Agenda

for the

Planning & Amenity Committee Meeting

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

on

Tuesday, 17 April, 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
4. Matters of Decision
   4.1 12 Meredith Street, Sandringham Notice of Decision to Grant a Planning Permit Application No: 2017/569 Ward: Southern
   4.2 220-228 Bay Road, Sandringham Support the Grant of an Amended Planning Permit Application No: 2010/232/8 Ward: Southern
   4.3 2 Huntingfield Road, Brighton Notice of Decision to Grant a Planning Permit Application No: 2017/36/1 Ward: Northern
   4.4 2/1 Oak Grove BRIGHTON Notice of Decision to Grant a Planning Permit Application No.: 2017/628/1 Ward: Northern
   4.5 Park Road, Cheltenham (Victoria Golf Club) Notice of Decision to Grant a Planning Permit Application No: 2015/779/2 Ward: Southern
   4.6 44 Graham Road, Highett Notice of Decision to Grant a Planning Permit Application No: 2017/614/1 Ward: Central
   4.7 4 Susan Street, Sandringham Notice of Decision to Grant a Planning Permit Application No: 2017/506 Ward: Central
   4.8 274 Bluff Road, Sandringham Notice of Decision to Grant a Planning Permit Application No: 2017/497 Ward: Southern
   4.9 2A Bonleigh Avenue, Brighton Notice of Decision to Amend a Planning Permit Application No: 2016/445/2 Ward: Northern
   4.10 52 Ardoyne Street, Black Rock Grant a Planning Permit Application No: 2017/601/1 Ward: Southern
   4.11 VCAT Report

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5. Confidential Business

Nil

Next Meetings 2018

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

2. Declarations of Interest

3. Adoption and Confirmation of the minutes of previous meeting

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

4.1 12 MEREDITH STREET, SANDRINGHAM
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/569  WARD: SOUTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/18/52088

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>Peter Barglowski</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>1 July 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>160</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 (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>6</td>
</tr>
</tbody>
</table>

Proposal
The application seeks approval for the construction of three, double storey dwellings on a lot with an area of 1,015sqm. Key details of the proposal are as follows:

- Three double storey dwellings, comprising two x 4 bedroom units and one x 3 bedroom unit
- The proposal is on a corner site with one unit fronting Meredith Street, the other two fronting the side lane to the south
- The maximum building height is 8.2 metres
- Site coverage is 49.4sqm
- Site permeability 31%
- Total of six car spaces, two spaces per dwelling

The application plans are provided at Attachment 1.

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

History
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.
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 six objections were received. The following concerns were raised:

- Lack of landscaping opportunities;
- Encroachment of the Tree Protection Zone of the Liquid Amber within the front setback;
- Neighbourhood character.
- Traffic congestion;
- Visual bulk and lack of visual amenity;
- Overlooking into private open space and windows;
- Pedestrian safety along the laneway;
- Garages and driveways should be further setback to meet those of 33a and b and 35, 1 and 2 Tulip Street;
- Trespass onto driveways of Tulip Street properties with rear garages bounding the laneway.
- Construction would impeded access to communal driveway;
- Gravel surface of laneway should be maintained;
- Retention of fence along the laneway;
- Emergency service and garbage truck unable to enter the laneway;

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

Consultation meeting
A consultation meeting was held on 8 January 2018 attended by the permit applicant and 3 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 provisons of the Bayside Planning Scheme in respect of **Planning application 2017/569** for the land known and described as **12 Meredith Street, Sandringham, for the construction of three double storey 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 plans submitted with the application prepared by Fd Architects Pty Ltd, dated 18 October 2017, but modified to show:
   a) Unit 1, first floor side setback to northern boundary increased to 3.8m.
   b) Units 2 and 3 first floor side setbacks to northern boundary increased to 3.8m and 3.92m respectively.
   c) Delete the double garage to Unit 3 and replace with a carport, designed so that the area of the roof within the easement should be easily removable and detached to the rest of the carport.
   d) A minimum 2m x 2m corner splay to be provided at the south west corner of the property complying with the requirements of Clause 52.06.
   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) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
   g) A Landscaping Plan in accordance with Condition 10 of this permit.
   h) Water Sensitive Urban Design measures in accordance with Condition 8 of this permit.
   i) Development Contributions are payable in accordance with Condition 24 of this permit.

All to the satisfaction of the Responsible Authority.

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

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

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

5. All pipes (excluding downpipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
6. Before the occupation of the site commences, screening of windows including fixed privacy screens be designed to limit overlooking as required by Standard A15 / 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 Fd Architects Pty Ltd, reference TP09, dated 23 October 2017 and be drawn to scale with dimensions. 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) Canopy tree planting in accordance with Bayside City Council Guidelines 2016.

   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.

16. Any pruning that is required to be done to the canopy of any tree to be retained (Tree #3 a Sweet Gum) is to be done by a qualified Arborist to Australian Standard – Pruning of Amenity Trees AS4373-1996. Any pruning of the root system of any tree to be retained (Tree #3 a Sweet Gum) is to be done by hand by a qualified Arborist.

**Street tree protection**

17. Soil excavation must not occur within 1.5 metres of the nature strip planting.

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

Drainage

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

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

Laneway

22. Before the occupation of the site commences the unconstructed laneway to the south of the site must be designed and constructed in accordance with Council's standards at the applicant’s cost.

Construction Management Plan

23. 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.

Development Contributions

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

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

Permit Expiry

25. 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.

• Before the development starts, the permit holder must apply to South East Water for approval to build over a South East Water’s easement(s) or within 1.0 metre of a water supply, sewerage and/or recycled water asset(s).

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

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

Relevant strategies of the Council plan include:

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

**Bayside Planning Scheme**

• Clause 9 Plan Melbourne

• Clause 11 Settlement

• Clause 16 Housing

• Clause 21.03 Settlement and Housing

• Clause 21.04 Environmental and Landscape Values

• Clause 22.06 Neighbourhood Character Policy (Precinct G1)

• Clause 22.08 Water Sensitive Urban Design

• Clause 32.09 Neighbourhood Residential Zone (Schedule 3)

• Clause 43.02 Design and Development Overlay (Schedule 3)

• Clause 45.06 Development Contributions Plan Overlay

• Clause 52.06 Car Parking

• Clause 55 Two or more dwellings on a lot

• Clause 65 Decision Guidelines

6. **Considerations**

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

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

The development is setback 9m from the street and from both boundaries and is well articulated breaking up the built form, continuing the appearance of space between buildings and allowing substantive planting. The proposal is a two storey form with separation between each dwelling at upper level. Painted render and wood cladding have been proposed which also helps to break up the built form and addresses the neighbourhood character. A 1.2m picket fence is proposed which will help maintain the openness of the streetscape.

There are two established trees within the front setback, the applicant is proposing to retain one canopy tree (a large Sweet Gum) and remove another (a Box Elder). It is not considered that the removal of this tree will be detrimental to the preferred future character of the area, it is not native, is mid sized and more suitable tree planting is to be included in the landscape plan, in accordance with Condition 10.

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:

Standard B6 – Street setback objective

The site is on a corner with Unit 1 facing Meredith Street. The minimum setback requirement for this Unit is 9m, the application complies with this requirement.

Unit 2 and 3 front the side laneway and as such the minimum setback requirement is 3m. The application proposes a variety of setbacks to these dwellings including 4.3m, 3.4m and 2.98m. Therefore, there is only a portion of the setback which is non compliant, with variation of only 0.02m. The dwellings are well articulated along the interface, dwellings are separated from each other at a first floor level as well as setback from the proposed ground level. It is considered that the application still meets the objectives and makes efficient use of the site.

Standard B17 – Side and rear setbacks objective

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor (measured from west to east)</th>
<th>First Floor (measured from west to east)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2.0m</td>
<td>3m, 4.5m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2.0m</td>
<td>2.5m, 2.98m, 3.4m, 4.3m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3.0m</td>
<td>0m, 3.26m</td>
</tr>
</tbody>
</table>

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

The largest area of non-compliance along the northern boundary first floor level is to Unit 1 (by 1.38m) and this is due to the slope of the land at this point. Condition 1a of the permit, requires that the setback of Unit 1 be increased to 3.8m and Condition 1b requires setbacks to Unit 2 and 3 increased to 3.8m and 3.92m respectively. This would ensure that all setbacks are consistent with each other and that there is only one remaining area of non-compliance. The condition would have minimal impact on the design of the dwellings. Due to the orientation of the site, the articulation of the buildings it is not
considered that these area of numeric non-compliance detrimentally impacts amenity.

The southern side boundary abuts the laneway. Unit 2 and 3 both face the laneway, once the development is completed, the properties will be subdivided and this side setback will become the front setback for these properties and as front setbacks are mainly compliant (apart from a small 0.02m incursion, see Standard B6 above). In addition, the laneway along this boundary is 3m wide from the boundary of 12 Meredith Street to 14 Meredith Street, 33, 33a, 1/35, 2/35 and 37 Tulip Street. If taken into consideration this is a more than adequate separation/setback from the southern residential lots. Furthermore, this is the rear of those properties abutting the laneway to the south, it is generally made up of driveways and garages, again limiting the impact of the amenity of these existing dwellings. There is no impact of overshadowing to these dwellings and the well-articulated units help break up the perceived bulk and scale.

The upper storey rear setback to the east is non-complaint by 0.5m. The eastern boundary abuts the rear of the property at 23 Wentworth Avenue where there is a large garage and shed on the boundary. There is no overshadowing to the private open space or to the actual dwelling of this property. Furthermore, once the development is completed and the units subdivided this will become a side setback and as such this setback exceeds the requirement by 0.5m.

Therefore, subject to conditions, it is considered that proposed development meets the objectives of Standard B17.

Concerns were raised in the objections regarding the visual bulk of the proposal to 10 Meredith Street. As addressed above, it is considered that the setbacks are reasonable and that there is enough visual separation and articulation to break up the perceived bulk and scale of the form.

### 6.3 Landscaping

The application plans show the removal of 6 trees from the site all of which are exotics and the retention of one large Liquid Amber (16m high) within the front setback. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. It is noted that there is no statutory mechanism in place (overlay) that protects any of the vegetation on site.

<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>1</td>
<td>5</td>
</tr>
</tbody>
</table>

Council’s Arborist in their referral response advised that the subject site has two mature canopy trees, within the front setback. One is a *Liquidamber styraciflua* (Liquid Amber), which the applicant is proposing to retain. The proposed building envelope requires a minor encroachment, of 6% into this tree’s tree protection zone (TPZ). This is considered tolerable as TPZs encroachment of under 10% are normally acceptable under AS 4970 *Protection of Trees on Development Sites* 2009.

The other mature canopy tree is an *Acer negundo* (Box Elder), which is proposed to be removed. The Box Elder cannot be retained within this proposal however there is sufficient room for replacement planting within the front setback.

The remainder of the vegetation is made up of three *Betula pendula* (Silver Birch), a *Camellia japonica* (Camellia) and a *Agonis flexuosa* (Willow Myrtle) as well as some smaller shrubs. The remainder of the existing vegetation has *low/moderate* amenity value and the Council’s arborist has no objection to its removal.

Condition 10 will require canopy tree planting in accordance with Bayside City Council Guidelines 2016.
6.4 **Street tree(s)**

There are three nature strip plantings fronting the property and they are proposed for retention. Council’s Street Tree Arborist has advised that these nature strips plantings will require protection if they are to be retained.

Condition 17 of the permits require that there is no soil excavation within 1.5m of the nature strip planting. Tree protection fencing is to be installed around the nature strip planting in compliance with AS4970 – 2009 as per Condition 18.

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.

Unit 1 comprises four bedrooms and is afforded two car parking spaces in the form of a double garage. Unit 2 comprises three bedrooms and has a double garage and Unit 3 has four bedrooms and also has a double garage. The proposed on site car parking meets the requirements of Clause 52.06-5.

The application was referred to Council’s Traffic Engineer. Concerns were raised in regard to vehicle access via an unconstructed laneway. Permit condition 23 requires that the laneway must be designed and constructed in accordance with Council standards at the applicants cost as well as the provision of suitable lighting along the laneway.

Another condition of permit (Condition 1d), is that a 2m x 2m splay to be provided at the south-west corner of the property complying with Clause 52.06.

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 as each unit has adequate provision of car spaces A OWE Clause 52.06. Visitor car parking is not required to be provided for this number of dwellings. Furthermore, car parking congestion was not raised as a concern by Council’s Traffic Engineer.

Concerns were also raised by objectors in regard to traffic and pedestrian conflict. This was not raised as an issued by Council’s Traffic Engineers and a shared laneway with no pedestrian path is not an uncommon occurrence.

Further concerns were raised in regard to the proposal having to trespass and rely on other people’s driveways to exit the site. Swept paths were provided by the applicant to show that vehicle access and egress is feasible to/from garages complying with AS2890.1. Council’s Traffic Engineer has stated that the swept paths are satisfactory.

It is understood that the garages and driveways of 33a and b and 35, (1 and 2 Tulip Street were required to be further setback from the laneway to enable a car to manoeuvre out without having to cross over onto neighbouring driveways. The proposal has a common property (shared driveway to Unit 1 and 2) so the smaller setback is adequate for efficient manoeuvrability. Council’s Traffic Engineer is satisfied with the driveway and garage setbacks to the proposal. Each permit application is assessed on its own merits, previous planning decisions on neighbouring properties do not set a precedent.

6.6 **Sewerage Easement**

There is a south east water sewerage pipe running along the eastern boundary of the Lot. To build on or near an easement permission is required from South East Water, this can be obtained after a planning permit is approved.

Unit 3 proposes a double garage along the boundary where the sewerage line is located. Condition 1c will require that this be amended to a carport and designed so that the area of the roof within the easement should be easily removable and detached to the rest of
the carport. A permit note requires that before the development starts, the permit holder must apply to South Easter Water for approval to build over an easement.

6.7 **Development Contributions Levy**

The subject site is located within catchment area 18.

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 24 the permit.

6.7 **Objector issues not already addressed**

**Lack of landscaping opportunities**

A lot size of above 650sqm requires the minimum percentage of lot set aside as garden area at ground level of 35%. The lot size of 12 Meredith Street is 1015sqm which would require 355.4sqm of garden area. The application proposed 440sqm of garden area (43.2%) of site area so therefore exceeds the requirements of the zone, allowing suitable opportunities for landscaping. Permit Condition 10 will require that the landscaping addresses the City of Bayside Landscape Guidelines.

**Construction would impede access to the communal laneway**

Permit Condition 24 will require a Construction Management Plan which would include how the applicant is to access the site.

**Retention of fencing along the laneway**

Boundary fences are a civil matter and are not considered as part of a planning application.

**Emergency services and garbage truck will not be able to access the laneway**

This is not a planning consideration.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
Please note that this aerial view is out of date. 10 Meredith Street is now a vacant site with a current planning permit (2016/589) to build two double storey dwellings, with basement car parking.
Figure 2 - 12 Meredith Street frontage
Figure 3 – 8 Meredith Street (to the far left is 3 double dwellings), 10 Meredith Street (currently vacant, has a permit for 2 double storey dwellings with basement car parking) and 12 Meredith Street

Figure 4 – Side laneway between 12 and 14 Meredith Street
Neighbourhood Character Precinct G1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden setting of the dwellings | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible. Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds | Responds  
The submitted landscape plan demonstrates that space will be retained around the dwellings for planting. Whilst it is noted that some trees will be removed from the site, the existing large Sweet Gum will be retained in the street setback. Subject to appropriate landscaping responding to the Bayside Landscape Guidelines, (Condition 10) the proposal would respond appropriately to the garden character of the area. |
| To maintain the rhythm of visual separation between buildings | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds  
The development has been set back from the side and rear boundaries. This ensures that space will be retained around the dwellings for the planting of trees and shrubs. Furthermore, the street setback accords with those of neighbouring properties and the first floor side setbacks create an appearance of visual separation around the dwellings which will be evident from the street and laneway. |
| To ensure that new buildings provide an articulated and | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting | Large, bulky buildings with poorly articulated | Responds  
The proposed dwellings incorporate a number of different projections. The |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>interesting façade to the street.</td>
<td>elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.</td>
<td>front and side wall surfaces.</td>
<td>front porches of all dwellings are forward of the buildings. There are upper level projections and the use of different materials, colours and textures which all add to the creating interesting façade to the street and laneway.</td>
</tr>
<tr>
<td></td>
<td>• Use pitched roof forms with eaves.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>To maintain the openness of the streetscape</td>
<td>High solid front fencing</td>
<td>Responds</td>
<td>A 1.2m high painted timber pickets of varying widths, retaining the openness of the streetscape.</td>
</tr>
</tbody>
</table>
## ATTACHMENT 4
ResCode (Clause 55) Assessment

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer 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><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>The subject site is appropriately located with regard to services and facilities to support three dwellings.</td>
</tr>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies. Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B4 Infrastructure</strong></td>
<td>Yes</td>
<td>Any upgrades required will be the responsibility of the developer.</td>
</tr>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B5 Integration with the Street</strong></td>
<td>Yes</td>
<td>The dwellings appropriately address the street. Unit 1 fronts and has pedestrian access from Meredith Street. Vehicle access to the dwelling’s garage is from the side laneway. Units 2 and 3 face the laneway with both pedestrian and vehicular access from the lane.</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>No</td>
<td>Refer to Report</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>Minimum setback required:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Unit 1 – 9m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Units 2 and 3 – 3.0m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Proposed setback:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Unit 1 – 9m</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Unit 2 – 2.98m, 3.46m</td>
</tr>
<tr>
<td>Item</td>
<td>Category</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
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<td>-------------</td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td></td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td></td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td></td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td></td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td></td>
<td>Integrate layout of development with any public and communal open space provided in or adjacent to the development.</td>
</tr>
<tr>
<td><strong>B12 Safety</strong></td>
<td></td>
<td>Layout to provide safety and security for residents and property.</td>
</tr>
<tr>
<td><strong>B13 Landscaping</strong></td>
<td></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>
</tr>
</tbody>
</table>
**B14 Access**
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Yes</td>
<td>Appropriate vehicular access is provided. <strong>Maximum:</strong> 30% of street frontage <strong>Proposed:</strong> 19.8%</td>
<td></td>
</tr>
</tbody>
</table>

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

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

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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>No</td>
<td>Refer report and table below.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m or 2.0m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m or 2.0m</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0m or 3.0m</td>
</tr>
</tbody>
</table>

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

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Yes</td>
<td>Maximum wall length of the eastern boundary is 11.75m. Maximum Wall Height allowed is 3.2m. <strong>Proposed:</strong> Wall length is 7.4m. Wall height is 3m.</td>
</tr>
</tbody>
</table>

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

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

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

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

**B21 Overshadowing Open Space**

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>4.1</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
</tr>
</tbody>
</table>
| B22  | **Overlooking**  
Limit views into existing secluded private open space and habitable room windows. | Yes | The first floor habitable room windows within 9m of a neighbouring dwelling have sill heights of 1.7m above finished floor level to prevent overlooking. At ground floor level, fencing between the site and neighbouring properties to a height of approximately 2m restricts views to these neighbouring dwellings and secluded private open space. |
| B23  | **Internal Views**  
Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development. | Yes | At ground level, fencing to a height of 1.8m will prevent internal overlooking whilst windows at first floor level have been adequately located and screened to limit internal overlooking to less than 50%. |
| B24  | **Noise Impacts**  
Protect residents from external noise and contain noise sources in developments that may affect existing dwellings. | Yes | The development will not generate any noise above that typically expected from residential buildings. |
| B25  | **Accessibility**  
Consider people with limited mobility in the design of developments. | Yes | Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required. |
| B26  | **Dwelling Entry**  
Provide a sense of identity to each dwelling. | Yes | The proposed entries provide adequate shelter and are easily identifiable from the street. |
| B27  | **Daylight to New Windows**  
Allow adequate daylight into new habitable room windows. | Yes | All habitable windows have direct access to daylight. |
| B28  | **Private Open Space**  
Provide reasonable recreation and service needs of residents by adequate pos. | Yes | **Minimum:** 25m² secluded, 40m² overall  
**Proposed:**  
Unit 1: 59m² secluded, 245m² overall  
Unit 2: 67m² secluded, 85m² overall  
Unit 3: 90 m² secluded, 119 m² overall |
| B29  | **Solar Access to Open Space**  
Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Appropriate solar access to the private open space areas is provided. |
| B30  | **Storage**  
Provide adequate storage facilities for each dwelling. | Yes | Storage space of 6m³ in size is provided in each of the garages.  
6m³ of storage is provided in the garage and shed of dwelling 2. |
| B31  | **Design Detail**  
Refer Attachment 3. | Yes |   |
Encourage design detail that respects the existing or preferred neighbourhood character.

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

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

<table>
<thead>
<tr>
<th><strong>B34 Site Services</strong></th>
<th>Yes</th>
<th>Plans show space for meters, storage and clotheslines alongside the entries of each dwelling. Mailboxes have been provided at the front entry to each dwelling.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
4.2 220-228 BAY ROAD, SANDRINGHAM  
SUPPORT THE GRANT OF AN AMENDED PLANNING PERMIT  
APPLICATION NO: 2010/232/8  WARD: SOUTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/18/78236

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Support the Grant of an Amended Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Blue Print Developments 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>6 November 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>N/A (application made directly to VCAT)</td>
</tr>
<tr>
<td>Zoning</td>
<td>Mixed Use Zone</td>
</tr>
</tbody>
</table>
| Overlays       | Development Contributions Plan Overlay (DCPO)  
Environmental Audit Overlay (EAO) |
| Number of objections | 7 |

Proposal

This is to report an amendment to planning application 5/2010/232/8 which has been made directly to the Victorian Civil and Administrative Tribunal (VCAT) pursuant to Section 87A of the Planning and Environment Act (cancellation or amendment of permit issued at direction Tribunal).

The amendments are as follows:

- Increase in the building height of the central building from eight to nine stories (only associated with the rear aspect of the building)
- Three x three bedroom dwellings, over approximately 550 square metres of built form
- Two car spaces per new dwelling (in accordance with the car parking guidelines)

The purpose of this report is to form a position on the amended application.

Seven statement of grounds have been received for this appeal, with four objectors listed to be heard at the hearing (parties to the appeal).

A compulsory conference was held on Monday, 19 February 2018. A unanimous position between all parties was not reached. Therefore, the matter is listed for a three day hearing commencing 7 May 2018.

The application plans are provided at Attachment 1.

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

History

The subject site, and already constructed development, has been before the Victorian and Civil Administrative Tribunal on two separate occasions.

The matter was firstly held before VCAT in November 2010 pursuant to Section 79 of
the Planning and Environment Act 1987 (failure to grant a permit). The Tribunal received 147 statement of grounds for this appeal.

The proposal sought the central building (which is pertinent aspect relevant to this amendment) to have a height of eight stories. In discussing the eight storey aspect the tribunal held:

45. The preferred maximum height limit of 14 metres is a discretionary limit. The idea that buildings might exceed this limit on a very large site with an area of 2.35 hectares and with no significant sensitive interfaces should be uncontroversial.

On the basis of the above, the tribunal ordered Council to issue a planning permit for a development with a building height up to eight stories.

The second time the matter was held before the Tribunal was in August 2014 pursuant to Section 87A of the Planning and Environment Act 1987 (cancellation or amendment of permit issued at direction of Tribunal). The tribunal received 62 statement of grounds for this appeal.

This amendment, amongst other things, sought to increase the height of the highest portion of the existing building from eight to 10 stories. In determining this application, the Tribunal held:

36. ...in our opinion the building as it currently stands should not be properly regarded as being an inappropriate departure from the strategic purpose of the preferred height limit.

37. on the other hand we are concerned that the two additional stories proposed will render the existing eight storey portion of the building a distinctly different building element. Instead of being an unremarkable variation in height, comfortably consistent with four and five stories inherent to the preferred height limit it becomes an obviously different element standing out from the conventional building heights which are to emerge as consequence of the operation of the preferred height. Ultimately we consider that the proposed two-storey extension will result in an inappropriate departure from the preferred height limit specified in clause 22.04 and the strategic purpose to respect the generally low rise nature of development throughout Bayside, whilst providing some incentive for redevelopment of former industrial sites.

40. from an architectural perspective we have reservations about the design resolution of the proposed additional levels. It was suggested that the proposed levels would provide the building with a cap enhancing the appearance of the building. We are concerned that the design proposes a new structure which is too large and does not respond well enough to the articulation or stepped design to be a successful addition to the existing building.

On the basis of the above, the Tribunal did not grant permission for the 10 storey element. The residual aspect of the amendment (noting that they are discussed in this report as they are not pertinent to this amendment) were supported.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.04-6 (Mixed Use Zone) – 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

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

Public notification

The application was advertised at the direction of VCAT, whereby seven statement of grounds were lodged. Four of the objector parties have nominated to be heard at the hearing. The following concerns were raised:

- Consistency with previous VCAT decision
- Construction noise
- Property values
- Structural integrity/building faults/body corporate issues

Consultation meeting

As detailed above, a compulsory conference was held at VCAT on 19 February where a unanimous position between all parties was not reached.

4. Recommendation

That Council resolve to:

Support the grant of amended permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2010/232/8 and VCAT Reference P2524/2017 for the land known and described as 220-228 Bay Road, Sandringham, for the construction of buildings and associated works, the use of the land for accommodation (serviced apartments), medical centre, shop, licensed shop, licensed food and drink premises (café), and office, sale and consumption of liquor, a reduction in required car parking, bicycle and loading facilities and the removal of native vegetation in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Within 120 days of the issue of the amended permit as directed by the Tribunal in VCAT Ref No. P2524/2017, 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 this permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the endorsed plans but modified to be generally in accordance with the following plans: TP101 Rev J; TP102 Rev H; TP103 Rev L; TP104 Rev G; TP105 Rev G; TP106 Rev G; TP107 Rev G; TP108 Rev G; TP111 Rev D; TP112 Rev A; TP113 Rev A; TP200-1 Rev G; TP200-2 Rev G; TP202-1 Rev E; TP202-2 Rev E; TP203 Rev D, all prepared by Watson Young Architects Pty Ltd and amended to show:

   (a) Deletion of the upper two levels of the central building;

   (b) Improvements to the aesthetics and/or amenity of the long central hallways in the central building and associated improvements to the natural lighting and ventilation of these hallways;
(c) A notation on the plan indicating that the area shown as being used for the purpose of medical centre can alternatively be used in whole or in part for the purpose of office;

(d) A notation on the plan indicating that the area shown as being used for the purpose of any SOHO apartment can alternatively be used solely for the purpose of office;

(e) Water Sensitive Urban Design features in accordance with the requirements of Condition 12 of this permit.

(f) Environmentally sustainable design measures in accordance with and environmentally sustainable design report and implementation strategy, prepared by a suitably qualified expert, submitted to and approved by the Responsible Authority;

(g) Each SOHO apartment to be provided with an independent secluded area of private open space.

(h) A minimum of 6 cubic metres of storage must be provided in the basement for each dwelling/tenancy.

(i) A 2 metre high opaque fence on that part of the boundary with Sandringham Secondary College that does not adjoin the school’s sports ground;

(j) Landscape plan in accordance with condition 2 of this permit.

(k) The provision of underground services and the provision of an on-site substation.

(l) Any proposed staging of the development including a detailed works programme.

(m) All building heights to be shown on the plans in metres above Natural Ground Level.

(n) Relevant plan related outcomes arising from Melbourne Water and VicRoads conditions;

(o) Basement ramps, transitions and headroom clearances; car parking spaces disabled spaces and loading bays to comply with the relevant Australian Standards and all dimensions to be shown on the plans.

(p) The location of all plant and equipment including baffling as required to ensure compliance with State Environment Protection Policy (Control of Noise from Commercial, Industrial or Trade Premises within the Melbourne Metropolitan Area) No. N-1.

(q) All pipes, fixtures, fittings and vents servicing any building on the site except downpipes must be concealed in service ducts or otherwise hidden from view.

(r) Lift structures (including lift overruns mounted above the rooftop of the buildings) must be shown on the plans and must not exceed 2.4 metres in height above the finished roof level.
(s) A detailed schedule and description of construction materials, external finishes and colours (incorporating samples). The exterior colour and cladding must be of a non-reflective nature.

(t) The internal layout and proposed seating plan for the cafe.

(u) Car parking associated with the medical use annotated on the basement parking plan.

(v) Amended landscaping plan showing changes approved under amendment number 7 of this permit.

(w) An updated construction management plan in accordance with Condition 9

(x) An updated car park management plan in accordance with condition 10

(y) Payment of the development contributions levy in accordance with Condition 55.

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

3. Prior to the commencement of works a Landscape Plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. The plan must be generally in accordance with the Landscape Master Plan by Tract Consultants. The plan must be drawn to scale with dimensions and three copies must be provided. The landscaping plan must incorporate planting that is complementary and compatible with the Heathland species and must show:

(a) trees to be removed, both on-site and in the road reserve, generally in accordance with the plan CG109230 T 01 rev. P1 tabled at the hearing of Victorian Civil And Administrative Tribunal application P2392/2010,

(b) Details of surface finishes of pathways and driveways.

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

(d) Landscaping and planting within all open areas of the site.

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

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

4. Before the occupation of any building, all works relevant to that building including landscaping shown on endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.
5. The landscaping shown on the endorsed plans must be maintained (including that any dead, diseased or damaged plants are to be replaced) to the satisfaction of the Responsible Authority.

6. Before any land use commences, a Green Travel Plan must be prepared to the satisfaction of the Responsible Authority following consultation with the Department of Transport (Public Transport Division). The plan must be prepared by a suitably qualified person and must encourage the use of non-private vehicle transport modes by the occupiers of the land. The plan must include, but not limited to the following:
   (a) A description of the location in the context of alternative modes of transport, including walking, cycling and objectives for Green Travel Plan;
   (b) Outline Green Travel Plan measures for the development including but not limited to:
      (i) Household welcome packs – train and bus timetables relevant to the local area must be included in the pack of information provided to purchasers upon a purchaser’s occupation of an apartment;
      (ii) Include a minimum of 10 x 2 hour metcard (zone 1 & 2) within the household welcome pack or a myki rail pass (of equivalent value) and registration information;
      (iii) Bicycle parking and facilities available on the land;
      (iv) Local walking paths and networks to key destinations;
      (v) Monitoring and review; and
      (vi) A plan showing the bicycle parking areas to be provided for use by residents

7. The Green Travel Plan must not be amended without written consent of the Responsible Authority following consultation with the Department of Transport (Public Transport Division).

8. Once approved the Green Travel Plan must form part of the planning permit and any ongoing Management Plan for the land to ensure the Green Travel Plan continues to be implemented by residents/owners to the satisfaction of the Responsible Authority.

9. Prior to the commencement of any works, a Construction Management Plan shall be submitted to and approved by the Responsible Authority. When approved, the Construction Management Plan will then form part of this permit. The Construction Management Plan, is not limited to but must include measures relating to:
   (a) Hours of construction;
   (b) Control of noise, dust and litter;
   (c) Vehicle access and deliveries;
(d) Protection of public assets;
(e) Communication with the council and the public;
(f) The management of construction vehicles and construction vehicle parking;
(g) Prevention of the deposition of mud or other materials on roadways.
(h) The protection of pedestrian access along the laneway to the west on the land;
(i) The protection of the natural values of Heathland flora and fauna.
(j) The impact that the proposed works associated with VCAT Reference P2524/2017 will have on common areas (including those internal and external to the building).

The Construction Management Plan must be implemented to the satisfaction of the Responsible Authority. The Construction Management Plan must not be modified unless with the prior written consent of the Responsible Authority.

10. Before commencement of works, a Traffic and Parking Management Plan to the satisfaction of VicRoads and Bayside must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. Three copies of the plan must be submitted.

The plan must include but is not limited to:

(a) The allocation of car parking for commercial uses in accordance with endorsed plans;
(b) Signs and pavement markings to direct and control the flow of traffic within and exiting the site including for the basement and loading areas. This includes warning signs for drivers and pedestrians.
(c) Lighting and security arrangements within the basement.
(d) The location of the car spaces associated with the dwellings approved within VCAT Reference P2524/2017 to be appropriately located to ensure convenient access between the dwellings and car spaces.
(e) The provision of car parking associated with the dwellings approved within VCAT Reference P2524/2017 to be in accordance with Clause 52.06 (car parking) of the Bayside Planning Scheme.

The Traffic and Parking Management Plan must be implemented to the satisfaction the Responsible Authority. The parking management plan must not be modified unless with the prior written consent of the Responsible Authority.

11. Before commencement of works, a Waste 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 this permit. Three copies of the plan must be submitted. The plan must include but is not limited to:
(a) No bins stored on Bay Road.
(b) Provision on the site for the collection of garbage and other solid waste by private contractor. This area must be graded and drained and screened from public view.
(c) All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created.
(d) No vehicles permitted to obstruct the pedestrian access to the school.

The Waste Management Plan must be implemented to the satisfaction the Responsible Authority. The Waste Management Plan must not be modified unless with the prior written consent of the Responsible Authority.

12. Before the commencement of works, a detailed Stormwater Plan must be submitted to and be approved by the Responsible Authority. When approved, the Stormwater Plan will be endorsed and will then form part of this permit. The Stormwater Plan must include plans be drawn to scale with dimensions and three copies must be provided. The plans must be in accordance with the guidelines outlined in Clause 22.10 of the Bayside Planning Scheme and must show:
   (a) The type of water sensitive urban design stormwater treatment measures to be used;
   (b) The location of the water sensitive urban design stormwater treatment measures in relation to buildings, sealed surfaces and landscaping areas; and
   (c) Design details of the water sensitive urban design stormwater treatment measures, including cross sections.

The Stormwater Plan must demonstrate compliance with the Urban Stormwater Best Practice Environmental Management Guidelines, CSIRO 1999 to the satisfaction of the Responsible Authority.

13. The water sensitive urban design stormwater treatment system as shown on the endorsed Stormwater Plan must be implemented, 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.

General conditions

14. Except with the consent of the Responsible Authority, the number of medical practitioners in the Medical centre must not exceed 14 medical practitioners at any one time.

15. Except with the consent of the responsible authority the café can only be open to the public between 7.00am and 11.00pm any day.

16. Except with the consent of the responsible authority, the sale of packaged liquor from the shop and the sale and consumption of liquor associated with
the food and drink premises (café) within the Central Building may only be carried out between the hours of:

(a) 9am to 11pm Monday to Saturday;
(b) 10am to 11pm Sunday;
(c) 12pm to 11pm Good Friday, ANZAC Day and Christmas Day

17. The predominant activity carried out in the food and drink premises (café), must be the preparation and serving of meals for consumption on the premises to the satisfaction of the Responsible Authority.

18. Before any building is occupied, the area(s) set aside for the parking of vehicles and access lanes as shown on the endorsed plans for that building, must be:

(a) Constructed;
(b) Properly formed to such levels that they can be used in accordance with the plans;
(c) Surfaced with an all-weather-seal coat;
(d) Drained;
(e) Line marked to indicate each car space and all access lanes; and
(f) Clearly marked to show the direction of traffic along access lanes and driveways.

Car spaces, access lanes and driveways must be kept available for these purposes at all times to the satisfaction of the Responsible Authority.

19. Vehicular crossing(s) must be constructed to the road to suit the proposed driveway(s) to the satisfaction of the Responsible Authority and VicRoads. Any redundant existing crossing or crossing opening must be removed and replaced with footpath, nature strip, and kerb and channel to the satisfaction of the Responsible Authority and VicRoads. All costs associated with compliance with these requirements must be borne by the permit holder.

20. At no cost to VicRoads or the Responsible Authority, the permit holder is responsible for the relocation of any power poles, trees, guard posts, road furniture or services that may be required to construct the approved development.

21. Prior to the commencement of any works (including demolition), tree protection fences must be erected around the street trees and must be retained to define a ‘Tree Protection Zone’. The fences must be constructed of star pickets and chain mesh or similar to the satisfaction of the Responsible Authority. The tree protection fences must remain in place until all construction works are completed.

The ground surface of the Tree Protection Zone must be covered by a 100 mm deep layer of mulch before the development starts and be watered regularly to the satisfaction of the Responsible Authority.
22. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Zones without the written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

23. Any pruning that is required to be done to the canopy of any street tree and any pruning of the root system of any street tree must only be carried out by or on behalf of the Responsible Authority to the satisfaction of the Responsible Authority.

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

25. All security alarms or similar devices installed on the site must be of a silent type in accordance with any current standard published by Standards Australia International Limited and be connected to a security service.

26. External lighting (domestic and commercial) must be designed, baffled and located so as to prevent any adverse effect on adjoining land and in particular the Heathland, to the satisfaction of the Responsible Authority.

27. 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.

28. Plans for the construction of the outfall drain must be approved by the Responsible Authority in writing prior to the commencement of any works.

29. Drainage must be to the satisfaction of the Responsible Authority. Any paved areas must be graded/drained to prevent stormwater discharge into adjacent properties. No polluted and/or sediment laden run-off is to be discharged directly or indirectly into drains or watercourses and pollution or litter traps must be provided on site to the satisfaction of the Responsible Authority.

30. The use and development must be managed so that the amenity of the area is not detrimentally affected, including through the:
   (a) transport of materials, goods or commodities to or from the land;
   (b) appearance of any building, works or materials;
   (c) emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and
   (d) presence of vermin.

Other Department of Transport Conditions:

31. The permit holder must ensure that public transport infrastructure is not altered without the consent of the Director of Public Transport or damaged. Any damage to public transport infrastructure must be rectified to the satisfaction of the Director of Public Transport at the full cost to the permit holder.
32. The east and west access streets must not impact on the existing bus movements in Bay Road to the satisfaction of the Director of Public Transport.

*Melbourne Water Conditions*

33. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water’s drains or watercourses.

34. Any new building must be constructed with finished floor levels a minimum of 300mm above the applicable flood level.

35. The entry / exit driveway of the basement car park must incorporate a flood proof apex of a minimum of 300mm above the applicable flood level.

36. All doors, windows, vents and openings to the basement car park must be a minimum of 300mm above the applicable flood level.

37. Any drainage system to the basement must be designed such that stormwater is unable to penetrate the basement.

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

39. Prior to the commencement of any works, detailed landscaping plans must be submitted to Melbourne Water for approval that shows the location, density and species.

40. At least 21 days prior to commencement of works, a Site Management Plan detailing pollution and sediment control measures, must be submitted to Melbourne Water.

41. The building/structure including footings, eaves etc must be set outside any easement or a minimum 1.5 metre laterally clear of the outside edge of the main drain, whichever is greater.

42. Prior to the commencement of works, the depth of the footings must be adequate to satisfy the angle of repose relative to the drain as per Melbourne Water’s specification.

43. Prior to the commencement of works, direct to Melbourne Water, must be made for any new or modified storm water connection to Melbourne Water’s drains or watercourses.

*VicRoads Conditions*

44. Prior to the commencement of any road works detailed engineering layout must be submitted to and approved by VicRoads. The plan must be generally in accordance with the functional layout CG109230 (Revision P1) dated 22 November 2010 prepared by Cardno Grogan Richards.

45. Prior to the commencement of road works, public lighting and traffic signal layouts consistent with the approved functional layouts must be submitted to and approved by VicRoads.
46. An independent Road Safety Audits (RSA’s), conducted by a VicRoads pre-qualified consultants and in accordance with Austroads Road Safety Audit Guidelines (2009), shall be completed at that Detailed Design Stage (including traffic signal, public lighting layouts) and Post-Opening Stage, and the associated reports are to be submitted to VicRoads for approval. Any identified issues must be addressed to VicRoads’ satisfaction.

47. The signal installation works must be carried out to VicRoads’ standards by a VicRoads pre-qualified signals contractor (STS Metro). VicRoads will arrange for the supply and installation of traffic signal controllers and telecommunications and power connections, at an appropriate time, and all at the Permit holder’s expense.

48. Prior to the commencement of the road works the developer must:
   
   (a) Apply for and receive written consent from VicRoads, for the road works in accordance with Section 63 of the Road Management Act

   (b) Provide a payment to VicRoads for all costs associated with the installation of public lighting, including the predetermined cost of 10 years maintenance, where public lighting is required.

   (c) Provide a payment to VicRoads for all costs associated with the installation of traffic signals, including the predetermined cost of 10 years maintenance.

   (d) Provide a bank guarantee, without a termination date, in favour of VicRoads for a sum equal to the estimated cost of roadworks associated with access arrangements to Bay Road.

   (e) Provide evidence that the contractor has a public liability Insurance policy for at least $10 million that will be effective for the duration of the works.

   (f) Provide VicRoads with the name, address business and out-of-hours telephone numbers of the principal roadworks contractor.

   (g) Submit to VicRoads for approval, a Traffic Management Plan showing the proposed provision for traffic and signing for the duration of the works at least 21 days prior to the commencement of works.

   (h) Arrange for the contractor to contact the VicRoads surveillance coordinator on telephone number 9881 8079, at least (14) working days prior to the commencement of roadworks. Please note that the contractor will be charged for the actual cost of VicRoads surveillance which may be undertaken at certain key times during the works.

49. Where any road works, footpath or other road features lie outside of the existing declared road reserve, a widening of the road reserve will be required, at a cost borne by the permit holder. A licensed surveyor must be engaged to prepare a plan of subdivision to the satisfaction of VicRoads showing the affected land labelled “ROAD”, which is to vest the Roads Corporation without any encumbrances. Subsequent to the registration of the plan, the permit holder shall ensure that the original Certificates of Title that
issue in the name of the Roads Corporation shall be forwarded via registered post to: VicRoads - Property Services Department, 60 Denmark Street KEW, 3101

50. Prior to the occupation or use of the permitted development, the proposed accesses and the associated roadworks must be completed in accordance with the approved detailed engineering plans to the satisfaction of VicRoads.

51. The developer must arrange for and pay the full costs of all roadworks including service relocations, drainage works, traffic signals, pavement markings, public lighting and surveillance, and other costs that may arise as a result of the proposed development.

**Expiry of Permit**

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

   (a) the use and development and use is/are not started within two years of the date of this permit.

   (b) the development is not completed within six 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.

53. An amended Landscape plan must be submitted and approved within 90 days from the date Amendment 8 of this permit is issued. The amended Landscape Plan must be generally in accordance with Condition 3 but updated to show changes approved under Amendment 8 of this permit.

54. An amended Traffic and Parking Management Plan must be submitted and approved within 90 days from the date Amendment 8 of this permit is issued. The Traffic and Parking Management Plan must be generally in accordance with Condition 10 but updated to show changes approved under Amendment 8 of this permit.

**Drainage contribution levy**

55. Prior to endorsement of the plan/s approved within VCAT Reference P2524/2017 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 (in accordance with the amendments approved). 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.

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

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

• Clause 11 Settlement
• Clause 15 Built Environment and Heritage
• Clause 16 Housing
• Clause 21.03 Settlement and Housing
• Clause 21.06 Built Environment and Heritage
• Clause 22.04 Business Employment Area Policy
• 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. Urban context and built form

The principle of higher density development on the site and within the immediate context has long been established. Since the original approval of the development, the immediate area has changed with the construction of several higher density mixed use developments being approved (including the subject site with the staging of the entire development nearly completed).

The image below demonstrates that buildings in this precinct (212 Bay Road – 226 Bay Road) range in height from 4 storey to 8 storey. It is important to note that the buildings at the street edge provide a lower built form, predominantly between 4 and 6 storey, with taller components of the building at 222 Bay Road towards the centre of the site.

The proposed amendments will introduce a floor area of approximately 550 square metres (excluding balconies). Comparatively, the floor area of the existing uppermost level is approximately 860 square metres, with the proposed uppermost level inset from the level immediately below, as per the following:

• North – 7 metres
• South – 5.6 metres
• East and west – 1-5 metres (due to the varied roof form below)

The proposed amendments will increase the building height of the development from
59.58RL to 61.78RL (excluding rooftop plant), an increase of approximately 2.2 metres. The visual impact associated with the increase in the building height is going to be mitigated by the existing parapet that extends along the perimeter of the existing roof level.

Shadow diagrams submitted with the application detail the impacts of the proposed amendments to be negligible, with only small areas of overshadowing between 9-10am.

The proposed additional level responds to the physical context of adjoining developments and will not dominate either the streetscape or outlook from various vantage points.

The setbacks, building height and design (parapet roof form, cladding and pergola's) ensures that the proposed built form will appropriately integrate within the existing architectural philosophy of the site (a failure of the previous application).

The revised architectural approach is what separates the proposed amendment from the previously sought amendments, whereby the 10 storey element was not supported by VCAT due to the design philosophy and the disjointed appearance.

Notably, the previous Tribunal commentary on the site did not stipulate that the ten storey aspect of the proposal was fatal. Therefore it is considered that this proposed amendment, which corrects previous failings, is not contradictory to the previous tribunal findings.

On balance, it is considered that the proposed amendment is an appropriate outcome for the site and will adequately integrate within both the existing and emerging neighbourhood context.
6.2. **Car parking and traffic**

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

Each dwelling is provided with adequate car parking in accordance with Clause 52.06 of the Bayside Planning Scheme. The provision of three additional dwellings will not create undue traffic or car parking issues in the area.

Notwithstanding the above, a condition of permit is recommended to ensure that the car spaces for the proposed dwellings are adequately located within the basement level to ensure convenient access between the dwellings at car space.

6.3. **Objector issues not already addressed**

**Property values**

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

**Construction noise**

Construction noise is not something that falls within the scope of the assessment within the *Planning and Environment Act 1987*.

Notwithstanding this, an updated construction management plan has been recommended as a condition of permit to ensure that the construction is in accordance with relevant Bayside Council and EPA requirements.

**Structural integrity/building faults/body corporate issues**

The structural integrity, building faults and body corporate issues does not fall within the scope of Council's assessment within the *Planning and Environment Act 1987*.

These issues are the responsibility of the relevant building surveyor and body corporate manager.

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**Support Attachments**

1. Application Plans 🔗
2. Site Surrounds and Imagery 🔗
Figure 1. Aerial overview of the site and surrounds

NB: The objectors also reside within the subject site

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objectors</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2. View looking south-east towards the site
4.3 2 HUNTINGFIELD ROAD, BRIGHTON
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/36/1  WARD: NORTHERN

City Planning & Community Services - Statutory Planning
File No: PSF/15/8755 – Doc No: DOC/18/64873

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>Platform Studios Pty Ltd</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant 1629519. The proposal does not contravene the covenant, however Condition 1(c) is included to ensure the materials and colours do not contravene the covenant.</td>
</tr>
<tr>
<td>Date application received</td>
<td>31 January 2017 (Amended on 8 November 2017)</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>130 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contribution Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td></td>
<td>Heritage Overlay (HO207)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>4</td>
</tr>
</tbody>
</table>

Proposal

The application seeks alteration and additions to the existing dwelling, including partial demolition on a lot with an area of 660 square metres and subject to the Heritage Overlay. Key details of the proposal are as follows:

- Demolition works to the rear of the existing dwelling at the ground and first floor.
- Existing garage and carport are to be demolished and replaced with a new double garage.
- Proposed extensions to the rear of the existing dwelling at the ground and first floor.
- A new swimming pool is proposed in the rear yard.
- Site coverage 48%

The application plans are provided at Attachment 1.

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

History

Planning application 2011/80/1 was withdrawn for partial demolition and additions and alterations to an existing dwelling in a Heritage Overlay.

2. Planning controls

Planning Permit requirements
A planning permit is required pursuant to:

- Clause 43.01-1 (Heritage Overlay) to:
  - construct a building or construct or carry out works.
  - demolish or remove a building.

**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>Heritage</td>
<td>No objection.</td>
</tr>
<tr>
<td>Street Trees</td>
<td>Objection. Crossover works are too close to the significant street tree that must be retained. No excavation would be permitted within 3m of the street tree.</td>
</tr>
<tr>
<td>Engineering (verbal)</td>
<td>Objection. Garage along the boundary creates serious safety concerns and a 2.0m setback must be provided. Irregular crossover will not be approved by engineering.</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 4 objections were received. The following concerns were raised:

- Excessive wall on boundary;
- Overshadowing;
- Damage to trees;
- Visual bulk.

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 only. No objectors were in attendance.

It is noted that one new objection was received on 6 March 2018 (no further consultation meeting was arranged giving the very late timing of this objection).

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 2017/36** for the land known and described as **2 Huntingfield Road, Brighton**, for the **alteration and additions**
to an existing dwelling including partial demolition in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans (submitted with the application and advertised) prepared by Platform Studios Pty Ltd, date Sept 2016 and revision number C but modified to show:
   a) The retention of the existing crossover in its current state and dimension.
   b) The garage to be setback a minimum of 2.0m from the front boundary, and reconfigured to allow for efficient access in lieu of the change of crossover width and location at condition 1(a). This redesign must occur to the satisfaction of the Responsible Authority.
   c) A revised schedule of construction materials, external finishes and colours (incorporating for example paint samples) to demonstrate the compliance with Covenant 1629519.
   d) Water Sensitive Urban Design measures in accordance with Condition 6 of this permit.

All to the satisfaction of the Responsible Authority.

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

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

4. All pipes (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.

5. 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

6. Prior to the endorsement of plans pursuant to Condition 1, detailed plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The 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

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.

Permit Expiry

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

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

Permit Notes:

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- This permit does not constitute any authority to remove any existing vegetation unless all relevant tree removal permit are obtained.
- This permit does not constitute any authority to vehicular crossings approval unless a permit is obtained from Council for vehicular crossings.

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
Item 4.3 – Matters of Decision

Bayside City Council  Planning & Amenity Committee Meeting - 17 April 2018

- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.05 Heritage Policy
- Clause 43.01 Heritage Overlay (Schedule 207)
- 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. Heritage

The subject site is individual listed as a significant building (HO207) which is also known as 2 Huntingfield Road, Brighton.

It is a particularly unusual example of an English Domestic Revival style villa. Of note are the symmetrical composition, steeply-pitched roof and chimney details, whilst the use of terracotta shingles and stained weatherboard cladding contribute to the picturesque composition.

This building is a significant heritage building with an individual HO reference, therefore the following assessment focuses on the heritage impact of the proposal as viewed from the public realm (i.e. the street). The view from the private realm is not required to be considered given the subject site is not in a heritage precinct, with no neighbouring properties being subject to the heritage overlay.

The proposed demolition sits towards to the rear section of the building. This rear section was consists largely of a previous 1980’s extension to the original dwelling, and its removal is of no consequence with respect to the heritage value of the original building. Council’s heritage advisor has confirmed that the demolition as proposed is not an issue.

The existing dwelling is to be retained across the site frontage, and extends approximately 7m down the length of the site. The protection of this element ensures that the integrity and architectural features of the original heritage fabric would be retained.

Given the proposed extension is to the rear of the property and fully concealed from Huntingfield Road, it is supported by the policy at Clause 22.05 (Heritage Policy). Council’s heritage advisor raised no concern with respect to the proposed dwelling additions.

The only potential issue (from a heritage perspective) associates with the demolition of the existing garage. This garage appears to be original, or at least very early [it shows in the 1945 aerial survey of Melbourne]. The steep pitched roof also reflects the original design theme of the house. However, it is of low quality construction. It is not brick as shown on the application, but of stud frame and clad in what is probably asbestos cement sheeting. It is also typically narrow for the period therefore not suited to the medium or large size cars. It could potentially be added to provide a two car width, but because of its location and roof profile, this would produce a much more complex built form. On balance, its removal can be accepted.

There are issues however with the proposed replacement garage, most notably with respect to its siting along the front boundary (too prominent) and impact upon the street tree (due to widened crossover). Conditions 1(a) and (b) are therefore included to address these issues.
6.2. **Other matters**

With the Heritage Overlay being the sole permit trigger for this application, the ambit of discretion is limited to heritage assessment only. It must also be acknowledged that the relevant schedule (207) states that no tree controls apply.

The following map outlines the boundary of the Heritage Overlay.

![Heritage Overlay Map](image)

The applicant was advised that the length of wall along the southern boundary is a potential concern, however it is not required to be assessed as part of this application. It will be dealt as part of the building permit. If changes are required through the building permit process, an amendment to the planning permit must be sought again.

6.3. **Objector issues not already addressed**

**Overshadowing**

This application is a heritage application which limits the ambit of discretions to heritage assessment only. Overshadowing is not required to be assessed as part of this planning application but will be required as part of the building permit application.

**Insufficient garden area**

The application was initially lodged on 31 January 2017 which benefits from the exemption under the Clause 32.09-14 that no mandatory garden area is required to be provided.

**Loss of view**

Whilst it is recognised that views may form part of residential amenity, the Tribunal has consistently held that there is no legal entitlement to a view. Notwithstanding this, amenity impacts are not being assessed in this application and mentioned previously.

**Support Attachments**

1. Development Plans ↓
2. Site and Surrounds ↓
Item 4.3 – Matters of Decision
Figure 1 Aerial overview of the site and surrounds, two objections were received from at 45 Dendy Street, Brighton.

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>★</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⚫</td>
</tr>
</tbody>
</table>
Figure 2 View towards the site from the southwest
Figure 3 View towards the site from the northeast
### 4.4 2/1 OAK GROVE BRIGHTON

**NOTICE OF DECISION TO GRANT A PLANNING PERMIT**

**APPLICATION NO.: 2017/628/1  WARD: NORTHERN**

City Planning & Community Services - Development Services

File No: PSF/15/8755 – Doc No: DOC/18/75035

---

#### 1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Applicant</strong></td>
<td>Forty One South</td>
</tr>
<tr>
<td><strong>Title/Covenant</strong></td>
<td>The title is not subject to any restrictive covenants.</td>
</tr>
<tr>
<td><strong>Date application received</strong></td>
<td>19 October 2017</td>
</tr>
<tr>
<td><strong>Current statutory days</strong></td>
<td>135 days</td>
</tr>
<tr>
<td><strong>Zoning</strong></td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td><strong>Overlays</strong></td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td><strong>Number of objections</strong></td>
<td>4</td>
</tr>
</tbody>
</table>

**Proposal**

The application seeks alterations and addition to a dwelling including the construction of a first floor addition on a lot with an area of 236 square metres. Key details of the proposal are as follows:

- First floor addition including the addition of two bedrooms, one bathroom, a play area and study
- Maximum building height of 6.4 metres with a flat roof
- Existing site coverage of 52.9% to be increased to 56% post construction
- Proposed permeability of 22.7 %
- Total area of the subject land – 283m²

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 and extension of one dwelling 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**

   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 four objections were received. The following concerns were raised:

   - Neighbourhood character;
   - Site Coverage;
   - Overlooking; and
   - Overshadowing;

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

   **Consultation meeting**

   A consultation meeting was held on 19 March 2018 attended by the permit applicant and 3 objectors. As a result of this meeting no objections were withdrawn, although officers note that the applicant submitted additional information after the meeting.

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 2017/628** for the land known and described as **2/1 Oak Grove, Brighton, for alterations and additions to a dwelling including the construction of a first floor addition** 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 Forty One South referenced 1707, and dated June 2017 but modified to show:

      a) Demonstration of compliance with Standard A15 from all east facing habitable room windows – if compliance is not achieved windows must be screened in accordance with Standard A15.

      b) 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.

      c) A schedule of construction materials, external finishes and colours (incorporating for example paint samples).
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. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

4. All pipes (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.

**Water Sensitive Urban Design**

5. 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.

**Drainage**

6. 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**

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

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

**Permit Notes:**

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

5. **Council Policy**

**Council Plan 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.

**Bayside Planning Scheme**

- Clause 11 Settlement
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 B1. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 3.

The application proposed responds appropriately to the preferred future character statement associated with Precinct B1 and successfully achieves all of the objectives associated with the precinct guidelines. While officers note that this is the initial first floor addition in the block of 6 units, this in and of itself does not contradict the existing character of the surrounds. All other units in the development can apply for a first floor extension in the future – these proposals will be judged on their merits at that time. The single storey nature of the built form within the block does not represent a contribution to the existing character of the area that should be protected in perpetuity.

The proposal itself is well supported by the objectives embedded within the precinct guidelines of the area. The Asling Street Heritage Precinct abuts the site to the east which constitutes a significant contribution to the existing character. As such, the application was referred to Council’s Heritage Advisor who commented that the addition is a non-dominant contribution to the area. Furthermore, there are a number of first floor additions to the rear of the larger lots in the vicinity. These are invariably contemporary in design with flat roofs and lightweight external finishes. It is considered that the proposal will complement this emerging character.

Significantly, the application does not seek to remove any large trees, implement visually prominent garages or allow high, visually impermeable fencing. While the proposal is recognised as unique in the context of the block of 6 units, it is an appropriate initial first floor addition in that it appropriately reflects an emerging contemporary character that complements the heritage surrounds.

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

An assessment against the requirements of Clause 54 is provided at Attachment 4. Those non-compliant standards are discussed below:
Side and rear setbacks (Standard A10)

<table>
<thead>
<tr>
<th></th>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0 or 2 metres</td>
<td>No change</td>
</tr>
<tr>
<td>South (side)</td>
<td>0 or 2 metres</td>
<td>No change</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0 or 3 metres</td>
<td>No change</td>
</tr>
</tbody>
</table>

The northern first floor of the subject site requires a 0.68 metre variation to Standard A10 along two of the bedrooms. The applicant has indicated that this variation is required in order to allow the two bedrooms and bathroom to have a useable level of floor space.

The objective of the side and rear setbacks standard is to ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings. As outlined in section 6.1 above, the proposal is considered to demonstrate a high level of compliance with the preferred neighbourhood character of Precinct B1.

It is considered that the variation to the side and rear setbacks standard will not result in adverse amenity impacts to any person. The interface with 1/1 Oak Grove to the north is less sensitive as it houses a driveway and garage. There are no habitable room windows or secluded private open space that directly abut the property along this interface. Additionally, the limited maximum building height of 6.4 metres will sufficiently reduce any visual bulk that might otherwise have occurred. As such, officers consider that the side and rear setbacks objective is achieved by the proposal.

Site coverage (Standard A5)

<table>
<thead>
<tr>
<th>Required</th>
<th>Existing</th>
<th>Proposed</th>
<th>Total Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>50%</td>
<td>52.9%</td>
<td>56%</td>
<td>6%</td>
</tr>
</tbody>
</table>

The proposal exceeds Standard A5 by a total percentage of 6%. Officers note that the existing dwelling results in a 52.9% level of site coverage. The first floor addition over the existing entry results in a site coverage increase of approximately 8sqm requiring a variation to the standard.

The objective of the site coverage standard is to respect the existing and preferred neighbourhood character and respond to the features of the site. The size of the subject land presents organic constraints for the development of the land. Notwithstanding that, the applicant has presented a proposal that takes advantage of a first floor extension that creates additional floor area.

Although the proposal seeks a variation to Standard A5, the additional space covered by buildings is considered a minor addition over the entry. As such, officers consider this a suitable variation to the standard, as the development has not resulted in a built form that will overwhelm the surrounds. The applicant has chosen to deliver a first floor built form in lieu of expanding the ground floor footprint. This not only reduces the portion of the land covered by buildings, it provides a greater level of secluded private open space to the rear. With that said, officers indicate that the variation to Standard A5 achieves the site coverage objective.

Overlooking (Standard A15)

The proposal includes a number of first floor windows serving habitable rooms. The window from bedroom 3 will not overlook any secluded private open space or habitable
room windows within 9 metres and is compliant with Standard A15. The windows adjoining the study to the south and west will overlook the internal driveway to all 6 units and the entry to 3/2 Oak Grove within 9 metres. The objector a 3/2 Oak Grove raised concerns this would result in unreasonable overlooking to that property. Officers disagree with this. The windows to the study will provide quality passive surveillance to 3/2 Oak and will not result in overlooking that contravenes Standard A15.

To the east, a window is provided in the play area and in bedroom 4. These windows fall within 9 metres of the secluded private open space of 35 Asling Street to the east. Although a level of treatment has been provided for overlooking at these windows, officers do not have a sufficient level of confidence that this will protect them in accordance with Standard A15. A condition of permit is recommended for the applicant to either treat the windows to achieve the standard or present evidence that views will be interrupted within 9 metres, possible including the boundary fence. It noted that the trees along the boundary with 35 Asling Street cannot be considered as a method to interrupt overlooking.

6.3. **Objector issues not already addressed**

**Overshadowing**

Diagrams provided by the applicant demonstrate that any additional overshadowing achieves Standard A14 of Clause 54. The majority of the overshadowing that will result from the first floor addition will fall on the common property to the north of 3/1 Oak Grove and onto the roof of that property. The objector at this property has raised concerns that overshadowing will impact their amenity specifically for the area close to their entry. This land is held in common property thus does not make up a part of the collective amenity of the property.

**Support Attachments**

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 54 Assessment ↓
Item 4.4 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objectors</td>
</tr>
</tbody>
</table>
Figure 2. View to the set of units looking south from the Oak Grove streetscape – 2/1 Oak Grove is the centre of the three units shown – image demonstrates that the unit is virtually obscured from the streetscape

Figure 3. View toward 2/1 Oak Grove from the laneway abutting the site to the northeast – approximate location of first floor extension is shown
Figure 4. Views to 2/1 Oak Grove from the internal courtyard – interface with 1/1 Oak Grove to the left and garage is shown
Neighbourhood Character Precinct B1

Preferred Future Character Statement

The diverse dwelling styles, with a continued presence of pre WW2 era dwellings, and new buildings that respect, without replicating, these styles, sit within established gardens with large trees. Garages and car ports are set behind the dwelling façade so as not to dominate the streetscape. Generous side setbacks on at least one side allow vegetation to flow around the dwellings and this, along with avenue street trees and open style front fences, contributes to the green, leafy streetscapes within 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 to should retain the front of these dwellings. | Demolition of dwellings that contribute to the valued character of the Precinct.                 | N/A  
No demolition of any significant dwellings is proposed.                                           |
| To maintain and enhance the garden settings of the dwellings.              | • Retain large trees wherever possible.                                            | Lack of landscaping and substantial vegetation.                                                 | Responds                                                                                 |
|                                                                             | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs. | Removal of large canopy trees.                                                                  | No large trees are sought to be removed.                                                   |
| 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. | Lack of front garden space                                                                   | Responds                                                                                 |
<p>|                                                                             |                                                                                  |                                                                                                | The first floor of the dwelling will be appropriately setback from others in the set of units. There are no other first floors in the set of 6, thus visual separation will be maintained. |
| To minimise the dominance of car parking facilities, driveways and crossovers. | • Locate garages and car ports behind the line of the dwelling.                  | Car parking facilities that dominate the facade or view of the dwelling.                       | Responds                                                                                 |
|                                                                             | • Provide vehicular access from a rear laneway where possible, while maintaining pedestrian access from the street frontage | Dominance of crossovers and driveways.                                                         | No dominant car parking facilities are proposed.                                            |</p>
<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. | • Recess upper storey elements from the front facade.  
• Articulate the form of buildings and elevations, particularly front facades. | Large bulky buildings with flat, poorly articulated wall surfaces. | Responds  
There are a number of double storey, contemporary designs in the vicinity. The cantilevered portions of the first floor present to the inner driveway, diminishing the impacts to neighbourhood character. |
| To respect the identified heritage qualities of adjoining buildings.       | • Where adjoining an identified heritage building, reflect the dominant building form, height, materials and massing of the heritage building/s, of the heritage building/s in the new building design. | Imitation or reproduction of historic building styles and detailing. | Responds  
As the subject site directly abuts the Asling Street Heritage Precinct, the application was referred to Council’s Heritage Advisor. The advisor commented that the addition is non dominant within the Asling Street streetscape. The heritage advisor sought a pitched roof be implemented but this was justified on neighbourhood character grounds and not heritage. As such, it was not included as a condition of permit. |
| To reflect the building materials in locations where there is particular consistency. | • Where consistent materials are used in the streetscape, use similar tonings in the colours of new buildings. | Excessive use of render on external walls. | Responds  
The contemporary design of the extension will complement the surrounds in such a way that accentuates the original building materials. The lightweight first floor finish will not present an incongruous addition to the Oak Grove streetscape. |
| To maintain the openness of the streetscape.                              | • Provide open style front fences appropriate to the building era.                 | High, solid front fencing.                                                                                                                    | N/A  
No front fencing is proposed.                                                                 |
### ATTACHMENT 4
**Clause 54 (ResCode) Assessment**

<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A1 Neighbourhood Character</strong>&lt;br&gt;Design respects existing neighbourhood character or contributes to a preferred neighbourhood character. Development responds to features of the site and surrounding area.</td>
<td>Yes</td>
<td>Refer Attachment 3.</td>
</tr>
<tr>
<td><strong>A2 Integration with Street</strong>&lt;br&gt;Integrate the layout of development with the street.</td>
<td>N/A</td>
<td>There will be no impact on the integration with the street</td>
</tr>
<tr>
<td><strong>A3 Street Setback</strong>&lt;br&gt;Setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site</td>
<td>N/A</td>
<td>No change to existing condition.</td>
</tr>
<tr>
<td><strong>A4 Building Height</strong>&lt;br&gt;Building height respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
<td><strong>Required:</strong> 9m&lt;br&gt;<strong>Proposed:</strong> 6.4m</td>
</tr>
<tr>
<td><strong>A5 Site Coverage</strong>&lt;br&gt;Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td>No</td>
<td><strong>Maximum:</strong> 50%&lt;br&gt;<strong>Existing:</strong> 52.9%&lt;br&gt;<strong>Proposed:</strong> 56%</td>
</tr>
<tr>
<td><strong>A6 Permeability</strong>&lt;br&gt;Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td>Yes</td>
<td><strong>Minimum:</strong> 20%&lt;br&gt;<strong>Proposed:</strong> 22.7q%</td>
</tr>
<tr>
<td><strong>A7 Energy Efficiency</strong>&lt;br&gt;Achieve and protect energy efficient dwellings.</td>
<td>Yes</td>
<td>All habitable areas, including habitable rooms and secluded private open spaces would be appropriately located in relation to the orientation of the site.</td>
</tr>
</tbody>
</table>
Ensure the development’s orientation and layout reduce fossil fuel energy use and makes appropriate use of daylight and solar energy.

<table>
<thead>
<tr>
<th>A8 Significant Trees</th>
<th>N/A</th>
<th>No significant trees on-site.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development respects the landscape character of the neighbourhood and retains significant trees on site.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A10 Side and Rear Setbacks</th>
<th>No</th>
<th>Refer report and table below. Areas of non-compliance are underlined.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td></td>
<td></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>0 or 2 metres</td>
</tr>
<tr>
<td>South (side)</td>
<td>0 or 2 metres</td>
</tr>
<tr>
<td>East (rear)</td>
<td>0 or 3 metres</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A11 Walls on Boundaries</th>
<th>N/A</th>
<th>No additional walls on boundaries are proposed as a part of the application.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A12 Daylight to existing windows</th>
<th>Yes</th>
<th>The proposal will ensure daylight to existing windows is maintained.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allow adequate daylight into existing habitable room windows.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A13 North Facing Windows</th>
<th>Yes</th>
<th>The first floor extension is setback an appropriate distance (7.7 metres) from the nearest north-facing window at 3/1 Oak Grove.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>A14</td>
<td>Overshadowing Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>A15</td>
<td>Overlooking</td>
<td>No</td>
</tr>
<tr>
<td>A16</td>
<td>Daylight to New Windows</td>
<td>Yes</td>
</tr>
<tr>
<td>A17</td>
<td>Private Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>A18</td>
<td>Solar Access to Open Space</td>
<td>Yes</td>
</tr>
<tr>
<td>A19</td>
<td>Design Detail</td>
<td>Yes</td>
</tr>
<tr>
<td>A20</td>
<td>Front Fences</td>
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</table>
4.5 PARK ROAD, CHELTENHAM (VICTORIA GOLF CLUB)
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2015/779/2 WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/65327

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>Victoria Golf Club</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant 1239456 4 November 1925. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>1 August 2017</td>
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<tr>
<td>Current statutory days</td>
<td>237 days</td>
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<tr>
<td>Zoning</td>
<td>General Residential Zone, Schedule 8</td>
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<td>Overlays</td>
<td>Vegetation Protection Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Heritage Overlay (Schedule 560)</td>
</tr>
<tr>
<td></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>3</td>
</tr>
</tbody>
</table>

Proposal

The application proposes an amendment to Planning Permit 2015/779/1 pursuant to Section 72 of the Planning and Environment Act 1987 which allows for the ‘Extension and re-configuration of car parking facilities and removal of native vegetation’ for the land known and described as Victoria Golf Club, Park Road, Cheltenham comprising a total area of 570, 081 square metres.

The application proposes to amend the endorsed landscape plan to provide additional bunding around the southern and eastern ends of the southern car park (adjacent to the western site boundaries of 21 to 29 Victor Avenue, Cheltenham.

The proposed works do not trigger a planning permit. An Application to Amend the Planning permit is required pursuant to Condition 2 of Planning Permit 2015/779/1

The development plans are provided at Attachment 1.

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

The endorsed landscape plans are provided at Attachment 3.

History

Planning Permit 2015/779/1 was issued under delegation on 3 August 2016 and allows for the ‘Extension and re-configuration of car parking facilities and removal of native vegetation’. Plans were endorsed on 16 December 2016 and 24 January 2017.

The works approved as part of the above permit have largely been completed on site, some final aspects are currently being finalised.

Other applications in respect of this land are summarised below:
<table>
<thead>
<tr>
<th>Planning Permit No</th>
<th>Authorised</th>
<th>Issue date</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017/318/1</td>
<td>Removal of Native Vegetation in a Vegetation Protection Overlay</td>
<td>9 August 2017</td>
</tr>
<tr>
<td>2016/749/1</td>
<td>Partial demolition of an existing building and buildings and works in a Heritage Overlay (Schedule HO560)</td>
<td>24 April 2017</td>
</tr>
<tr>
<td>2016/574/1</td>
<td>Buildings and works associated with the upgrade and re-construction of vehicular access and entrance</td>
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</tr>
<tr>
<td>2013/141/1</td>
<td>Construction of a fence</td>
<td>12 April 2013</td>
</tr>
<tr>
<td>2012/345/1</td>
<td>Removal of Native Vegetation in a Vegetation Protection Overlay</td>
<td>17 August 2012</td>
</tr>
<tr>
<td>2010/142/1</td>
<td>Construction of a fence</td>
<td>12 July 2010</td>
</tr>
<tr>
<td>2009/38/1</td>
<td>Tree Management Plan</td>
<td>17 July 2009</td>
</tr>
<tr>
<td>2007/364/1</td>
<td>Buildings and works for the construction of a dam and the removal of vegetation in a Vegetation Protection Overlay</td>
<td>23 July 2017</td>
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<tr>
<td>2004/110/1</td>
<td>Removal and pruning of vegetation in a Vegetation Protection Overlay</td>
<td>29 July 2004</td>
</tr>
</tbody>
</table>

It is noted that planning permits issued for the removal of vegetation have required replacement planting resulting in an overall net increase of vegetation on site.

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**

The proposed works do not trigger any additional planning permit requirements. An amendment to the Planning Permit is required pursuant to Condition 2 of Planning Permit 2015/779/1 which states, "The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority".

Planning Permit 2015/779/1 approved ‘works’ which is defined by Section 3(1) of the *Planning and Environment Act 1987* as including, "any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil".

The proposed amendments are therefore considered to fall within the definition of ‘works’ and as such there are no new planning permit triggers.

**Original planning permit requirements**
A planning permit is required pursuant to:

- Clause 32.08-6 (General Residential Zone, Schedule 8) – Buildings and works associated with a Section 2 use.
- Clause 43.02-2 (Design and Development Overlay, Schedule 2) – Buildings and works in a DDO2.
- Clause 42.02-2 (Vegetation Protection Overlay, Schedule 3) – Removal of native (Australia) vegetation.
- Clause 52.17-2 (Native Vegetation) – Removal of native (Victoria) vegetation.

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>
</tbody>
</table>

Public notification

As the proposed works do not trigger any primary planning permit consents, public notification in accordance with the requirements of Sections 52(1)(a) of the Planning and Environment Act 1987 is therefore not required.

Notwithstanding this, Council received a letter of concern to the proposed amendments upon receipt of the application and before the requirements of public notification were determined.

On the basis that a letter of concerns was received, notice of the application was given pursuant to Sections 52(1) (d) of the Planning and Environment Act 1987 to owners and occupiers of 21-29 Victor Avenue, Cheltenham (inclusive) as persons that may experience material detriment. These properties were selected based on their proximity to the proposed works.

A total of three objections were received. The following concerns were raised:

- Amenity impacts through loss of outlook and current construction soil and dust containment; and
- Landscaping.

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

Consultation meeting

A consultation meeting was held on 29 November 2017 attended by Mayor Evans, Councillor Martin, the permit applicant, one objecting party and their representative and Council officers. As a result of this meeting the applicant gave an undertaking to explore alternative landscaping and grading treatments within the works area.

‘Without-prejudice amended plans’ for Council’s consideration were received on 13 January 2018. These plans involved a more gradual grading of the land and the removal of approximately 26 trees.
The 'Without-prejudice amended plans' were referred to Council’s Arborist who objected to the proposed changes. These plans were deemed unacceptable as planning policy seeks a 3-step approach to the removal of native vegetation pursuant to Clause 52.17, that being in the first instance to avoid the removal of vegetation and then, if necessary, minimise and suitably offset vegetation removal. In this instance the removal of vegetation can be avoided with the current proposal. On this basis Council officers informed the applicant of this advice.

The applicant subsequently confirmed they did not seek to amend the application plans.

As the 'Without-prejudice amended plans' plans were not formally amended pursuant to Section 57A of the Planning and Environment Act 1987, these plans were not required to be re-advertised and hold no statutory weight in the assessment of this application.

4. **Recommendation**

That Council resolve to:

Issue a **Notice of Decision to Grant an Amended Planning Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2015/779/2** for the land known and described as **Park Road, Cheltenham (Victoria Golf Club)**, for the extension and re-configuration of car parking facilities and removal of native vegetation 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 ‘Overall Concept Layout Plan’ prepared by Chris Maragos & Associates, Drawing No. CS04, Job No. CM14043, Dated 22 March 2016, and the ‘Civil Site Works Site Grading Plan Overall Plan’ prepared by CJ Arms & Associates, Dated 13 April 2016 and the **Southern Car Park Proposed Mounding – Landscape Concept Plan prepared by Tract dated 6 July 2017**, but modified to show:**
   a) Deletion of the two eastern most car spaces within the lower car park.
   b) Location and details (heights, styles) of all light poles.
   c) An offset management plan in accordance with Condition 4 of this permit.
   d) A revised landscape plan in accordance with Condition 5 of this permit.
   e) A tree management plan in accordance with Condition 6 of this permit.
   f) An updated construction management plan in accordance with Condition 10 of this permit.

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

3. **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.**

4. **Before the removal, destruction or lopping of any native vegetation, an Offset Management Plan (OMP) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The OMP must show offsets in relation to all native vegetation within the property which this**
permit allows to be removed. The OMP must be prepared in accordance with Permitted clearing of native vegetation – Biodiversity assessment guidelines (DEPI, 2013).

5. Before the development starts, detailed landscape plans to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plans must be generally in accordance with the ‘Landscape Concept Plan’ prepared by Tract, Project/Drawing No. 0315-0206 D001, Revision 4, Dated 22 March 2016, and the ‘Landscape Concept Plan – Tree Removal/Retention’ prepared by Tract, Project/ Drawing No. 0315-0206 D002, Revision 2, Dated 7 June 2016, be drawn to scale with dimensions and three copies must be provided. The plan must show:
   a) All trees to be removed and retained clearly identified.
   b) Retention of Tree 63.
   c) Planting of 50 indigenous trees within 100 metres of the new car park and 50 indigenous trees within 300 metres of the new car park, or the offset requirements shown within the OMP approved under Condition 3 of this permit whichever is the greater. A planting schedule of all proposed trees, including botanical names, common names, pot sizes, sizes at maturity and quantities of each plant must be provided.
   d) A survey, including, botanical names of all existing trees to be retained within 3m of the proposed works shown on the plans approved under Condition 1 of this permit

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

The Tree Management Plan must be specific to the trees shown on the Tree Protection Plan, in accordance with AS4970-2009, prepared by a suitably qualified arborist and provide details of tree protection measures that will be utilised to ensure all trees to be retained as identified on the landscape plan approved under Condition 5 of this permit 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:

The Tree Protection Zone and Structural Root Zone for all trees to be retained as identified on the landscape plan approved under Condition 5 of this permit and the location of tree protection measures to be utilised.

7. 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.

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

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

10. 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 wash.

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

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

n) 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.


p) 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.

s) Soil and dust debris management measures from the works to the southern and eastern end of the southern car park.

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

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

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

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.

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<th>Date</th>
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<td>Amendment to the permit under Section 72 of the Planning and Environment Act 1987 to:</td>
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<td><em>Amendment to planning permit:</em></td>
</tr>
<tr>
<td></td>
<td>• Amendment to the plans referenced in Condition 1 to include the Southern Car Park Proposed Mounding – Landscape Concept Plan prepared by Tract dated 6 July 2017.</td>
</tr>
<tr>
<td></td>
<td>• Amendment of Condition 1(f) to reference an updated Construction Management Plan.</td>
</tr>
<tr>
<td></td>
<td>• Addition of Condition 10(s) to require an updated Construction Management Plan detailing how soil and dust debris from the works to the southern and eastern end of the southern car park are to be managed.</td>
</tr>
<tr>
<td></td>
<td><em>Amendments to endorsed plans:</em></td>
</tr>
<tr>
<td></td>
<td>• Additional bunding around the southern and eastern ends of the southern car park.</td>
</tr>
</tbody>
</table>

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

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

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.
- Protect and ensure the quality of our open space, including beaches and foreshore.
• Encourage the planting of local indigenous vegetation.

_Bayside Planning Scheme_

• Clause 12 Environmental and Landscape Values
• Clause 13 Environmental Risks
• Clause 14 Natural Resource Environment
• Clause 15 Built Environment and Heritage
• Clause 17 Economic Development
• Clause 21.02 Bayside Key Issues and Strategic Vision
• Clause 21.04 Environmental and Landscape Values
• Clause 21.06 Built Environment and Heritage
• Clause 21.07 Economic Development
• Clause 21.08 Open Space
• Clause 22.05 Heritage Policy
• Clause 32.08 General Residential Zone (Schedule 8)
• Clause 42.02 Vegetation Protection Overlay (Schedule 3)
• Clause 43.01 Heritage Overlay (Schedule 560)
• Clause 43.02 Design and Development Overlay (Schedule 2)
• Clause 45.06 Development Contributions Plan Overlay (Schedule 1)
• Clause 52.06 Car Parking
• Clause 52.17 Native Vegetation
• Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Strategic and Economic Policy**

Clause 17.03, Tourism, seeks to encourage tourism development to maximise the employment and long-term economic, social and cultural benefits of developing the State as a competitive domestic and international tourist destination.

Local policy at Clause 21.07-3 recognises Bayside’s role in the provision of tourism facilities of which golfing has been identified as one of the more significant with seven golf courses, both public and private, some of international recognition.

Policy specifically directs the consideration of "potential impacts associated with tourism need to be carefully managed to ensure that environmentally sensitive coastal areas and the inherent character of Bayside are retained and enhanced. This requires quality management of property and open space development." Objective 1 seeks to, "Encourage development of tourist facilities and services which are compatible with and add value to existing built form and natural attractions."

The proposed works are to facilitate improvements to the Victoria Golf Course to help cement the golf course as a world class facility. The works will ensure the tourism and economical aspirations of policy are met whilst maintaining the vegetated character of
the area without resulting in any amenity impacts to adjoining properties as discussed below.

6.2. **Neighbourhood character and landscaping**

The current endorsed Landscape Plan (Sheet 4 of 16 at Attachment 3) allowed for the south-eastern corner of the of the southern car park to be graded down to natural ground level over a 5 metre cross-section.

The proposed amendments to the Landscape Plan propose bunding around the car park, up to maximum 5 metres above the ground level and being graded back down to the existing ground level. The proposed bunding and grading will occur over a distance between 15 and 20 metres.

The proposed works do not result in the loss of any vegetation, including trees identified as Trees 63 and 64 protected under the endorsed Tree Protection Report and Tree Management Plan (both plans available to view online at the Bayside City Council Planning Application Register).

Amendments sought are consistent with the character and topography of the site and wider area as all vegetation within the works area is proposed to be retained and the character further enhanced with additional vegetation in the form of native trees, shrubs and indigenous gardens beds from nearby woodlands/sand heathland reserves (refer to Concept Landscaping Plan at Attachment 1).

Once established, the proposed landscaping to the graded area will integrate seamlessly into the rolling character of the area and will provide for a ‘natural’ outlook from adjoining properties in lieu of a surface level car park.

It is noted that the soil to form this bunding is currently located in the general area where the works are proposed, acknowledging that the soil has not been graded as per the proposal. This gives the benefit of assisting with the neighbourhood character and landscaping assessment (refer to Figure 8 and 9 at Attachment 2).

Further, the proposed works do not impact on the heritage built form on site as the heritage overlay on the site is confined to the clubhouse which is not proposed to be altered.

6.3. **Amenity Impacts**

The proposed works are considered acceptable and continue to demonstrate compliance with the decision guidelines of non-residential uses and development of GRZ8 and DDO2.

The proposed bunding will alter the outlook from the areas of secluded private open space associated with dwellings presented to Victor Avenue. The visually permeable mesh wire fence allows for ‘borrowed’ amenity across the golf course, noting that existing vegetation within this area generally restricts any long-distance views.

The Victorian Civil and Administrative Tribunal has consistently found that although impact upon views can be considered amongst the amenity impacts of a proposal, there cannot be considered a right to any particular view. In the absence of particular planning controls which might require the protection of, or sharing of views, loss of views is usually afforded very limited weight. This is especially the case where a view is obtained across adjoining land and the views are not afforded any special consideration in a planning control. In this case the development is not considered to intrude unreasonably upon the skyline to reduce the amenity of neighbours through their outlook or access to daylight.

Whilst it is recognised that views may form part of residential amenity, the Tribunal has consistently held that there is no legal entitlement to a view.
The proposed bunding at its closest is offset approximately 2 metres from the rear of 25-27 Victor Avenue with the proposed bunding ridge height (maximum 5 metres) setback approximately 18 metres from the common property boundary.

Altering the outlook from these properties in itself is not considered a concern and further to this the outlook to the bunding and graded landscaping area is considered to be an improvement beyond that of the current car park.

The proposed grading of the soil gives the benefit of assisting with the neighbourhood character and will provide for the concealment of the car parking area from the closest residential properties and will assist with noise attenuation from background noise such as club members talking and cars.

As the proposed bunding is to be landscaped this will prevent any passive overlooking into areas of secluded private open space to properties presented to Victor Avenue. Further the steep incline of the bunding from the car parking edge upwards will generally be too steep for club patrons to climb or is not on route to a destination within the site.

Concerns in relation to the soil and dust from the bunding area being deposited into the rear yards and pool areas of abutting properties during wind events are considered to be short-term amenity impacts until such times as the proposed vegetation is established. Notwithstanding this, recommended conditions require a revised Construction Management Plan to detail how these aspects can be managed so as to avoid soil and dust from the site being deposited in adjoining properties until vegetation is established.

For the reasons outlined above, the proposed bunding treatment to the south-east corner of the southern car park are considered acceptable and will not result in a transformation of the proposal.

### 6.4. Objector issues not already addressed

**Concerns relating to previous works already approved / non-compliances with assurances from Victoria Golf Club representatives**

Concerns have been raised in respect of works previously approved as part of the original permit issued. The ambit of discretion for this application is limited to the proposed amendments only. The original application was advertised as per the requirements of Section 52 of the Planning and Environment Act 1987.

It is noted the applicant is bound by the endorsed plans and conditions of permit. Failure to comply with these requirements may result in enforcement action pursuant to the requirements of the Planning and Environment Act 1987.

It is not appropriate for Council to comment on any private agreements or assurances made between private parties.

**Retrospective works**

Concerns have been raised in respect of the retrospective nature of the works. These works are not considered retrospective as Condition 13 directs that all works must be completed within four years from the date of the permit, that being 3 August with a completion date of 3 August 2020.

**Drainage run-off**

Concerns in relation to the bunding and associated drainage run-off’s have been raised in respect of the proposed amendments. It is noted Conditions 11 and 12 require consultation with Council’s Drainage Department to ensure appropriate storm-water discharge.

**Proposed works are to minimise costs to the applicant**

Questions in relation to why the excess soil could not be managed by another means was posed to the permit applicant. It is noted these are not matters required to be
considered by the Bayside Planning Scheme and the assessment is restricted the proposed works only.

Support Attachments
1. Development Plans ↓
2. Site and Surrounds Imagery ↓
3. Endorsed Plans ↓
Figure 1. Aerial overview of site context.

Legend

<table>
<thead>
<tr>
<th>Subject site</th>
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</thead>
<tbody>
<tr>
<td>Enlarged area</td>
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</table>
Figure 2. Enlarged aerial overview of subject site and objector map.

<table>
<thead>
<tr>
<th>Legend</th>
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</thead>
<tbody>
<tr>
<td>Works area</td>
<td>⭐</td>
</tr>
<tr>
<td>Objectors</td>
<td>⬤</td>
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</tbody>
</table>
Figure 3. Entrance to Victoria Golf Club from Park Road.

Figure 4. Entrance to Victoria Golf Club looking towards the Club House
Figure 5. View looking towards proposed works area from the car park.
Figure 6. View looking south-east from the current bunding to the edge of the car park towards the rear property boundaries of 21, 23 and 25-27 Victor Avenue.
Figure 7. View looking south along the common boundary of Victoria Golf Club and No’s 21, 23 and 25-27 Victor Avenue.
Figure 8. View looking north along the common boundary of Victoria Golf Club and No’s 21, 23 and 25-27 Victor Avenue.

Figure 9. View looking north and west from the common boundary of No’s 21, 23 and 25-27 Victor Avenue towards the current bunding adjacent to the southern car park.
STAGE 2 WORKS
Not part of this permit
4.6 44 GRAHAM ROAD, HIGHETT
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/614/1 WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/67277

1. Application details

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<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Grant a Planning Permit</th>
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<tbody>
<tr>
<td>Applicant</td>
<td>Archsign Pty Ltd</td>
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<tr>
<td>Title/Covenant</td>
<td>The title is not subject to any restrictive covenants.</td>
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<td>Date application received</td>
<td>25 September 2017</td>
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<td>Current statutory days</td>
<td>104 days</td>
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<td>Zoning</td>
<td>General Residential Zone (Schedule 1)</td>
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<td>Overlays</td>
<td>Design and Development Overlay (Schedule 5)</td>
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<td>Development Contributions Plan Overlay (Schedule 1)</td>
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<td>Number of objections</td>
<td>3</td>
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</table>

Proposal

The application seeks the construction of five (5) double storey dwellings, buildings and works in the Design and Development Overlay (Schedule 5) and reduction of visitor car parking requirement on a lot with an area of 703 square metres. Key details of the proposal are as follows:

- Five semi-detached townhouses in a tandem arrangement within the Highett Neighbourhood Activity Centre;
- Double storey townhouse-style dwellings with a maximum building height of 7.4 metres;
- Site Coverage of 50%;
- Permeability 26%;
- Minor variations to Standards B17 (Side and Rear Setbacks) and B28 (Private Open Space);
- Subject site lies 280 metres south of Highett Station; and
- Reduction of the visitor car parking 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 32.09-5 (Neighbourhood Residential Zone Schedule 3) – Construction of two or more dwellings on a lot.
   - Clause 43.02-2 (Design and Development Overlay Schedule 5) – Construct a building or construct or carry out works.
   - Clause 52.06-3 (Car Parking) – Reduce the number of car parking spaces required.

   **Planning Scheme Amendments**
   
   Amendment C46 was gazetted on 15 February 2007 and focused on the Highett Neighbourhood Activity Centre. The policy at that time implemented the Highett Structure Plan included implementing the Design and Development Overlay Schedule 5 that is relevant to the subject land. This site and surrounds was identified as a preferred area for medium density residential development.

   Council’s Urban Strategy team has commenced review of this amendment. This has included presenting a draft structure plan to Council at the Ordinary Council Meeting on 20 March 2018. Council endorsed this draft structure plan for the purposes of community consultation and engagement at this meeting. It is considered unlikely that the planning controls will be changed extensively in accordance with this review.

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>Objects to the removal of Tree 12. Preferred conditions of permit regarding post-construction landscaping.</td>
</tr>
<tr>
<td>Drainage Assets Engineer</td>
<td>Conditions of permit.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>Conditions of permit.</td>
</tr>
</tbody>
</table>

   **Public notification**
   
   The application was advertised pursuant to Sections 52(1)(a) and (d) of the *Planning and Environment Act 1987* and three objections were received. The following concerns were raised:
   
   - Reduction of visitor parking space;
   - Height and visual bulk;
   - Overshadowing;
   - Overlooking;
   - Insufficient provision of POS; and
   - Trees will overhang properties in future.

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

A consultation meeting was not held. No objectors definitively confirmed attendance on the meeting date and the decision was made to cancel the meeting.

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 2017/614 for the land known and described as 44 Graham Road, Highett for the construction of five (5) double storey dwellings, buildings and works in the Design and Development Overlay (Schedule 5) and reduction of visitor car parking requirement in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the advertised plans prepared by archsign referenced 17245, date July 2017 and revision number B but modified to show:

   a) The installation of a pergola behind the gate along the southern pedestrian walkway;

   b) The inclusion of a vertical garden along the street-facing aspect of the ‘garden wall’ west of the dwelling 1 courtyard;

   c) The addition of skylights above the hallway of dwellings 2 & 4 and above the staircase of dwelling 5;

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

   e) An amended landscape plan in accordance with condition 8 of this permit;

   f) A tree management and tree protection plan in accordance with condition 11 of this permit;

   g) A construction management plan in accordance with condition 18 of this permit;

   h) Payment of the development contribution levy in accordance with condition 19 of this permit;

   All to the satisfaction of the Responsible Authority.

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

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

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

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

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

Water Sensitive Urban Design

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.

Landscaping

8. 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 Etched, reference 171021, dated November 2017 and be drawn to scale with dimensions and three copies must be provided. The plan must show:
   
a) Three canopy trees in the front setback with a mature height of 8 metres;
   
b) Revised species for the five canopy trees along the northern boundary to allow for mature heights of 6 metres;
   
c) Two canopy trees along the eastern boundary with a mature height of 8 metres;
   
d) The inset of all paving a minimum of 1.6 metres from the northern boundary;
   
e) Any realignment of internal pathways in accordance with the amended landscape plan;
   
f) The inclusion of a vertical garden in accordance with condition 1b;
   
g) 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;
   
h) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant.
   
i) Landscaping and/or planting within all areas of the site not covered by buildings or hard surfaces.
   
j) Details of surface finishes of pathways and driveways.

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

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

Tree Management and Protection Plan
11. Prior to the commencement of development, 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.

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

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

**Street tree protection**

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

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

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

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

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

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

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

**Drainage**

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

17. Before the development, 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.

**Construction Management Plan**

18. 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 works 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 vicinity and methods and frequency of clean up procedures in the event of build-up of matter outside the site;

i) Public safety measures;

j) Restoration of any Council assets impacted and/or damaged during construction;

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

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

m) 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 experienced;

n) Traffic management measure to comply with the provisions of AS1742.3-2009 Manual of uniform traffic control devices – Part 3: Traffic control devices for works on roads;

o) All contractors associated with the construction of the development must be made aware of the requirements of the Construction & Traffic Management Plan;

p) Details of crane activities, if any.
Development Contribution

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

The levy payment shall be submitted to Council with the Bayside Drainage 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.

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:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 13 Environmental Risks
Item 4.6 – Matters of Decision

6. Considerations

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

6.1. Strategic Justification

A number of state and local planning policies are relevant to this application. For example, Clause 11 (Settlement) of the State Planning Policy Framework (SPPF) encourages a diversity of housing types at higher densities in and around Activity Centres. The subject site’s proximity to Highett station reflects this ambition – Clause 11 outlines a desire to deliver more housing closer to jobs and public transport.

Further supporting this strategic position is Clause 16 (Housing) of the SPPF which seeks to increase the proportion of new housing in designated locations within established urban areas. Local strategic work has identified the Highett Neighbourhood Activity Centre as a key location to assist in delivering greater residential yield within the Bayside municipality. Clause 16 outlines that Activity Centres will play an increasingly important role in providing for future housing needs, particularly as opportunities diminish elsewhere due to neighbourhood character, heritage and environmental constraints. This is particularly significant within Bayside City Council where neighbourhood character is a sensitive and ongoing issue in the planning sphere.

The Local Planning Policy Framework (LPPF) seeks to direct medium density housing to large Neighbourhood Activity Centres particularly those with good access to public transport. In particular, Clause 21.03 (Settlement) of the Bayside Planning Scheme outlines the redevelopment potential within and around selected Activity Centres. This is reflected in the DDO5 implemented on the subject land through the gazettal of Amendment C46. The objective of this overlay is to direct medium density residential development of up to three storeys in height close to the Highett Shopping Centre and Southland.

Officers indicate that given proximity to Highett station, the Highett Shopping Centre and
Southland state and local planning policy overwhelmingly supports this proposal, including the reduction of the visitor car parking space. This is further discussed in section 6.5 below.

6.2. Neighbourhood character

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

Discussed in detail at section 6.4 below, a landscape plan has been submitted with the application. It allows for considerable provision of canopy trees and new vegetation on the subject land. Due to underground car parking facilities and the lack of deep soil planting available, planning officers are concerned about the post-construction feasibility of the vegetation. As such, a number of recommended conditions of permit are included in accordance with the Bayside Landscape Guidelines 2016.

The tandem arrangement of the five dwellings is consistent with a number of other sites in Precinct G1 or covered the Design and Development Overlay Schedule 5 (DDO5). Examples are found at 42 Graham Road, 2A Thistle Grove and further south at 31 Graham Road. This emerging character is generally in concert with the preferred future character objectives, specifically in maintaining a visual separation when viewed from the public realm, although conditions of permit are recommended to enhance this character.

Pedestrian access along the southern interface of the site will organically maintain an appropriate separation in the built form. Along the northern interface, a 1.7 metre high rendered ‘garden wall’ is proposed above the underground car park, interrupting views to this aspect. The wall is provided to offer a level of seclusion to the courtyard for dwelling 1. In order to soften the views from the streetscape, a condition of permit is recommended to include a vertical garden along the street facing aspect of this wall.

The proposal responds appropriately to the design objectives of the DDO5 while ensuring the new dwellings will provide an articulated and interesting façade to the street. The skillion/flat roof combination and blending of materials will break up the built form resulting in a less bulky outcome. The street-facing elements of dwelling 1 include a front door that provides an appropriate interaction with the streetscape. In order to increase the sense of address, a condition of permit is recommended the pedestrian access along the southern interface, a condition of permit is recommended to install a pergola behind the gate.

Appropriate levels of landscaping, open front fencing and below ground car parking will further contribute to a development result that will positively impact on the preferred future character of this part of Highett.

6.3. Compliance with Clause 55 (ResCode)

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

<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>1.82 metres (D1)</td>
</tr>
<tr>
<td></td>
<td>1.74 metres (D2)</td>
</tr>
<tr>
<td></td>
<td>1.64 metres (D3)</td>
</tr>
<tr>
<td></td>
<td>1.58 metres (D4)</td>
</tr>
</tbody>
</table>
1.54 metres (D5)  
South (side)  
1.7 metres (D1) 
1.58 metres (D2) 
1.44 metres (D3) 
1.4 metres (D4) 
1.58 metres (D5)  
2, 2.3 & 2.6 metres  
1.7 metres (D1) 
1.58 metres (D2) 
1.44 metres (D3) 
1.4 metres (D4) 
1.58 metres (D5)  
3.1, 3.25, 3.3 & 3.45 metres  
East (rear)  
1.54 metres  
1.2 & 3 metres  
1.54 metres  
4.1 & 4.6 metres

It is noted VCAT recently found that the DDO5 overrides the requirements of the side and rear setback variations embedded within Schedule 1 to the General Residential Zone. In Stellar 140 Pty Ltd v Bayside CC [2018] VCAT 438, the tribunal found that the standard provisions of Clause 55 apply in relation to all multi-unit residential developments in the area covered by the DDO5. This is outlined in section 2.0 of schedule 5 to the DDO including:

*Buildings should be set back from side and rear boundaries in accordance with Standard 17 (sic) of Clause 55; except that:

- The lower level of the building should be setback a distance which is the same as the setback required by clause 55 for the highest point of any wall above that lower level.*

This DDO5 variation to Standard B17 results in the requirements set out above. There is an encroachment of 0.34 metres to this standard for 4.17 metres along the rear interface of the subject site. All other elements of the built form are compliant with the DDO5 variation to Standard B17.

The objective of the side and rear setbacks standard is to ensure the height and setback respects the existing or preferred neighbourhood character and limits amenity impacts on existing dwellings. As outlined in section 6.2 of the report above the proposal appropriately responds to the preferred future character set out at Clause 22.06 of the Bayside Planning Scheme. Furthermore, it is noted that no immediately adjoining landowners objected to the application through the notice of application period. As such, it is considered that amenity impacts deriving from the reduced rear setback are unlikely. Therefore, Officers recommend that the proposal achieves the side and rear setbacks objective.

Private Open Space (Standard B28)

<table>
<thead>
<tr>
<th>Private Open Space</th>
<th>Secluded Private Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>Dwelling 1</td>
<td>40 square metres</td>
</tr>
<tr>
<td>Dwelling 2</td>
<td>40 square metres</td>
</tr>
<tr>
<td>Dwelling 3</td>
<td>40 square metres</td>
</tr>
<tr>
<td>Dwelling 4</td>
<td>40 square metres</td>
</tr>
<tr>
<td>Dwelling 5</td>
<td>40 square metres</td>
</tr>
</tbody>
</table>
A second pertinent variation to the provisions of ResCode embedded within the DDO5 relates to Private Open Space. Section 2.0 of schedule 5 to the DDO includes the following:

*Private open space – The objectives in relation to Standard B28 will apply, but the standard in relation to ground level open space may be exceeded provided the objective is complied with.*

Dwelling 1 & 5 have provided a satisfactory provision of both secluded private open space and private open space. Dwelling 2, 3 & 4 have all provided a level of secluded private open space that achieves Standard B28 but the greater provision of POS is not achieved. The alignment of the inner three dwellings is such that additional private open space on the subject site is not available. As such, a variation to the standard is required for these three dwellings.

The objective of the private open space standard is to provide reasonable recreation and service needs of residents by adequate private open space. As the site is covered by the DDO5, private open space should be provided in accordance with medium density residential development. Courtyards associated with Dwellings 2, 3 & 4 are considered to provide a reasonable level of recreation and service needs to future residents for a number of reasons. They are on the north-side of the proposed development, directly abut living spaces, will be well landscaped and allow for servicing of the dwellings. In accordance with the DDO5, officers recommend that the standard can be varied in this instance as the proposal allows for the objective to be achieved.

### 6.4. Landscaping

The application plans show the removal of 9 trees from the site. 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 retainment</td>
<td>Proposed removal for retainment</td>
</tr>
<tr>
<td>Tree 12</td>
<td>None</td>
</tr>
<tr>
<td>Tree 2, 3, 6, 7, 8, 9, 11 &amp; 12</td>
<td>None</td>
</tr>
</tbody>
</table>

Council’s Arborist completed an inspection of the subject land on 29 January 2018. Tree 12 is a White Mulberry with good health, fair structure and moderate amenity value. Its removal as part of this development is not supported by the Arborist as the tree is well placed for retention and its removal is not in line with the preferred future character of G1. Specifically, the Arborist indicates that the removal of Tree 12 would not maintain and enhance the garden settings of the dwellings.

Planning officers disagree with the Arborist’s interpretation of the preferred future character of Precinct G1. Although the preferred character guidelines speak to the retention of established trees where possible, officers recognise the opportunity to enhance the garden settings of the proposed medium density development on the subject land. This can be achieved in accordance with the removal of Tree 12. As a condition of permit, officers recommend a level of landscaping that will result in an enhanced contribution to the public realm from the subject land. This will be achieved as the vegetation matures along with the development.

Council’s Arborist has indicated that due to reduced soil volumes along the non-street facing interfaces, opportunities for canopy tree planting are limited. Table 7 of the *Bayside Landscape Guidelines* outlines the soil volume requirements for trees as
determined by canopy width. Reduced setbacks of the basement along the northern and eastern interfaces limit the level of post-construction canopy tree planting that will be available to the site.

The applicant has included a landscape plan that includes the planting of ten canopy trees, including three large canopy trees on the subject land. Planning officers concur with the Arborist that this is a level of planting that will likely lead to future root/infrastructure conflict. The reduced soil volumes require a more deliberate consideration of the canopy volume of the trees to be planted.

Conditions of permit have been included in the recommendation requiring a revised level of the landscaping to include three canopy trees in the front setback capable of reaching a height of 8 metres at maturity. Along the sensitive northern interface, it is recommended that the proposed five canopy trees species are revised to 6 metres high to allow appropriate soil volume levels ensuring post-construction health. Along the eastern interface it is recommended that two trees capable of reaching 8 metres are included.

If supported by Council, this level of the planting may require the realignment of internal pathways which are further recommended as a condition of permit. Lastly, Council’s Arborist has recommended a reduction in the level of hard paving in the SPOS of all five dwellings. Planning officers agree with this, as it will not only facilitate root growth of canopy trees but also allow additional space for groundcover planting. This condition of permit is included within the recommended landscaping conditions.

A number of trees abut the subject site within 3 metres of the boundary. In particular, Tree 13 on the proposed landscape plan was a row of Callery Pear trees on 42 Graham Road. This row lies 0.5 metres away from the boundary and the Tree Protection Zones (TPZ’s) fall within the subject site. As such consideration must be given to the impact of the development upon these trees. A Tree Protection Plan and Tree Management Plan has been recommended as a condition of permit to ensure these trees remain viable both during and post construction.

Tree 1 is an immature Queensland Brush Box located within the nature strip and is proposed for retention. Conditions of permit have been recommended to ensure that this tree is protected during the construction process.

6.5. Car parking and traffic

The purpose of Clause 52.06 (Car Parking) is to:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The development proposes the following:

<table>
<thead>
<tr>
<th>Use</th>
<th>Size</th>
<th>Planning Scheme Parking Rate</th>
<th>Car Parking Requirement</th>
<th>Car Parking Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>4 x 3 bedroom</td>
<td>2 spaces to each 3 bedroom dwelling</td>
<td>9 spaces</td>
<td>9 spaces</td>
</tr>
</tbody>
</table>
Pursuant to the car parking requirements at Clause 52.06, a dwelling requires car parking to be provided at a rate of 1 car space per one or two bedroom dwellings and 2 car spaces per three or more bedroom dwellings. Each of the dwellings has been provided with a level of car parking required under this particular provision.

Additionally, for every five dwellings, 1 visitor car parking space is required. In this instance, the applicant is seeking to waive the visitor car parking space and has indicated there is not enough space on the subject site to provide an additional car park.

The application was referred to Council’s Traffic Engineer who indicated that *every effort should be made to provide one visitor car space on site*. Graham Road is primarily ‘No Standing’ in the immediate vicinity, although it is noted that surrounding streets have timed restrictions. It is noted that all three of the objections have raised concerns around a deficit of the visitor parking space.

The applicant has submitted a traffic report prepared by O’Brien Consulting. The report outlines the provision of on-street parking within walking distance of the subject land with a level of publicly available parking in the Highett Shopping Centre. Furthermore, the proximity of the site to the Highett Station means that public transport is a genuinely viable option for future visitors to the site.

Given the strategic justification for the location outlined in Section 6.1 above, it is considered that the reduction in visitor car parking can be supported. Officers note the ambition for densification within the Highett Neighbourhood Activity Centre and recommend that this comes with trade-offs. In this instance, officers recommend a suitable trade-off is a reduction in the visitor parking space. If they drive, future visitors could park within the facilities in the Highett Shopping Centre or, preferably, could catch the train to Highett Station. It is recommended that the decision guidelines of Clause 52.06 are achieved by the proposal.

Council’s Traffic Engineer commented on a number of other matters relating to the application including width of garage doors, garbage collection and sight lines at the property boundary. Officers are satisfied that these elements of the proposal have been sufficiently considered.

Given the ‘No Standing’ provision of car parking along Graham Road, officers consider it is imperative that a construction management plan is required as a condition of permit. This will ensure that the amenity of the surrounds are protected during the construction phase while also considering traffic movements given that no tradespeople can park on the street.

### Design and Development Overlay Schedule 5 (DDO5)

As outlined in sections 6.1 above, the DDO5 is relevant to the Highett Neighbourhood Activity Centre and the preferred development outcome of medium density housing within the precinct. The design objectives include retaining adequate front, side and rear setbacks to provide space for landscaping, encouraging underground car parking and protecting existing low-density residential development in the area through appropriate setbacks.

As discussed in section 6.3 above, there are a number of variations to ResCode embedded within the provision of the DDO5. Officers recommend that these objectives have been successfully achieved through the proposal. There are no additional decision
guidelines within the DDO5 – the variations to Clause 55 are the primary mechanism for the overlay.

As described elsewhere in this report, officers consider that the proposal results in an appropriate balance between residential densification and achieving the preferred character of the area. Overall, the application is recommended for support.

6.7. **Objector issues not already addressed**

**Building height/visual bulk**

The height and scale of the development at two storeys is appropriate, given the focus for medium density development for the site in a neighbourhood activity centre and similar scale development having been approved and developed in the vicinity. There are numerous two storey developments already in the Highett activity centre.

The building’s bulk is tempered through its articulation from front and side boundaries, further complements by the contrasting wall cladding materials used at ground (first) and second floors.

Trees will overhang properties in the future

The provisions of the Bayside Planning Scheme seek to provide well landscaped development which provides numerous benefits to future residents, adjoining landowners and the public realm. Future tree maintenance will be the responsibility of future residents and cannot be reasonably considered as a part of the planning application process.

**Support Attachments**

1. Development Plans ↓
2. Site Surrounds and Imagery ↓
3. Neighbourhood Character Assessment ↓
4. Clause 55 Assessment ↓
PROPOSED MULTI-DWELLING DEVELOPMENT

44 GRAHAM ROAD, HIGHETT

ADVERTISED PLAN
Item 4.6 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

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

*Note. One additional objection not shown in Figure 1*
Figure 2. View to 44 Graham Road looking east from the streetscape

Figure 3. View toward 44 Graham Road – 2/46 Graham Road visible to the north
Figure 4. Example of quality post-construction landscaping at 42 Graham Road

Figure 5. 36-40 Graham Road viewed from street – poor contribution to streetscape
Figure 6. Example of emerging neighbourhood character at 2A Thistle Grove

Figure 7. Example of original post-war single storey character at 48 Graham Road
Neighbourhood Character Precinct G1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | • Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
• Retain large, established trees and provide for the planting of new trees wherever possible.  
• Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds  
A landscape plan was submitted with the application that includes substantial trees and vegetation. Conditions of permit will ensure that the post-construction landscaping is maintained in perpetuity. |
| To maintain the rhythm of visual separation between buildings. | • Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. |                                           | Responds  
The dwellings are aligned in a tandem arrangement when viewed from the street. This allows for consist spacing in the built form along the Graham Road streetscape. |
| To ensure that new buildings provide an articulated and interesting façade to the street. | • Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
• Use pitched roof forms with eaves. | Large, bulky buildings with poorly articulated front and side wall surfaces. | Responds  
The built form appropriately responds to the design objectives of the preferred medium density residential areas (Highett). Incorporated landscaping, below ground car parking and appropriate side and rear setbacks have been provided. |
| To maintain the openness of the streetscape. |                                                                                  | High, solid front fencing.                | Responds  
The proposed front fencing is 1 metre high, providing an appropriate level of interaction between public and private spheres. |
<table>
<thead>
<tr>
<th>Title and Objective</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B1 Neighbourhood Character</strong></td>
<td>Yes</td>
<td>Refer Attachment 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><strong>B2 Residential Policy</strong></td>
<td>Yes</td>
<td>Complies with the Highett Structure Plan</td>
</tr>
<tr>
<td>Residential development is</td>
<td></td>
<td></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>
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<tr>
<td>planning policies.</td>
<td></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><strong>B3 Dwelling Diversity</strong></td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Encourages a range of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>dwelling 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><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</td>
<td></td>
<td></td>
</tr>
<tr>
<td>services and infrastructure</td>
<td></td>
<td></td>
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<tr>
<td>without overloading the</td>
<td></td>
<td></td>
</tr>
<tr>
<td>capacity.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>**B5 Integration with the</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>Street**</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Integrate the layout of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>development with the street.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B6 Street Setback</strong></td>
<td>Yes</td>
<td>Required: 6 metres <em>(required as a variation through DDO5)</em></td>
</tr>
<tr>
<td>The setbacks of buildings from</td>
<td></td>
<td>Proposed: 6 metres</td>
</tr>
<tr>
<td>a street respect the existing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>or preferred neighbourhood</td>
<td></td>
<td></td>
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<tr>
<td>character and make efficient</td>
<td></td>
<td></td>
</tr>
<tr>
<td>use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Yes</td>
<td>Required: 7.5 metres (required as a variation through DDO5)</td>
</tr>
<tr>
<td>--------------------</td>
<td>-----</td>
<td>------------------------------------------------------------</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed Dwelling 1: 7.4 metres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed Dwelling 2: 6.65 metres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed Dwelling 3: 6.48 metres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed Dwelling 4: 6.08 metres</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed Dwelling 5: 6.29 metres</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B8 Site Coverage</th>
<th>Yes</th>
<th>Maximum: 50%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 50%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B9 Permeability</th>
<th>Yes</th>
<th>Minimum: 20%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proposed: 30.16%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B10 Energy Efficiency</th>
<th>Yes</th>
<th>All habitable areas, including habitable rooms and secluded private open space areas would be appropriately located to utilise the northern orientation of the site. Furthermore, skylights are proposed above Dwellings 2, 3 &amp; 4. Conditions of permit have been added to include skylights above the building landing for dwellings 2 &amp; 5 to further enhance internal amenity and energy efficiency.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Achieve and protect energy efficient dwellings and residential buildings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B11 Open Space</th>
<th>N/A</th>
<th></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>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B12 Safety</th>
<th>Yes</th>
<th>Wall mounted lights along the pedestrian access will improve safety as will restricted access gates.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B13 Landscaping</th>
<th>Yes</th>
<th>Refer to section 6.3 of the report for further discussion.</th>
</tr>
</thead>
<tbody>
<tr>
<td>To provide appropriate landscaping. To encourage:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development that respects the landscape character of the neighbourhood.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Development that maintains and enhances habitat for plants and animals in locations of habitat importance.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| The retention of mature
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Yes/No</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B14 Access</td>
<td>Ensure the safe, manageable and convenient vehicle access to and from the development. Ensure the number and design of vehicle crossovers respects neighbourhood character.</td>
<td>Yes</td>
<td>Appropriate vehicular access is provided. <strong>Maximum:</strong> 40% of street frontage <strong>Proposed:</strong> 19.37% of street frontage</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>Yes</td>
<td>The proposed car parking areas are appropriately located.</td>
</tr>
<tr>
<td>B17 Side and Rear Setbacks</td>
<td>Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impact on existing dwellings.</td>
<td>No</td>
<td>Refer section 6.2 of the report and table below. <em>(variations to Standard B17 are required through DDO5)</em></td>
</tr>
</tbody>
</table>

### Ground Floor

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>1.82 (D1), 1.74 (D2), 1.64 (D3), 1.58 (D4) &amp; 1.54 metres (D5)</td>
</tr>
<tr>
<td>South (side)</td>
<td>1.7 (D1), 1.58 (D2), 1.44 (D3), 1.4 (D4) &amp; 1.58 metres (D5)</td>
</tr>
<tr>
<td>East (rear)</td>
<td>1.54 metres</td>
</tr>
</tbody>
</table>

### First Floor

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>1.82 (D1), 1.74 (D2), 1.64 (D3), 1.58 (D4) &amp; 1.54 metres (D5)</td>
</tr>
<tr>
<td>South (side)</td>
<td>1.7 (D1), 1.58 (D2), 1.44 (D3), 1.4 (D4) &amp; 1.58 metres (D5)</td>
</tr>
<tr>
<td>East (rear)</td>
<td>1.54 metres</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>Description</th>
<th>Yes/No</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>Allow adequate daylight into existing habitable room</td>
<td>Yes</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
</tr>
<tr>
<td>B27 Daylight to New Windows</td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
| B28 Private Open Space | Provide reasonable recreation and service needs of residents by adequate pos. | No | Minimum: 25m² secluded, 40m² overall  
Dwelling 1 Proposed: 38m² secluded, 77m² overall  
Dwelling 2 Proposed: 27m² secluded  
Dwelling 3 Proposed: 25m² secluded  
Dwelling 4 Proposed: 29m² secluded  
Dwelling 5 Proposed: 47m² secluded, 67m² |
<table>
<thead>
<tr>
<th>Item</th>
<th>Overall</th>
</tr>
</thead>
<tbody>
<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>
</tr>
<tr>
<td><strong>B30 Storage</strong>&lt;br&gt;Provide adequate storage facilities for each dwelling.</td>
<td>Yes</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>Yes</td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong>&lt;br&gt;Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>B33 Common Property</strong>&lt;br&gt;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>Yes</td>
</tr>
<tr>
<td><strong>B34 Site Services</strong>&lt;br&gt;Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
4.7 4 SUSAN STREET, SANDRINGHAM
NOTICE OF DECISION TO GRANT A PLANNING PERMIT
APPLICATION NO: 2017/506  WARD: CENTRAL

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/73641

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 North Planning 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>25 August 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>150 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>Number of objections</td>
<td>4</td>
</tr>
</tbody>
</table>

Proposal
The application is for the construction of two new dwellings on a lot with an area of 744 square metres. Key details of the proposal are as follows:

- 2 x 5 bedroom double storey dwellings;
- Site coverage – 49.3%;
- Permeability – 39.91%; and
- Building height - 8.25 metres (2 storeys + attic).

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 32.09-6 (Neighbourhood Residential Zone) – 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>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 three (3) objections were received. The following concerns were raised:

- Overshadowing;
- Overdevelopment of the site; and
- Impacts on existing trees on neighbouring properties.

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

Consultation meeting

A consultation meeting was held on 4 January 2018 attended by the permit applicant and three (3) 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 Planning Permit** under the provisions of the Bayside Planning Scheme in respect of **Planning application 2017/506** for the land known and described as **4 Susan Street, Sandringham**, for the construction of **two new dwellings on a lot** in accordance with the endorsed plans and subject to the following conditions from the standard conditions:

1. Before 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 advertised prepared by Finley Roberts Design referenced Drawing TP-01 – TP-09, dated July 2017 but modified to show:

   a) Full compliance with Standard B17 (Side and Rear Setbacks) of the Bayside Planning Scheme;

   b) 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.

   c) Each driveway must not exceed 1 in 8 gradient.

   d) A schedule of construction materials, external finishes and colours.
e) Evidence of payment of the Development Contribution requirement at Condition 16.

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.

Water Sensitive Urban Design

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

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

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

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

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

8. 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. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The landscape plan must be drawn to scale with dimensions and three copies must be provided. The plan must show:
a) A survey, including, botanical names of all existing trees to be retained on the site including Tree Protection Zones calculated in accordance with AS4970-2009.

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

c) 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

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

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

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

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

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

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

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

Development Contribution

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

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

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

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

**Permit Expiry**

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

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

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

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

**Permit Notes:**

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

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

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

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

5. **Council Policy**

**Council Plan 2017-2021**

Relevant strategic objectives of the Council plan include:

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

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

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

Relevant strategies of the Council plan include:

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

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 16 Housing
- Clause 21.03 Settlement and Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 22.06 Neighbourhood Character Policy (Precinct F1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contributions Plan Overlay
- 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 the Neighbourhood Character Precinct F1. The proposal is considered to demonstrate a high level of compliance with the preferred future character statement and precinct guidelines as contained in *Attachment 3*.

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. The development will sit comfortably within the context largely due to the articulated facades, pitched roof form responsive to dwelling forms in the neighbourhood, appropriate setbacks, materials and finishes that are complementary to the existing and the preferred character of the area.

The design of the development provides a level of visual interest with various forms of articulation provided along all boundaries. The various forms of external building materials will work to ensure that the development integrates appropriately with the existing and emerging neighbourhood character.

The proposed setbacks from the side boundaries allow for suitable landscaping opportunities to enhance the landscaped character of the area. The proposed setback along with the amount of open space along the frontage, side and rear of the subject site provides an opportunity for the provision of landscaping, thus maintaining the vegetated streetscape.

On balance, it is considered that the proposal is respectful of both the emerging and
preferred neighbourhood character and appropriately responds to the characteristics of, vegetated streetscape, visual separation between buildings, and street presentation.

6.2. **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:

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

<table>
<thead>
<tr>
<th></th>
<th>Ground floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Requirement</td>
<td>Proposed</td>
</tr>
<tr>
<td>North (side)</td>
<td>0m-2m</td>
<td>0m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m-2m</td>
<td>1.465m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m-3m</td>
<td>6.725m</td>
</tr>
</tbody>
</table>

The variations underlined above are not supported as the areas of non-compliance abut the secluded private open space of neighbouring properties. It is acknowledged that the variations are minimal, however given the size of the dwellings (5 bedroom), Council considers that the increased setbacks can be accommodated without negatively impacting the internal amenity of the future residents. As such a condition (Condition 1a) is included to ensure compliance with the minimum side and rear setback requirements of Standard B17.

6.3. **Development Contributions Levy**

The subject site is located within catchment area 12.

Based on the proposed application and the above recommendation, a payment of $4000.00 is required. The payment of the development contributions will be recommended as a condition of permit.

6.4. **Landscaping**

Council’s Arborist has attended the site and has advised that the existing vegetation on the site have low amenity values. It is noted that no trees are protected by any statutory planning overlay.

The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. Native trees are marked with a *.

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

Council’s Arborist in their referral response advised that there is no objection to the proposed removal of all trees from the site, based on their low amenity value and subject to replacement value. Conditions will be placed on any permit issued requiring that a landscape plan is provided and Councils Arborist recommends that the landscape plan demonstrates replacement planting throughout the development and includes canopy trees.

Council’s Arborist advised that tree #1, a Silver Bitch (Betula pendula) located in the front setback of No.2 Susan Street will be impacted by fill placement and the associated
sleeper retaining wall proposed within its tree protection zone (TPZ). Although this area is partially covered by an existing concrete driveway, the major encroachment of (19.6%) has the potential to impact this trees health.

Council’s Arborist has also advised that Tree #3, a Golden Elm (Ulmus glabra ‘Lutescens’) is located in the private open space of 2 Susan Street. Although a large portion of this trees TPZ is covered by an existing brick garage, the proposed site cut and associated retaining wall within its TPZ will result in a major encroachment (greater than 20%) which has potential to impact this trees health.

The canopy of Tree #3 overhangs the subject site by 2m and will require uplifting to facilitate the retaining wall. However, these pruning works are considered to be minor and should not affect the trees long term health.

Tree #5, located in the private open space of 6 Susan Street will be impacted by the proposed pool within its TPZ.

Council’s Arborist therefore requests that an arborist report is provided to determine the impact of the development on neighbouring trees in accordance with AS 4970 Protection of Trees on Development Sites (2009) and that protection measures are put in place during development to ensure that the trees remain viable.

With regards to the future planting on the site, the proposed development incorporates landscaping opportunities to achieve an outcome consistent with the existing and preferred character of the area. Council arborist requests that a landscape plan is provided showing replacement canopy tree planting in accordance with Bayside City Council Landscape Guidelines (2016). The planning permit will be conditioned accordingly. The provision of landscaping will reduce and soften the built form when viewed from abutting properties and from the street, and will achieve an outcome consistent with the preferred landscaped character of the area.

6.5. **Street tree(s)**

There are 2 existing street tree assets in close proximity to the vehicle crossings for the proposed development. This includes a semi-mature gum located north of the existing vehicle crossing and a newly planted tree located centrally in the nature strip.

With regard to the semi mature gum tree, Council’s Open Space Arborist has advised that the location of the existing vehicle crossing is to remain unchanged and that there shall be no reduction in this setback. With regard to the newly planted street tree, Council’s Open space arborists will arrange the trees relocation and the site will be replanted once the development is completed.

6.6. **Car parking and traffic**

The purpose of Clause 52.06 (Car Parking) is to:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The development proposes the following:
Use | Size | Planning Scheme | Parking Rate | Car Parking | Car Parking |
<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>2 x 5 Bedroom</td>
<td>2 spaces to each 3 bedroom dwelling</td>
<td>4 spaces</td>
<td>4 spaces</td>
<td></td>
</tr>
</tbody>
</table>

TOTAL | 4 SPACES | 4 SPACES |

Pursuant to Clause 52.06 a minimum of 4 car spaces are required to be provided for the proposed development. As can be seen above the proposal complies with Clause 52.06.

Whilst it is acknowledged that the development will generate some additional vehicle movements on the local road network, it is not considered that such additional movements would necessarily be concentrated or conflict substantially with existing traffic. Furthermore some residents may choose to walk, cycle or use public transport which is available within a short walking distance of the site.

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

6.7. **Objector issues not already addressed**

**Urban Consolidation/Density/Population Increase/Overdevelopment**

State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this. Clauses 16 State Planning Framework of the Bayside Planning Scheme encourages higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport. The increase in population and density at this site is considered an appropriate response to the underutilised state of the site and the proximity of the site to public transport, shops and other services. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

**Support Attachments**

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

<table>
<thead>
<tr>
<th>Legend</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
<td>⭐</td>
</tr>
<tr>
<td>Objector(s)</td>
<td>⬤</td>
</tr>
</tbody>
</table>
Figure 2 the subject site as seen from Susan Street (west)

Figure 2 view of the site (north west view)
Neighbourhood Character Precinct F1

Preferred Future Character Statement

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

Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
</table>
| To encourage the retention of dwellings that contribute to the valued character of the Precinct in the design of development proposals. | • Attempt to retain wherever possible intact and good condition dwellings that contribute to the valued character of the Precinct in designing new development.  
• Alterations and extensions should retain the front of these dwellings and be appropriate to the building era. | Demolition of dwellings that contribute to the valued character of the Precinct. | Responds  
The existing dwelling does not exhibit any valued character qualities and is not subject to a character or heritage overlay. |
| To maintain and enhance the garden settings of the dwellings, and enhance the bayside vegetation character. | • Retain established trees and vegetation.  
• Replace any trees removed with species that will grow to a similar height.  
• Encourage replanting of indigenous sandbelt vegetation.  
• Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs, and indigenous coastal vegetation. | Lack of landscaping and substantial vegetation.  
Removal of trees.  
Planting of environmental weeds. | Responds  
The site contains no significant vegetation and the proposal retains sufficient space for planting, including planting canopy trees. |
| To ensure the building setbacks reflect the existing spacious visual separation of buildings and contribute to the informality of the dwelling setting. | • Buildings should be sited to allow space for the planting of trees and shrubs.  
• Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | Loss of front garden space. | Responds  
The proposal retains acceptable front, side and rear setbacks to ensure there is ample visual separation between buildings on the site, as well as on neighbouring properties. The proposal complies with setback and overlooking standards accordingly. |
| To minimise the loss of front garden spaces and the dominance of car parking structures. | • Locate garages and carports behind the line of the dwelling.  
• Underground car parking accessed from the front of the site should only be provided where other options are not possible due to site constraints, the garage doors do not | Car parking structures that dominate the façade or view of the dwelling. | Responds  
The proposed garages are setback from the street to an acceptable level and comply with the associated standard.  
A double garage is not considered to be excessive and is consistent with a |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>To ensure that new buildings and extensions do not dominate the streetscape.</td>
<td>Recess second storey elements from the front façade.</td>
<td>High pitched or mansard roof forms with dormer windows.</td>
<td>Responds: The proposal reflects the scale of building form within the locality. The first floor level is recessed in from the ground floor level on the northern and southern sides, as well as from the alfresco as the rear of the dwelling. The proposed garages are recessed from the front building line at ground floor level.</td>
</tr>
<tr>
<td>To respect the identified heritage qualities of adjoining buildings.</td>
<td>Where adjoining an identified heritage building, respect the height, building forms, siting and materials, in the new building design.</td>
<td>Large bulky buildings with flat, poorly articulated front wall surfaces.</td>
<td>Responds: The subject site does not adjoining any identified heritage properties.</td>
</tr>
<tr>
<td>To reflect the lightness of the streetscape created through the use of a mix of appropriate building materials and finishes.</td>
<td>Incorporate a variety of timber or other non-masonry wall materials where possible.</td>
<td>Heavy materials and design detailing (eg. Large masonry columns and piers).</td>
<td>Responds: The palette for each dwelling provides a range of materials and colours which are commonly found within the area, and should integrate successfully with the existing development.</td>
</tr>
<tr>
<td>To maintain the openness of the streetscape and views to the dwellings.</td>
<td>Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fencing.</td>
<td>Responds: No front fence is proposed, thereby ensuring that a sense of openness to the street is retained.</td>
</tr>
<tr>
<td>To create a visually interesting and attractive built form interface with the foreshore reserve.</td>
<td>Articulate the form buildings and elements, particularly front facades, and include elements that lighten the building form such as balconies, verandahs, non-reflective glazing and light-transparent balustrading. Use a mix of contemporary and traditional coastal materials, textures and finishes, including render, timber, non-masonry sheeting, glazing, stone and brick. Provide articulated roof forms to create an interesting skyline when viewed from the beach.</td>
<td>Buildings that have no relationship to the foreshore setting. Poorly articulated roof and building forms. Highly reflective materials or glazing.</td>
<td>Responds: The subject site is not located adjacent the foreshore reserve.</td>
</tr>
</tbody>
</table>
### Title and Objective

<table>
<thead>
<tr>
<th>B1 Neighbourhood Character</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<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>Complies</td>
<td>Refer to Attachment 2.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B2 Residential Policy</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<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>Complies</td>
<td>The subject site is appropriately located with regard to services and facilities to support the construction two dwellings on a lot of this size.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B3 Dwelling Diversity</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B4 Infrastructure</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</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.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B5 Integration with the Street</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate the layout of development with the street</td>
<td>Complies</td>
<td>The development will integrate appropriately with the street. The proposal does not include a high front fence, is orientated towards Susan Street and incorporates acceptable vehicle and pedestrian linkages from the street.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B6 Street Setback</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<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>Complies</td>
<td>Requirement: 5.87m Proposed: 6.33m Neighbouring property to the north is setback 5.87m from the street and the dwelling to the south is setback 4.55m from the street. The proposed dwelling is setback 6.33m.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B7 Building Height</th>
<th>Complies with Standard?</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Complies</td>
<td>Maximum: 9m and 2 storey</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Proposed / Complies</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>---------------------</td>
</tr>
<tr>
<td><strong>Building height</strong></td>
<td>should respect the existing or preferred neighbourhood character.</td>
<td><strong>Proposed:</strong> 8.25 metres (2 storeys + attic)</td>
</tr>
</tbody>
</table>
| **B8 Site Coverage** | Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site. | **Complies** | **Maximum:** 50%  
**Proposed:** 49.3% |
| **B9 Permeability** | Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration. | **Complies** | **Minimum:** >20%  
**Proposed:** 39.91% |
| **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. | **Complies** | All habitable areas, including habitable rooms and secluded private open space areas have been located to maximise solar access and no habitable rooms rely on secondary light sources. |
| **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. | **Complies** | The pedestrian entry points are clearly recognisable while upper levels allow 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. | **Complies** | The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions. A condition of permit will require a landscape plan to be submitted to the satisfaction of the Responsible Authority. |
| **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. | **Complies** | An appropriate access from the street to the garage parking has been provided for each dwelling. |
### B15 Parking Location
Provide resident and visitor vehicles with convenient parking.
Avoid parking and traffic difficulties in the development and the neighbourhood.
Protect residents from vehicular noise within developments.

**Complies**
On site car parking is provided in the form of a double garage car park for each dwelling.

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

**Complies, subject to conditions**
Underlined figures below detail areas on non-compliance.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Proposed</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>North (side)</td>
<td>0m-2m</td>
<td>0m</td>
<td>4.18m</td>
</tr>
<tr>
<td>South (side)</td>
<td>0m-2m</td>
<td>1.465m</td>
<td>3.98m</td>
</tr>
<tr>
<td>West (rear)</td>
<td>0m-3m</td>
<td>6.725m</td>
<td>4.32m</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.

**Complies**
Length: 6.4m
Maximum height: 3.6m
Average height: 3.2m

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

**Complies**
The development has been sufficiently setback from all habitable room windows to abutting properties at 2 and 6 Susan Street, and 6 and 8 Queen's Square. The built form is offset at least 3.15m from the neighbouring dwelling to the north, 3.4m from the neighbouring dwelling to the south-east, 4.3m from the neighbouring dwelling to the south-west and 6.7m from the neighbouring dwelling to the west.

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

**Complies**
The neighbouring properties to the south-east and south-west contain north-facing habitable windows that are orientated towards the subject site. The proposed development is sufficiently setback from the southern boundary to ensure that adequate solar access is maintained for these properties.
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Complies</th>
<th>Additional Information</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B21 Overshadowing Open Space</strong></td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Complies</td>
<td>The proposal will generate only a small amount of additional overshadowing to the south beyond what is already generated by the existing dwelling and southern boundary fence. Additional amenity impacts on secluded private open space of the neighbouring southern properties will be minor and in accordance with what is provided for by the standard. Furthermore, a condition requiring increased setbacks (compliance with B17) will further reduce the overshadowing to the abutting allotments.</td>
</tr>
<tr>
<td><strong>B22 Overlooking</strong></td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Complies</td>
<td>All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard.</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>
<td>Complies</td>
<td>All habitable room windows have been screened to a minimum height 1.7 metres above finished floor level or have been sited appropriately in accordance with this Standard. At ground floor level internal fencing to a height of 1.8m limits views between adjoining areas of secluded private open space within the 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>
<td>Complies</td>
<td>It is anticipated that the level of noise which will be emitted from the dwellings will not exceed levels otherwise expected from residential uses.</td>
</tr>
<tr>
<td><strong>B25 Accessibility</strong></td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Complies</td>
<td>Entries are accessible for people with limited mobility from the front porch or garage. The development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Provide a sense of identity to each dwelling/residential building.</td>
<td>Complies</td>
<td>The entry will provide shelter, a sense of personal address and a transitional space around the building entry.</td>
</tr>
<tr>
<td><strong>B27 Daylight to New Windows</strong></td>
<td>Allow adequate daylight into new habitable room windows.</td>
<td>Complies</td>
<td>All habitable windows will open out onto a space clear to the sky.</td>
</tr>
</tbody>
</table>
B28 Private Open Space
Provide reasonable recreation and service needs of residents by adequate private open space.

Complies
Minimum:
25m² secluded, 40m² overall with a minimum dimension of 3 m;

Proposed:
71.60m² and 83m² SPOS

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

Complies
The area of SPOS for dwellings 1 and 2 are in part orientated to the north and this is the most practical location for the SPOS. The SPOS is sufficiently setback from the southern boundary.

B30 Storage
Provide adequate storage facilities for each dwelling.

Complies
Storage areas are provided within the garage for dwelling 1 and under the stairs for dwelling 2.

B31 Design Detail
Encourage design detail that respects the existing or preferred neighbourhood character.

Complies
The proposed design respects the existing and preferred neighbourhood character. Refer to report for further detail.

B32 Front Fences
Encourage front fence design that respects the existing or preferred neighbourhood character.

N/A
No front fence is proposed.

B33 Common Property
Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained.

Avoid future management difficulties in common ownership areas.

Complies
No common property areas are proposed.

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 can be easily catered for on-site. A planning permit conditions will be required to show the location of hot water systems and air conditioning unit, away from adjoining habitable room windows.
4.8 274 BLUFF ROAD, SANDRINGHAM  
NOTICE OF DECISION TO GRANT A PLANNING PERMIT  
APPLICATION NO: 2017/497  WARD: SOUTHERN

City Planning & Community Services - Development Services  
File No: PSF/15/8755 – Doc No: DOC/18/74397

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>Ergon Design 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>16 August 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>226 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 3)</td>
</tr>
<tr>
<td></td>
<td>Development Contributions Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal

The application seeks the construction of three, two storey townhouses on a lot with an area of 797 square metres. Key details of the proposal are as follows:

- Three (3) double storey dwellings;
- Building height of 8.3 metres (2 storeys);
- Site coverage 45%;
- Permeability 32.96%; and
- 6 resident car spaces.

The application plans are provided at Attachment 1.

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

History

On 12 May 2017 a permit was issued under delegation for the development of two double storey dwellings on a lot and a front fence exceeding 1.2 metres and alterations to access to Road Zone Category 1. Condition 1 plans were endorsed on 15 August 2017. The permit has not been acted upon.

2. Planning controls

Planning Permit requirements

A planning permit is required pursuant to:

- Clause 32.09-6 (Neighbourhood Residential Zone Schedule 3) – 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
The application was referred to the following authorities:

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

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

<table>
<thead>
<tr>
<th>Internal Referral</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arborist</td>
<td>No objection, subject to conditions.</td>
</tr>
<tr>
<td>Drainage 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 3 objections were received. The following concerns were raised:

- Out of character with neighbourhood;
- Precedent;
- Traffic congestion / parking;
- Danger to pedestrians as a result of increased vehicle movements;
- Increased noise;
- Loss of vegetation;
- Insufficient provision of private open space;
- Increased heat during summer;
- Lack of private open space provided to townhouses;
- Risk of high turnover of residents in townhouses; and
- Increased demand for services.

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

Consultation meeting
The applicant declined a consultation meeting. The developer attempted to resolve the matters with the objectors directly. No objections have been withdrawn and remain at 3.

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 2017/497 for the land known and described as 274 Bluff Road, Sandringham, for the construction of three
(3) dwellings and alterations to access to 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 advertised plans but modified to show:
   a) All garage doors to be 5.2m in width.
   b) Front fence elevation diagram provided, to reflect reduced fence width, in line with Ground Floor Plan (TP-04 dated 1/8/17), which indicates provision of visual corner splay in accordance with Clause 52.06-8.
   c) Location of all plant and equipment, including hot water services and air conditioners etc. Plant equipment is to be located away from habitable room windows of dwellings and the adjoining properties habitable rooms.
   d) Evidence of payment of the Development Contribution requirement required at condition 24.
   e) Any changes required by VicRoads.

   All to the satisfaction of the Responsible Authority.

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

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

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

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

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

7. 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.

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

**Landscaping**

9. Before the development starts, a detailed landscape plan to the satisfaction of the Responsible Authority must be submitted to and be endorsed by the Responsible Authority. The plan must be generally in accordance with the landscape concept plan drawn by John Patrick, dated October 2017 and be
drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

c) Provision of 1 large tree within the front setback reaching a minimum height of grow to 10-15 metres tall and greater than 6 metres spread.

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.

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.

**Water Sensitive Urban Design**

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

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

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

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

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

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

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

15. 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.

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

17. 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.

VicRoads

18. Prior to the commencement of use or occupation, a sealed access crossover as at least 3 metres wide at the property boundary with the edges of the crossover angled at 60 degrees to the road reserve boundary, at least for the first 3 metres from the edge of the road must be constructed to the satisfaction the Responsible Authority (RA) and at no cost to VicRoads or the Responsible Authority.

19. Prior to the commencement of the use or occupation of the development, all disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of the Responsible Authority (RA) and at no cost to VicRoads or the Responsible Authority.

20. 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.

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

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

23. Any security boom, barrier, gate or similar device controlling vehicular access to the premises must be located a minimum of 7 metres inside the property to allow vehicles to store clear of Bluff Road pavement and footpath.

Development Contribution
24. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy of $6000, in accordance with the Bayside Drainage Development Contributions Plan.

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

25. 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.

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

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

5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where 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 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct G1)
- Clause 22.08 Water Sensitive Urban Design
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 3)
- Clause 45.06 Development Contribution Plan Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 55 Two or more dwellings on a lot
- Clause 65 Decision Guidelines

6. **Considerations**

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

6.1. **Neighbourhood character**

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

The development incorporates appropriate boundary setbacks to reflect the built form pattern of the area while promoting adequate visual separation between the adjoining dwellings. The development will sit comfortably within the context largely due to the articulated facades, pitched roof form responsive to dwelling forms in the neighbourhood, appropriate setbacks, materials and finishes that are complementary to the existing and the preferred character of the area.

The design of the development provides a level of visual interest with various forms of articulation provided along all boundaries. The various forms of external building materials including timber and exposed brick assists in integrating the development into the existing and emerging neighbourhood character.

The proposed setbacks from the side boundaries allow for suitable landscaping opportunities to enhance the landscaped character of the area. The proposed setback
along with the amount of open space along the frontage, side and rear of the subject site provides an opportunity for the provision of landscaping, subject to conditions, thus maintaining the vegetated streetscape.

On balance, it is considered that the proposal is respectful of both the emerging and preferred neighbourhood character and appropriately responds to the characteristics of, vegetated streetscape, visual separation between buildings, and street presentation.

6.2. **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:

**Landscaping (Standard B13)**

The tree proposed within the front setback is not considered to be appropriate (due to its limited height). It is for this reason that a condition will be placed on any permit issued requiring the provision of 1 large tree (within the front setback) reaching a minimum height of 10-15 metres tall / greater than 6 metres spread.

6.3. **Landscaping**

The application plans show the removal of 12 trees from the site including 5 native trees. The table below identifies those trees protected by the Local Law and those which are not protected by any statutory mechanism. It is noted that there is no statutory mechanism in place (overlay) that protects any of the vegetation on site.

<table>
<thead>
<tr>
<th>Local Law protected trees</th>
<th>Trees not protected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed removal</td>
<td>Proposed retention</td>
</tr>
<tr>
<td>for removal</td>
<td>for retention</td>
</tr>
<tr>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Council’s Arborist in their referral response advised that the subject site has two mature canopy trees, a semi-mature protected tree and numerous small trees/large shrubs.

The two canopy trees are a *Fraxinus angustifolia* (Desert Ash) located in the rear setback, and a *Jacaranda mimosifolia* (Jacaranda) located between the north/west corner of the existing dwelling and the neighbouring dwelling at 276 Bluff Road.

The Jacaranda cannot be retained due to its proximity to the dwelling at 276 Bluff Road. The Desert Ash cannot be retained with this proposal however there is sufficient room for replacement planting in the front setback.

The remainder of the vegetation on site is small trees and large shrubs predominantly *Pittosporum undulatum* (Sweet Pittosporum), *Camellia japonica* (Camellia) and *Lagerstroemia indica* (Crepe Myrtle). None of this vegetation is worth retaining.

The selection of two (2) *Tristaniopsis Laurina* (Kanooka Water Gum) located within the street frontage is not considered to be satisfactory as the tree is not considered to be a large tree as defined by the landscaping guidelines. This species is too small to replace the amenity value currently provided by vegetation on the site. It is for this reason that a condition will be placed on any permit issued requiring the provision of one (1) large tree reaching a height of 10-15 metres tall / greater than 6 metres spread.

6.4. **Car parking and traffic**

The purpose of Clause 52.06 (Car Parking) is to:

- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
• To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
• To ensure that car parking does not adversely affect the amenity of the locality.
• To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

The development proposes the following:

<table>
<thead>
<tr>
<th>Use</th>
<th>Size</th>
<th>Planning Scheme Parking Rate</th>
<th>Car Parking Requirement</th>
<th>Car Parking Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling (resident)</td>
<td>3 x 3 Bedroom</td>
<td>2 spaces to each 3 bedroom dwelling</td>
<td>6 spaces</td>
<td>6 spaces</td>
</tr>
</tbody>
</table>

Pursuant to Clause 52.06 a minimum of 6 spaces are required to be provided for the proposed development. Accordingly, the proposed development is considered to comply with Clause 52.06. It is noted that there is no requirements for the development to provide visitor parking spaces.

Whilst it is acknowledged that the development will generate some additional vehicle movements on the local road network, it is not considered that such additional movements would necessarily be concentrated or conflict substantially with existing traffic. Furthermore some residents may choose to walk, cycle or use public transport which is available within a short walking distance of the site.

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

6.5. Development Contributions Levy

The subject site is located within catchment area 18.

Based on the proposed application and the recommendation, a payment of $6000 is required. The payment of the Development Contributions Levy will be recommended as a condition of permit.

6.6. Objector issues not already addressed

Precedent

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

Increased noise

The proposed residential use will have noise impacts consistent with those normal to a residential zone. Speech, laughter, music etc. are noises associated with people living their lives and are all part of life in an urban area.

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

Loss of vegetation

The Landscaping Objective of Clause 55 (ResCode) requires consideration to be given to the retention of existing trees and protection of any predominant landscape features of the neighbourhood. However, the land is zoned for residential purposes and there are no specific vegetation protection overlays applicable to the site. There are no trees on the
site protected by local law. A condition on the planning permit will require a landscape plan to be submitted and endorsed as part of the planning permit. This will require the planting of appropriate replacement vegetation.

Risk of high turnover of residents in townhouses.

It is noted that neighbourly relations, general safety, the tidiness of dwellings / unit developments and whether dwellings are tenanted or owner occupied is not a relevant consideration in assessing an application under the provisions of the Planning & Environment Act 1987, of the Bayside Planning Scheme.

Support Attachments

1. Development Plans
2. Site and Surrounds Imagery
3. Neighbourhood Character Assessment
4. Clause 55 Assessment
PROPOSED TOWN HOUSES DEVELOPMENT

AT:
274 BLUFF ROAD SANDRINGHAM

RELEVANT COUNCIL: BAYSIDE CITY COUNCIL

ATTACHMENT: DESIGN REPORT / ASSESSMENT AGAINST RESCODE / WSUD REPORT

Advertised Plan

Received
2 OCT 2017
Planning Department
Figure 1 Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
</table>
| Subject site    | 🫶
| Objector(s)     | ⚪
Figure 2 View of the subject site at street frontage.

Figure 3 View northeast
## Attachment 3

### Neighbourhood Character Precinct G1

**Preferred Future Character Statement**

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

### Precinct Guidelines

<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Assessment</th>
<th>Officer</th>
</tr>
</thead>
</table>
| To maintain and enhance the garden settings of the dwellings. | - Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and shrubs.  
- Prepare a landscape plan to accompany all applications for new dwellings that includes substantial trees and vegetation.  
- Retain large, established trees and provide for the planting of new trees wherever possible.  
- Buildings should be sited to allow space for the planting of trees and shrubs. | Lack of landscaping and substantial vegetation.  
Removal of large trees.  
Planting of environmental weeds. | Responds  
There is sufficient space to provide substantial trees to maintain and enhance the garden settings of the dwellings. | |
| To maintain the rhythm of visual separation between buildings. | - Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation. | | Responds  
All dwellings are appropriately setback at ground floor, upper storey, side, front and rear.  
A variety of external finishing materials and colours assists in creating a level of articulation. | |
| To ensure that new buildings provide an articulated and interesting façade to the street. | - Incorporate design elements into the front façade design of new dwellings such as recessed portions, projecting elements behind the front setback line, combinations of materials, textures or colours or other elements providing appropriate articulation.  
- Use pitched roof forms with eaves. | Large, bulky buildings with poorly articulated front and side wall surfaces. | Responds  
Although the upper floor is not setback from the ground floor at the front, Dwelling 1 utilises a mixture of materials, in varying colours and textures, to create articulation to street frontage (Bluff Road).  
All dwellings use a mixture of finishing materials, and have pitched roof forms. | |
| To maintain the openness of the streetscape. | | High, solid front fencing. | Does not respond  
A 2m high, solid rendered fence is proposed for the Bluff Road frontage. While this is not in keeping with the neighbourhood character | |
<table>
<thead>
<tr>
<th>Objectives</th>
<th>Design Responses</th>
<th>Avoid</th>
<th>Planning Officer Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>precinct objectives, as Bluff Road is within the Road Zone 1, a 2m high fence is considered to be appropriate. Dwellings opposite the site along Bluff Road, and further to the north, also have solid, 2m high front fences, so the proposed fence will not seem at odds with the immediate area.</td>
</tr>
</tbody>
</table>
### Title and Objective

<table>
<thead>
<tr>
<th>B1</th>
<th>Neighbourhood Character</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.</td>
<td>Yes</td>
</tr>
<tr>
<td>Development responds to features of the site and surrounding area.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B2</th>
<th>Residential Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.</td>
<td>Yes</td>
</tr>
<tr>
<td>Support medium densities in areas to take advantage of public transport and community infrastructure and services.</td>
<td>The subject site is appropriately located with regard to services and facilities to support three dwellings.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B3</th>
<th>Dwelling Diversity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Encourages a range of dwelling sizes and types in developments of ten or more dwellings.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B4</th>
<th>Infrastructure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provides appropriate utility services and infrastructure without overloading the capacity.</td>
<td>Yes</td>
</tr>
<tr>
<td>Any upgrades required will be the responsibility of the developer.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B5</th>
<th>Integration with the Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrate the layout of development with the street.</td>
<td>Yes</td>
</tr>
<tr>
<td>The front dwelling appropriately addresses Bluff Road and entries of dwellings 2 and 3 are clearly identifiable from Bluff Road.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>B6</th>
<th>Street Setback</th>
</tr>
</thead>
<tbody>
<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>Yes</td>
</tr>
<tr>
<td>Minimum: 9m</td>
<td></td>
</tr>
<tr>
<td>Proposed: 9m</td>
<td></td>
</tr>
<tr>
<td>The setback for Dwelling 1 meets the minimum setback of 9m.</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------------</td>
<td>------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>B7 Building Height</td>
<td>Building height should respect the existing or preferred neighbourhood character</td>
</tr>
<tr>
<td>B8 Site Coverage</td>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
</tr>
<tr>
<td>B9 Permeability</td>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
</tr>
<tr>
<td>B10 Energy Efficiency</td>
<td>Achieve and protect energy efficient dwellings and residential buildings. Ensure orientation and layout reduces fossil fuel energy use and makes appropriate use of daylight and solar energy.</td>
</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>
</tr>
<tr>
<td>B12 Safety</td>
<td>Layout to provide safety and security for residents and property.</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>
</tr>
</tbody>
</table>
### B14 Access
Ensure the safe, manageable and convenient vehicle access to and from the development.
Ensure the number and design of vehicle crossovers respects neighbourhood character.

<table>
<thead>
<tr>
<th>Decision</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Appropriate vehicular access is provided; the proposed development utilises the existing crossover (located off Bluff Road).</td>
</tr>
</tbody>
</table>

**Maximum:** 40% of street frontage
**Proposed:** 17.3% of street frontage

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

<table>
<thead>
<tr>
<th>Decision</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>The proposed car parking areas are appropriately located within private garages. For further details refer to the report.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Decision</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>All setbacks are fully compliant with the B17 Standard.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Ground Floor</th>
<th>First Floor</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>North (side)</strong></td>
<td><strong>South (side)</strong></td>
</tr>
<tr>
<td>Required</td>
<td>Proposed</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>0m – 4.8m</td>
</tr>
<tr>
<td>0m or 2m</td>
<td>0m – 8.9m</td>
</tr>
<tr>
<td>0m or 3m</td>
<td>3m – 3.1m</td>
</tr>
</tbody>
</table>

**South:**
- Maximum Height: 3.6m
- Proposed: 3.6m
- Maximum Average Height: 3.2m
- Proposed: 3.2m
- Maximum Length: 18.9m
- Proposed: 6.46m

**North:**
- Maximum Height: 3.6m
- Proposed: 3.6m
- Maximum Average Height: 3.2m
- Proposed: 3.2m
- Maximum Length: 18.9m
- Proposed: 15.9m
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Decision</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>B19 Daylight to Existing Windows</td>
<td>Allow adequate daylight into existing habitable room windows.</td>
<td>Yes</td>
<td>The proposal is set back from property boundaries sufficiently to ensure daylight to existing windows is maintained.</td>
</tr>
<tr>
<td>B20 North Facing Windows</td>
<td>Allow adequate solar access to existing north-facing habitable room windows.</td>
<td>Yes</td>
<td>No north facing windows on adjoining properties are affected.</td>
</tr>
<tr>
<td>B21 Overshadowing Open Space</td>
<td>Ensure buildings do not significantly overshadow existing secluded private open space.</td>
<td>Yes</td>
<td>Shadow diagrams submitted with the application demonstrate that at least 75%/40m² of adjoining dwellings secluded private open space receives at least five hours of sunlight between 9am and 3pm on 22 September.</td>
</tr>
<tr>
<td>B22 Overlooking</td>
<td>Limit views into existing secluded private open space and habitable room windows.</td>
<td>Yes</td>
<td>At ground level, existing boundary fencing to the north, to a height of 2.3m, will prevent overlooking to existing private open space and habitable room windows to the north. Ground floor windows to the south are located at least 1.8m from neighbouring habitable room windows, and the private open space of 270 Bluff Road is protected from overlooking by the existing 1.9m paling fencing on boundary. At the first floor, all windows are either screened/use obscure glass up to 1.7m above FFL, or have sill heights at 1.7m above FFL.</td>
</tr>
<tr>
<td>B23 Internal Views</td>
<td>Limit views into existing secluded private open space and habitable room windows of dwellings and residential buildings within the same development.</td>
<td>Yes</td>
<td>At ground level, a 1.8m high paling fence separates the secluded private open space of Dwellings 1 and 2. Dwelling 3 is oriented to face Bluff Road, and so the secluded private open space is separated by the dwelling itself. At the first floor, all windows are either screened/use obscure glass up to 1.7m above FFL, or have sill heights at 1.7m above FFL, therefore no internal overlooking can occur.</td>
</tr>
<tr>
<td>B24 Noise Impacts</td>
<td>Protect residents from external noise and contain noise sources in developments that may affect existing dwellings.</td>
<td>Yes</td>
<td>The development will not generate any noise above that typically expected from a residential building.</td>
</tr>
<tr>
<td>B25 Accessibility</td>
<td>Consider people with limited mobility in the design of developments.</td>
<td>Yes</td>
<td>Entries are easily accessible for people with limited mobility. The development could be retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>B26 Dwelling Entry</td>
<td>Provide a sense of identity to each dwelling.</td>
<td>Yes</td>
<td>The entries to all dwellings are easily identifiable from Bluff Road.</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>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td></td>
</tr>
</tbody>
</table>
| **B28 Private Open Space**<br>Provide reasonable recreation and service needs of residents by adequate pos. | Yes | **Minimum:** 25m² secluded, 40m² overall  
**Proposed:**  
- Dwelling 1 – 28.3m² secluded, 154m² overall  
- Dwelling 2 – 43m² overall  
- Dwelling 3 – 54.4m overall  |
| **B29 Solar Access to Open Space**<br>Allow solar access into the secluded private open space of new dwellings/buildings. | Yes | Appropriate solar access to the private open space areas is provided. |
| **B30 Storage**<br>Provide adequate storage facilities for each dwelling. | Yes | Storage of 6m² in size is provided as a shed in the secluded private open space of each dwelling. |
| **B31 Design Detail**<br>Encourage design detail that respects the existing or preferred neighbourhood character. | Yes | Refer Attachment 1. |
| **B32 Front Fences**<br>Encourage front fence design that respects the existing or preferred neighbourhood character. | Yes | **Required:** 2m  
**Proposed:** 2m fence to Bluff Road |
| **B33 Common Property**<br>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas. | Yes | Complies, all common areas including pathways and car parking are easily delineated. |
| **B34 Site Services**<br>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. | Yes | Plans show clotheslines, mailboxes and storage areas as required. Space for meters has been provided at the driveway entrance, near Bluff Road. |
1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Notice of Decision to Amend a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Mr E A Farag</td>
</tr>
<tr>
<td>Title/Covenant</td>
<td>The site is subject to restrictive covenant 1323190. The covenant does not restrict the proposed development.</td>
</tr>
<tr>
<td>Date application received</td>
<td>5 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>65 days</td>
</tr>
<tr>
<td>Zoning</td>
<td>Neighbourhood Residential Zone (Schedule 3)</td>
</tr>
<tr>
<td>Overlays</td>
<td>Design and Development Overlay (Schedule 1) Development Contribution Plan Overlay (Schedule 1)</td>
</tr>
<tr>
<td>Number of objections</td>
<td>3</td>
</tr>
</tbody>
</table>

Proposal

The application seeks an amendment to Planning Permit 5/2016/445/1 to increase the overall built height of the previously approved double storey dwelling and roof deck on a lot with an area of 777 square metres. Key details of the proposal are as follows:

- Increase the maximum building height by 1 metre. The current endorsed plans show the top of the building at a height of 11.27 AHD and the application plans show the maximum building height at 12.27 AHD.
- Raise the ground floor level from 2.87 AHD as approved, to 3.52 AHD
- Increase in the floor to ceiling height at the ground floor from 2.7m to 3m
- Increase the finished floor to ceiling level of the first floor from 3.1m to 3.15m
- Condition 1a of the Planning Permit to be deleted.

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 2016/445/1 was granted on 10 February 2017 to allow for “Construction of a roof deck above a new double storey dwelling in a Design and Development Overlay Schedule 1” (refer Attachment 3)

With this application, permission is sought to increase the overall height of the building by 1m.
2. **Planning controls**

   **Planning Permit requirements**
   
   A planning permit is required pursuant to:
   
   - Clause 43.02-2 (Design and Development Overlay Schedule 1) – A permit is required to construct a roof deck above the second storey of a building.

   **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 three (3) objections were received. The following concerns were raised:
   
   - Neighbourhood character;
   - Side and Rear Setbacks,
   - Overlooking;
   - Overshadowing;
   - Missing information on plans
   - Building Height

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

   **Consultation meeting**
   
   The applicant declined a consultation meeting and consulted with objectors independently.

   Following these discussions, amended plans were submitted to Council on 5 February 2018. The amended plans were sent to objectors who were given an opportunity to provide further comment. No objections were withdrawn as a result of this, however one objector noted that the amended plans had addressed their concerns.

4. **Recommendation**

   That Council resolve to:

   Issue a **Notice of Decision to Amend a Permit** under the provisions of the Bayside Planning Scheme in respect of Planning application 2016/442 for the land now known and described as 2A Bonleigh Avenue, Brighton, for the Construction of a Roof Deck above a new double storey dwelling in a Design and Development Overlay Schedule 1 in accordance with the endorsed plans and subject to the following conditions:

   1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible
Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans advertised and Council date stamped 16 August 2016 but modified to show:

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.

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

4. 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.

- This permit application was not assessed against the provisions of Clause 54 – One Dwelling on a Lot (ResCode) of the Bayside Planning Scheme. It is the responsibility of the applicant/owner to appoint a Registered Building Surveyor to determine compliance of the endorsed plans associated with the issue of this Planning Permit against Part 4 of the Building Regulations 2006. Non-compliance with any regulation will require dispensation from Council’s Building Department.

- The following table is to be added to the permit.

<table>
<thead>
<tr>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>17 April 2018</td>
<td>Amendment to the permit under Section 72 of the Planning and Environment Act 1987 to:</td>
</tr>
<tr>
<td></td>
<td>• Increase the maximum building height by 1 metre. The current endorsed plans show the top of the building at a height of 11.27 AHD and the application plans show the maximum building height at 12.27 AHD.</td>
</tr>
<tr>
<td></td>
<td>• Raise the ground floor level from 2.87 AHD as approved, to 3.52 AHD</td>
</tr>
<tr>
<td></td>
<td>• Increase in the floor to ceiling height at the ground floor from 2.7m to 3m</td>
</tr>
<tr>
<td></td>
<td>• Increase the finished floor to ceiling level of the first floor from 3.1m to 3.15m</td>
</tr>
</tbody>
</table>
5. Council Policy

Council Plan 2017-2021

Relevant objectives of the Council plan include:

- Where significant development is directed to specified and planned activity centres and strategic locations, providing a transition to surrounding residential areas and incorporating improved infrastructure and open space.
- Where neighbourhood character, streetscapes and heritage is respected and enhanced, and the community has a strong connection to place.
- With village-style activity centres, combining retail at ground floor with increased opportunities for apartment-style living above.
- Where development contributes to a high visual amenity, is ecologically sustainable, demonstrates high quality compliant design, and responds to the streetscape and neighbourhood context.
- Where a range of housing types is provided to accommodate the changing needs of the community, enabling people to age in place and providing opportunities for young adults and families to live and remain in the municipality.

Relevant strategies of the Council plan include:

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

Bayside Planning Scheme

- Clause 9 Plan Melbourne
- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 21.02 Bayside Key Issues and Strategic Vision
- Clause 21.03 Settlement and Housing
- Clause 21.06 Built Environment and Heritage
- Clause 22.06 Neighbourhood Character Policy (Precinct C1)
- Clause 32.09 Neighbourhood Residential Zone (Schedule 3)
- Clause 43.02 Design and Development Overlay (Schedule 1)
- 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. **Design and Development Overlay (DDO1)**

The proposal seeks approval to amend the maximum height of the dwelling and associated roof deck, by increasing the maximum height by 1m through changes to ground level AHD (previously proposed site cut is being removed) and an increase in ground floor ceiling height. Planning Permit 2016/445/1 has already been approved allowing the construction of a roof deck above the second story of the dwelling.

The dwelling itself does not require a planning permit, because it benefits from the exemption in the Design and Development Overlay, that states no planning permit is required for:

“A building with a building height of not more than 2 storeys* provided that each storey is less than 3.5m measured from the floor level to the finished floor level of the floor above or if there is no floor above, to the ceiling (excluding staircases, architectural voids and light wells).”

The subject site is located within the Neighbourhood Residential Zone Schedule 3, however given the lot is greater than 500m², a planning permit is not required for the proposed dwelling or associated works under the zone.

However, pursuant to Clause 43.02 (Design and Development Overlay – Schedule 1), a permit is required to construct a roof deck above the second storey of a building. This is the sole permit trigger, and hence sole planning consideration in this application.

Pursuant to Schedule 2.0 of the Design and Development Overlay Schedule 1 (DDO1), a roof deck is defined as an area designed and used as private open space that is located above the upper storey of a building.

A roof deck must:

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

While the overall height of the building is being increased, it is a consequence of changes to the dwelling (which does not require a planning permit), which act to push the height of the building up. Aside from the height above ground level increasing, there are no proposed changes to the already approved roof deck or associated structures. In light of the works proposed, it is considered that the amended proposal achieves the same level of compliance as the previously endorsed plans.

6.2. **Condition 1(a)**

Condition 1a of the Permit issued on 10 February 2017 required that the overall building height must not exceed 8 metres to be consistent with Clause 32.09 – Neighbourhood Residential Zone (Schedule 3). Since the permit was issued, Planning Scheme Amendment VC110 was gazetted by the State Government. Among other things, this amendment increased the maximum building height from 8 metres to 9 metres.

The proposal seeks to increase the building height by 1m from a height of 7.97m to
8.97m. Given this change, Condition 1a will be deleted as it now redundant in light of the revised planning controls.

6.3. **Objector issues not already addressed**

**Neighbourhood character:**

While this proposal does seek to increase the height of the already approved dwelling by 1m, the dwelling will remain a two storey dwelling. Council officers note that there is a high prevalence of two storey dwellings in the surrounding area, and this proposal is consistent with this character.

Notwithstanding this, the dwelling is unable to be assessed under this application, only the roof deck is being assessed.

**Side and Rear Setbacks:**

The only planning permit trigger for this application is the construction of the roof deck. Therefore the side and rear setbacks of the dwelling itself fall outside what can be assessed with this application. If the application is approved, an amended building permit will be required.

If, as a result of the increased building height, the side and rear setbacks do not comply with the building regulations, variations will be required through the report and consent process.

**Overlooking:**

The proposed screening of the roof deck ensures compliance with ResCode. Any potential overlooking from the dwelling itself will be assessed under the building regulations, and occur outside of this planning permit application.

**Overshadowing:**

As stated previously, this application can only be assessed against the roof deck requirements of the Design and Development Overlay. Therefore overshadowing cannot be assessed, and this will be assessed by the building surveyor.

**Missing information on plans**

An objection was lodged to this application stating that the plans submitted with the application did not allow for a fully informed decision. In particular the objection outlined that the walls of the dwelling may be closer to their dwelling than shown. Council maintains that the plans submitted with the application were detailed enough for an informed decision to be made especially when considering that assessment was limited to the roof deck only.

It is also worth noting that the objection that raised these points was submitted in December 2017 before amended plans were lodged from the resident at 2 Bonleigh Avenue. After amended plans were lodged in February 2018, this objector noted stated that they did not have an issue with the amended plans, but did not wish to withdraw their objection, indicating that they believed the amended plans were appropriately detailed.

**Support Attachments**

1. Decision Plans ↓
2. Site and Surrounds ↓
3. Current Permit and Endorsed Plans ↓
| Item 4.9 – Matters of Decision |

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**2A Bonleigh Av, Brighton**

###-table

<table>
<thead>
<tr>
<th>Description</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Floor Area</td>
<td>173.686</td>
</tr>
<tr>
<td>Gross Value</td>
<td>457,217</td>
</tr>
<tr>
<td>Total Value</td>
<td>1,024,000</td>
</tr>
<tr>
<td>Land Area</td>
<td>364.924</td>
</tr>
<tr>
<td>Site Coverage</td>
<td>364.924 (100.00%)</td>
</tr>
<tr>
<td>Formative Loss</td>
<td></td>
</tr>
</tbody>
</table>

---

**ODC/182776 - 07/02/18**

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**Bayside City Council**

**Planning & Amenity Committee Meeting - 17 April 2018**

**Attachment 1**
Item 4.9 – Matters of Decision
ATTACHMENT 2
Site Surrounds and Imagery

Figure 1. Aerial overview of the site and surrounds

<table>
<thead>
<tr>
<th>Legend</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject site</td>
</tr>
<tr>
<td>Objector(s)</td>
</tr>
</tbody>
</table>
PLANNING PERMIT
2016/445/1

Responsible Authority: Bayside City Council
Planning Scheme: Bayside

Address Of The Land:
No. 1/1 Martin Street BRIGHTON, 2/1 Martin Street BRIGHTON, 3/1 Martin Street BRIGHTON

The Permit Allows:
Construction of a roof deck above a new double storey dwelling in a Design and Development Overlay Schedule 1 in accordance with the endorsed plans and subject to the following conditions.

The Following Conditions Apply To This Permit:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans advertised and Council date stamped 16 August 2016 but modified to show:
   a) The overall height of the dwelling, including the access structure on the roof must not exceed a height of 8 metres above natural ground level consistent with Clause 32.09-8 (Neighbourhood Residential Zone – 3) of the Bayside Planning Scheme. The overall height reduction must include a reduction in the floor to ceiling height of the proposed first floor level from 3.2m to 3.1m, 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. No plant, equipment, services or architectural features other than those shown on the endorsed plans are permitted above the roof level of the building/s without the written consent of the Responsible Authority.

4. 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.

Sarah Collins
Signature for the Responsible Authority

Planning and Environment Regulations 2005 Form 4

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

PLANNING PERMIT

IMPORTANT INFORMATION ABOUT THIS PERMIT

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

WHEN DOES A PERMIT BEGIN?
A permit operates:
* from the date specified in the permit; or
* if no date is specified, from—
  (i) the date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal;
  or
  (ii) the date on which it was issued, in any other case.

WHEN DOES A PERMIT EXPIRE?
1. A permit for the development of land expires if—
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development requires the certification of a plan of subdivision or consolidation under the Subdivision Act 1988 and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
   * the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the Subdivision Act 1988.
2. A permit for the use of land expires if—
   * the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
   * the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
   * the development or any stage of it does not start within the time specified in the permit; or
   * the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
   * the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
   * the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of a plan under the Subdivision Act 1988, unless the permit contains a different provision—
   * the use or development of any stage is to be taken to have started when the plan is certified; and
   * the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT APPEALS?
* The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.
* An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.
* An application for review is lodged with the Victorian Civil and Administrative Tribunal.
* An application for review must be made on an Application for Review form which can be obtained from the Victorian Civil and Administrative Tribunal, and be accompanied by the applicable fee.
* An application for review must state the grounds upon which it is based.
* Details about applications for review and the fees payable can be obtained from the Victorian Civil and Administrative Tribunal.
Item 4.9 – Matters of Decision
Item 4.9 – Matters of Decision
4.10 52 ARDOYNE STREET, BLACK ROCK
GRANT A PLANNING PERMIT
APPLICATION NO: 2017/601/1  WARD: SOUTHERN

City Planning & Community Services - Development Services
File No: PSF/15/8755 – Doc No: DOC/18/61886

1. Application details

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Issue a Planning Permit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant</td>
<td>Lowe Construction (Design &amp; Build)</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 September 2017</td>
</tr>
<tr>
<td>Current statutory days</td>
<td>139 days</td>
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<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 3)</td>
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<td>Vegetation Protection Overlay (Schedule 3)</td>
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<td></td>
<td>Developer Contributions Plan Overlay (Schedule 1)</td>
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<tr>
<td>Number of objections</td>
<td>0</td>
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Proposal
The application seeks approval for the construction of two double storey dwellings and a front fence in excess of 1.2 metres on a lot with an area of 896.81 square metres, including the removal of native vegetation. Key details of the proposal are as follows:

- 2 dwellings;
- 6.4 metres in height and two storeys;
- Site coverage 44%;
- Permeability 40.4%;
- Garden area 49%;
- 2 car parking spaces per dwelling; and
- Removal of two native trees.

The application plans are provided at Attachment 1 & 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.
- Clause 32.09-6 (Neighbourhood Residential Zone) – Construction of a front fence exceeding 1.2m in height.
- Clause 42.02-2 (Vegetation Protection Overlay) – Removal of native vegetation.

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>
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<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>
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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 no objections were received.

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

Consultation meeting

There was no requirement to hold a consultation meeting for this application.

4. Recommendation

That Council resolve to:

Issue a Planning Permit under the provisions of the Bayside Planning Scheme in respect of Planning application 2017/601/1 for the land known and described as 52 Ardoyne Street, Black Rock for the construction of two dwellings on a lot and a front fence in excess of 1.2 metres in height and the removal of native vegetation 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 drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans amended and prepared by Lowe Construction Design & Build referenced TP01-TP08, date 27 November 2017 and revision number A but modified to show:

   a) Garage doors within a minimum 4.8 metres wide;
b) The driveway associated with Dwelling 1, measuring 3m wide where it intersects with the footpath and off-set 1 metre from the western property boundary;

b) The speed hump advisory sign off-set 1.5 metres to the east of the new crossover;

c) Sightline visibility from each driveway where it intersects the public footpath such that all structures including foliage, front and side fences within the visibility splay are limited to a maximum 0.9 metres or kept clear.

d) 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.

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

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

All to the satisfaction of the Responsible Authority.

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. 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.

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

4. All pipes (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.

5. 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.

6. 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

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

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

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

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

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

Traffic

10. Before the occupation of the development starts, the area(s) set aside for vehicle parking and accessways must be constructed, drained and line marked to the satisfaction of the Responsible Authority. Such areas must be kept available for these purposes at all times. Any existing disused or redundant crossing or crossing opening must be removed and replaced with footpath/nature strip/kerb and channel, to the satisfaction of the Responsible Authority.

Landscaping

11. 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 Wallbrink Landscape Architecture, reference 1956TP1 Issue A, dated 22/08/17 and be drawn to scale with dimensions and three copies must be provided. The plan must show:

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

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

c) A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant. Plantings must be 80% indigenous by species type and count.

d) 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) One tree capable of reaching 14m at maturity located within the front setback of one dwelling.

g) One tree capable of reaching 12m at maturity located within the rear setback of one dwelling.

h) At least two trees capable of reaching 8m at maturity located on the site.
12. Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

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

**Tree Management and Protection Plan**

14. 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.

8. 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:

9. 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.

10. b) Comment of methods of tree protection to be utilised and instruction on how to deploy them;

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

12. d) Comment on when protection measures can be modified;

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

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

15. g) Stages of development at which inspection will occur.

Any proposed alteration to the plan must be assessed by the site arborist and can only occur following the approval of the site arborist. Such approval must be noted and provided to the Responsible Authority within 28 working days of a written request.

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

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

a) The location of all tree protection measures to be utilised.

If tree protection measures are proposed to be changed during the development, one plan for each stage of tree protection measures must be submitted.

16. 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.
17. 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 Corymbia ficifolia street tree asset’s stem at ground level.

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:

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

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

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

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

22. 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) 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.

g) 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.

20. Prior to endorsement of the plan/s required under Condition 1 of this permit, the permit holder must pay a drainage levy of $2000 in accordance the Bayside Drainage Development Contributions Plan. The levy amount payable will be adjusted to include the Building Price Index applicable at the time of payment.

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

Permit Expiry

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

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

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

**Permit Notes:**

- This permit does not constitute any authority to carry out any building works or occupy the building or part of the building unless all relevant building permits are obtained.
- 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 no easement within the property.
- Subsurface water must be treated in accordance with Council’s Policy for “Discharge of Pumped Subterranean Water Associated with Basements or Below Ground Structures.

5. **Council Policy**

**Council Plan 2017-2021**

Relevant objectives of the Council plan include:

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

Relevant strategies of the Council plan include:

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

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

6.1 Neighbourhood character

23. The site is located within Neighbourhood Character Precinct H1. The proposal is considered to demonstrate an appropriate level of compliance with the preferred future character statement and precinct guidelines as contained in Attachment 4.

The proposed development incorporates boundary setbacks to reflect the pattern of built form in the area whilst allowing adequate visual separation between dwellings. The area is characterised by a variety of built form, consisting of single and double storey dwellings set within spacious gardens.

The proposed dwellings with their proposed setbacks and spacious garden setting would be consistent with this established character. Their articulated facades, setbacks and otherwise by their external finishes would be complementary to the existing and preferred character of the area.

Landscaping opportunities exist within the site, which subject to conditions, will enhance the landscaped character of the area and soften the built form on site. No front fence is proposed and will allow the front garden of each dwelling to be open to the street.

6.2 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>
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<th>Side and rear setbacks (Standard B17)</th>
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<td><strong>Ground floor</strong></td>
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<td>Requirement</td>
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<tr>
<td>East (side)</td>
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The proposal would vary the side setbacks as detailed in the table above. The objective of Standard B17 is to ensure the height and setback of a building from a boundary respect the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings.

The following variations are sought relative to Dwelling 1 of the development:

- 0.4m – 1.2m – 0.02m at parts of its east elevation at first floor.

The following variation is sought relative to Dwelling 2 of the development:

- 1m at a part of its west elevation at ground floor.

The first floor bedroom two, the retreat and the bathroom of dwelling one do not comply with the side setback standard in relation to the western boundary.

The store component on the east side of dwelling 2 does not comply with the side setback Standard in relation to the eastern boundary.

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 store component of Dwelling 2 would have a non-sensitive interface with the driveway and carport associated with the neighbouring residential property of 54 Ardoiye Street to the east and as such would not have a detrimental impact on the amenity of that neighbouring residential property. The open carport and substantial planting within the front setback of the property of 54 Ardoiye would provide visual relief between the proposed development to ensure there is no coalescence of built form. The relationship of built form to boundary is similar to other dual-occupancy developments within Ardoiye Street, 40A & 40B and 60A & 60B Ardoiye Street most notably.

The first floor non-compliant components of Dwelling 1 would have an interface with a service area and habitable room windows on the east side of the neighbouring residential property of 50 Ardoiye Street to the west. However, the distance of those windows from the mutual boundary of the subject site combined with the proposed setbacks is sufficient to ensure that the proposed development would not have a detrimental impact on the amenity of that neighbouring residential property.

In all this circumstance and notwithstanding the variations being sought, the proposed development is considered to display a high level of compliance with Rescode and would be consistent with the existing and preferred character of the area.

Walls on boundaries (Standard B18)

The garage associated with Dwelling 1 of the development has a wall on the mutual boundary with the neighbouring residential property of 50 Ardoiye Street to the east. It has an average height of 3.3 metres, exceeding the average wall height prescribed by the Standard by 0.1 metres. The garage would have an interface with a service area associated with 50 Ardoiye Street and would otherwise be sufficiently off-set from a habitable room window in the northern part of the eastern elevation of that neighbouring dwelling so as not to detrimentally impact on the amenity of that property.
Overlooking (Standard B22)

A number of first floor habitable room windows in the west elevation of Dwelling 1 would be within 9 metres of habitable room windows in the east elevation of the neighbouring residential property.

Dwelling 1 of the development includes a number first floor windows in its west elevation, three of which would serve habitable rooms and be within 9 metres of habitable room windows of the neighbouring residential property of 50 Ardoyne Street to the west. However, those first floor windows would be high level windows with a sill height of 1.7 metres measured from finished first floor level. In such circumstance, Dwelling 1 of the development would not allow for harmful overlooking of the neighbouring residential property of 50 Ardoyne Street or any other neighbouring residential property.

A number of first floor windows would be formed in the east elevation of Dwelling 2 of the development, two of which would serve habitable rooms. Each window would have an interface with the driveway and private open space of the neighbouring residential property of 54 Ardoyne Street to the east. One of the first floor windows of the proposed dwelling, serving bedroom 3, would be a high level window and would not allow for harmful overlooking of that neighbouring property. The other window, serving bedroom 2 of the proposed dwelling, would be sufficiently screened by the 1.9 metres high fencing on the mutual east boundary with the neighbouring property of 54 Ardoyne Street so as not to cause material detriment to its amenity.

All other habitable room windows of Dwelling 1 and 2 of the proposed development would be sufficiently screened or otherwise in excess of 9 metres from the mutual boundaries of neighbouring residential properties so as not to cause material detriment to their amenity as a result of overlooking.

Front Fences (Standard B32)

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<th>Required</th>
<th>Proposed</th>
<th>Variation</th>
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<tbody>
<tr>
<td>Ardoyne Street</td>
<td>1.2m</td>
<td>1.8m</td>
<td>600 mm</td>
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An aluminium front fence of 1.8 metres in height is proposed to enclose part of the front roadside boundary of the site with Ardoyne Street. Pursuant to Standard B32 a front fence to a maximum of 1.2 metres in height is preferred. The objective of this standard is to encourage front fence design that respects the existing or preferred neighbourhood character.

The proposed front fence at a maximum height of 1.8 metres is acceptable as it would replace a front fence of a similar height. Furthermore it would be similar in height to other high front fences that form part of the established streetscape character of this part of Ardoyne Street.

6.3 Landscaping

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

24. A number of trees exist on the subject site all of which are proposed for removal to facilitate the proposed development. The Council’s Arborist confirms that two of the trees located within the rear setback, an *Archontropheonix Alexandra* and a *Pittosporum undulatum*, both Australian Natives, are protected by the Vegetation Protection Overlay (VPO3).
25. The Arborist further confirms that the other trees to be removed from the site are of low amenity value and none of them are protected by the Local Law.

An assessment against the decision guidelines of the VPO3 is provided at Attachment 6. The proposed extent of vegetation removal is considered to be acceptable when assessed against the decision guidelines of the VPO3. The character of the area, including the extent of indigenous vegetation present, will be maintained once replacement plantings are undertaken. The proposed vegetation removal will also not impact on the overall quality of habitat within the broader area and the extent of removal is justified when considered against the level of development proposed. Therefore the proposed vegetation removal is considered to comply with the objectives of the VPO3.

A number of trees are located on the adjoining site to the east of the subject site 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 a Tree Protection Plan and Tree Management Plan will be required to be submitted to ensure these trees remain viable both during and post construction. A condition to this effect is included in the recommendation (Conditions 14).

In addition to the above assessment, Council’s Arborist has reviewed the submitted landscape plan and advised that it is considered acceptable subject to one tree capable of reaching 14 metres at maturity being planted within the front setback of one of the dwellings, one tree capable of 12m at maturity being planted in the rear setback of one dwelling and two trees being planted on site capable of reaching 8 metres at maturity. Furthermore that 80% of the plantings on site be of indigenous species type and count (Condition 11).

6.4 Street tree(s)

26. The Council’s Open Space Arborist confirms that a mature Corymbia ficifolia street tree asset exists within the nature strip that front the subject site.

27. The Council’s Open Space Arborist raises no objection to the application subject to measures being put in place to protect the street tree asset during construction. These controls are included in the recommended permit conditions (Condition 17).

6.5 Car parking and traffic

28. 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.

29. Dwelling 1 comprises four bedrooms and is afforded two car parking spaces in the form of a double garage. Dwelling 2 comprises 3 bedrooms and has a double garage. The proposed on site car parking meets the requirements of Clause 52.06-5.

30. The application was referred to Council’s Traffic Engineer who expressed no concern with the development subject to the inclusion of permit conditions relating to vehicle access, driveway gradients, sightlines and internal parking dimensions. These are included as conditions of the permit (Conditions 1a-1c).

31. It is considered that the proposed development will not unreasonably impact on the car parking network in the street.
6.6 Development Contributions Levy

32. The subject site is located within catchment area 20.

33. Based on the proposed application and the above recommendation, payment of $2000 is required. The payment of the development contributions is recommended as a condition of permit (Condition 20).

Support Attachments

1. Development Plans ↓
2. Arboricultural Assessment Report ↓
3. Site & Surrounds Imagery ↓
4. Neighbourhood Character Precinct - H1 ↓
5. Clause 55 Assessment ↓
6. VPO Decision Guidelines ↓
ARBORICULTURAL ASSESSMENT & REPORT

52 Ardoyne Street, Black Rock

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Arboricultural Assessment & Report
52 Ardoyne Street, Black Rock

Introduction
Glenn Waters has been engaged to undertake an inspection and report for the trees and property at 52 Ardoyne Street, Black Rock.

This report will provide comment on the individual site, neighbouring property and street trees in question and provide advice regarding the species, condition and suitability for retention of the existing site trees and also provide advice regarding the future management of the trees.

Objectives
- To inspect the site and existing trees located within site at 52 Ardoyne Street, Black Rock including any nearby neighbouring property or street trees that may be impacted by the proposed development of the subject site.
- To collect data on the individual site and neighbouring property trees and provide a tree number plan that correspond to the report tree data.
- To provide an arboricultural report that provides advice and solutions for the future management of the site, neighbouring property and street trees (as required).

Observations
The site is a residential property located at 52 Ardoyne Street, Black Rock and is a typical flat residential block. The site inspection and assessment captured data on twelve (12) individual trees including five (5) neighbouring property trees and one (1) street tree.

There are no high value trees on the site and in fact no subject site tree was rated higher than 'Low' arboricultural/retention value. No subject site tree is worthy of retention in any development of the site.

The neighbouring property trees have been apportioned Tree Protection Zone (TPZ) distances as per the Australian Standard AS 4970-2009 Protection of trees on development sites which defines a TPZ as being the trunk diameter of the tree multiplied by a factor of 12. (eg: a 30cm dbh X 12 = 3.6m radius TPZ).
Discussion

General Tree Retention Discussion:

The Australian Standard AS 4970-2009 Protection of trees on development sites has been used to calculate the TPZ for the subject site and neighbouring property trees.

The TPZ is calculated based on trunk (stam) diameter (DBH), measured at approximately 1.4 metres up from ground level. The radius of the TPZ is calculated by multiplying the trees DBH by 12. The method provides a TPZ that addresses both the stability and growing requirements of a tree. TPZ distances are measured as a radius from the centre of the trunk at (or near) ground level.

Encroachment into the TPZ is permissible under certain circumstances though is dependant on both site conditions and tree characteristics. Minor encroachment, up to 10% of the TPZ, is generally permissible provided encroachment is compensated for by recruitment of an equal area contiguous with the TPZ.

With a site such as this, it is important to understand that tree root growth is opportunistic and occurs where the essentials to life (mainly air and water) are present. Heterogeneous soil conditions, existing barriers, hard paved surfaces, roads and buildings may have inhibited the development of a symmetrically radiating root system and this may impact on the size and shape of a TPZ. Existing infrastructure around some trees may be within the TPZ or root plate radius and this may affect how roots are located and it is likely that the roots of individual trees may have grown in response to the site conditions and therefore ‘normal’ tree protection zone calculations may need to be modified to allow for such anomalies.

Appendix 1 lists the standard tree protection works that should be considered as part of the management of trees to be retained during development and the minimum standard to apply.

Discussion regarding the Neighbouring Property Trees:

Tree #2: Spotted Gum High Arboricultural Value

This tree is sited within the neighbouring property to the north and will have a section of its 9.6 metre radius TPZ within the subject site. The Australian Standard allows for a 10% encroachment of the calculated TPZ (on one side) and this could allow development to come to within 6.8 metres without design changes.

There is currently a concrete driveway and garage within the subject site within what would normally be considered to be TPZ. This area is not functioning as TPZ and as long as the driveway is demolished and re-constructed with due care and attention, there should be no impact on this tree.
Tree #9: Flowering Gum  Low-Moderate Arboricultural Value
This tree is sited within the neighbouring property to the north and will have a 3.6 metre radius TPZ outside the subject site. There will be no impacts on this tree and no requirements for tree protection measures.

Tree #10: Jacaranda  Moderate Arboricultural Value
This tree is sited within the neighbouring property to the north and will have a minor section of its 5.8 metre radius TPZ within the subject site. The Australian Standard allows for a 10% encroachment of the calculated TPZ (on one side) and this could allow development to come to within 4.0 metres without design changes. This 4.0 metre mTPZ is outside the subject site and there will be no impact on this tree and no requirements for tree protection measures.

Tree #11: Box Elder  Low-Moderate Arboricultural Value
This young tree is sited within the neighbouring property to the rear and will have a 2.0 metre radius TPZ outside the subject site. There will be no impacts on this tree and no requirements for tree protection measures.

Tree #12: Sweet Pittosporum  Low-Moderate Arboricultural Value
This tree is sited within the neighbouring property to the north and will have a 2.2 metre radius TPZ outside the subject site. There will be no impacts on this tree and no requirements for tree protection measures.

Glenn Waters
GLENN WATERS | ARBORICULTURE

Received
20 NOV 2017
Planning Department
ADVERTISED PLAN
Appendix 1: Tree Protection During Development

The following are guidelines that must be implemented to minimise the impact of the proposed construction works on the retained trees.

- The Tree Protection Zone (TPZ) is fenced and clearly marked at all times. This fence should deter the placement of building materials, entry of heavy equipment and vehicles and also the entry of workers and/or the public into the TPZ. Australian Standard AS 4987 - 2007 Temporary fencing and hoardings, specifies appropriate fencing requirements. Existing perimeter fencing can be incorporated into the protective fencing. Shade cloth should be attached to reduce the movement of dust and other particulates into the TPZ. Signs identifying the TPZ are to be placed on the fencing.

- If the area within the TPZ is to be accessed during the construction phase then the area will need ground protection. Measures may include a permeable membrane, such as a geotextile, to cover the TPZ area beneath a 100 mm layer of crushed rock below rumble boards.

- Contractors and site workers should receive written and verbal instruction as to the importance of tree protection and preservation within the site. Successful tree preservation occurs when there is a commitment from all relevant parties involved in designing, constructing and managing a development project. Members of the project team need to interact with each other to minimise the impacts to the trees, either through design decisions or construction practices.

- The consultant arborist is on-site to supervise excavation works around the existing trees where the TPZ will be encroached.

- There is no immediate requirement for mulching within the TPZ. There is benefit to maintaining existing site conditions within the TPZ and is more analogous to proposed completion conditions. Monitoring of the trees in-line with prevailing weather conditions will indicate if mulching will be required. The same approach is to used in providing supplemental irrigation.

- No persons, vehicles or machinery to enter the TPZ without the consent of the consulting arborist or site manager.

- Any underground service installations within the allocated TPZ should be bored and utility authorities should common trench where possible.

- No fuel, oil dumps or chemicals shall be allowed in or stored on the TPZ and the servicing and refuelling of equipment and vehicles should be carried out away from the root zones.

- No storage of material, equipment or temporary building should take place over the root zone of the tree.

- Nothing whatsoever should be attached to the tree including temporary services wires, nails, screws or any other fixing device.

- Any pruning that is required must be carried out by trained and competent arborist who has a thorough knowledge of tree physiology and pruning methods and carry out pruning to the Australian Standard – AS 4373 – 2007 Pruning of Amenity Trees.

- All root excavation should be carried out by hand digging or with the use of ‘Air-Excavation’ techniques, and roots should be severed by saw cutting or with a sharp axe and not with a Backhoe or any machinery or blunt instrument.
Item 4.10 – Matters of Decision
<table>
<thead>
<tr>
<th>No</th>
<th>Dblh</th>
<th>Dblh</th>
<th>Dblh</th>
<th>Species</th>
<th>Common Name</th>
<th>Age</th>
<th>Health</th>
<th>Structure</th>
<th>Area Value</th>
<th>TPZ (in/ton)</th>
<th>SHZ</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>70</td>
<td>90</td>
<td>18 x 10</td>
<td>Corymbia caesia var. minima</td>
<td>Minnie</td>
<td>Mature</td>
<td>Fair-Poor</td>
<td>Fair-Poor</td>
<td>High</td>
<td>2.4m (2.0m)</td>
<td>2.6m</td>
<td>street tree</td>
</tr>
<tr>
<td>2</td>
<td>80</td>
<td>100</td>
<td>18 x 20</td>
<td>Corymbia maculata</td>
<td>Spotted Gum</td>
<td>Mature</td>
<td>Fair-Poor</td>
<td>Fair-Poor</td>
<td>High</td>
<td>3.0m (2.6m)</td>
<td>3.2m</td>
<td>neighbouring property tree</td>
</tr>
<tr>
<td>3</td>
<td>40</td>
<td>60</td>
<td>4 x 9</td>
<td>Casuarina cunninghamiana</td>
<td>Grey Gum</td>
<td>Mature</td>
<td>Poor</td>
<td>Poor</td>
<td>None</td>
<td></td>
<td></td>
<td>woody weed</td>
</tr>
<tr>
<td>4</td>
<td>20</td>
<td>38</td>
<td>8 x 10</td>
<td>Syzygium paniculatum var. marrakechense</td>
<td>Queen Palm</td>
<td>Semi-mature</td>
<td>Fair</td>
<td>Fair</td>
<td>Low</td>
<td>2.0m (1.8m)</td>
<td>2.2m</td>
<td>woody weed</td>
</tr>
<tr>
<td>5</td>
<td>15</td>
<td>28</td>
<td>8 x 9</td>
<td>Acer pseudoplatanus</td>
<td>Japanese Maple</td>
<td>Semi-mature</td>
<td>Fair</td>
<td>Fair</td>
<td>Low</td>
<td></td>
<td></td>
<td>woody weed</td>
</tr>
<tr>
<td>6</td>
<td>30</td>
<td>59</td>
<td>8 x 11</td>
<td>Gliricidia sepium 'Surfburst'</td>
<td>Honey Locust</td>
<td>Semi-mature</td>
<td>Fair-Poor</td>
<td>Fair-Poor</td>
<td>Low</td>
<td></td>
<td></td>
<td>woody weed</td>
</tr>
<tr>
<td>7</td>
<td>20</td>
<td>49</td>
<td>8 x 5</td>
<td>Casuarina cunninghamiana</td>
<td>Grey Gum</td>
<td>Semi-mature</td>
<td>Poor</td>
<td>Poor</td>
<td>None</td>
<td></td>
<td></td>
<td>woody weed</td>
</tr>
<tr>
<td>8</td>
<td>90</td>
<td>150</td>
<td>10 x 10</td>
<td>Pipturus undulatus</td>
<td>Sweet Gum</td>
<td>Semi-mature</td>
<td>Poor</td>
<td>Poor</td>
<td>Low</td>
<td></td>
<td></td>
<td>woody weed</td>
</tr>
<tr>
<td>9</td>
<td>20</td>
<td>60</td>
<td>45 x 10</td>
<td>Pipturus undulatus</td>
<td>Pimeleia</td>
<td>Semi-mature</td>
<td>Poor</td>
<td>Poor</td>
<td>Low</td>
<td></td>
<td></td>
<td>woody weed</td>
</tr>
<tr>
<td>10</td>
<td>60</td>
<td>120</td>
<td>12 x 12</td>
<td>Acacia melanoxylon</td>
<td>Blackbutt</td>
<td>Semi-mature</td>
<td>Poor</td>
<td>Fair-Poor</td>
<td>Low-Moderate</td>
<td>2.4m (2.0m)</td>
<td>2.6m</td>
<td>neighbouring property tree</td>
</tr>
<tr>
<td>11</td>
<td>60</td>
<td>120</td>
<td>5 x 12</td>
<td>Acacia dealbata</td>
<td>Box Elder</td>
<td>Semi-mature</td>
<td>Poor</td>
<td>Fair-Poor</td>
<td>Low-Moderate</td>
<td>2.4m (2.0m)</td>
<td>2.6m</td>
<td>neighbouring property tree</td>
</tr>
<tr>
<td>12</td>
<td>20</td>
<td>60</td>
<td>5 x 7</td>
<td>Pipturus undulatus</td>
<td>Sweet Gum</td>
<td>Semi-mature</td>
<td>Poor</td>
<td>Fair-Poor</td>
<td>Low-Moderate</td>
<td>2.4m (2.0m)</td>
<td>2.6m</td>
<td>neighbouring property tree</td>
</tr>
</tbody>
</table>

Archontophoenix alexandrae - Coastal Palm
Tree Descriptors - Version 7 (March 2017)

The typical assessment of tree evaluates the factors of health and structure. The descriptors of health and structure attributed to a tree evaluate the individual specimen as compared to what could be considered typical for that species growing in its location. The two factors are completely separate and it is possible to have a tree in good health with very poor structure or, conversely, a tree in very poor health with good structure. These two factors should be used a guide to the overall picture of the tree condition at the time of inspection.

Tree No:
A unique identifier, normally a number and often associated with a plan or map reference and used to identify an individual tree or tree group.

Species:
Provides botanical name, genus, species, variety and cultivar according to accepted international codes of taxonomic classification.

Common Name:
Provide the most well-known non-scientific name by which the tree is generally known.

DBH (trunk diameter, measured at 1.0m from ground):
Indicates the trunk diameter (expressed in centimetres) of an individual tree measured at 1.4m above the existing ground level. Plants with a multiple leader habit may be measured at the tree base. DBH measurements are usually undertaken with foresters diameter tape or builders tape.

H x W (Height x Width or Canopy Spread):
Indicates the height and width of the individual tree, dimensions are expressed in metres. Height is measured with a clinometer/heightmeter where possible. Tree heights may be estimated in line with previous clinometer readings in conjunction with author’s experience. Crown widths are generally paced (estimated) at the widest axis or averaged.

Tree Type:
Describes the general geographic origin of the species and its type (e.g. deciduous or evergreen).

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indigenous</td>
<td>Occurs naturally in the area or region of the subject site</td>
</tr>
<tr>
<td>Victorian native</td>
<td>Occurs naturally within some part of the State of Victoria (not exclusively) but is not indigenous</td>
</tr>
<tr>
<td>Australian native</td>
<td>Occurs naturally within Australia but is not a Victorian native or Indigenous</td>
</tr>
<tr>
<td>Exotic deciduous</td>
<td>Occurs outside of Australia and typically sheds its leaves during winter</td>
</tr>
<tr>
<td>Exotic evergreen</td>
<td>Occurs outside of Australia and typically holds its leaves all year round</td>
</tr>
<tr>
<td>Exotic conifer</td>
<td>Occurs outside of Australia and is classified as a gymnosperm</td>
</tr>
<tr>
<td>Native conifer</td>
<td>Occurs naturally within Australia and is classified as a gymnosperm</td>
</tr>
<tr>
<td>Palm</td>
<td>Woody monocotyledon</td>
</tr>
</tbody>
</table>
**Age:**

Relates to the physiological stage of the tree's life cycle.

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Young</td>
<td>Sapling tree and/or recently planted</td>
</tr>
<tr>
<td>Semi-mature</td>
<td>Tree rapidly increasing in size and yet to achieve expected size in situation</td>
</tr>
<tr>
<td>Maturing</td>
<td>Specimen approaching expected size in situation, with reduced incremental growth</td>
</tr>
<tr>
<td>Senescent</td>
<td>Tree is over-mature and in decline</td>
</tr>
<tr>
<td>Dead</td>
<td>Tree is dead</td>
</tr>
</tbody>
</table>

**Health:**

Assesses a range of attributes to describe the overall health of the tree.

<table>
<thead>
<tr>
<th>Category</th>
<th>Growth Indicators</th>
<th>Decline symptoms/Deadwood</th>
<th>Foliage density, colour, size, intactness</th>
<th>Pests and/or disease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>Above typical</td>
<td>None or minimal</td>
<td>Better than typical</td>
<td>None or minimal</td>
</tr>
<tr>
<td>Fair</td>
<td>Typical</td>
<td>Typical or expected</td>
<td>Typical</td>
<td>Typical, within damage thresholds</td>
</tr>
<tr>
<td>Fair to</td>
<td>Poor haddtypical</td>
<td>More than typical</td>
<td>Exhibiting deficiencies</td>
<td>Exceeds damage thresholds</td>
</tr>
<tr>
<td>Poor</td>
<td>Minimal</td>
<td>Excessive and large amount/size</td>
<td>Exhibiting severe deficiencies</td>
<td>Extreme and contributing to decline</td>
</tr>
<tr>
<td>Dead</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**Structure:**

Assesses principal components of tree structure (Diagram 5).

<table>
<thead>
<tr>
<th>Descriptor</th>
<th>Root plate &amp; lower stem</th>
<th>Trunk</th>
<th>Primary branch support</th>
<th>Outer crown and roots</th>
<th>Lean from vertical</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>No damage, disease or decay; obvious base flare / stable in ground</td>
<td>No damage, disease or decay; well tapered</td>
<td>Well formed, attached, spaced and tapered</td>
<td>No damage, disease, decay or structural defect</td>
<td>Low or none</td>
</tr>
<tr>
<td>Fair</td>
<td>Minor damage or decay</td>
<td>Minor damage or decay</td>
<td>Typically formed, attached, spaced and tapered</td>
<td>Minor damage, disease or decay; minor branch end-weight or over-extension</td>
<td>Minor/natural</td>
</tr>
<tr>
<td>Poor</td>
<td>Moderate damage or decay; minimal base flare</td>
<td>Moderate damage or decay, approaching recognised thresholds</td>
<td>Weak, decayed or with acute branch attachments; previous branch failure evidence</td>
<td>Moderate damage, disease or decay; moderate branch end-weight or over-extension</td>
<td>Moderate</td>
</tr>
<tr>
<td>Very Poor</td>
<td>Major damage, disease or decay; fungal fruiting bodies present</td>
<td>Major damage, disease or decay; exceeds recognised thresholds; fungal fruiting bodies present</td>
<td>Decayed, cavities or branch attachments with included bark; excessive compression failure; failure likely</td>
<td>Major damage, disease or decay; fungal fruiting bodies present; major branch end-weight or over-extension</td>
<td>Acute</td>
</tr>
<tr>
<td>Hazardous</td>
<td>Excessive damage, disease or decay; unstable base in ground; failure probable</td>
<td>Excessive damage, disease or decay; cavities</td>
<td>Decayed, cavities or branch attachments with active split; failure imminent</td>
<td>Excessive damage, disease or decay; excessive branch end-weight or over-extension</td>
<td>Excessive - root plate failure or stem failure probable</td>
</tr>
</tbody>
</table>
The lowest or worst descriptor assigned to the tree in any column is generally the overall rating assigned to the tree. The assessment for structure is limited to observations of external and above ground tree parts. It does not include any exploratory assessment of underground or internal tree parts unless this is requested as part of the investigation.

Trees are assessed and given a rating for a point in time. Generally, trees with a poor or very poor structure are beyond the benefit of practical arboricultural treatments. The management of trees in the urban environment requires appropriate arboricultural input and consideration of risk.

**Arboricultural / Retention Value Rating:**

Relates to the combination of previous tree rating factors, including health, structure and form (arboricultural merit), and also conveys an amenity value. This rating relates to the trees biological, functional and aesthetic characteristics within an urban landscape context.

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Significant</strong></td>
<td>Tree of better than high quality and will be an outstanding example of the species due to factors such as age, size, outstanding example, rare in cultivation, etc. Retention of these trees should be a priority for the site.</td>
</tr>
<tr>
<td><strong>High</strong></td>
<td>Tree of high quality in good to fair condition. Generally a prominent arboricultural feature. Tree is capable of tolerating changes in its environment. These trees have the potential to be a medium to long-term component of the landscape if managed appropriately. Retention of these trees is highly desirable.</td>
</tr>
<tr>
<td><strong>Moderate</strong></td>
<td>Tree of moderate quality, in fair or better condition. Generally contributes to the landscape. Tree may have a condition, and or structural problem that will respond to arboricultural treatment. Tree is capable of tolerating changes in its environment. These trees have the potential to be a medium to long-term component of the landscape if managed appropriately. Retention of these trees is generally desirable.</td>
</tr>
<tr>
<td><strong>Low</strong></td>
<td>Tree of low quality and/or little amenity value. Tree in poor health and/or with poor structure. Tree unlikely to respond positively to changes in its environment and does not warrant design modification to preserve it. Tree may be beyond the benefit of practical arboricultural treatments.</td>
</tr>
</tbody>
</table>
| **None** | Tree is not significant for its size and/or young. These trees are easily replaceable. Tree (species) is functionally inappropriate to specific location and would be expected to be problematic if retained. Retention of such trees may be considered if not requiring a disproportionate expenditure of resources for a tree in its condition and location.

Tree has a severe structural defect and/or health problem that cannot be sustained with practical arboricultural techniques and the loss of tree would be expected in the short term. Tree whose retention would be impractical after the removal of adjacent trees (includes trees that have developed in close spaced groups and would not be expected to acclimate to severe alterations to surrounding environment – removal of adjacent shelter trees) Tree has a detrimental effect on the environment, for example, the tree is a woody weed. These trees should be removed on the basis of sound arboricultural management.
GLENN WATERS | ARBORICULTURE
P.O. Box 94,
Oakleigh South, VIC. 3167.

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Unless expressed otherwise, the information contained in this report covers only those items that were covered in the project brief or that were examined during the assessment and reflect the condition of those items at the time of inspection; and the inspection undertaken as part of the preparation for the above report was limited to visual examination of accessible components of any tree without climbing the tree or removal of any parts of the tree or any dissection, excavation or probing unless otherwise stipulated.
Figure 1 Aerial overview of the site and surrounds.

**Legend**

<table>
<thead>
<tr>
<th>Subject site</th>
<th>⭐</th>
</tr>
</thead>
<tbody>
<tr>
<td>Objector(s)</td>
<td>🔴</td>
</tr>
</tbody>
</table>
Figure 2 View of subject site from the north

Figure 3 View towards subject site from the northeast
Figure 4 View towards 50 Ardoyne Street to the west of the subject site

Figure 5 View towards 54 Ardoyne Street to the east of the subject site
Figure 6 Opposite the subject site to the north

Figure 7 Example of dual-occupancy development at 40A & 40B Ardoyne Street
Figure 8 Example of dual-occupancy development at 40A & 40B Ardoyne Street

Figure 9 Example of dual-occupancy development at 60A & 60B Ardoyne Street
Preferred Future Character

The diverse dwelling styles are set within well-vegetated streetscapes dominated by large native and exotic canopy trees within the public and private domains. Tree and other vegetation species reflect the coastal location of the area. The dwellings are set within spacious gardens to accommodate the trees. Streetscapes appear as a mixture of single and double storey dwellings, however individual buildings respect adjoining dwellings and do not dominate the streetscape. 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>Objective</th>
<th>Design Response</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>To maintain and enhance the garden settings of the dwellings.</td>
<td>Prepare a landscape plan to accompany all applications for new dwellings, that utilises appropriate traditional coastal and native species.</td>
<td>Lack of landscaping and substantial vegetation.</td>
<td>Responds</td>
</tr>
</tbody>
</table>

Whilst the development will result in the removal of native trees and other vegetation from the site, there is sufficient space within the site to provide a landscape setting to the development in the order of native species trees and other plantings in accordance with the Bayside Landscape Design Guidelines. Matters of replacement planting and species type can be controlled by condition.

| To enhance the bayside vegetation character of the area through the retention and planting of | Retain established large trees and native and traditional coastal vegetation and provide for the planting of new native coastal trees (locate footings outside root zone). | Removal of large trees. Planting of environmental weeds. | Responds |

The two natives proposed for removal are of not considered to be of high amenity value. Future appropriate high quality native landscaping will improve the sites.
<table>
<thead>
<tr>
<th>Objective</th>
<th>Design Response</th>
<th>Avoid</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>appropriate coastal species.</td>
<td>- Buildings should be sited to allow space for the planting of significant trees and shrubs.</td>
<td>Loss of front garden space.</td>
<td>environmental value as well as making a positive contribution to the streetscapes.</td>
</tr>
<tr>
<td>To retain the rhythm of spacious visual separation between buildings and ensure adequate space is provided around buildings for the retention and planting of vegetation.</td>
<td>- Buildings should be sited to create the appearance of space between buildings and accommodate substantial vegetation.</td>
<td></td>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td></td>
<td>- Minimise impervious surfaces particularly in front garden areas.</td>
<td></td>
<td>The spacing of development and plantings adjacent to the site allow the proposed development, mean variations sought to the side setbacks do not detract from the rhythm of visual separation between dwellings.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The setbacks still allow opportunities for meaningful landscaping within the front and rear setbacks and to an extent, within the side setbacks. This will soften the built form and maintain the vegetated characteristic of the area.</td>
</tr>
<tr>
<td>To minimise the loss of front garden spaces and the dominance of car parking structures.</td>
<td>- Locate garages and carports behind the line of the dwelling.</td>
<td>Car parking structures that dominate the façade or view of the dwelling.</td>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The parking structures are in the form of two double garages however the façade is appropriately articulated to ensure their presentation remains secondary to the overall presentation to the street.</td>
</tr>
<tr>
<td>To ensure that new dwellings and extensions do not dominate the streetscape.</td>
<td>- Recess upper level elements from the front façade.</td>
<td></td>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td></td>
<td>- Use pitched roof forms.</td>
<td></td>
<td>The upper floors of each dwelling have been designed to be recessed behind the ground floor level. This combined with the window openings and entrance porch of each dwelling articulate the façade and reduce the visual bulk.</td>
</tr>
<tr>
<td>To use building materials and finishes.</td>
<td>- Use a mix of materials, textures and finishes including render,</td>
<td>Period reproduction styles and detailing.</td>
<td><strong>Responds</strong></td>
</tr>
<tr>
<td>Objective</td>
<td>Design Response</td>
<td>Avoid</td>
<td>Comments</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>------------------------</td>
<td>--------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>that complement the natural setting.</td>
<td>timber, non-masonry sheeting, glazing, stone and brick.</td>
<td></td>
<td>The proposed materials and finishes will complement the natural setting.</td>
</tr>
<tr>
<td>To maintain the openness of the front garden to the street.</td>
<td>• Provide open style front fences, other than along heavily trafficked roads.</td>
<td>High, solid front fences</td>
<td>Responds The proposed front fence is consistent with the height and form of fencing that encloses the roadside boundary of other dwellings facing Ardoyne Street.</td>
</tr>
</tbody>
</table>
### ATTACHMENT 5
RESCODE CLAUSE 55 ASSESSMENT

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>
</table>
| **B1 Neighbourhood Character**  
Design respects existing neighbourhood character or contributes to a preferred neighbourhood character.  
Development responds to features of the site and surrounding area. | Complies | Refer to Attachment 2. |
| **B2 Residential Policy**  
Residential development is consistent with housing policies in the SPPF, LPPF including the MSS and local planning policies.  
Support medium densities in areas to take advantage of public transport and community infrastructure and services. | Complies | The subject site is appropriately located with regard to services and facilities to support the construction of two dwellings on a lot of this size. |
| **B3 Dwelling Diversity**  
Encourages a range of dwelling sizes and types in developments of ten or more dwellings. | N/A | |
| **B4 Infrastructure**  
Provides appropriate utility services and infrastructure without overloading the capacity. | Complies | 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. It is noted that the developer will be required to pay a development contributions levy in accordance with the |
requirements of Clause 45.06 of the Bayside Planning Scheme.

**B5 Integration with the Street**
Integrate the layout of development with the street

| Complies | The development will integrate appropriately with the street and features a staggered front setback at ground floor level, providing an appropriate transition to the setbacks of the adjoining properties.
|          | The overall building height of 6.8 metres, when read with the built forms along the streetscape, ensures that any perception of dominance is minimal.
|          | See Neighbourhood Character at Attachment 3 for further discussion.

**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>Complies</td>
<td>Requirement: 8.6m. Proposed: 8.6m</td>
</tr>
<tr>
<td>The setbacks of buildings from a street respect the existing or preferred neighbourhood character and make efficient use of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B7 Building Height</strong></td>
<td>Complies</td>
<td>Maximum: 9m.</td>
</tr>
<tr>
<td>Building height should respect the existing or preferred neighbourhood character.</td>
<td>Design and Development Overlay, Schedule 3 also identifies a height of 2 storeys excluding an attic and basement. Proposed: 6.8 metres (2 storeys)</td>
<td></td>
</tr>
<tr>
<td><strong>B8 Site Coverage</strong></td>
<td>Complies</td>
<td>Maximum: 50% Proposed: 44%</td>
</tr>
<tr>
<td>Site coverage should respect the existing or preferred neighbourhood character and respond to the features of the site.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B9 Permeability</strong></td>
<td>Complies</td>
<td>Minimum: &gt;20% Proposed: 40.4%</td>
</tr>
<tr>
<td>Reduce the impact of stormwater run-off on the drainage system and facilitate on-site stormwater infiltration.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B10 Energy Efficiency</strong></td>
<td>Complies</td>
<td>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.</td>
</tr>
<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>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B11 Open Space</strong></td>
<td>N/A</td>
<td>There is no communal open space in or adjacent to the development.</td>
</tr>
</tbody>
</table>
Integrate layout of development with any public and communal open space provided in or adjacent to the development.

<table>
<thead>
<tr>
<th><strong>Item 4.10 – Matters of Decision</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B12 Safety</strong></td>
</tr>
<tr>
<td>Layout to provide safety and security for residents and property.</td>
</tr>
<tr>
<td>Complies</td>
</tr>
<tr>
<td>The pedestrian entry points are clearly recognisable while upper levels allow for the passive surveillance of the street.</td>
</tr>
</tbody>
</table>

| **B13 Landscaping**               |
| To provide appropriate landscaping. |
| Complies                          |
| The siting of the development creates sufficient opportunities for meaningful landscaping subject to conditions. A condition of permit will require an amended landscape plan to be submitted to the satisfaction of the Responsible Authority. Refer to Report. |

| **B14 Access**                    |
| Ensure the safe, manageable and convenient vehicle access to and from the development. |
| Complies                          |
| Appropriate vehicular access is provided. |
| **Maximum**: 40% of street frontage |
| **Proposed**: 30.0% of street frontage |

| **B15 Parking Location**          |
| Provide resident and visitor vehicles with convenient parking. |
| Avoid parking and traffic difficulties in the development and the neighbourhood. |
| Protect residents from vehicular noise within developments. |
| Complies                          |
| On site car parking is provided in the form of double garages. Standard traffic conditions are included as permit conditions. Refer to report. |

<table>
<thead>
<tr>
<th><strong>CLAUSE 55.04 AMENITY IMPACTS</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Title and Objective</strong></td>
</tr>
<tr>
<td><strong>Complies with Standard?</strong></td>
</tr>
<tr>
<td><strong>Comments</strong></td>
</tr>
</tbody>
</table>

| **B17 Side and Rear Setbacks**    |
| Ensure the height and setback respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings. |
| No                                |
| Refer report.                     |

<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</td>
<td>2m</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td><strong>B18 Walls on Boundaries</strong></td>
<td>Ensure the location, length and height of a wall on a boundary respects the existing or preferred neighbourhood character and limits the amenity impacts on existing dwellings.</td>
</tr>
<tr>
<td><strong>B19 Daylight to Existing Windows</strong></td>
<td>Allow adequate daylight into existing habitable room windows.</td>
</tr>
<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>
</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>Complies</td>
<td>Entries are accessible for people with limited mobility. The development could be further retrofitted to accommodate people with limited mobility in the future if required.</td>
</tr>
<tr>
<td>Consider people with limited mobility in the design of developments.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B26 Dwelling Entry</strong></td>
<td>Complies</td>
<td>The development fronts Ardoyne Street and includes clearly identifiable entryways with dedicated pedestrian pathways. The entry provides shelter, a sense of personal address and a transitional space around the building entry.</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>
<tr>
<td><strong>B28 Private Open Space</strong></td>
<td>Complies</td>
<td><strong>Minimum:</strong> 25m² secluded, 40m² overall with a minimum dimension of 3 m; <strong>Proposed:</strong> Dwelling 1 – 88.7m² secluded Dwelling 2 – 204.4m² secluded</td>
</tr>
<tr>
<td>Provide reasonable recreation and service needs of residents by adequate private open space.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B29 Solar Access to Open Space</strong></td>
<td>Complies</td>
<td>The SPOS to both dwellings has an eastern and western access for maximum solar access. Given the orientation of site, the design response is supported.</td>
</tr>
<tr>
<td>Allow solar access into the secluded private open space of new dwellings/buildings.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B30 Storage</strong></td>
<td>Complies</td>
<td>6m³ of storage has been provided in the garages of both dwellings.</td>
</tr>
<tr>
<td>Provide adequate storage facilities for each dwelling.</td>
<td></td>
<td></td>
</tr>
</tbody>
</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><strong>B31 Design Detail</strong></td>
<td>Complies</td>
<td>Refer to Attachment 1.</td>
</tr>
<tr>
<td>Encourage design detail that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B32 Front Fences</strong></td>
<td>No</td>
<td>Refer to report.</td>
</tr>
<tr>
<td>Encourage front fence design that respects the existing or preferred neighbourhood character.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Decision</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>----------</td>
</tr>
<tr>
<td><strong>B33 Common Property</strong></td>
<td>Ensure car parking, access areas and other communal open space is practical, attractive and easily maintained. Avoid future management difficulties in common ownership areas.</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>B34 Site Services</strong></td>
<td>Ensure site services and facilities can be installed and easily maintained and are accessible, adequate and attractive. Avoid future management difficulties in common ownership areas.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
ATTACHMENT 6
DECISION GUIDELINES OF THE VEGETATION PROTECTION OVERLAY
(SCHEDULE 3)

<table>
<thead>
<tr>
<th>Decision Guideline</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>The impact the vegetation removal would have on the character of the area</td>
<td>Council’s Arborist confirms that the two native trees to be removed to facilitate the development of the site are no amenity value. It can be concluded that their removal would have a neutral effect on the character of the area.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the presence of indigenous species in the locality</td>
<td>Landscaping is proposed to enhance the development, with mature indigenous trees proposed for the front and rear setbacks of the development. A condition of the recommendation is that the 80% of plantings on site be of indigenous species and count to ensure that the loss of indigenous species is mitigated. The type and count of planting would enhance not only the development but would be</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the appearance of development.</td>
<td>The trees proposed for removal are within the rear setback of the existing dwelling and their removal would have a neutral effect on the appearance of the development within the streetscape. However proposed landscaping will assist in screening and providing a setting to the development. The number of replacement trees is considered acceptable to mitigate for the loss of the trees.</td>
</tr>
<tr>
<td>The impact the vegetation removal would have on the habitat quality of any remaining vegetation and the fragmentation of wildlife corridors.</td>
<td>No impact on the habitat quality is anticipated.</td>
</tr>
<tr>
<td>Any proposal to regenerate or plant indigenous vegetation on the site.</td>
<td>A total of 4 mature trees are proposed to be planted within site, 2 each within the front and rear setback of the development, as well as a number of small trees and shrubs. The proposed regeneration is considered acceptable.</td>
</tr>
</tbody>
</table>

Definitions

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

(H) High

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

(M) Medium

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

(L) Low
The tree is generally in fair health and structure, provides low levels if amenity and may do so for up to 10 years. The tree may be juvenile or otherwise small and easily replaced by advanced plantings or plantings that will provide similar amenity value in a response timeframe.
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 59 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 52. 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>July 2017</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>August 2017</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>September 2017</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>October 2017</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>November 2017</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>December 2017</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td><strong>TOTAL DECISIONS</strong></td>
<td><strong>27</strong></td>
<td><strong>25</strong></td>
</tr>
<tr>
<td><strong>LGPRF Result</strong></td>
<td><strong>52%</strong></td>
<td><strong>48%</strong></td>
</tr>
</tbody>
</table>

Attachment 1 included provides a summary of each case identifying the key issues for Council policy and strategy.
The decisions reported in the attached December 2017 VCAT Report were determined by the current Councillor group.

2. **Recommendation**

   That the report on the VCAT decisions on planning applications handed down during December 2017 be received and noted.

**Support Attachments**

1. Determined Appeals - December 2017
<table>
<thead>
<tr>
<th>Subject land</th>
<th>514 - 518 Hampton ST, HAMPTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2016.751.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P717/2017</td>
</tr>
<tr>
<td>Applicant</td>
<td>W P Development Pty Ltd</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>J. Nightingale, P Reynolds, P Novacco and G De Biase and others</td>
</tr>
</tbody>
</table>

**Proposal**

For the construction of a four storey building plus basement in the Commercial 1 Zone and Design and Development Overlay- Schedule 12, comprising a shop at ground floor and dwellings on upper floors; Use of land for dwellings with a ground floor dwelling frontage greater than 2 metres in the Commercial 1 Zone; Reduction in the car parking requirements under Clause 52.06; and Waiver of the loading bay requirements under Clause 52.07

**Officer recommendation/ Delegate determination**
- Refusal

**Council determination**
- Refusal

**Appeal type**
- Refusal to Grant a Permit

**Plans substituted (prior to hearing)**
- Yes

**VCAT determination**
- Permit to Issue

**LGPRF outcome**
- SET ASIDE
Comments:
Council refused a planning Application for the construction of four (4) storey mixed use development consisting of a shop at ground level and dwellings above in a Design and Development Overlay Schedule 12 (DDO-12) with a reduction in car parking requirements at the subject site. The Tribunal in an Order dated 19 October 2017 set aside Council’s decision and ordered a permit to issue. The Tribunal noted that despite the recommendation of its Officers, Council had refused this development arguing that the proposal was a poor response to the preferred future built form and character of the activity centre as set out in the policy framework and the provisions of Design and Development Overlay-Schedule 12. Council determined that the proposal did not provide sufficient transition to the adjoining residential hinterland area to the east in Littlewood Street. In addition Council did not support the waiver of car parking in this location.

The Tribunal in setting aside Council’s decision did impose a condition increasing the setbacks to the rear of the subject site in order to provide an acceptable transition and amenity to the residential hinterland. It held that although the subject site was located within Precinct C of the DDO12 where the preferred building height is three storeys or 11 metres, these provisions are not mandatory and therefore an application to vary these requirements could be made. The Tribunal commented that the Application provided the required car parking provision for the residential component but had shortfall of one (1) visitor space which the Tribunal held to be acceptable.
Subject land

68 Beach RD, HAMPTON

Application no.

2016.353.1

VCAT reference no.

P852/2017

Applicant

Simone Ben Zvi and Others

Referral Authority

N/A

Respondents

P Atkins

VCAT Member

B Sibonis

Date of hearing

11/10/2017

Date of order

27/12/2017

Proposal

Buildings and works comprising an extension to an existing dwelling and construction of a roof deck

Officer recommendation/

Notice of decision

Delegate determination

Not applicable

Council determination

Notice of Decision to Grant a Permit

Appeal type

No

Plans substituted

No

(prior to hearing)

VCAT determination

No Permit is granted

LGPRF outcome

SET ASIDE
Comments:

The Applicant applied to Bayside City Council for a planning permit for the construction of an extension to an existing dwelling including a roof deck on a lot less than 500 square metres. On 22 March 2017 Council issued a Notice of Decision to Grant a Permit. The adjoining owners to the south lodged an Application for Review against Council’s decision pursuant to section 82 of the Planning and Environment Act 1987. Their principal concern was the visual impact of the extension of the roof top open space area.

The Tribunal noted that the subject site was contained in a Design and Development Overlay Schedule 12 (DDO-12) which specifies that a maximum building height of 11 metres or three storeys and that the third storey must be contained in an attic. Council had determined that the proposed extension satisfied the definition of an attic in the DDO. However the Objectors did not share this view. Council had argued that the proposed extension was an attic as it was contained entirely within a contemporary attic roof structure and was consistent with other indicative factors of an attic as defined and specified in the DDO.

The Tribunal in overruling Council’s decision held that it was not persuaded that the proposed third storey level could reasonably be considered as an attic. Rather that presenting as being contained within an attic the Tribunal’s opinion the third storey will appear as “a conventional storey with a shallow pitched skillion roof file and slightly angled walls.” (Paragraph 9. Rather than being a recessive element as required by the DDO this extension would contribute significantly to the building form.

In an Order dated 27 December 2017 Council’s decision was set aside by the Tribunal and no permit was to issue.
| Subject land | 176 Esplanade, BRIGHTON |
| Application no. | 2016.257.1 |
| VCAT reference no. | P136/2017 |
| Applicant | T & J Wertheimer & Others (s82)/G Williams (s80) |
| Referral Authority | |
| Respondents | T & J Wertheimer & Others (s80) |
| VCAT Member | C Harty |
| Date of hearing | 20/10/2017 |
| Date of order | 01/12/2017 |
| Proposal | Neighbourhood Residential Zone Schedule 3; and, to construct buildings and works including a building greater than 6 metres in height and a roof deck above the second floor level in the Design and To construct alterations and additions to a semi-attached existing double storey dwelling on a lot less than 500 square metres in the Development Overlay Schedule 1 |
| Officer recommendation/ Delegate determination | Notice of decision |
| Council determination | Notice of decision |
| Appeal type | Conditions |
| Plans substituted (prior to hearing) | No |
| VCAT determination | Permit to Issue |
| LGPRF outcome | AFFIRMED |
Comments:
The subject site is located within the Neighbourhood Residential Zone (Schedule 3), Design and Development Overlay (Schedule 1) and a Development Contributions Plan Overlay (Schedule 1).

Objectors lodged an appeal against Council’s Notice of Decision to Grant a Planning Permit for alterations and additions to attached existing double storey dwelling including roof deck. The statement of grounds lodged with the Tribunal listed neighbourhood character, visual amenity impacts and overlooking as the reasons for the appeal. The applicant also sought a review of conditions 1a), d), e), f), h), j), l) and condition 8 on the permit.

The Tribunal determined that the main issues were:
• How well the development responds to the policy and physical contexts of the area including respecting neighbourhood character.
• Amenity impacts associated with visual bulk, overlooking and overshadowing.
• Traffic impacts on use of the rear right-of-way.
• Construction impacts.

Overall the Tribunal was satisfied that the proposal respected neighbourhood character and by modifying conditions 1d) and f) would protect amenity, reduce visual bulk and provide for reasonable internal space. Conditions 1a), e), h), j) and 8 which related to the roof deck, overlooking from a pantry window, plant and equipment and a construction management plan were considered appropriate and conditions 1b) and l) were deleted as they were not considered necessary.

Accordingly, the Tribunal directed that Planning Permit 2016/257/1 be varied and the Responsible Authority issued a modified permit.
<table>
<thead>
<tr>
<th>Subject land</th>
<th>9 Alverna GVE, BRIGHTON</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application no.</td>
<td>2016.151.1</td>
</tr>
<tr>
<td>VCAT reference no.</td>
<td>P1061/2017</td>
</tr>
<tr>
<td>Applicant</td>
<td>David Brick</td>
</tr>
<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VCAT Member</th>
<th>Mary-Anne Taranto</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of hearing</td>
<td>02/11/2017</td>
</tr>
<tr>
<td>Date of order</td>
<td>20/12/2017</td>
</tr>
<tr>
<td>Proposal</td>
<td>Alterations and additions to an existing dwelling on a lot less than 500 square metres</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Officer recommendation/ Delegate determination</th>
<th>Permit granted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council determination</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Appeal type</td>
<td>Conditions</td>
</tr>
<tr>
<td>Plans substituted (prior to hearing)</td>
<td>No</td>
</tr>
<tr>
<td>VCAT determination</td>
<td>Varied Permit to issue</td>
</tr>
<tr>
<td>LGPRF outcome</td>
<td>AFFIRMED</td>
</tr>
</tbody>
</table>
Comments:
The application was to construct alterations and additions to a dwelling on a lot less than 500 square metres.

The application was approved on 17 March 2017.

The applicant then appealed Condition 1b, Condition 3, Condition 4 and Condition 5 at VCAT.

VCAT required that Conditions 3 and 4 to be deleted, and amended the wording of Condition 1B and Condition 5.

The wording of Condition 1B changed from “a schedule of all external materials and finishes to be provided showing the materials, colours and finishes of all external walls, roof, fascias and window frames” and now reads, “Plan notations indicating that the external finishes, materials and colour scheme of the dwelling additions approved under this permit are to be compatible with the remainder of the dwelling.”

The wording of Condition 5 has been changed from “All pipes, fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority” and will now read as “All pipes, fixtures, fittings and vents visible on external walls of the permitted dwelling alterations must be either painted to match as far as practicable the walls of the dwelling, or otherwise hidden when viewed from neighbouring land to the satisfaction of the Responsible Authority.”

Comments:
The application was for a 120 bed age care facility. Council failed to make a decision within the prescribed timeframe and a Section 79 (failure to determine) was lodged. Council supported the application subject to conditions. VCAT upheld Council’s decision.
Development of the land for an aged care facility, advertising signage, and associated works

The site is located within the Neighbourhood Residential Zone (Schedule 3) and Design and Development Overlay (Schedule 3).

This application proposes the construction of two double storey dwellings.

On 13 July 2017 the planning permit applicant lodged an application to the Victorian Civil and Administrative Tribunal (VCAT) under Section 79 of the Planning and Environment Act 1987 for Failure to Grant a Permit.

On 23 October 2017 the applicant formally amended the plans in accordance with VCAT’s Practice Note (PNPE9 (Amendments of Plans and Applications) which redesigned the building to reduce site coverage, increase side setbacks, include a pitched roof form and increase opportunity for landscaping. The amended plans increased the setbacks to protect a large eucalyptus tree located within the property at No.9 Reno Road.

Council determined to Support the Grant of a Planning Permit (Planning and Amenity Committee) on 28 November 2017. Subsequent to Council's support for the application the three objecting parties to the appeal withdrew their Statements of Grounds and VCAT directed a Planning Permit be issued.
Subject land: 11 Reno RD, SANDRINGHAM

Application no.: 2016.284.1

VCAT reference no.: P1372/2017

Applicant: AGPM Enterprise Pty Ltd

Respondents

VCAT Member: M Baird

Date of hearing: 07/12/2017

Date of order: 07/12/2017

Proposal: Construction of two dwellings on a lot

Officer recommendation/ Delegate determination

Council determination: Support

Appeal type: Failure to Grant a Permit

Plans substituted (prior to hearing): No

VCAT determination: Permit to Issue

LGPRF outcome: SET ASIDE

Comments:

The Permit Applicant applied To VCAT pursuant to section 79 of the Planning and Environment Act 1987 against Council’s failure to make a decision within the prescribed time on a planning Application for the construction of a three (3) storey residential building with basement car parking and a front fence with a height exceeding 1.5 metres at the subject site. Subject to the Applicant lodging his Appeal, Council determined at its Committee Meeting held on 28 November 2017 to support the Application.

Council’s consent position was reported to the Tribunal and in an Order dated 7 December 2017 the Tribunal ordered Council to issue the permit with the conditions agreed to by all parties.
Subject land: 111 Carpenter ST, BRIGHTON

Application no.: 2017.136.1
VCAT reference no.: P2137/2017
Applicant: 2nd Base Property Pty Ltd

Respondents

VCAT Member: Frank Dawson
Date of hearing: 07/12/2017
Date of order: 07/12/2017
Proposal: Development of a three-storey residential building with basement car parking and a front fence with a height exceeding 1.5 metres on a site subject to a Design and Development Overlay (Schedule 10) and a Special Building Overlay

Officer recommendation/Delegate determination

Council determination: Support
Appeal type: Failure to Grant a Permit
Plans substituted (prior to hearing): No

VCAT determination: Permit to Issue
LGPRF outcome: SET ASIDE
Construction of two double storey dwellings with basement car parking in a Neighbourhood Residential Zone, Schedule 3; and Variation to paragraph (a) of restrictive covenant 2059983 pursuant to clause 52.02 of the Bayside Planning Scheme, to prohibit the erection of more than two dwelling houses or private residences on the lot, replacing the current restriction which prohibits the erection of more than one dwelling house or private residence on the lot.

Notice of Decision to Grant a Permit

Subject land: 22 Sunlight CRE, BRIGHTON EAST
Application no.: 2016.565.1
VCAT reference no.: P1308/2017
Applicant: L & L McGinley
Referral Authority: N/A
Respondents: M & R Libbis

VCAT Member: J Perlstein
Date of hearing: 11/12/2017
Date of order: 11/12/2017
Proposal: Construction of two double storey dwellings with basement car parking in a Neighbourhood Residential Zone, Schedule 3; and Variation to paragraph (a) of restrictive covenant 2059983 pursuant to clause 52.02 of the Bayside Planning Scheme, to prohibit the erection of more than two dwelling houses or private residences on the lot, replacing the current restriction which prohibits the erection of more than one dwelling house or private residence on the lot.

Officer recommendation/Delegate determination: Notice of decision
Council determination: Notice of decision
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:

On 18 May 2017 Council issued a Notice of Decision to grant a permit Permit for the construction of two (2) double storey dwellings with basement car parking and variation to a Restrictive Covenant (Instrument No. 2059983) on the Certificate of Title at the subject site known as No. 22 Sunlight Crescent, Brighton East. The Objectors pursuant to Section 82 of the Planning and Environment Act 1987 lodged an Application for Review against Council’s decision. The matter was scheduled to be heard by the Tribunal on 11 December 2017.

The day before the hearing, the Applicant for Review and Permit Applicant reached agreement and wrote to the Tribunal requesting a consent order be issued allowing the grant of a planning permit and variation of restrictive covenant with a number of additional conditions. As Council did not have delegated authority to agree to these conditions given the late timing the hearing proceeded.

The additional conditions agreed to by the parties and ratified by the Tribunal were the addition of Condition 1(o) that the existing western boundary fence with the Objectors’ property be retained. Also Condition 7 was added which reads: “The existing western boundary fence, including where walls are proposed on boundary, will be maintained during the construction of the development. Any damage as a result of the proposed construction of the development to the existing fence shall be rectified at the cost of the permit holder.”

As the Objectors were concerned that the site has previously been part of the municipal tip they insisted upon an environmental site assessment condition being added to the permit. This requirement was included as a new Condition 24.

After hearing submissions from the parties with respect to the additional conditions proposed, the Tribunal determined to grant a permit for development of the two dwellings and variation of the covenant with the additional conditions.
### Item 4.11 – Matters of Decision

<table>
<thead>
<tr>
<th>Subject land</th>
<th>1 Esplanade AVE, BRIGHTON</th>
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<tr>
<td>Application no.</td>
<td>2017.84.1</td>
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<tr>
<td>VCAT reference no.</td>
<td>P1484/2017</td>
</tr>
<tr>
<td>Applicant</td>
<td>Paul Truong</td>
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<tr>
<td>Referral Authority</td>
<td>N/A</td>
</tr>
<tr>
<td>Respondents</td>
<td>N/A</td>
</tr>
</tbody>
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| VCAT Member           | E A Bensz                         |
| Date of hearing       | 15/12/2017                        |
| Date of order         | 21/12/2017                        |
| Proposal              | Construction of two double storey dwellings with roof decks |

| Officer recommendation/ Delegate determination | Refusal |
| Council determination | Not applicable |
| Appeal type             | Refusal to Grant a Permit |
| Plans substituted (prior to hearing)            | No |
| VCAT determination      | No Permit granted |
| LGPRF outcome           | AFFIRMED |
Comments:
The proposal was for the construction of two double storey dwellings with roof decks in the Design and Development Overlay Schedule 1. The application was refused under delegation on the grounds that it failed to respond to the objectives of the Neighbourhood Character Policy and Clause 55 of the Bayside Planning Scheme. There was a lack of visual separation, insufficient landscaping and the proposal would result in a dominant development. Additional grounds of refusal included failure to ensure an appropriate level of internal amenity in terms of acoustic measures given the proximity of the rail corridor and a poor quality urban design.

The applicant lodged an appeal under Section 77 of the Planning and Environment Act 1987 against Council’s refusal to grant a planning permit. Following a hearing on 15 December 2017, the Tribunal found that the boundary to boundary development with two double garages set forward of the main dwelling did not contribute to the spaciousness referred to in the neighbourhood character policy. The Tribunal also raised concerns at the extent of the built form along the northern boundary adjacent to habitable rooms of the neighbouring property to the north. The dark palette of materials did not reflect the coastal location of the site and should be of lighter materiality and colour.

The Tribunal also found that that the failure to set the garages back behind the main dwellings together with the large extent of hard paving in the front was out of keeping with the preferred character statement. The site coverage at 55.6% was found to be excessive, with very little opportunity to create garden settings as required at Clause 22.06.

The Tribunal affirmed the decision of the Responsible Authority and no permit was granted.
Planning Permit 2016/567/1 was issued on 23 June 2017 for the construction of two dwellings on a lot (double storey with basement parking) and front fence exceeding a height of 1.2 metres.

Condition 1a) of the permit required the deletion of the walk in robe associated with Dwelling 1 off the boundary to allow for appropriate development spacing and improved landscaping opportunities.

The permit applicant lodged an Application for Review pursuant to Section 80 of the Planning and Environment Act 1987 to delete Condition 1a) of the permit.

The Tribunal in its Order dated 21 December 2017 directed Condition 1a) to be deleted and a new Condition 1a) to be added to the permit as follows:

1a) The wardrobe for the master bedroom is to be a minimum 1.4 meter setback off the eastern boundary for a length of 4.8 m. Landscaping in this setback will be required in the form of planters that are to be irrigated.
Subject land: 249G Hampton ST, HAMPTON

Application no.: 2016.620.1
VCAT reference no.: P1842/2017
Applicant: All Extensions
Referral Authority: N/A
Respondents: D & F Southgate

VCAT Member: J A Bennett
Date of hearing: 22/12/2017
Date of order: 22/12/2017
Proposal: Additions and alterations to an existing retail and office premise and reduction of car parking requirements

Officer recommendation/ Delegate determination: Refusal
Council determination: Refusal
Appeal type: Refusal to Grant a Permit
Plans substituted (prior to hearing): No
VCAT determination: Appeal Withdrawn
LGPRF outcome: N/A

Comments:

An application was lodged with Council seeking to allow alterations and additions to an existing retail and office premise and a reduction of car parking requirements.

The matter was refused at a Planning and Amenity Committee Meeting on 13 June 2017.

An appeal to review this decision at VCAT was lodged on 11 August 2017.

This appeal was withdrawn on 22 December 2017.
5. **Confidential Business**

Nil

As Chief Executive Officer, I hereby declare that the contents of this agenda relating to the closed meeting of the ordinary meeting of Council are deemed confidential and accordingly members of Council are reminded that the contents of the agenda are not to be disclosed to any other party.

Adrian Robb

Chief Executive Officer