with clause 22.06 of the Bayside Planning Scheme, or the objectives of Neighbourhood Character Precinct G2, as the proposed built form is excessive in size and scale, and would dominate the area at the expense of a spacious and vegetated character that is sought to be retained.

The proposal has been amended to provide the mandatory minimum 35% garden area as required at Clause 32.09-4 of the NRZ3.

This in turn has increased the area amount of area available for landscaping, allowing a greater balance between the provisions of higher density and housing diversity whilst
maintaining a treed landscape outcome.

Significantly, ample landscaping opportunities are provided to the private open space in the front setback of dwelling 1. Despite that the rear of the site is atypically shaped, sufficient space for landscaping to the secluded private open space of dwelling 3 is provided.

Increased areas for landscaping have been provided along the accessway located on the southern title boundary. Space for landscaping adjacent to the northern title boundary has increased due to the relocation of dwelling 2 garage away from the title boundary. This will assist in the development maintaining a backyard and streetscape rhythm in keeping with the established and emerging development pattern of Tibrockney Street.

The amended plans have provided a modern version of a pitched roof dwelling typology and dwellings 2 and 3 are obscured from the streetscape. Further articulation to dwellings 2 and 3 to reduce the visual bulk impacts to adjoining properties will be provided through the proposed conditions.

The amended plans detail 2 metres of built form separation at first floor between dwellings 2 and 3. This will assist in further reducing visual impacts to the adjoining occupants who will continue to enjoy open views to the sky. Whilst the cantilevered elements to the southern boundary remain, they comply with Standard B17 Side and rear setbacks of Clause 55.04-1 of the Bayside Planning Scheme and will not be discernible from the streetscape.

The 1.5 metre high front fence has not changed from what was originally proposed, however, due to the variation of fencing evident in the streetscape and the open style proposed, the 300 millimetre variation continues to respond to the neighbourhood character of the precinct.

It is considered that on balance, these changes satisfactorily respond to the grounds of refusal.

**Grounds for Refusal 3**

3. The development does not comply with clause 52.06, as the entering and exiting movements associated with garage 1 are extremely inefficient, particularly when an adjacent car space is occupied.

Whilst not fatal to the application, were a permit to issue, proposed Condition 1(e) requires auto-turn swept-paths to demonstrate that cars can exit the garages in a forward direction.

This may require minor modifications to the developments access arrangements, however it would be conditional upon further planning consent from Council.

**Grounds for Refusal 4**

4. The proposal does not comply with clause 55 (ResCode), specifically:

   a) Standard B1 (Neighbourhood Character) for reasons outlined at point 2;
   b) Standard B2 (Residential Policy) for reasons outlined at points 2, in addition to the development being excessive is size and scale for an area designated for ‘minimal residential growth’ at clause 21.02 (Bayside Key Issues and Strategic Vision)
   c) Standard B13 (Landscaping) as the proposed landscape plan does not provide for an appropriate level of landscaping, in particular canopy trees.
   d) Standard B17 (Side and Rear Setbacks) as the first floor setbacks from the south boundary are inadequate.
   e) Standard B31 (Design Detail) as the size and scale of the built form is excessive, and the roof form does not respect the existing or preferred
character.

Standard B1, B2, B13 and B31 have been addressed in the previous grounds of refusal of this report, and are satisfactory.

However, the relocation of dwelling 2 garage away from the northern title boundary, prompts a fresh assessment of Standard B17 - Side and Rear Setbacks and B18 Walls on Boundaries and is considered in turn below.

Standard B17 requires that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

As evidenced in Table 1 below, the only area of non-compliance is the ground floor garage associated with dwelling 2.

<table>
<thead>
<tr>
<th></th>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North (side)</strong></td>
<td>0m or 2m</td>
<td>0m, 1m, 4m</td>
<td>3.5 – 3.6m</td>
<td>3.8m - 4.5m</td>
</tr>
<tr>
<td><strong>East (rear)</strong></td>
<td>0m or 3m</td>
<td>3.8m – 6.8m</td>
<td>4.5m</td>
<td>6.1m - 7.0m</td>
</tr>
<tr>
<td><strong>South (side)</strong></td>
<td>0m or 2m</td>
<td>3m – 7.8m</td>
<td>3.8m – 3.9m</td>
<td>3.8m - 5.1m</td>
</tr>
</tbody>
</table>

The garage wall is located adjacent to a non-sensitive interface of the adjacent dwelling, so any amenity impacts as a result will remain negligible. The increase allows the opportunity for some further landscape along the side boundary. Accordingly, the change is acceptable, noting that the wall is of an appropriate height and length that it could have located along the boundary and complied with relevant requirements (i.e. from the neighbours perspective, 1.0m is superior to a zero metre setback).

6.2. Grounds for Refusal 5

5. The proposal is an overdevelopment.

In combination with the provision of the mandatory garden area, the design and built form changes have appropriately respond to Council's grounds of refusal.

The amended application results in reduced visual bulk, whilst achieving a design outcome that is more in keeping with the preferred neighbourhood character and existing appearance of surrounding properties. The design, form, layout, proportion and scale of the proposed buildings is considered to be compatible with the style, form, proportion, and scale of the neighbouring properties.

Whilst a high level of ResCode compliance does not indicate that a development is appropriate and a permit should issue, the amended plans have sufficiently addressed all planning related objector concerns.

6.3. Conclusion

The overall development is considered to show a high level of compliance with the Bayside Planning Scheme.

For the reasons outlined in this report it is concluded that the proposed changes appropriately respond to Council’s Grounds for Refusal and have been mediated to reach an agreed position with the objecting parties to the appeal.

For the reasons set out in the report it is recommended that the amended plans are accepted and Council supports the Grant of a Permit.
Support Attachments

1. Original Application Plans
2. Sites and Surrounds Imagery
3. Delegate Report Refusal
4. Amended Plans
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

*NB: The following objectors to the original application are not shown on the map and listed here in order of increasing distance from the subject site:*

- 51 Tibrockney Street Highett
- 7 Stirling Avenue Highett
- 3/28 Tibrockney Street Highett,
- 16 Beaumaris Parade,
- 2 Eddie Street Highett,

2 parties to the VCAT proceeding are registered at 16 Beaumaris Parade and also not shown on the map.

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subject site</strong></td>
</tr>
<tr>
<td><strong>Objectors (original application)</strong></td>
</tr>
<tr>
<td><strong>Parties to VCAT proceeding</strong></td>
</tr>
</tbody>
</table>
Figure 2 View towards the site's frontage from Tibrockney Street.

Figure 3 View of the adjoining neighbour nr. 36 located to the southern title boundary.
City Planning and Amenity – Statutory Planning

1. Purpose and background

The following application is reported to the Planning Delegate for determination.

<table>
<thead>
<tr>
<th>Application number</th>
<th>5/2017/299/1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application address</td>
<td>38 Tibrockney Street HIGHTTT (refer Attachment 1)</td>
</tr>
<tr>
<td>Title / Covenant</td>
<td>No covenant</td>
</tr>
<tr>
<td>Applicant</td>
<td>Shangri-La Construction Pty Ltd</td>
</tr>
<tr>
<td>Proposal</td>
<td>Construction of three dwellings on a lot and a front fence exceeding 1.2m in height (refer application plans)</td>
</tr>
<tr>
<td>Date application received</td>
<td>24 August 2017</td>
</tr>
<tr>
<td>Statutory days expired</td>
<td>23 October 2017</td>
</tr>
<tr>
<td>Recommendation</td>
<td>Refuse</td>
</tr>
<tr>
<td>Planning officer</td>
<td>Michael Kelleher</td>
</tr>
<tr>
<td>Signature / Date</td>
<td>28/12/17</td>
</tr>
<tr>
<td>Planning delegate</td>
<td>Michael Henderson</td>
</tr>
<tr>
<td>Signature / Date</td>
<td>28/12/17</td>
</tr>
</tbody>
</table>

2. Policy implications

Planning permit requirements

Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot and construction of a front fence exceeding 1200mm.

NB: The proposal does not appear to meet the mandatory garden area requirement of 35%, as driveway areas have been included in the calculation.

Planning scheme amendments

None relevant

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>Permit the removal of existing vegetation on site subject to replacement with suitable canopy trees. Request amended arborist report, clarifying the impacts to adjacent trees, in particular Tree 2, located within the front setback of 36 Tibrockney St Request an amended landscape plan including suitable replacement species for canopy trees.</td>
</tr>
</tbody>
</table>
City Planning and Amenity – Statutory Planning

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

Public notification

The application was advertised pursuant to Sections 52(1)(a) and (d) of the Planning and Environment Act 1987 and 8 objections were received. The following concerns were raised:

- Out of character.
- Overlooking.
- Excessive site coverage.
- Traffic congestion.
- Overdevelopment.
- Loss of trees.
- Inadequate private open space.

Consultation meeting

A consultation meeting was held on 08/11/2017 attended by the permit applicant and objectors. As a result of this meeting no objections were withdrawn.

4. Council Policy

Council Plan 2017-2021

Relevant strategies of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 13 Environmental Risks
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.05 Environmental Risks
- Clause 21.06 Built Environment and Heritage
- Clause 21.10 Infrastructure
- Clause 22.06 Neighbourhood Character Policy (Precinct D2)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
City Planning and Amenity – Statutory Planning

- Clause 45.06 Drainage Contributions Plan Overlay
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

5. 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.

5.1 Strategic Justification

The Melbourne metropolitan planning strategy Plan Melbourne and other State based strategy has informed the development of the State Planning Policy Framework within the Scheme.

Clause 15 sets out that planning should (amongst other criteria) make a positive contribution to local urban character and sense of place. Furthermore, it should reflect the particular characteristics, aspirations and cultural identity of the community. The clause sets out a list of strategies to achieve this. Clause 16 states that planning should provide for housing diversity and ensure the efficient provision of supporting infrastructure.

The subject site is located in an area identified as minimum residential development in the Bayside Key Issues and Strategic Vision (Clause 21.02) and is outside of any identified activity centre. The intent of the Minimum Residential Growth Area is to maintain the low density scale of the residential area. Key issues identified in this clause include the need to manage growth associated with population growth and its impacts and the need to direct population growth into appropriate locations.

The proposal would result in a density of 1 dwelling to 261 square metres of area. This is not considered to be low density, nor has any justification been provided as to why a density of this level should be considered in this location. The subject site is not located within an activity centre, nor in an excellent location close to public transport is (Highett Railway station approximately 1.0km away). This is not to say that an increased density cannot be supported on this site, but this should not occur at the expense of the existing or preferred neighbourhood character.

The proposal is therefore considered to be contrary to Clause 15, Clause 16 and Clause 21.02 of the Bayside Planning Scheme.

The subject site is located within the Neighbourhood Residential Zone. One of the purposes of this zone is to manage and ensure that the development respects the identified neighbourhood character, heritage, environmental or landscape characteristics. The decision guidelines require consideration of state and local planning policy, as set out above, together with the purpose of the zone. These aspects are considered in more detail below.

5.2 Neighbourhood character

The site is located within Neighbourhood Character Precinct G1 and the proposal is considered to demonstrate a low, and inadequate level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 2.

Tibrookney Street, and its immediate surrounds are characterised by almost solely single storey forms, set amongst a spacious setting with varying degrees of landscape.

The preferred neighbourhood character seeks to protect this character, through the use of landscaped gardens, space between buildings and articulated buildings with pitched roof forms.

The design responds poorly to these preferences, with a fully attached ground floor and 1.0m separation at first floor that would, at best, be described as tokenistic.

The roof form contains some areas of pitch, however no eaves, and overall the roof form
would be characterised by parapets, something totally foreign to the reminder of the street.

Put simply, the proposed buildings would be far too big and bulky, and would dominate the area at the expense of the low scale, vegetated character that clause 22.06 seeks to protect.

5.3 Compliance with Clause 55 (ResCode)

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

Pursuant to Clause 55, a development must meet all of the objectives of this clause and should meet all of the standards of this clause.

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

Neighbourhood Character (Standard B1)
Refer discussion at section 5.2 and appendix 2.

Residential Policy (Standard B2)
Refer discussion at section 5.1 and 5.2

Landscaping (Standard B13)
Refer discussion at section 5.5

Side and Rear Setbacks (Standard B17)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North</td>
<td>0m or 2m</td>
<td>0m or 3.4m</td>
</tr>
<tr>
<td>(side)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>South</td>
<td>0m or 2m</td>
<td>0m or 3.9m</td>
</tr>
<tr>
<td>(side)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>East</td>
<td>0m or 3m</td>
<td>1.2m or 7.1m</td>
</tr>
<tr>
<td>(rear)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The concerning elements with respect to setback generally relate to the first floor south setback, where numerous elements fall short of the required setback by approximately 400mm to 500mm. This is inappropriate for this area, with the scale of the built form already being too dominant, even if the setbacks had been fully compliant.

The rear setback contain a reduced setback in part, however this is less of a concern given the angled nature of the rear boundary, and noting the fact that the majority of ground floor well exceed the required 3.0m setback.

(Standard B31)
As detailed at section 5.2 – with the main issue being the design detail of the roof form, and in particular the use of parapets rather that pitched roof with eaves.

5.4 Car parking and traffic

Each dwelling is provided with two car spaces in accordance with Clause 52.06. The width of the driveway serving garage 1 is inadequate, and entering and exiting these spaces would be extremely difficult, if not impossible.

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

5.5 Vegetation and landscaping

The development plans show the removal of all trees except for the Jacaranda within the front setback, however the landscape plan shows the removal of all trees, including the Jacaranda. Given the location of the Jacaranda directly adjacent the driveway, it would
unlikely survive and hence for the purpose of the report it will be considered as ‘to be removed’. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism.

<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>11</td>
<td>Nil</td>
</tr>
<tr>
<td>5, 6, 7, 8, 9, 10</td>
<td>Nil</td>
</tr>
</tbody>
</table>

Council’s Arborist in their referral response advised that the Jacaranda (T11) is the only significant tree on site, however it is in declining health with poor structure and hence removal is supported. All other vegetation is of low amenity value and removal is unopposed.

Tree Nos. 2 and 3 are located on adjoining sites with their Tree Protection Zones (TPZ) extending into the subject site. The encroachment is minimal and protection would be afforded through condition should any permit issue.

Tree No. 1 is located within the nature strip and is proposed for retention. Council’s Street Tree Arborist has advised that it will require protection throughout construction.

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is not acceptable, and more canopy trees would be required. This could have been addressed through condition of permit had one issued.

6. Recommendation

That the Delegate resolve to:

Issue a Refusal under the provisions of the Bayside Planning Scheme in respect of Planning Application No. 2017/299/1 for the land known and described as 38 Tibrockney Street HIGHTETT, for the Construction of three dwellings on a lot and a front fence exceeding 1.2m in height on the following grounds:

1. The proposal does not provide the required 35% garden area as required at clause 32.09-4, as driveway areas appear to have been included in the calculation.

2. The proposed development does not comply with clause 22.06 of the Bayside Planning Scheme, or the objectives of Neighbourhood Character Precinct G2, as the proposed built form is excessive in size and scale, and would dominate the area at the expense of a spacious and vegetated character that is sought to be retained.

3. The development does not comply with clause 52.06, as the entering and exiting movements associated with garage 1 are extremely inefficient, particularly when an adjacent car space is occupied.

4. The proposal does not comply with clause 55 (ResCode), specifically:
   - Standard B1 (Neighbourhood Character) for reasons outlined at point 2;
   - Standard B2 (Residential Policy) for reasons outlined at points 2, in addition to the development being excessive in size and scale for an area designated for ‘minimal residential growth’ at clause 21.02 (Bayside Key Issues and Strategic Vision);
   - Standard B13 (Landscaping) as the proposed landscape plan does not provide for an appropriate level of landscaping, in particular canopy trees.
   - Standard B17 (Side and Rear Setbacks) as the first floor setbacks from the south boundary are inadequate.
   - Standard B31 (Design Detail) as the size and scale of the built form is excessive, and the roof form does not respect the existing or preferred character.

5. The proposal is an overdevelopment.
Attachment 1

Figure 1: Aerial overview of the site and surrounds
Figure 2 View of adjacent property at No. 40

Figure 3 View of adjacent property at No. 36
Figure 4 View of subject site
Neighbourhood Character Precinct G2

Preferred Future Character Statement

The dwellings sit within established, landscaped gardens and occasional large canopy trees. The dwellings are designed and sit on the lot to ensure they do not dominate the streetscape and are set back, or appear set back, from one side boundary. Buildings use techniques such as articulation and a variety of materials, to provide visual interest to the streetscape. A lack of front fences allows views to the buildings and gardens. Large canopy street trees provide a unifying streetscape setting.

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. |  • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible.  
• Minimise impervious surfaces, particularly in the front garden space. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Does not respond  
Whilst a landscape plan has been submitted, it is a poor response to the character of the area, with only two canopy trees proposed.  
Whilst this could conceivably be dealt with by condition, it is a further indication that the applicant has disapproved, or misunderstood, the existing and preferred character of this area. |
| To reflect the rhythm of existing dwelling spacing and provide space for large trees. |  • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.  
• Buildings should be sited to accommodate a front garden. |  | Does not respond  
Whilst the dwelling is setback from the boundary at the front, the rear dwelling would run boundary to boundary.  
Notwithstanding, the largely attached nature of first and ground floor down the length of the site would significantly detract from any sense of space that could otherwise have been prevalent at the front of the site. |
| To ensure that buildings and extensions do not dominate the streetscape. |  • Recess two storey elements from the front facade.  
• Articulate the form of dwellings and elevations, particularly front facades.  
• Utilise materials, textures and colours to provide articulation and interest in the building design. | Large, bulky buildings that dominate the streetscape. | Does not respond  
First floor footprint is grossly excessive, and rather than contain recessive elements, actually cantilevers significantly over ground floor.  
The resulting outcome is a built form that would be in stark contrast to its surrounds, which is dominated by low scale single storey dwellings.  
The roof form is uncharacteristic of the area, with the heavy use of parapet only serving to exacerbate the issues of excessive visual |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the openness of the streetscape. |                   | High or solid fences. | Responds  
Whilst the maximum height is exceeded by 300m, the fence would not be out of keeping with the varied front fence character along the street. |
|                                   |                  |                  | bulk. 
The built form would respond poorly to its surrounds. |
ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>No</td>
<td>Refer Attachment 2.</td>
</tr>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B2 Residential Policy</strong></td>
<td>No</td>
<td>Refer body of report.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street and entries are clearly identifiable from either the streetscape or the common pedestrian access.</td>
</tr>
<tr>
<td>Integrate the layout of development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Minimum: 7.8m</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>Proposed: 8.0m</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Yes</td>
<td>Required: 9m</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item 4.5 – Matters of Decision</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Neighbourhood Character</th>
<th>Proposed: 8.3m</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>Site coverage should respect</td>
<td>Maximum: 50%</td>
</tr>
<tr>
<td>the existing or preferred</td>
<td>Proposed: 45%</td>
</tr>
<tr>
<td>neighbourhood character and</td>
<td></td>
</tr>
<tr>
<td>respond to the features of the</td>
<td></td>
</tr>
<tr>
<td>site.</td>
<td></td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>Reduce the impact of</td>
<td>Minimum: 20%</td>
</tr>
<tr>
<td>stormwater run-off on the</td>
<td>Proposed: 36%</td>
</tr>
<tr>
<td>drainage system and facilitate</td>
<td></td>
</tr>
<tr>
<td>on-site stormwater infiltration.</td>
<td></td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>Achieve and protect energy</td>
<td>The proposal</td>
</tr>
<tr>
<td>efficient dwellings and</td>
<td>provides</td>
</tr>
<tr>
<td>residential buildings.</td>
<td>appropriate</td>
</tr>
<tr>
<td>Ensure orientation and layout</td>
<td>solar access</td>
</tr>
<tr>
<td>reduces fossil fuel energy use</td>
<td>to the</td>
</tr>
<tr>
<td>and makes appropriate use of</td>
<td>dwellings.</td>
</tr>
<tr>
<td>daylight and solar energy.</td>
<td></td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>N/A</td>
</tr>
<tr>
<td>Integrate layout of development</td>
<td></td>
</tr>
<tr>
<td>with any public and communal</td>
<td></td>
</tr>
<tr>
<td>open space provided in or</td>
<td></td>
</tr>
<tr>
<td>adjacent to the development.</td>
<td></td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td>Yes</td>
</tr>
<tr>
<td>Layout to provide safety and</td>
<td>No safety</td>
</tr>
<tr>
<td>security for residents and</td>
<td>issues are</td>
</tr>
<tr>
<td>property.</td>
<td>considered</td>
</tr>
<tr>
<td></td>
<td>to be likely</td>
</tr>
<tr>
<td></td>
<td>to arise.</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td>No</td>
</tr>
<tr>
<td>To provide appropriate</td>
<td>Refer report.</td>
</tr>
<tr>
<td>landscaping. To encourage:</td>
<td></td>
</tr>
<tr>
<td>Development that respects the</td>
<td></td>
</tr>
<tr>
<td>landscape character of the</td>
<td></td>
</tr>
<tr>
<td>neighbourhood.</td>
<td></td>
</tr>
<tr>
<td>Development that maintains</td>
<td></td>
</tr>
<tr>
<td>and enhances habitat for</td>
<td></td>
</tr>
<tr>
<td>plants and animals in locations</td>
<td></td>
</tr>
<tr>
<td>of habitat importance.</td>
<td></td>
</tr>
<tr>
<td>The retention of mature</td>
<td></td>
</tr>
<tr>
<td>vegetation on the site.</td>
<td></td>
</tr>
</tbody>
</table>
## Item 4.5 – Matters of Decision

### Bayside City Council

**Planning & Amenity Committee Meeting - 15 May 2018**

**Attachment 3**

<table>
<thead>
<tr>
<th>City Planning and Amenity – Statutory Planning</th>
<th>Delegate Officer Report</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B14 Access</strong></td>
<td></td>
</tr>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development.</td>
<td>Yes</td>
</tr>
<tr>
<td>Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
</tr>
<tr>
<td><strong>B15 Parking Location</strong></td>
<td></td>
</tr>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong></td>
<td></td>
</tr>
<tr>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td>No</td>
</tr>
</tbody>
</table>

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

| **B18 Walls on Boundaries**   | **Yes**                     | **Maximum Height: 3.6m** |
|                              |                             | **Proposed: 3.2m**       |
|                              |                             | **Maximum Average Height: 3.2m** |
|                              |                             | **Proposed: 3.0 (approx.)** |
|                              |                             | **Maximum Length: 21m**  |
|                              |                             | **Proposed: 21m**        |

| **B19 Daylight to Existing Windows** | **Yes**                     | The proposal is sufficiently setback from property boundaries to ensure daylight to existing windows is maintained. |

| **B20 North Facing Windows** | **Yes**                     | No north facing windows on adjoining properties are affected. |

| **B21 Overshadowing Open Space** | **Yes**                     | 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 |

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**Item 4.5 – Matters of Decision**

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<table>
<thead>
<tr>
<th>Item</th>
<th>Decision</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.5 - Matters of Decision</td>
<td></td>
<td><strong>B22 Overlooking</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows.</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td>All windows have been appropriately screened and/or located to ensure compliance.</td>
</tr>
<tr>
<td><strong>B23 Internal Views</strong>&lt;br&gt;Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>At ground level, fencing to a height of 1.8m will prevent internal overlooking, whilst windows at first floor have been adequately located and designed to limit internal overlooking to less than 50%.</td>
</tr>
<tr>
<td><strong>B24 Noise Impacts</strong>&lt;br&gt;Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong>&lt;br&gt;Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong>&lt;br&gt;Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to both dwellings are easily identifiable from the street.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong>&lt;br&gt;Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
<td>All habitable windows have direct access to daylight.</td>
</tr>
<tr>
<td><strong>B28 Private Open Space</strong>&lt;br&gt;Provide reasonable recreation and service needs of residents by adequate pos.</td>
<td>Yes</td>
<td>Complies</td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong>&lt;br&gt;Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td>Yes</td>
<td>Appropriate solar access to the private open space areas is provided.</td>
</tr>
<tr>
<td><strong>B30 Storage</strong>&lt;br&gt;Provide adequate storage facilities for each dwelling.</td>
<td>Yes</td>
<td>A storage shed of 6m² in size is provided in the rear open space of each dwelling.</td>
</tr>
<tr>
<td><strong>B31 Design Detail</strong>&lt;br&gt;Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td>No</td>
<td>The bulk, scale and roof form are uncharacteristic of this neighbourhood.</td>
</tr>
</tbody>
</table>
| B32 Front Fences                                      | No | Required: 1.2m  
|                                                     |    | Proposed: 1.5m |
| Encourage front fence design that respects the existing or preferred neighbourhood character. |

| B33 Common Property                                 | Yes | Complies |
| Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. |

| B34 Site Services                                   | Yes | Plans show clotheslines, mailboxes and storage areas as required. Space for meters has been provided alongside the entries of each dwelling. |
| Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. |
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
Item 4.5 – Matters of Decision
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>DNC Studio</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants</td>
</tr>
<tr>
<td>Date application received</td>
<td>12 October 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>126 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal

The application seeks alterations to the existing dwelling and construction of two double storey dwellings (three dwellings) on a lot with an area of 1,137 square metres. Key details of the proposal are as follows:

- Alterations to the existing dwelling to include:
  - Relocation of the car parking facilities to the rear of the dwelling
  - Modification to the elevations, to include altered setbacks, built form treatment and finishes
  - Alteration to the roof form (from pitch to parapet)
  - Deletion of the pool and tennis court area
- General retention of the dwelling layout at ground and first floors
- Construction of 2 double storey dwellings with basement car parking, each containing 3 bedrooms
- Shared accessway to service all three dwellings
  - Garage at rear for dwelling one and basement car parking for dwellings two and three
- 6.7 metre building height (for existing dwelling) & 6.2 metre building height (for rear dwellings)
- Site coverage 49%
- Permeability 22%

The application plans are provided at Attachment 1.

It is noted that as part of the consultation process with objectors, without prejudice plans
were circulated (discussed below). These are included at Attachment 2.

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

History

There is no planning permit history relevant to this application.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-5 (Neighbourhood Residential Zone) – Construction of two or more dwellings on a lot and construction of a front fence greater than 1.2 metres in height.

Planning Scheme Amendments

There are no Planning Scheme Amendments relevant to this application.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>No objection</td>
</tr>
<tr>
<td>Open Space Arborist</td>
<td>No objection</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>No objection</td>
</tr>
</tbody>
</table>

Public notification

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

- Neighbourhood character
- Landscaping
- Building height
- Site coverage
- Permeability
- Vehicle access
- Drainage
- Side boundary setbacks

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

A consultation meeting was held on 28 March 2017 attended by the permit applicant and three objectors. One objection was withdrawn subsequent to this meeting. Therefore, there are three outstanding objections in the system.

Following the consultation meeting, the permit applicant has circulated a new set of plans to all parties to detail improvements to the design to assist in resolving both Council and objector concerns. The changes of these plans (between those of which were advertised) are picked up in conditions 1a – 1e of the recommendation below.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant a Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/615 for the land known and described as 19 Iluka Street, Black Road, for the alterations to the existing dwelling and construction of two double storey dwellings (three dwellings) in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

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

   a) Dwelling 1 setback 4.125 metres from the northern boundary with landscaping to be shown on either side of the driveway adjacent to Dwelling 1 generally in accordance with Revision C plans dated 03.04.2018.

   b) Dwelling 1 garage to be setback by 5.28 metres from Townhouse 3 with increased landscaping adjacent to the garage of Townhouse 1 generally in accordance with Revision C plans dated 03.04.2018.

   c) Dwelling 2 and 3 first floor modified to achieve compliance with Standard B17 (Side and Rear Setback provision) generally in accordance with Revision C plans dated 03.04.2018.

   d) Inclusion of front letterboxes, townhouse numbering and entrance canopies for Dwellings 2 and 3 generally in accordance with Revision C plans dated 03.04.2018.

   e) Perimeter landscaping within the secluded private open spaces of Dwellings 2 and 3 generally in accordance with Revision C plans dated 03.04.2018.

   f) The front fence to have a maximum height of 1.2 metres and included a minimum 25% transparency. Vegetation/landscaping may be incorporated within the front fence design to provide for seclusion to the private open space of dwelling one.

   g) The internal fence along the private open space of dwelling 1 (within the front setback) to have a maximum height of 1.5 metres.

   h) Provision of pedestrian sight triangles in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.
i) The vehicle accessway to be constructed with permeable paving and include decorative treatment/brick banding.

j) The garage and laundry area of dwelling 1 setback 1.0 metre from the southern property boundary.

k) Vehicle access and manoeuvrability in and out of all three dwellings garages must be safe and convenient. Swept path analysis of a B85 vehicle prepared by a suitable qualified traffic engineer must be provided. Any consequential changes to the building envelopes are to the satisfaction of the Responsible Authority.

l) The pedestrian doors to access the garages of dwellings 2 and 3 to swing outwards from the garage.

m) The gazebo areas within the rear private open space areas of dwellings 2 and 3 deleted and replaced with landscaping.

n) The master bedrooms of dwellings 2 and 3 to be acoustically treated.

o) Provision of window fin extensions adjacent the northern and southern edges of bedroom 3 for dwellings 2 and 3 respectively. The window fins are to extend 0.5 metres from the building line, extend to 1.7 metres above finished floor level and have a maximum transparency of 25%.

p) Location of all plant and equipment, including hot water services and air conditioners. The air condition units for dwellings 2 and 3 are to be located within the basement envelope, while all other plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.

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

r) Deletion of indicative landscaping from the development plans.

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

t) A Landscaping Plan in accordance with Condition 10 of this permit.

u) Payment of the development contributions levy in accordance with Condition 19.

All to the satisfaction of the Responsible Authority.

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

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

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

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

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

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

Water Sensitive Urban Design

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

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

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

Landscaping

10. Prior to the endorsement of plans pursuant to Condition 1, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by Zenith Concepts and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) Provision of six indigenous canopy trees capable of reaching a minimum height of 8 metres and 4 metres in width at maturity.
   b) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.
   c) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site.
   d) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count.
   e) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   f) Details of surface finishes of pathways and driveways.
11. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

Tree Management and Protection Plan

13. 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.

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.

Street tree protection

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

Drainage

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

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

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

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

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.
- A permit must be obtained from Council for all vehicular crossings. These must be constructed under Council’s supervision for which 24 hours notice is required.
- Construction of any fence / wall / letterbox structures may necessitate removal / damage of some sections of footpath. If this is the case, a ‘Road Opening Permit’ must be obtained to facilitate such work.
- A ‘Road Opening / Stormwater Tapping Permit’ is to be obtained from the Infrastructure Department prior to the commencement of the connection to the Council Drain / kerb / channel.
- Council records indicate that there is a 2m wide drainage and sewerage easement running North to South through the back of the property as indicated on the drawings provided. The plans indicate no proposals to encroach into the easement with any buildings or structures of note. Proposals to be built over the easement will require Build Over Easement consent from the Responsible Authority/Authorities.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

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 21.04 Environmental and Landscape Values
- Clause 22.06 Neighbourhood Character Policy (Precinct H3)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. Considerations

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

6.1. Neighbourhood character

The site is located within Neighbourhood Character Precinct H3. The proposal is considered to demonstrate an acceptable level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 4, subject to conditions.

To ensure that the proposed development suitable meets the preferred character of the area, conditions of permit have been recommended to setback the garage and laundry area of the existing dwelling from the common boundary with 21 Iluka Street. This will ensure an appropriate level of visual permeability through the front part of the site when visible from the streetscape.

Conditions of permit have also been recommended to lower the height and modify the finishes of the front fence to ensure the landscape setting is enhanced. The lowering of the front fence height also improves integration with the Iluka streetscape.

6.2. Compliance with Clause 55 (ResCode)

An assessment against the requirements of Clause 55 is provided at Attachment 5. Those non-compliant standards are discussed below:

Standard B5 – Integration with the street

The application proposes the retention and modification of the existing 1.9 metre high fence. The existing fence is constructed with brickwork, while the application seeks to modify the fence treatment to render.
The height and design of the fence is considered to unreasonably compromise the dwellings integration with the streetscape and obscures the garden setting of the development. Although the height of the fence affords some seclusion to the private open space area of dwelling one, this is considered to come at the cost of the streetscape, which on balance is considered inappropriate.

It is therefore recommended that the fence height be lowered to 1.2 metres and incorporate a minimum 25% transparency. It is considered that vegetation can be incorporated into the front fence design to provide for appropriate seclusion as sought by Council Policy.

**Standard B17 – side and rear setbacks**

<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 2m</td>
</tr>
</tbody>
</table>

The side boundary setbacks associated with the sitting and void areas at first floor for dwellings 2 and 3 fails to comply with the prescriptive side boundary setback requirements.

However, it is noted that the plans circulated to all parties after the consultation meeting detail how compliance can be achieved through the utilisation of a raked roof. Therefore, this is recommended to be included as a condition of permit.

**Standard B20 – North facing windows**

The bay window of 21 Iluka Street is located within 3.0 metres of the common boundary with the subject site. Therefore, the proposed built form of the garage and laundry of dwelling 1 need to be setback 1.0 metre. This will ensure an appropriate level of solar access to the north facing habitable room window, while also improving the visual permeability through the site (as discussed above). Consequently to this, a condition of permit will be recommended to ensure that vehicles can still safely egress to and from the site in accordance with Clause 52.06 of the Bayside Planning Scheme.

### 6.3. Landscaping

Existing vegetation on site is non-native and therefore not covered by the VPO3. Further, no trees on the land are protected by the Local Law. Notwithstanding this, the development plans show the retention of three trees within the front setback (Bougainvillea, Citrus lemon and a Melaleuca).

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.

Council's Arborist has reviewed the development application and submitted landscape plan and has not raised any issues. Conditions of permit are recommended to ensure appropriate post-construction landscaping, including the planting of mature vegetation and 80% of vegetation being indigenous.
Notwithstanding this, conditions of permit have also been recommended to improve post-construction landscaping opportunities by way provision of permeable paving for the accessway and deletion of the rear gazebo areas of dwellings 2 and 3.

6.4. **Street tree(s)**

The existing street tree will be able to be successfully retained as part of this application.

The application was reviewed by Council’s Open Space Arborist who has supported the application, subject to conditions.

6.5. **Car parking and traffic**

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

Car parking is provided in accordance with the car parking standards outlined at Clause 52.06 (car parking) of the Bayside Planning Scheme, with each dwelling having provisions of two car spaces.

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

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

As outlined prior (when assessing Standard B20 – north facing windows), a condition of permit has been recommended to shift the garage of the existing dwelling northward 1 metre. Therefore, this may have consequential impact on vehicle manoeuvrability for all three dwellings. A condition of permit will be recommended to ensure all vehicle movements are safe.

6.6. **Development contributions levy**

The subject site is located within catchment area 20.

Based on the proposed application and the below recommendation, a payment of $4,000 is required. The payment of the development contributions will be recommended as a condition of permit.

6.7. **Objector issues not already addressed**

**Drainage**

Concerns have been raised by objectors in relation to access to the rear easement and the subsequent drainage impacts this may have on the area. The applicant referred this to South East Water who have consented to the proposal. Further, the application was referred internally to Council’s Drainage Engineer who did not object to the proposal, subject to conditions.

Notwithstanding this, a condition of permit has been recommended to ensure that the vehicle accessway is constructed with permeable paving to improve permeability across the land, thereby reducing the potential wider drainage impacts.

**Support Attachments**

1. Application Plans ⬇
2. Further circulated plans ⬇
3. Site & Surrounds Imagery ⬇
4. Neighbourhood Character Precinct H3 ⬇
5. Clause 55 Assessment ⬇
Item 4.6 – Matters of Decision
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>🟥</td>
</tr>
<tr>
<td>Withdrawn objection</td>
<td>🟥</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site from Iluka Street
Neighbourhood Character Precinct H3

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To strengthen the bushy garden character of the area through the planting of appropriate species. | • Retain large established trees and understorey, and provide for the planting of new indigenous trees wherever possible (locate footings outside root zone).  
• Prepare a landscape plan to accompany all applications for new dwellings that utilise appropriate native, preferably indigenous, vegetation.  
• Minimise impervious surfaces particularly in front garden spaces to ensure space for plantings. | Lack of landscaping and substantial vegetation.  
Removal of large established trees.  
Planting of environmental weeds. | Responds
A landscape plan has been prepared which details the retention of vegetation within the front setback and post construction landscaping.  
Council's arborist has not identified landscaping as a concern with this application. |

| To maintain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation. | • Buildings should be sited to allow space for a garden, including trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate vegetation. | Loss of front garden space. | Responds, subject to conditions
The development will result in built form adjacent both the northern and southern side boundaries.  
The existing garage is built adjacent the northern boundary, otherwise the existing conditions are detached.  
It ensure an appropriate level of visual permeability, it is recommended that the garage and laundry area of the existing dwelling be setback 1.0 metre from the common boundary with 21 Iluka Street. |

| 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 | Car parking structures that dominate the façade or view of the dwelling | Responds
Vehicle access to the site is via a shared accessway adjacent the northern boundary, with car parking facilities for all dwellings |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| **To minimise site disturbance and impact of the building on the landscape.** | • Buildings should be designed to follow the contours of the site on sloping sites.  
• Minimise the use of retaining walls and battering of slopes.  
• Design new buildings and extensions so as not to exceed the predominant tree canopy height. | Major excavation works and site levelling  
Buildings that protrude above the tree canopy height. | **Responds**  
The natural topography of the site has already been significantly compromised due to pool and tennis court area at the rear of the site.  
Notwithstanding this, the application proposes to retain the topography at the front of the site, where the land rises from the street into the site. |
| **To ensure that new buildings provide an articulated and interesting façade to the street.** | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation  
• Recess upper levels from the front façade. | Large, bulky buildings  
Poorly articulated front and side wall surfaces. | **Responds**  
The application largely seeks to retain the existing building envelope as it presents to Liuka Street (minus the deletion of the garage).  
Notwithstanding this, the design detailing to the street is proposed to change from a pitched roof form to parapet and from face brick work to render. These design changes are considered appropriate. |
| **To use building materials and finishes that complement the natural setting.** | • Use a mix of materials, textures and finishes including render, timber, non-masonry sheeting, glazing, stone and brick. | Period reproduction styles and detailing. | **Responds, subject to conditions**  
The streetscape elevation is primarily proposed to be finished in render. To ensure a greater variety of materials and finishes, it is considered appropriate to alter the finish of the front fence from render to timber. This will be recommended as a condition of permit. |
| **To maintain the openness of the front garden to the street.** | • Provide open style front fences, other than along heavily trafficked roads.  
• Use vegetation as an alternative where possible. | High or solid front fences. | **Responds, subject to conditions**  
The application seeks to retain/modify the existing 1.9 metre front fence. This |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td>is considered inappropriate and compromises the ability for the development to deliver a landscape presentation to the streetscape. Therefore, it is recommended that the height of the fence be reduced. Vegetation can be incorporated into the fencing design to provide appropriate screening (if necessary).</td>
</tr>
</tbody>
</table>
### Attachment 4

**ResCode Clause 55 (Two or More Dwellings on a Lot and Residential Buildings)**

<table>
<thead>
<tr>
<th>Application type</th>
<th>Applicable clauses</th>
</tr>
</thead>
<tbody>
<tr>
<td>To construct or extend a dwelling (other than a dwelling in or forming part of an apartment development), or To construct or extend a residential building.</td>
<td>All of Clause 55 except Clause 55.07-1 to 55.07-15 (inclusive).</td>
</tr>
</tbody>
</table>

### Clause 55.02 Neighbourhood Character and Infrastructure

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1 Neighbourhood Character</td>
<td>Complies</td>
<td>Refer to Attachment 3.</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>B2 Residential Policy</td>
<td>Complies</td>
<td>The subject site is appropriately located with regard to services and facilities to support the construction of two dwellings.</td>
</tr>
<tr>
<td>B3 Dwelling Diversity</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B4 Infrastructure</td>
<td>Complies</td>
<td>The proposal will make use of existing infrastructure servicing the site. The developer will be responsible for upgrading this infrastructure if necessary to accommodate the development. Council's drainage engineers have reviewed the application and raise no issues with infrastructure capacity in the area.</td>
</tr>
</tbody>
</table>
It is noted that the developer will be required to pay a development contributions levy in accordance with the requirements of Clause 45.06 of the Bayside Planning Scheme.

**B5 Integration with the Street**  
Integrate the layout of development with the street  
Complies, subject to conditions  
The development will integrate appropriately with Iluka Street. Clearly identifiable vehicle and pedestrian links are proposed. A reduction in height for the fence surrounding the secluded private open space area of Dwelling 1 will further enhance the integration. Further, it is noted that the without prejudice plans show an improved design response which is identified within the recommended conditions.

---

### CLAUSE 55.03 SITE LAYOUT AND BUILDING MASSING

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B6 Street Setback**        | Complies                | Minimum: 9.0 metres  
                             |                         | Proposed: 9.1 metres     |
| The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site. |                         |                    |
| **B7 Building Height**       | Complies                | Maximum: 9 metres   
                             |                         | Proposed: 6.7 metres     |
| Building height should respect the existing or preferred neighbourhood character. |                         |                    |
| **B8 Site Coverage**         | Complies                | Maximum: 60%        
                             |                         | Proposed: 49%            |
| Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. |                         |                    |
| **B9 Permeability**          | Complies                | Minimum: >20%       
                             |                         | Proposed: 23%            |
| Reduce the impact of stormwater runoff on the drainage system and facilitate on-site stormwater infiltration. |                         |                    |
| Item 4.6 – Matters of Decision |

<table>
<thead>
<tr>
<th>B10 Energy Efficiency</th>
<th>Complies</th>
<th>Dwellings have been sited and designed to maximise energy efficiency.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>B11 Open Space</th>
<th>N/A</th>
<th>No communal open space is proposed as part of this application.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>B12 Safety</th>
<th>Complies, subject to conditions</th>
<th>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street. Further, it is noted that the without prejudice plans show an improved design response which is identified within the recommended conditions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>B13 Landscaping</th>
<th>Complies</th>
<th>Refer section 8.3 of the report for discussion.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide appropriate landscaping. To encourage: * Development that respects the landscape character of the neighbourhood. * Development that maintains and enhances habitat for plants and animals in locations of habitat importance. * The retention of mature vegetation on the site.</td>
<td></td>
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</tbody>
</table>

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<thead>
<tr>
<th>B14 Access</th>
<th>Complies</th>
<th>The existing access from Iluka Street is proposed to be modified, to allow for a 3.0 metre wide crossover.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B15 Parking Location</th>
<th>Complies</th>
<th>On site car parking is provided within the basement level. Access to and from the basement is easy and convenient for all residents.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide resident and visitor vehicles with convenient parking. Avoid parking and traffic difficulties in the development and the neighbourhood. Protect residents from vehicular noise within developments.</td>
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</tbody>
</table>
**CLAUSE 55.04 AMENITY IMPACTS**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B17 Side and Rear Setbacks</strong>&lt;br&gt;Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
<td>No</td>
<td>Refer to Section 6.2 of the Report.</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Ground floor</th>
<th>First Floor</th>
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</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 1m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 2m</td>
</tr>
<tr>
<td>B18 Walls on Boundaries</td>
<td>Yes</td>
</tr>
<tr>
<td>-------------------------</td>
<td>-----</td>
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</table>

<table>
<thead>
<tr>
<th>B19 Daylight to Existing Windows</th>
<th>Complies</th>
<th>The development has been sufficiently setback from all habitable room windows to abutting properties.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B20 North Facing Windows</th>
<th>Does not comply</th>
<th>There is an existing north facing habitable room window associated with 21 Iluka Street that is within 3.0 metres of the common boundary with the subject site.</th>
<th>The proposed garage wall of dwelling 1 fails to meet the setback requirements.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B21 Overshadowing Open Space</th>
<th>Complies</th>
<th>Additional overshadowing will occur over the adjoining private open space areas. However, the overshadowing requirements are satisfied.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td></td>
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</tbody>
</table>
### B22 Overlooking
Limit views into existing secluded private open space and habitable room windows.

**Complies**
All proposed first habitable room windows are appropriately screened to ensure no unreasonable overlooking of adjoining secluded private open space areas and habitable room windows. Notwithstanding this, window fin projections adjacent the bedroom 3 windows of dwellings 2 and 3 are recommended to ensure overlooking is satisfied.

### B23 Internal Views
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.

**Complies**
No internal overlooking will occur as a result of this development.

### B24 Noise Impacts
Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.

**Complies**
No unreasonable noise impacts will derive as a result of the proposed development. Notwithstanding this, a condition of permit is recommended to require all air-conditioning units to be located within the basement envelope.

### CLAUSE 55.05 ON-SITE AMENITY AND FACILITIES

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Complies</td>
<td>Access to all dwellings in easy and convenient for persons with limited mobility. It is noted that the two proposed dwellings at the rear of the site are fitted with lifts.</td>
</tr>
<tr>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Complies</td>
<td>The dwelling entrances are easily identifiable and convenient for all dwellings. It is noted that the without prejudice plans show an improved design response which is identified within the recommended conditions.</td>
</tr>
<tr>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Complies</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
<tr>
<td>Allow adequate daylight into new habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Item 4.6 – Matters of Decision**

### B28 Private Open Space
Provide reasonable recreation and service needs of residents by adequate private open space.

**Complies**

**Minimum:**
40 square metres secluded, 60 square metres overall

**Proposed:**
- Dwelling 1: 140 square metres
- Dwelling 2: 96 square metres
- Dwelling 3: 93 square metres

### B29 Solar Access to Open Space
Allow solar access into the secluded private open space of new dwellings/buildings.

**Complies**

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

### B30 Storage
Provide adequate storage facilities for each dwelling.

**Complies**

Adequate storage space is provided for each dwelling, either within the basement level of adjacent garages.

### CLAUSE 55.06 DESIGN DETAIL

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
</table>
| **B31 Design Detail**
Encourage design detail that respects the existing or preferred neighbourhood character. | Complies | Refer to Attachment 3 for further discussion. |
| **B32 Front Fences**
Encourage front fence design that respects the existing or preferred neighbourhood character. | No | The application seeks the modification of the existing 1.9 metre high front fence. This is considered an inappropriate outcome that unnecessarily compromises the streetscape integration. |
| **B33 Common Property**
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. | Complies | The common areas are suitable located and accessible for all residents. |
<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>Complies</th>
<th>All appropriate site services are nominated on the site.</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>

Item 4.6 – Matters of Decision
4.7 233 NEW STREET, BRIGHTON
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2016/172/1 WARD: NORTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/96075

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street address</td>
<td>233 New Street, Brighton</td>
</tr>
<tr>
<td>Application No.</td>
<td>2016/172/1</td>
</tr>
<tr>
<td>Applicant</td>
<td>SJB Planning</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>13 February 2018</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (Schedule 1)</td>
</tr>
</tbody>
</table>

Proposal

Planning Permit 2016/172/1 allows:

Use and development of the land for a Retirement Village and use of the land to sell or consume liquor.

The application seeks approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 2016/172/1 on a lot with an area of 3,564 square metres.

The proposed amendments is as follows:

- Minor internal apartment layout changes including the addition of fireplaces, relocation of doors and reconfiguration of windows including location and widths to improve internal amenity, alteration to dividing walls to apartments 1.01 and 1.02, the addition of doors to provide balcony access from various apartments.
- Modification to the apartment schedule involving the reconfiguration of apartment 2.03 from a three bed to a 2 bed layout.
- Minor communal layout refinement to the cinema, gym and consulting rooms to improve circulation and internal amenity.
- Subsequent alteration to the internal layout of the red-line liquor license plan as a result of the internal layout changes to the ground floor and basement plans.
- Modification to Water Sensitive Design Response as a result of the detention water tank arrangements to the basement and subsequent basement ramp grade changes.
- External windows increased from 2.4 metres in height to 3 metres in height, including minor location and type modifications (no additional overlooking).
- Minor design refinements to material schedule from colour ‘eternity charcoal pearl’ to ‘monument’ and privacy screens from ‘eternity charcoal pearl’ to ‘zeus matt canvas cloth’ to provide visual relief from the excess of darker toned element to the façade.
• Reduced size and deletion of front fence pillars to provide open views through the site and to soften the built form.

• Plan refinements including detailing/allocation of internal fence to courtyards, roof top plant platform, addition of flues and lift overrun.

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

History
Planning Permit 2016/172/1 (refer Attachment 3) was issued on 7 June 2017 at the direction of the Victorian Civil and Administrative Tribunal (VCAT).

A Section 71 amendment to correct a clerical mistake to Condition1e and 1f of the permit was approved on 31 October 2017.

Plans were endorsed (refer Attachment 4) by Council on 22 December 2017.

2. Planning controls
Planning Permit requirements
There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2016/172/1.

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

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

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

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

4. Recommendation
That Council resolve to:

1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 2016/172.

2. Plans identified as TP103 – TP107 (inclusive), TP201, TP206, TP207, TP218 TP701 and TP115 prepared by Demaine and dated Feb 2017 be endorsed. These plans are to be read in conjunction with the remaining plans endorsed on 22 December 2017.

3. Plans identified as 1 – 11 (inclusive) of 17 endorsed on 22 December 2017 be superseded.
5. Council Policy

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

6. Considerations

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

The tests include the following:

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

The amendment does not result in a transformation of the proposal. The amendment proposes refinements to the internal layouts of the development. The internal changes are a result of the addition of fireplaces, apartment and communal layout refinement and modification to the apartment schedule.

The internal layout changes have subsequently altered the internal layout of the red line liquor license plan. The red line boundary has not increased and accordingly the change is inconsequential.

Externally, the fenestration changes are minor and the elevations remain largely unchanged. The 600 millimetre increase to the window heights are minor design changes to the facades that will further improve daylight access and internal amenity to the buildings habitable rooms. The proposed change does not generate any offsite amenity impacts or overlooking to adjoining habitable room windows or secluded private open space. The windows remain screened in accordance with the standards and the application as approved by the Tribunal. A note on the plans has been added by the applicant to confirm this fact.

The amended design to the front fencing include the deletion of the concrete pillars, providing an open style to the streetscape. The detailing/allocation of internal fence to courtyards, increase in the size of the roof top plant platform, inclusion of the lift overrun and chimney flues are minor plan refinements and absorbed within the approved building height and footprint. Accordingly, these changes are inconsequential and obscured from the streetscape.

Ramp grade changes resulting from the installation of a detention water tank below the basement entry, have modified the ramp grades that continue to comply with the relevant standards and permit condition. Council’s traffic engineer has not objected to the change.

The scale of the overall building fabric will not change. The proposal does not alter the outcome related to site coverage, permeability, overlooking or overshadowing. From a neighbourhood character perspective, the proposal remains appropriate.

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

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

The primary consent was issued at the direction of VCAT for the use and development of the land for a Retirement Village and use of the land to sell or consume liquor.

The amendment sought under this application is consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.
Is the proposed amendment of consequence having regard to the purpose of a planning control under which the permit was granted?

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

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

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

Support Attachments
1. Secondary Consent Development Plans
2. Site and Surrounds Imagery
3. Planning Permit
4. Endorsed Plans
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds

Legend
Subject site ★
Figure 2 View towards the site frontage from New Street.

Figure 3 View towards the site frontage adjacent to the Southern Boundary.
The Following Conditions Apply To This Permit:

1. Before the use and/or development start/s, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (prepared by Demaine and dated Feb 17) but modified to show:
   (a) A Landscaping Plan in accordance with the Conditions of this permit.
   (b) Location of all plant and equipment, including hot water services and air conditioners etc.
   (c) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   (d) Water Sensitive Urban Design measures in accordance with Conditions of this permit.
   (e) A Traffic and Management Parking plan.
   (f) A Tree Management Plan in accordance with Condition 16.
   (g) A Revised Waste Management Plan in accordance with Conditions of this permit.
   (h) A Construction Management Plan in accordance with Conditions of this permit.
   (i) Updated fence treatments as shown in Plans TP206 and TP207 Revision 2.
   (j) A fence having a total height of 3.3m along the common boundary with 4 Esperance Avenue.
   (k) Headroom clearance of 2.2m at the entry to the basement ramp.

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 use and/or occupation of the site commences or by such later date as is approved in writing by the Responsible Authority, all buildings and works 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.

---

Date issued: 7 June 2017

Date amended: 31 October 2017

Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 4

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

---

Item 4.7 – Matters of Decision

Page 240 of 319
5 Before occupation, screening of windows as shown on the endorsed plans must be installed and maintained to the satisfaction of the Responsible Authority thereafter for the life of the building.

6 Before 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.

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 External lighting must be designed, baffled and located so as to prevent any adverse effect on adjoining land to the satisfaction of the Responsible Authority.

9 Noise emanating from the subject land must not exceed the permissible noise levels when determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1, to the satisfaction of the Responsible Authority. Any works required to ensure and maintain the noise levels must be completed prior to the commencement of the use or occupation of the site and maintained thereafter, all to the satisfaction of the Responsible Authority.

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

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 Any security boom, barrier or similar device controlling vehicular access to the premises must be located a minimum of six metres inside the property to allow vehicles to prop clear of New Street.

Date issued: 7 June 2017
Date amended: 31 October 2017

Michael Kelleher
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.
13 Before 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 Tract, project no 0316-0132-02, dated 16 February 2017, and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

(b) A survey including botanical names, of all existing trees on neighbouring properties where the Tree Protection Zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject 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. Canopy trees are to be planted at a height of 3.0m or as otherwise approved by the responsible authority.

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

(e) Details of surface finishes of pathways and driveways

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

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

16 Before the commencement of construction a Tree Management Plan (report) and Tree Protection Plan (drawing), to the satisfaction of the Responsible Authority, must be submitted to and be endorsed by the Responsible Authority.

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

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

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

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

17 All protection measures identified in the Tree Management and Protection Plans must be implemented, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plans, to the satisfaction of the Responsible Authority.
18 Before the development starts, the name and contact details of the project arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority.

19 Any pruning that is required to be done to the canopy of any tree to be retained, particularly the peppercorn pm the adjoining property to the north, is to be done by a qualified arborist to Australian Standard – Pruning of Amenity Trees AS4973-1996. Any pruning of the root system of any tree to be retained is to be done by hand by a qualified arborist.

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

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

22 Before development commences the applicant must replace the street trees to be removed to the satisfaction of the responsible authority and in accordance with the endorsed landscape plans.

23 Before the endorsement of plans pursuant to Condition 1, a Waste Management Plan must be submitted to and approved by the Responsible Authority. The Waste Management Plan must clearly indicate that waste collection is to be via a private contractor, not Council, and include:

(a) Dimensions of storage waste areas.
(b) Storm water drains in storage areas should be fitted with a litter trap.
(c) The number and size of bins to be provided.
(d) Facilities for bin cleaning.
(e) Method of waste and recyclables collection.
(f) Types of waste for collection, including colour coding and labelling of bins.
(g) Hours of waste and recyclables collection (to correspond with Council Local Laws and EPA Noise Guidelines). Collection shall be by way of private collection contractor.
(h) Method of hard waste collection. Hard waste collection shall be by way of private collection contractor.
(i) Method of presentation of bins for waste collection.
(j) Sufficient headroom within the basement to accommodate waste collection vehicles.
(k) Sufficient turning circles for the waste collection vehicles to enter and exit the site in a forward direction.
(l) Strategies for how the generation of waste and recyclables will be minimised.
(m) Compliance with relevant policy, legislation and guidelines.
When approved, the plan will be endorsed and will then form part of the permit. Waste collection from the development must be in accordance with the plan, to the satisfaction of the Responsible Authority.

Before the endorsement of plans pursuant to Condition 1, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with. The CMP must specify and deal with, but not be limited to the following as applicable:

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

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

(t) Details of crane activities, if any.

25 Any CCTV cameras on the review site must be positioned so as not to record any adjacent private open space or neighbouring windows.

26 Public Transport Victoria must be notified 3 weeks prior to the commencement date for any works scheduled to occur on the subject site, at which point PTV will give public notice for the removal of the bus stop and will proceed with the works upon the nominated date.

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

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

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

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

**Permit Notes**

<table>
<thead>
<tr>
<th>Date Amended</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>31 October 2017</td>
<td>Permit correction pursuant to Section 71 of the Planning and Environment Act 1987 to:</td>
</tr>
<tr>
<td></td>
<td>The amendment to Permit Condition 1e is as follows:</td>
</tr>
<tr>
<td></td>
<td>- A Traffic and Management Parking plan.</td>
</tr>
<tr>
<td></td>
<td>The amendment to Permit Condition 1f is as follows:</td>
</tr>
<tr>
<td></td>
<td>- A Tree Management Plan in accordance with Condition 16.</td>
</tr>
<tr>
<td></td>
<td>The amendment to Permit Condition 16 is as follows:</td>
</tr>
<tr>
<td></td>
<td>- Delete ‘Condition 17’ reference in the second paragraph of Condition 16.</td>
</tr>
<tr>
<td></td>
<td>Subsequent renumbering of remaining conditions.</td>
</tr>
</tbody>
</table>

**THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED.**
8 November 2017

SJB Planning Pty Ltd
azohar@sjbplanning.com.au

Dear Applicant

PERMIT NUMBER: 5/2016/172/1
ADDRESS: 233 New Street BRIGHTON

Your application has been approved subject to the attached conditions.

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

As of 1 July 2017 Council modified its fees and charges. Council’s current fees and charges are available on Council’s website: https://www.bayside.vic.gov.au/planning-permit-fees

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

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

Anita Rozankovic-Stevens
Email: enquiries@bayside.vic.gov.au
Telephone: 9599 4366

Please quote planning application 5/ 2016/172 - 233 New Street BRIGHTON in all correspondence/emails.

Yours faithfully

STATUTORY PLANNING DEPARTMENT

Enc :
## FORM 4

### PLANNING PERMIT

**IMPORTANT INFORMATION ABOUT THIS PERMIT**

**WHAT HAS BEEN DECIDED?**

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

**WHEN DOES A PERMIT BEGIN?**

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

**WHEN DOES A PERMIT EXPIRE?**

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

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

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

4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 64A(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.
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street address</td>
<td>2-4 Littlewood Street, Hampton</td>
</tr>
<tr>
<td>Application No.</td>
<td>2015/533/3</td>
</tr>
<tr>
<td>Applicant</td>
<td>Steller 88 Pty Ltd</td>
</tr>
<tr>
<td>Date application received</td>
<td>13 February 2018</td>
</tr>
<tr>
<td>Zoning</td>
<td>General Residential Zone (Schedule 2)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 12)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Overlay Schedule 1</td>
</tr>
<tr>
<td>Application plans and documents TRIM Ref No</td>
<td>DOC/18/34312</td>
</tr>
</tbody>
</table>

Proposal
Planning Permit 5/2015/533/3 allows:

26 or More Dwellings

The application seeks approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 2015/533/3 on a lot with an area of 1389 square metres.

The proposed amendments to the landscape plan are as follows:

- Increasing the size of the decking to match the town planning drawings
- Detailing stormwater drain located within the frontage to match the approved engineering drawings
- Amend the materials of apartments G01—G03 to decking
- Revised planting within the frontage

The amended plan is provided at Attachment 1.

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

History
Planning Permit 2015/533/1 was issued on 17 August 2016 at the direction of the Victorian Civil and Administrative Tribunal (VCAT). Plans were endorsed by Council on 16 January 2017.

The application was subsequently amended under section 72 of the Planning and Environment Act 1987 on two separate occasions. Application 2015/533/2 was amended on 3 August 2017 and application 2015/533/3 on 14 November 2017. The most recent set of plans were endorsed on 14 November 2017.
2. **Planning controls**

   **Planning Permit requirements**

   There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2015/533/3.

3. **Stakeholder consultation**

   **External referrals**

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

   **Internal referrals**

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

   **Public notification**

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

4. **Recommendation**

   That Council resolve to:

   1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 2015/533/3.
   2. Plans identified as TP01 Revision B, prepared by John Patrick Landscape Architects Pty Ltd and dated 12/02/2018 be endorsed. These plans are to be read in conjunction with plans 1-8 and 10-11 endorsed on 14/11/2017.
   3. Plan 9 of 11 endorsed on 14/11/2017 be superseded.

5. **Council Policy**

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

6. **Considerations**

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

   The tests include the following:

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

   The amendment does not result in a transformation of the proposal. The amendment would provide for alterations to the landscaping of a generally minor nature. Importantly, the proposal still retains large tree species within the yard, consistent with Council’s landscaping guidelines. Overall, the proposal is considered acceptable.

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

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

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

The primary consent was issued at the direction of VCAT for the construction 26 or more dwellings. The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

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

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

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

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

---

**Support Attachments**

1. Site and Surrounds Imagery
2. Development Plan
3. Endorsed landscaping plan
Attachment 1

Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
<th>Subject site</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>⭐</td>
</tr>
</tbody>
</table>
4.9 110 & 112 ORLANDO STREET, HAMPTON
(FORMERLY 15 BEACH ROAD, HAMPTON)
SECONDARY CONSENT - APPROVE
APPLICATION NO: 2005/875/1  WARD: CENTRAL

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/18/100272

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Approve the secondary consent amended plans</th>
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</thead>
<tbody>
<tr>
<td>Street address</td>
<td>110 &amp; 112 Orlando Street, Hampton (Formerly 15 Beach Road, Hampton)</td>
</tr>
<tr>
<td>Application No.</td>
<td>2005/875/1</td>
</tr>
<tr>
<td>Applicant</td>
<td>Russel Jones and Rhonda Bourke</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>15 March 2018</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
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<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1)</td>
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<td></td>
<td>Heritage Overlay (Schedule 61)</td>
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<td></td>
<td>Special Building Overlay</td>
</tr>
<tr>
<td>Application plans and documents TRIM Ref No</td>
<td>DOC/18/59737</td>
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</tbody>
</table>

Proposal

Planning Permit 2005/875/1 allows:

Construction of a double storey building with basement and attic levels with sixty-nine (69) apartments plus six (6) townhouses with roof terraces, access to a main road in a Design and Development overlay and Special Building Overlay and demolition of a building in a Heritage Overlay.

The application seeks retrospective approval to amend the endorsed plans pursuant to condition 2 of Planning Permit 2005/875/1.

The retrospective amendments are as follows:

- Each dwelling is provided with 15 solar panels on the roof. The solar panels are currently angled and the application proposed to alter the angle so they are flush with the roof.

The plans the subject of this application are provided at Attachment 1.

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

History

Planning Permit 2005/875/1 was issued on 14 September 2006 at the direction of the Victorian Civil and Administrative Tribunal (VCAT) (refer Attachment 3).

Various sets of plans have been endorsed since the issue of the permit. The most recent plans were endorsed on 6 March 2008 (refer Attachment 4).
Planning Permit requirements

There are no primary permit triggers to consider as part of this application. The application seeks to amend the endorsed plans pursuant to the secondary consent provisions afforded by Condition 2 of Planning Permit 2005/875/1.

3. Stakeholder consultation

External referrals

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

Internal referrals

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

Public notification

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

4. Recommendation

That Council resolve to:

1. Approve the amended plans in accordance with secondary consent provisions of Planning Permit 2005/875/1.

2. Plans identified as Edgecliff townhouses, Project No. 25005, prepared by JDA Architects and dated 09.03.2018 be endorsed. These plans are to be read in conjunction with plans Edgecliff townhouses, Project No. 25005, prepared by JDA Architects and dated 01.11.2007 endorsed on 6 March 2008.

5. Council Policy

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

6. Considerations

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

The tests include the following:

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

The amendment does not result in a transformation of the proposal. The amendment would provide for solar panels which will have limited visibility from the street. Importantly, the proposal still retains the appearance of the townhouses and the development. Overall, the application seeking to make the solar panels flush is an improved outcome to the current location and alignment.

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

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

The primary consent was issued at the direction of VCAT for the construction of a double storey building with basement and attic levels with sixty-nine (69) apartments plus six (6) townhouses with roof terraces, access to a main road in a Design and Development overlay and Special Building Overlay and demolition of a building in a Heritage Overlay. The amendment sought under this application is considered to be consistent with the proposal and does not authorise something for which primary consent is required for under the Bayside Planning Scheme.

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

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

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

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

Support Attachments

1. Site and Surrounds Imagery
2. Development plans
3. Planning Permit
4. Endorsed Plans
ATTACHMENT 2
SITE AND SURroundS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>
Photo of subject site from Orlando Street

Photo of subject site from Orlando Street (Closer view of Solar panels)
Attachment 1

Photo of subject site from Beach Road

Photo of subject site from Beach Road (Closer view of Solar panels)
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<td>Planning and Environment Regulations 2005 Form 4</td>
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</table>

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.
f) The floor type to be constructed and finished floor levels to AHD confirming that no part of the finished ground floor level exceeds 1200mm above natural ground measured directly below.

g) All wall heights above ground level to be nominated on the plans.

h) All paving (except driveways and over the basement) to be permeable. Details of the permeability of the paving must be supplied to the satisfaction of the responsible authority.

i) A schedule of all external materials and finishes to be provided to the satisfaction of the responsible authority prior to the commencement of any buildings and works on the land. The schedule shall show the materials, colour (including two colour samples) and finish of all external walls, roof fascias, window frames and paving (including car park surfacing). The use of a dark colour for the apartment roof is to be avoided.

j) Deletion of apartment 57.

k) All plant and equipment (including air conditioning units, heating units, hotwater systems, etc) which is proposed to be located externally shall be identified on the plans and located to the satisfaction of the responsible authority. Such equipment should be located away from bedrooms of adjoining properties.

l) The plans to show the dimensions of all car spaces, aisles, ramps and accessways including widening of car space No.'s 27 and 34 to 3m.

m) Visitor parking within the apartment basement at the rate of 0.2 spaces per dwelling in a common area, including at least one (1) standard size disabled space closest to the lifts.

n) The plans to show at least one (1) car space to be allocated to each two (2) bedroom dwelling. Where 2 spaces are allocated to these dwellings, tandem spaces are to be allocated. All other units with more than 2 bedrooms (or with at least two bedrooms and a study) are to be allocated a minimum of 2 car spaces each.

o) The plans to show all car spaces consecutively numbered.

p) The porte cochere to show a headroom clearance of 4.5m.

q) The plans to show the inclusion of sight triangles as per AS/NZ 2890.1-2004 on the east side of the apartment complex ramp and 1.5m x 1m on the east side of the townhouse ramp to the satisfaction of the responsible authority.

r) The plans to show a redesign of the area in the vicinity of the bottom of the ramp to the apartment basement car park to provide a 'T' intersection with adequate sight lines to the satisfaction of the responsible authority.

s) The plans to show the provision of a convex mirror on the wall opposite the bottom of the vehicle ramp to the townhouses to the satisfaction of the responsible authority.
t) Details of the means by which the car parking areas are to be secured, the times when security doors at the basement entries are to be opened for visitor access and the provision of appropriate space for access control equipment clear to the ramps and accessways to be shown on the plans.

u) Details of acoustic measures for apartments in close proximity to the railway reserve, such as fencing and glazing treatments, in accordance with the recommendations of a qualified acoustic engineer.

v) The pedestrian walkway on the east side of the townhouses widened to 1.5m to allow for landscaping and pathway lighting.

w) The provision of at least 9 bicycle parking spaces accessible to visitors.

2. The use and/or development as shown on the endorsed plans must not be altered or modified (whether or not in order to comply with any statute, statutory rule or for any other reason) without the prior written consent of the responsible authority.

3. Before the use and/or development starts, a site layout plan drawn to scale and dimensioned must be approved by a building practitioner registered under the Building Act 1993 and submitted to the responsible authority.

4. The plans must show a drainage scheme providing for the collection of stormwater within the site and for the conveying of the stormwater to council’s nominated point of discharge to the satisfaction of the responsible authority.

5. Before demolition begins, an annotated photographic study of archival quality of the building known as “Edgecliff” prepared by a suitably qualified person to the satisfaction of the responsible authority must be submitted to the responsible authority as a record of the building. The survey must include:
   a) each elevation of the building
   b) the interior of the building
   c) architectural design detailing of the building
   d) a statement prepared by an architectural historian describing and explaining both the design and construction of the building and the photographs.

6. Before occupation of the apartment complex, all buildings and works specified in this permit in relation to the apartment complex must be completed to the satisfaction of the responsible authority.

Date issued: 14 September 2006

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
7. Before occupation of the townhouses, all buildings and works specified in this permit in relation to the townhouses must be completed to the satisfaction of the responsible authority.

8. The responsible authority must be advised in writing when all construction and works are completed for the buildings and works specified in this permit in relation to the apartment complex and the townhouses respectively to enable the site to be inspected.

9. The redundant vehicle crossing must be removed and the area reinstated with appropriate kerbing and channelling (and then sown with grass) to the satisfaction of the responsible authority.

10. Street numbers contrasting in colour to the background must be fixed at the front boundary of the property as near as practicable to, or on the letterboxes in order to clearly establish the identity of the property. Separate unit numbers must be placed adjacent to the front entrance of each dwelling.

11. All service pipes, fixtures and fittings, other than stormwater downpipes, must be concealed on exposed elevations to the satisfaction of the responsible authority.

12. The alterations of soil levels involving an increased or decreased level at the boundaries must be retained by the provision of an adequate retaining wall, constructed of brick or masonry or other suitable alternative approved by the responsible authority, to buttress the soil against the possibility of shift. The construction of this retaining wall shall be the sole responsibility of the owner/developer.

13. Before the use and/or development starts, areas set aside for parked vehicles, access lanes and associated access ramps as shown on the endorsed plans must be:
   a) constructed to the satisfaction of the responsible authority;
   b) properly formed to such levels that they can be used in accordance with the plans;
   c) surfaced with an all-weather sealcoat to the satisfaction of the responsible authority;
   d) drained, maintained and not used for any other purpose to the satisfaction of the responsible authority;
   e) line-marked to indicate each car space and all access lanes to the satisfaction of the responsible authority;
   f) directional signage indicating car parking areas to be erected as required by the responsible authority and to the satisfaction of the responsible authority.

Parking areas and access lanes must be kept available for these purposes at all times.
14. Before the development hereby permitted starts, three (3) copies of a Landscape Plan must be submitted for approval by the responsible authority. The plan must be generally in accordance with the Landscape Concept Plans dated July 2006 Drawing Nos EDG1205-01, 02 and 03 prepared by Eckersley Stafford Design. The plan must show the proposed landscape treatment of the site and include supporting information to the satisfaction of the responsible authority. In particular, the plan should be to a scale of 1:100 of 1:200 and show:

a) Accurate location of boundaries, existing and proposed built elements, neighbouring buildings and/or vegetation that may affect or be affected by the proposed development and landscape.

b) Clear identification of the following elements:

i. areas proposed to be lawn, pavement, garden beds, other landscape features;
ii. proposed tree locations, shrub and ground cover groupings, climber locations;
iii. coded identification for these groupings and the numbers proposed;
iv. a Plant Schedule, which consists of an itemised list of all proposed species. The schedule must include the following headings and plant code; (refers to codified botanical names used on plan, for example, Bm):
   • Botanical and Common name;
   • Height and Width at maturity;
   • Installation height (for trees only);
   • Container size (for all other plant groups); and
   • Total quantities for each species.

c) Fence designs around private open space areas with particular attention to the appearance of fencing facing common areas and the street;

d) Supporting notes on the plan that elaborate on specific requirements for the proposed landscaping (eg. site preparation, protection during construction of existing vegetation, use of a suitable mulching material and proposed depth etc).

e) A legend that explains any graphic symbols used on the plan.

When approved the plan will be endorsed and will then form part of the permit.

15. Before either the apartment complex or the townhouses respectively allowed by this permit are occupied, landscaping works as shown on the endorsed plans relating to that part of the permitted development must be completed to the satisfaction of the responsible authority and then maintained to the satisfaction of the responsible authority.

16. Before the development starts, a development management plan to the satisfaction of the responsible authority must be submitted to and approved by the responsible authority.

When approved, the plan will be endorsed and will then form part of the permit.
Construction operations on and adjacent to the site must conform to this endorsed plan. Three copies of the plan must be submitted. The plan must include:
   a) the location of all areas on and/or off-site to be used for parking for construction workers and contractors;
   b) days and hours of construction;
   c) site security;
   d) measures to minimise noise and dust;
   e) access of construction vehicles;
   f) any other relevant matter.

17. Except for the western-most street tree in Orlando Street or with the consent of the responsible authority, the existing street trees must not be removed or damaged.

18. Prior to the commencement of any development or demolition works a Tree Protection Zone Fence of cyclone wire or similar construction must be erected to a height of at least 1.8 metres at a minimum (metres) in radius from the centre of the following trees:

<table>
<thead>
<tr>
<th>Tree Particulars</th>
<th>Tree Protection Zone (Metres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tree 1: Allocasuarina verticillata – Drooping Sheoak</td>
<td>Edge of kerb and footpath east/west, 2 metres north/south</td>
</tr>
<tr>
<td>Tree 2: Allocasuarina verticillata – Drooping Sheoak</td>
<td>Edge of kerb and footpath east/west, 2 metres north/south</td>
</tr>
<tr>
<td>Tree 3: Allocasuarina Verticillata – Drooping Sheoak</td>
<td>Edge of kerb and footpath east/west, 2 metres north/south</td>
</tr>
<tr>
<td>Tree 4: Allocasuarina Verticillata – Drooping Sheoak</td>
<td>Edge of kerb and footpath east/west, 2 metres north/south</td>
</tr>
<tr>
<td>Tree 5: Allocasuarina Verticillata – Drooping Sheoak</td>
<td>Edge of kerb and footpath east/west, 2 metres north/south</td>
</tr>
<tr>
<td>Tree 6: Allocasuarina Verticillata – Drooping Sheoak</td>
<td>Edge of kerb and footpath east/west, 2 metres north/south</td>
</tr>
<tr>
<td>Tree 8: Leptospermum laeavigatum – Coast Tea-tree</td>
<td>Edge of kerb and footpath east/west, 2 metres north/south</td>
</tr>
<tr>
<td>Tree 9: Allocasuarina Verticillata – Drooping Sheoak</td>
<td>Edge of kerb and footpath east/west, 2 metres north/south</td>
</tr>
<tr>
<td>Tree 10: Leptospermum laeavigatum – Coast Tea-tree</td>
<td>Edge of kerb and footpath east/west, 2 metres north/south</td>
</tr>
</tbody>
</table>

a) Barrier fences must stop access to persons, vehicles or machinery to the area it encloses and be maintained throughout the entire construction period and must have
| Item 4.9 – Matters of Decision | Page 280 of 319 |

**PLANNING PERMIT**

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

2005/875/1 (Amended)

- a sign attached stating 'Tree Protection Zone Fence'. (Access may be permitted only with the consent of the Site Manager or the Consultant Arborist).
- There is to be no excavation in the area enclosed by this fence and a layer of organic mulch (woodchips) to a depth not less than 100mm must be laid and receive at least 1 litre of water for every 10mm of trunk diameter on a weekly basis to assist moisture retention and reduce the impact of soil compaction.
- No materials, chemicals, paints etc, equipment, temporary building or otherwise, must be dumped, stored or erected within this fence.

19. Crossings shall be constructed in a manner that will not damage the root systems of any mature street trees. An experienced qualified arborist must be engaged prior to construction to plan and oversee construction methods which will ensure no damage to the trees (above and below the ground). No work shall be carried out on any council naturestrip without approval of the responsible authority.

20. Any street tree proposed to be removed and any additional street tree required by the approved landscaping plan shall be replaced or provided by council with a suitable tree(s) entirely at the owner’s/developer’s expense. Note: if there is not adequate space directly in front of the proposed development site a replacement tree will be planted by council, at the owner’s/developer’s expense, in the vicinity of the site.

21. A qualified arborist must attend the site during site cut and excavation to ensure that all affected tree roots are managed correctly and to ensure any damaged or exposed tree roots are pruned cleanly and the cut ends sprayed with a root hormone solution before covering with soil.

22. All basic services, including water, electricity, gas, sewerage and telephone, shall be installed underground and located to the satisfaction of the responsible authority.

23. Before any construction or demolition works commence on the site, to the extent that the site perimeter is unfenced and/or is not fenced to the satisfaction of the responsible authority, a secure fence is to be erected around the perimeter of the site to prevent access to the site from unauthorised persons. This fence is to be maintained for the duration of the construction and demolition, to be a minimum height of 1.8 metres, or such alternative height as is approved in writing by the responsible authority, and be constructed and sited to the satisfaction of the responsible authority. The gate or opening to the fence must be securely locked at all times when work has ceased on the site.

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Date issued: 14 September 2006
Planning and Environment Regulations 2005 Form 4
Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
24. The landscaped areas shown on the endorsed plan and schedule shall only be used as landscaped areas and shall be maintained in a proper, tidy and healthy condition to the satisfaction of the responsible authority. Should any tree or shrub be removed or destroyed it may be required to be replaced by a tree or shrub of a similar size and species.

25. The responsible authority shall be advised of the completion of the landscaping so that a site inspection can be carried out. A further inspection will be carried out by the responsible authority six (6) months after completion of the landscaping to ensure that species have been adequately maintained.

26. All disturbed surfaces on the land resulting from the development/ building and works authorised or required by the permit shall be revegetated and stabilised to the satisfaction of the responsible authority so as to prevent any erosion or siltation either on or adjacent to the land.

27. The ‘Legal Point of Discharge’ for this development is the Council drain/pit located in Orlando Street near the south-east corner of the property OR the drain/pit in front of the property in Beach Road. The developer should verify that the levels to the drain are satisfactory for the proposed design.

28. The development is to have a ‘Stormwater Detention System’ installed with the design capacity to be council approved.

29. Drainage associated with basement construction (seepage and agricultural waters) must be pumped to the nearest Council Drain Pit and not be discharged to be kerb and channel unless directed otherwise.

30. Before the development begins, detailed plans (3 sets) indicating the method of stormwater discharge to the nominated ‘Legal Point of Discharge’ (and Stormwater Detention Systems where applicable), must be lodged with the responsible authority for approval.

31. The driveway/parking areas/paved courtyards/paths and ‘pervious’ pavements must be graded/drained to prevent stormwater discharge onto the front footpath or into adjacent properties.
32. Prior to the commencement of any works on the site, the applicant is to submit a Waste Management Plan to the responsible authority detailing the manner in which waste will be stored and collected including type, size and number of containers, spatial provision for on-site storage of same, the size of the collection vehicle and the frequency, time and point of collection. Garbage receptacles are not to be stored on the street at any time. Such Waste Management Plan must be to the satisfaction of the responsible authority.

33. Finished floor levels must be to a minimum of 300mm above the applicable flood level.

34. The entry to the basement level must be constructed 300mm above the applicable flood level.

35. The entry/exit driveway of the basement carpark must incorporate a floodproof apex a minimum of 300mm above the applicable flood level.

36. A bund wall to a minimum of 300mm above the applicable flood level is to be constructed along the driveway to prevent floodwaters entering the basement carpark.

37. The drainage system is to be constructed so that external flooding is unable to penetrate the basement area.

38. All vents, staircases, etc are to be floodproofed to a minimum of 300mm above the applicable flood level to ensure no floodwater inlets to floor levels below the applicable flood level.

39. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water’s drains or waterways during the construction of development works.

40. At least 28 days prior to the construction, a Site Management Plan detailing pollution and sediment control measures must be submitted to Melbourne Water for comment/approval.

41. Upon completion of works, a certified survey plan, showing levels reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that Melbourne Water’s freeboard requirements have been satisfied.
42. The edges of the entrance and exit of the proposed porte cochere crossovers on Beach Road must be angled at least 60 degrees to the road reserve boundary, to improve entry and exit conditions, to the satisfaction of the responsible authority.

43. Vehicle access via the proposed porte cochere driveway on Beach Road shall be through a one-way, left-in, left-out arrangement only. Appropriate signage and pavement marking shall be provided to direct and control the flow of traffic to achieve this, to the satisfaction of the responsible authority.

44. Prior to the commencement of any works, a detailed functional layout plan must be submitted to VicRoads and the responsible authority for approval. The layout must include, but may not be limited to the following:
   a) The proposed porte cochere crossover access arrangements at the front of the property, including dimensions and location specifics of all proposed works and existing infrastructure.
   b) All proposed road signage and pavement marking associated with the operation of the porte cochere access, to the satisfaction of the responsible authority.

45. Works must be constructed in accordance with approved/endorsed layouts, to the satisfaction of the responsible authority.

46. The applicant shall pay the full cost of all roadworks, drainage, pavement markings, public lighting alterations, service relocations, signage and any other associated costs that may arise due to the proposed development.

47. Consent must be obtained from VicRoads to the commencement of any works within or affecting the road reserve, in accordance with the Road Management Act.

48. The Department of Infrastructure – Bus Operations Department (tel: 96558940) must be notified of the proposed works affecting any bus stop located in front of the subject property at least seven (7) days before construction is to commence.

49. This permit will expire if one of the following circumstances applies:
   a) The development of either the apartment complex or the townhouses is/are not started within two (2) years of the date of this permit; and
   b) The development is not completed within three (3) years of the date of the commencement of the development.
The responsible authority may extend the periods referred to if a request is made in writing before the permit expires or within three months afterwards.

### Permit Notes

<table>
<thead>
<tr>
<th>Date</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 November 2008</td>
<td>Approval for the following amendments to the original plans under secondary consent provision afforded by condition 4:</td>
</tr>
<tr>
<td></td>
<td>Schedule of modifications to the plans</td>
</tr>
<tr>
<td></td>
<td>Courtyard level</td>
</tr>
<tr>
<td></td>
<td>1 Overall length of basement increased from 16.6m to 21.36m</td>
</tr>
<tr>
<td></td>
<td>2 Extent of ‘natural ground’ between town houses and car park reduced.</td>
</tr>
<tr>
<td></td>
<td>3 Louvres added to the basement car park.</td>
</tr>
<tr>
<td>Entry Level</td>
<td>1 Space between Unit 23 and Townhouse 6 reduced by 1600mm.</td>
</tr>
<tr>
<td></td>
<td>2 Internal layouts of Townhouses modified.</td>
</tr>
<tr>
<td></td>
<td>3 Front terraces to Townhouses modified.</td>
</tr>
<tr>
<td></td>
<td>4 Location/extent of windows to Townhouses clarified.</td>
</tr>
<tr>
<td>First Floor</td>
<td>1 Balconies to rear of Townhouse modified in size (north side.)</td>
</tr>
<tr>
<td></td>
<td>2 Internal layouts of townhouses modified.</td>
</tr>
<tr>
<td></td>
<td>3 North wall of Townhouses relocated 1.5 metres to the north.</td>
</tr>
<tr>
<td></td>
<td>4 Balconies to the front Townhouses modified in shape and altered.</td>
</tr>
<tr>
<td></td>
<td>5 Location / extent of windows to Townhouses clarified.</td>
</tr>
<tr>
<td>Attic Level</td>
<td>1 Roof terraces to townhouses changed in shape and size.</td>
</tr>
<tr>
<td></td>
<td>2 Stair / lift structure to Townhouses modified in size.</td>
</tr>
<tr>
<td></td>
<td>3 Location / extent of windows to units clarified.</td>
</tr>
<tr>
<td>Elevations modified to reflect floor plan changes</td>
<td>1 Service areas such as fire services Booster cupboards and metres together with basement.</td>
</tr>
<tr>
<td></td>
<td>2 Ventilation outlets added.</td>
</tr>
<tr>
<td></td>
<td>3 Fence details including street access gates added.</td>
</tr>
<tr>
<td></td>
<td>4 Roof to Each side of EACH townhouse block revised.</td>
</tr>
<tr>
<td></td>
<td>5 Attic roof revised.</td>
</tr>
<tr>
<td></td>
<td>6 Parapet increased from RL 12.30 to RL 12.714</td>
</tr>
<tr>
<td></td>
<td>7 Front fence revised to cement render.</td>
</tr>
</tbody>
</table>

Date issued: 14 September 2006

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

Note: Under Part 4, Division 1A of the Planning and Environment Act 1987, a permit may be amended. Please check with the responsible authority that this permit is the current permit and can be acted upon.
PLANNING PERMIT
2005/875/1 (Amended)

Date Amendment
8 Townhouse main material revised to White texture coat render in lieu of glazed bricks (White render is Dulux ½ strength Lexicon).
9 Plans amended to respond to changes in the floor plans... including balcony and window locations to Town houses.

Sections
1 Roof to East elevation revised.
2 Attic roof revised.
3 RL levels (floor) revised to suit construction techniques.

17 November 2008 Approval for the following amendments to the original plans under secondary consent provision afforded by condition 2:
• 3 new windows along the east elevation of Townhouse 3, one of which is to be obscure.
• A balanced flue for the purpose of an internal fireplace.

22 December 2008 Approval under secondary consent for a complete set of plans to be endorsed showing all of the above changes.

6 January 2010 Section 87A of the Planning and Environment Act 1987
Minor alterations to the built form of the attic level of the development to increase the outdoor terraces for Apartment 58 and Apartment 70 by reducing the approved storage areas.

17 February 2010 Correction:
This permit has been issued to replace the incorrect Section 87A VCAT amended permit issued on 6 January 2010 which was issued as a part 2 – the permit should have been issued as part 1.

31 March 2010 Pursuant to section 87A of the Planning and Environment Act 1987, Planning Permit No. 2005/875/1 issued by the responsible authority in respect of the subject land, is amended as follows.

Plans endorsed under the permit are amended and the responsible authority is directed to endorse amended plans showing:
a) Removal of the planter boxes currently shown on the plans and replacement with appropriate screening measures being Screening Type 1 – Louvres fixed horizontally; and Screening Type 2 – Louvres fixed at 45° angle to the balconies of the apartments within the development to improve the useability of the balcony spaces;
b) Where planter boxes are to be retained, provide additional glass screening to a height of 1.7 metres to address potential safety concerns regarding the ability for children to climb onto the planter

Date issued: 14 September 2006
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PLANNING PERMIT
2005/875/1
(Amended)

Date Amendment

14 May 2010 Pursuant to Section 119 of the Victorian Civil and Administrative Tribunal Act 1998, the Tribunal’s Order in Application P377/2010 dated 31 March 2010 is corrected as follows:

Order 2 is corrected by adding the following:

What the permit allows is amended to read as follows:

Construction of a double storey building with basement and attic levels with seventy (70) apartments plus six (6) townhouses with roof terraces, access to a main road in a Design and Development Overlay 1 and Special Building Overlay and demolition of a building in a Heritage Overlay in accordance with the endorsed plans and subject to the following conditions.

Order 3 is corrected by adding the following:

The responsible authority is directed to amend the permit and issue an amended permit to the owner of the subject land pursuant to section 91 of the Planning and Environment Act 1987.

THIS PERMIT SUPERSEDES ALL OTHER PERMITS ISSUED
4.10 150 ESPLANADE, BRIGHTON (BRIGHTON SAVOY HOTEL)  
NOTICE OF DECISION TO AMEND A PLANNING PERMIT  
APPLICATION NO: 2012/369/1  WARD: NORTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/18/99342

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant an Amended Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Dreamvale Group Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td>Date application received</td>
<td>20 February 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>415 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
</tbody>
</table>
| Overlays | Development Contributions Plan Overlay (Schedule 1)  
Design and Development Overlay (Schedule 1) |
| Number of objections | 7 |

Proposal

The application seeks approval to amend the existing planning permit pursuant to Section 72 of the Planning and Environment Act 1987.

The list of the proposed amendments is as follows:

- Amend what the permit allows to include internally illuminated signage
- Provide details of roof plant equipment and area to service the building (excludes any telecommunications facility)
- Retain the pediment on the west elevation (previously approved for deletion)
- Provide additional aluminium screens to the west façade
- Delete the awning on the ground floor west elevation
- Provide a landscape plan to reflect existing landscaping conditions
- Provide a ground floor extension to the east
- Provide details of the existing façade material

It is noted that all works listed above have been constructed and this application seeks retrospective approval.

The application plans are provided at Attachment 1.

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

History

Planning Permit 2012/369/1 was issued under delegation on 18 September 2012. The permit is provided at Attachment 3.
The permit allows the following:

**Buildings and works associated with a Section 2 Use (Residential Hotel) and the display of flood-lit business identification signage in accordance with the endorsed plans.**

The buildings and works approved under this permit include the construction of a new porte cochere on the Wellington Street frontage of the site and the display of 1.8 square metres of flood-lit business identification signage above the verandah/awning.

Plans were endorsed by Council on 18 September 2012. The endorsed plan is provided at **Attachment 4**.

This is the first request to amend this permit.

2. **Planning controls**

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

**Planning permit requirements associated with amendments**

A planning permit is required:

- Pursuant to Clause 32.07-9 (Neighbourhood Residential Zone Schedule 3), to construct a building or construct or carry out works in association with a Section 2 Use (Residential Hotel).
- Pursuant to Clause 52.05-9 (Advertising Signs), to construct and display business identification signage.

**Original planning permit requirements**

A planning permit was required:

- Pursuant to Clause 32.01-6 (Residential 1 Zone), to construct a building or construct or carry out works in association with a Section 2 Use (Residential Hotel).
- Pursuant to Clause 52.05-9 (Advertising Signs), to display flood-lit business identification signage.

**Planning Scheme Amendments**

There are no Planning Scheme Amendments relevant to this application.

3. **Stakeholder consultation**

**External referrals**

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

**Internal referrals**

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

**Public notification**

The application was advertised pursuant to Sections 52(1)(a) and (d) of the **Planning and Environment Act 1987** and 7 objections were received. The following concerns were raised:

- Discrepancies between the existing permits / plans and existing conditions of the site;
- Unpermitted works, including the height of the building, contravene the requirements of the DDO1 and contravene the requirements of Planning Permit
P3261;
- Unpermitted works fail to achieve compliance with current Building Regulations;
- Approval of unpermitted works sets a precedence for future illegal works on the site;

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

Consultation meeting

The concerns raised by objectors largely relate to other works on the site which are not subject to this amendment application, therefore a consultation meeting was not held.

4. Recommendation

That Council resolve to:

Issue a Notice of Decision to Grant an Amended Permit under the provisions of the Bayside Planning Scheme in respect of Planning Application 2012/369/2 for the land known and described as 150 Esplanade, Brighton, for Buildings and works associated with a Section 2 Use (Residential Hotel) and the display of signage in accordance with the endorsed plans and subject to the following conditions from the standard conditions and the following table inserted as a record

1. 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.
2. The sign/s must not contain any flashing light.
3. The sign lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.
4. This permit will expire if one of the following circumstances applies:
   a) The development is not started within two years of the date of this permit.
   b) The development is not completed within four years of the date of this permit.

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

5. The signage approved as part of this permit expires 15 years from the date of issue.

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 May 2018</td>
<td>Amendment to the permit and plans under Section 72 of the Planning and Environment Act 1987 to:</td>
</tr>
<tr>
<td></td>
<td>1. Amend what the permit allows to include replace flood-lit signage with signage;</td>
</tr>
<tr>
<td></td>
<td>2. Amend to Condition 1 of the permit to read as follows:</td>
</tr>
<tr>
<td></td>
<td>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</td>
</tr>
<tr>
<td></td>
<td>Bayside Planning Scheme specifies that a permit is not required without the prior written consent of the Responsible Authority.</td>
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<tr>
<td>3.</td>
<td>Provide details of roof plant equipment and area to service the building (excludes any telecommunications facility);</td>
</tr>
<tr>
<td>4.</td>
<td>Retain the pediment on the west elevation (previously approved for deletion);</td>
</tr>
<tr>
<td>5.</td>
<td>Provide additional aluminium screens to the west façade;</td>
</tr>
<tr>
<td>6.</td>
<td>Delete the awning on the ground floor west elevation;</td>
</tr>
<tr>
<td>7.</td>
<td>Landscape plan to reflect existing landscaping conditions;</td>
</tr>
<tr>
<td>8.</td>
<td>Provide a ground floor extension to the east;</td>
</tr>
<tr>
<td>9.</td>
<td>Provide details of the existing façade material.</td>
</tr>
</tbody>
</table>

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.

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

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 14 Natural Resource Environment
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.04 Environmental and Landscape Values
- Clause 21.05 Environmental Risks
- Clause 21.06 Built Environment and Heritage
- Clause 21.07 Economic Development
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. Assessment of proposed amendments

This amendment application was lodged by the permit applicant following various discussions between the owners of the Brighton Savoy Hotel and Council regarding areas of non-compliance with existing planning permits for the site.

Following reports from residents where it was suggested the premises was not in compliance with the endorsed planning permit conditions and plans, Council completed an assessment of the exterior of the premises and identified a number of unauthorised works on the site. These works included the installation of additional signage, minor building alterations and landscaping including tree removal.

Consequently, the applicant is seeking to bring the as built conditions of the site into compliance through an amendment to this permit and endorsed plans.

The proposed works are assessed separately in turn, below:

Retain the pediment on the west elevation (previously approved for deletion)

The permit applicant sought to remove the uppermost pediment in Planning Permit 2010/720/1, however it was later confirmed that the pediment could not be removed as it played a crucial role in the structural viability and function of the roof itself.

As such, the amended plans reflect the as built retention of the pediment on the west elevation.

The retention of this pediment is a suitable outcome for the site and contributes to the character and broader design of the Hotel. The pediment is an acceptable outcome for this neighbourhood and does not appear at odds with the diverse architectural nature of The Esplanade. The retention of the pediment is supported.

Provide details of roof plant equipment and area to service the building (excludes any telecommunications facility)

The proposed Site Plan (TP03) makes reference to the location of roof plant and equipment which is located centrally on the building. The applicant has confirmed that plant and equipment has been located on the roof of the hotel since the commencement of the use and has been modified with changes to regulations. The endorsed plans have not detailed the location of site services, plant and equipment.

The amendment to include plant and equipment on the endorsed plans will allow for the necessary site services to remain on the roof and will ensure that any services will be sited and designed in accordance with relevant legislation where required.

It is noted that the plant and equipment referenced on the plans include air conditioning...
units, exhausts and the like, and exclude any telecommunications facilities. Council notes that a telecommunications facility has recently been installed on the site. CPS Global, on behalf of Optus, have confirmed with Council that the telecommunications facility is a low impact facility, and therefore is exempt from requiring a planning permit pursuant to Clause 52.19 (Telecommunications Facility) of the Bayside Planning Scheme.

Given the equipment is largely centrally located on the building and not visible from street level, they are appropriate and will have limited impact on the adjoining properties and broader neighbourhood.

Provide additional aluminium screens to the west façade

The provision of louvre screens throughout the western façade was considered and assessed in the issue of Planning Permit 2010/720/1. It is noted however that the approved screens did not include screens for the four lower level windows of this elevation.

The applicant has advised that during the installation of these screens, the lower level windows were also fixed with louvre screening. The provision of this screening on the lower level windows provides a reasonable balance to the western elevation and is considered a suitable design response to the site and neighbourhood. The provision of additional screens is supported.

Delete the awning on the ground floor west elevation

The provision of an awning was granted during the issue of Planning Permit 2010/720/1 and the awning also appears on the plans associated with this permit. However the awning was never constructed and as such, the plans have been amended to reflect the as built conditions of the site which do not include the location of the awning.

The deletion of the awning along the ground floor west elevation is supported as it would have contributed to a bulkier building and would impact on the landscape character of the site and neighbourhood.

Landscape plan to reflect existing landscaping conditions

The permit applicant has prepared a landscape plan as part of this amendment to reflect the current/existing landscaping conditions of the site. While the existing endorsed plans of this permit do not make specific reference to landscaping, it is considered that the provision of an updated and accurate landscape plan as part of this amendment is an appropriate outcome for all parties as a point of reference moving forward.

The proposed landscape plan includes the significant landscaping and other external details that currently exists on the site. There is no proposal to remove further landscaping from the site under this amendment. The current landscaping conditions of the site reflect the existing and preferred character of the area and are consistent with the landscaping provisions of the site. The proposed landscape plan is supported.

Provide a ground floor extension to the east

The amended plans include the construction of a 19m² ground floor extension along the eastern side of the site. The applicant has confirmed that this extension was constructed approximately 20 years ago and serves an important role in the running of the Hotel. The single storey extension sits behind an existing solid fence which runs along Victoria Street and significant landscaping, which conceals the extension from the street.

Notwithstanding, the modest extension has been designed to complement the character and design features of the site. The design, height, setback and appearance of the buildings and works are consistent with the Decision Guidelines of Clause 32.09-12 (Neighbourhood Residential Zone Schedule 3) and are supported.

Provide details of the existing façade material
The amended plans have been designed to clarify the façade material as rendered masonry. The provision of this information on the amended plans will ensure that any change to this primary material will require further planning permission.

The existing building is currently designed with a charcoal coloured render and there are no changes proposed to the design detailing of the building. The rendered material complements the character of built form within the area and is supported having regards to the Decision Guidelines of Clause 32.09-12 (Neighbourhood Residential Zone Schedule 3).

**Signage**

The current application allows the provision of an up-lit business identification sign along the western elevation. However this sign does not exist on the subject site. Consequently, the approved signage needs to be removed from the plans. It is considered that this outcome is of no material consequence to the adjoining properties or broader character of the area.

In addition, the application proposes to amend the permit preamble as follows (changes highlighted in bold):

*Buildings and works associated with a Section 2 Use (Residential Hotel) and the display of signage in accordance with the endorsed plans and subject to the following conditions.*

The existing permit allows for flood-lit and business identification signage however in light of the existing conditions of the site, will need to encompass approval for internally illuminated signage. This is due to the provision of Sign 05 as identified on the southern elevation of TP05. The inclusion of this sign is considered suitable particularly in light of its position on the southern elevation, which is located at the bottom of the ramp, perpendicular to Wellington Street. This sign is a suitable response to character of the building and remains consistent with relevant signage provisions of Clause 52.05, which seeks to ensure that signage does not contribute to visual clutter or loss of amenity.

**6.2. Objector issues not already addressed**

Discrepancies between the existing permits / plans and existing conditions of the site

Council’s Planning Officers and Planning Compliance team have undertaken a review of the existing planning permits and endorsed plans associated with the subject site. It is noted that all illegal works identified by Council have been listed for approval under the current amendment application.

The three storey height of the building is non-compliant with neighbourhood character and requirements of the Design and Development Overlay Schedule 1 (DDO1)

Of relevance to the concerns raised are Planning Permits 2010/720/1 and Planning Permit 2000/5327.

Planning Permit 2000/5327 allows ‘alterations to existing hotel’ and the endorsed plans refer to the ‘level 3 plan – formally attic level’.

Planning Permit 2010/720/1 allows ‘buildings and works (new façade) and business identification signage’. The endorsed plans show the provision of the new roof in lieu of the attic design.

Council’s Planning Department are satisfied that the owners have planning approval for the construction of the roof extension and use of the level 3 as noted in the earlier permits. The design of this building has changed from an attic style 3 storey building to a mansard style building and then to a contemporary flat façade 3 storey building.

Planning approvals must comply with the Planning Scheme requirements at the time of determination of the application. The planning scheme requirements may have changed in the interim, but a building can continue to remain even though the requirements of the
planning scheme change. Should the owners demolish the building, they will be subject to the requirements of the planning scheme at the time of application.

**Unpermitted works fail to achieve compliance with current Building Regulations**

Building matters fall outside of the scope of the consideration of this application. Notwithstanding, Building Permit SP1091/91/55 approves the as built conditions as demonstrated along the eastern elevation of the site. Council’s Building Surveyor will follow-up any outstanding works that are not subject to this amendment.

**Approval of illegal works sets a precedence for future illegal works on the site**

In regard to planning breaches, Council follows the Planning Enforcement Intervention Filter Criteria, a policy adopted by Council. The initial contact seeks an agreement on actions to bring the property into compliance and provides for a reasonable timeframe for compliance to be achieved. This includes an opportunity for owners to rectify any breaches found or apply for retrospective planning approval for the works/use to remain.

If the retrospective approval is refused, Council Planning Investigations Officers will then request the owner to voluntarily remove such breaches and provide a timeframe for compliance. If this timeframe is not met officers will issue notices of contraventions and/or issue infringement notices, again setting out timeframes for compliance to be achieved.

In regard to retrospective approval, future planning permit applications on this site or neighbouring and nearby land will be assessed against relevant planning policy and site conditions, based on their own merits at the time of assessment.

**Support Attachments**

1. Development Plans
2. Site and Surrounds Imagery
3. Planning Permit
4. Endorsed Plan

---
ATTACHMENT 2
SITE AND SURROUNDS IMAGERY

Figure 1 Aerial overview of the site and surrounds.

Note: 19 Victoria Street is located outside of the above map

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
Figure 2 View of the subject site from Wellington Street, Brighton.

Figure 3 View of the subject site from Victoria Street, Brighton.
Figure 4 View of the subject site along Victoria Street, Brighton looking north east.
PLANNING PERMIT
2012/369/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land: No. 150 Esplanade BRIGHTON

The Permit Allows: Buildings and works associated with a Section 2 Use (Residential Hotel) and the display of flood-lit business identification signage in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

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

2. The sign/s must not contain any flashing light.

3. The sign lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.

4. This permit will expire if one of the following circumstances applies:
   a. The development is not started within two (2) years of the date of this permit.
   b. The development is not completed within four (4) years of the date of this permit.

The Responsible Authority may extend the periods referred to if a request is made in writing before the permit expires, or within three months afterwards.

5. The signage approved as part of this permit expires 15 years from the date of issue.

Date issued: 18 September 2012

Planning and Environment Regulations 2005 Form 4

Signature for the Responsible Authority

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

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/89626

1. Executive summary

To inform Council of Victorian Civil and Administrative Tribunal (VCAT) determinations received the previous month and to show the progress of VCAT outcomes for the financial year.

All councils are required to report to the Local Government Performance Reporting Framework (LGPRF) each year on the timeliness (SP1), service standard (SP2), cost per application (SP3) and decision quality of Statutory Planning (SP4).

The LGPRF measure SP4 used by the State Government to assess the quality of Council’s decision making is the number of decisions made by Council that were not overturned or ‘set aside’ by VCAT on appeal by either the application or objectors.

Council has a target for 2017/18 that 50% of all Planning & Amenity Committee and Delegated Officer decisions should not be set aside by VCAT. This is comparable with other inner urban Council’s in Melbourne such as Port Phillip and Stonnington.

The LGPRF measure does not include applications to amend VCAT issued permits (Section 87A applications) or appeals which are withdrawn by the applicant or objector prior to a hearing.

For the 2017/18 financial year, Council has received 73 decisions, of which 6 have been withdrawn and 1 was struck out. The total number of LGPRF measured decisions for the year to date is therefore 66. This table below reflects the new 2017/18 LGPRF reporting requirements for Council.

<table>
<thead>
<tr>
<th>Time period</th>
<th>Decisions where the Council Delegate or Committees decision has been overturned or ‘Set Aside’</th>
<th>Decisions where the Council Delegate or Committees decision has been agreed with, either having been entirely ‘affirmed’ or the conditions of the permit ‘varied’</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q1 – 2017/18</td>
<td>13</td>
<td>9</td>
</tr>
<tr>
<td>Q2 – 2017/18</td>
<td>14</td>
<td>16</td>
</tr>
<tr>
<td>January 2018</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>February 2018</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>TOTAL DECISIONS</td>
<td>36</td>
<td>30</td>
</tr>
</tbody>
</table>

LGPRF Result  54%  46%

Attachments 1 included provides a summary of each case identifying the key issues for Council policy and strategy.
The decisions reported in the attached February 2018 VCAT Report were determined by the current Councillor group.

2. Recommendation
That the report on the VCAT decisions on the planning applications handed down during February 2018 be received and noted.

Support Attachments
1. VCAT Determined appeals Feb 2018
VCAT Determined Appeals from 1/02/2018 to 28/02/2018

Subject land: 45 - 51 Royal AVE, SANDRINGHAM
Application no.: 2017.182.1
VCAT reference no.: P1917/2017
Applicant: G.L. Purcell
Referral Authority: N/A
Respondents: Firbank Grammar - Sandringham House

VCAT Member: Joel Templar
Date of hearing: 22/02/2018
Date of order: 22/02/2018
Proposal: curtilage of Primary School (Retrospective)
Building and Works comprising the erection of two sheds within

Officer recommendation/ Delegate determination: Notice of decision
Council determination: Not applicable
Appeal type: Notice of Decision to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Varied Permit to issue
LGPRF outcome: AFFIRMED

Comments:
The subject site is located within Neighbourhood Residential Zone (Schedule 3) and is covered by Heritage Overlay (Schedule HO5078).

On 28 July 2017 Council issued a Notice of Decision to grant a Planning Permit restretospectively for buildings and works comprising the erection of two sheds within the curtilage of Firbank Grammar, Pursuant to Section 82 of the Planning and Environment Act 1987 an application for Review was lodged against Council’s decision by the objector to the application.

In their Order dated 22 February 2018 The Tribunal varied the decision of the responsible authority with a permit being granted subject to an additional condition. The Tribunal required that condition 2 be applied to the permit to ensure that 'noisy vehicles and mechanical equipment including, but not limited to, lawn mowers, edging tools and leaf blowers must not be used in the Sheds or operated in the immediately surrounding area shown hatched on the annexed plan outside of the hours of 8:00am to 5:00pm on any day'.
Subject land: 3 Primrose CRES, BRIGHTON EAST
Application no.: 2017.174.1
VCAT reference no.: P2654/2017
Applicant: D Spirdonoff & R Burnell
Referral Authority: N/A
Respondents: J Lambris, D Spirdonoff & R Burnell

VCAT Member: G Rundell
Date of hearing: 30/01/2018
Date of order: 20/02/2018
Proposal: Construction of a double storey dwelling to the rear of the existing dwelling

Officer recommendation/ Delegate determination: Notice of decision
Council determination: Notice of decision
Appeal type: Conditions
Plans substituted (prior to hearing): No

VCAT determination: No permit issued
LGPRF outcome: SET ASIDE

Comments:

The Bayside City Council (the Council) issued Notice of Decision 5/2013/748 in April 2015 for the proposed development. In October 2015, the Tribunal set aside the council’s decision and ordered that no permit be granted.

In July 2017, the council issued Notice of Decision 5/2017/174/1 for a second dwelling to the rear of the existing dwelling. The proposal is very similar to the development refused by the Tribunal in 2015.

The two adjoining neighbours seek a review of the Council’s decision. The permit applicant also seeks a review of Conditions 1a and 1b in the Notice of Decision. The two conditions increases the second dwelling’s setbacks to the south boundary and requires the proposed carport to be replaced with an open car space.

The Council determined to issue the Notice of Decision on the basis that the proposed second dwelling varies from the proposal refused in 2015, and the dwelling now before the Tribunal has responded to the Tribunal’s findings. It says the proposed Dwelling 2 would be modest in height and scale, it would fit into the character of the area, and it would provide acceptable amenity for its neighbours and future residents.

The permit applicant agrees with the council’s assessment and decision. It requests that two conditions be deleted because it says the required changes would detract from the amenity of the second dwelling.

The neighbours say the proposed second dwelling has not responded to the findings of the previous Tribunal and there are no reasons for the Tribunal’s previous decision to be reversed. They say the proposed second dwelling would adversely affect the amenity of their respective dwellings through excessive visual bulk. They also say it would not comply with planning policy as it does not comfortably fit into the character of the neighbourhood. It also seeks variations to the schedule to the zone and standards of clause 55. They say these variations are symptoms of overdevelopment.

The member concluded that this application is a repeat appeal. The Tribunal directed Council not to issue a permit given the neighbourhood character reasons and the combination of the limited setbacks, the height, the limited articulation and the limited separation between the two dwellings would comprise unacceptable, unrelenting and unbroken visual bulk when viewed from the habitable rooms and the secluded private open space of No.1 Primrose Crescent and impact on the amenity. Therefore the decision was set aside.
Subject land: 26 South RD, BRIGHTON
Application no.: 2016.754.1
VCAT reference no.: P1745/2017
Applicant: Brett Jarick
Referral Authority: N/A
Respondents: N/A

VCAT Member: Vicki Davies
Date of hearing: 7/02/2018
Date of order: 19/02/2018
Proposal: Part demolition and construction of a front fence in a heritage overlay (HO341) and create access to a road in a Road Zone, Category 1.

Officer recommendation/Delegation determination: Refusal
Council determination: Not applicable
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Permit to Issue
LGPRF outcome: SET ASIDE

Comments:

The application was lodged with Council on 17 November 2016 for the **part demolition and construction of a front fence in a heritage overlay (HO341) and create access to a road in a Road Zone, Category 1.**

Located in the Neighbourhood Residential Zone, Schedule 3, the subject site is affected by the Design and Development Overlay, Schedule 1, the Development Contributions Plan Overlay Schedule 1. Significantly, the site is protected by Heritage Overlay, 341 ‘Charleston’ and is characterized by wide frontage of approximately 27m and an area of approximately 1600m².

At the conclusion of the notice period, one objection was received that was later withdrawn.

The application was refused on 5 June 2017 on the grounds of the application failing to respond to the objectives and performance standards of Clause 22.05 (Heritage Policy) and the Decision Guidelines of Clause 43.01 (Heritage Overlay). Specifically, the impacts of the construction of a second crossover to the allotment, subsequent installation of a new gate, and landscaping matters.

The applicant applied to the Tribunal on 28 July 2017 for a Section 77 review of Councils refusal to issue a planning permit. The Tribunal found that the proposal would not adversely impact upon the heritage qualities of the building and moreover, that the proposed alterations to the fence would increase the visibility and improve the visibility of the heritage place to the public realms.

A permit subject to conditions was directed to be issued by the Tribunal on 19 February 2018.
Subject land: 9 Gramatan AVE, BEAUMARIS
Application no.: 2016.775.1
VCAT reference no.: P1828/2017
Applicant: Clayrust Holdings Pty Ltd
Referral Authority: N/A
Respondents: BCSInc & J Paterson

VCAT Member: Graeme David
Date of hearing: 7/02/2018
Date of order: 26/02/2018
Proposal: Removal of two (2) native trees in land covered by a Vegetation Protection Overlay Schedule 3 (VPO-3)

| Officer recommendation/ Delegate determination | Notice of decision |
| Council determination | Refusal |
| Appeal type | Refusal to Grant a Permit |
| Plans substituted (prior to hearing) | No |
| VCAT determination | Permit to Issue |
| LGPRF outcome | SET ASIDE |

Comments:

The Tribunal in its Order dated 26 February 2018 overturned Council’s decision and granted a planning permit to the Applicant to remove two (2) native trees in a VPO-3 sited in the front setback in an “as of right development” of a single replacement dwelling at the subject site, known as No. 9 Gramatan Street, Beaumaris. The Tribunal in finding for the Applicant held that whilst the Objectives of the VPO-3 establish the principle of valuing native trees generally, it places strong emphasis upon the retention of indigenous Australian trees. Therefore, on the basis of this reasoning the subject trees being native not indigenous could be removed.

Although Tree No. 1, a Smooth Barked Myrtle or Lemon Scented Gum undeniably contributed to the local landscape character as a tall mature canopy tree, the Tribunal held that given its fungal disease it was well past its prime. The Tribunal accepted the expert evidence of the Applicant’s Arborist that Tree No. 1 was in poor condition and had started to die. It also accepted the expert evidence that Tree No. 2 although exhibiting good health with long life expectancy was compromised structurally by being propped up by Tree No. 1. The Tribunal also found it acceptable that a time frame of 15 years would be needed before the replacement tree would make a similar contribution as the tree to be removed. The Tribunal also accepted that Tree No. 2, a Coastal Tea Tree which is an indigenous tree would suffer physically from the removal of its supporting Tree No. 1 and could be removed.

The Tribunal placed emphasis in its decision upon the replacement trees being indigenous with projected heights at maturity of 15 metres and 8 metres respectively. It also expressed strong reservations about the long term appropriateness of very large trees such as Tree No 1 being retained in residential settings with their propensity to drop limbs.
Subject land: 25 Glyndon AVE, BRIGHTON

Application no.: 2016.645.1

VCAT reference no.: P367/2017

Applicant: Mario Paul Salvo

Referral Authority: N/A

Respondents: N/A

VCAT Member: C Daicic

Date of hearing: 8/02/2018

Date of order: 6/02/2018

Proposal: Extension to a roof deck above the second storey of the existing dwelling in a Design and Development Overlay Schedule 1

Officer recommendation/Delegate determination: Refusal

Council determination: Not applicable

Appeal type: Refusal to Grant a Permit

Plans substituted (prior to hearing): Yes

VCAT determination: Permit to Issue

LGPRF outcome: SET ASIDE

Comments:

Planning Permit Application 2016/645 sought retrospective approval for an extension to a roof deck above the second storey of the existing dwelling a Design and Development Overlay Schedule 1. The application was refused under delegation as it was considered that the proposed works failed to comply with the roof deck requirements of the Design and Development Overlay Schedule 1. The applicant appealed Council’s decision and a consent order was granted following the circulation of amended plans by the applicant which demonstrated compliance with the requirements of the Design and Development Overlay Schedule 1. The Tribunal, in its Order dated 6 February 2018 set aside Council’s decision and directed a permit to be granted.
Subject land: 1/19 Giebe AVE, CHELTENHAM
Application no.: 2017.54.1
VCAT reference no.: P2233/2017
Applicant: Ross Cooper Johnston
Referral Authority: N/A
Respondents: N/A

VCAT Member: Margaret Baird
Date of hearing: 12/02/2018
Date of order: 12/02/2018
Proposal: Alterations and additions to a dwelling including a ground storey extension and upper level addition

Officer recommendation/Delegate determination: Permit granted
Council determination: Not applicable
Appeal type: Conditions
Plans substituted (prior to hearing): No

VCAT determination: Varied Permit to Issue
LGPRF outcome: AFFIRMED

Comments:

Council issued a planning permit for alterations and additions to a dwelling including a ground storey extension and upper level addition. The applicant lodged an appeal to contest the following 3 conditions:

a) Heights of the proposed walls on boundaries to be reduced to comply with Standard A10 of Clause 54 the Bayside Planning Scheme.

b) Overall building height of the proposed extension to be reduced by 500mm.

c) The minimum rear setback from the proposed rear façade to be increased to 3m measured from the title boundary.

The Tribunal decided to delete these conditions given both adjoining properties did not object on this application and they considered these impacts will be limited.
Subject land 55 Orlando ST, HAMPTON
Application no. 2014.386.4
VCAT reference no. P 2142/2017
Applicant K Walsh & T Loffell
Referral Authority N/A
Respondents N/A

VCAT Member Laurie Hewet
Date of hearing 20/02/2018
Date of order 23/02/2018
Proposal Construction of a triple storey dwelling (including an attic) on a lot less than 500 square metres and in a Design Development Overlay Schedule 12

Officer recommendation/ Delegate determination Amended permit granted
Council determination Not applicable
Appeal type Conditions
Plans substituted (prior to hearing) No

VCAT determination Varied Permit
LGPRF outcome AFFIRMED

Comments:

This was an Application for Review against certain conditions placed by Bayside City Council on an Amended Permit. The condition is dispute related to a permanently fixed screen on the south west elevation of a balcony. Council was represented by Jason Kane at the hearing. The Tribunal gave oral reasons for its decision at the end of the hearing.

Essentially, it replaced Condition 1(j) with a new condition:

Condition 1(j) was amended to read:

(j) A 800mm high permanently fixed privacy screen must be located 1.3m from the south west edge of the balcony balustrade. The Tribunal also added an additional condition

A new condition was included as follows:

(k) The notation on the second floor plan referring to a permanently fixed privacy screen on the balcony to the south west elevation, must be deleted.
5. Confidential Business

Nil

As Acting 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.

Mick Cummins

Acting Chief Executive Officer